

# Texas Water Development Board

## PROJECT FUNDING REQUEST

**BOARD DATE:** September 14, 2023

**Team Manager:** Mireya Loewe

### ACTION REQUESTED

Consider approving by resolution a request from the Laguna Madre Water District (Cameron County) for a) \$12,980,000 in financing from the Drinking Water State Revolving Fund for construction of a water system improvements project; and b) a waiver from the requirement to include funds to mitigate water loss as part of this project.

### STAFF RECOMMENDATION

Approve       No Action

### BACKGROUND

The Laguna Madre Water District (District) serves the communities of South Padre Island, Port Isabel, Long Island Village, Laguna Heights, and Laguna Vista. The District serves a population of approximately 19,731 through 7,161 water connections and 6,026 wastewater connections.

The District operates two surface water treatment plants (WTP) that source water from the Rio Grande River. WTP No. 2 has recently been used as the main water supply. In contrast, WTP No. 1 has recently been utilized only during peak demand times and has not operated continuously for several years. Both plants are interconnected within the District's overall water distribution system.

The District intended to use its Series 2022 bond program to fund needed water system improvements. However, the costs of construction materials and labor have since increased substantially, which created a funding gap for the District to complete the necessary work. The District is using its Series 2022 bond proceeds for planning and design of all of its planned water treatment and storage systems improvements and most of the construction work at WTP No. 1. The District is requesting funding to complete the construction of the remaining planned improvements.

### PROJECT NEED AND DESCRIPTION

The District needs to construct significant water system improvements to ensure that peak summer water demands are met. WTP No. 1, located in Port Isabel, is currently out of service due to low finished water quality. WTP No. 2, located in Laguna Vista, does not have the firm capacity required to meet current or future peak water demands. The District has also identified the need for other improvements in its water treatment and storage systems.

The District proposes to construct various improvements at its water treatment plants and storage facilities including 1) construction of a new elevated storage tank and installation of a backup generator at WTP No. 1; 2) replacement of the raw water transfer pump station

<b>COMMITMENT PERIOD:</b> TWELVE (12) MONTHS TO EXPIRE SEPTEMBER 30, 2024
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and upgrades to the high service pump station at WTP No. 2; and 3) decommissioning of two steel ground storage tanks and one elevated storage tank on Port Road, northeast of WTP No. 1. The planning and design for these improvements will be funded with District funds.

### **PROJECT SCHEDULE**

<b>Task</b>	<b>Schedule Date</b>
Closing	December 14, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	March 14, 2024
Design Phase Completion	May 14, 2024
Start of Construction	August 8, 2024
Construction Completion	October 3, 2025

### **KEY ISSUES**

The District exceeds its water loss thresholds for real loss and has already taken actions to mitigate its water loss. In April 2023, the District completed replacing a major distribution line to South Padre Island that had been identified as having a high number of leaks. Therefore, the District is requesting a waiver from having to include funds to mitigate water loss in this request.

The District is requesting bond proceeds to fund the bond reserve fund.

### **LEGAL/SPECIAL CONDITIONS**

- Notification prior to altering legal status
- Conveyance and conversion

### **Attachments:**

1. Financial Review
2. Project Budget
3. Resolution (23- )
4. Water Conservation Review
5. Location Map

# Financial Review

## Laguna Madre Water District

Attachment 1

Risk Score: 2A

Audit Reviewed: FY 2022

### Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 0.36%	State: 1.49%
Top 10 Customers % of Total Revenue	18%	10-15%
Median Household Income as % of State	63%	100%
Days of Cash on Hand (3-year Average)	272 days	30-149 days
Net Fixed Assets/ Annual Depreciation	23 years	12-24 years
Debt Service Coverage Ratio	1.29x	1.0x
Debt-to-Operating Revenues	2.16	4.00-5.99x
Unemployment Rate (June 2023)	County: 5.20%	State: 4.20%
Working Capital Ratio	7.35	> 1.0

### Key Risk Score Strengths

- System revenues are high enough to cover the existing debt and provide adequate coverage for the proposed debt. Additionally, the District's cash balance has increased 1.43 percent and the operating revenue has increased of 22.98 percent over the last 5 years.
- The District's days of cash on hand is above the benchmark, indicating sufficient reserves for operating expenses.
- A high working capital ratio provides the District with ample resources to cover short-term liabilities and shows a strong liquidity position.

### Key Risk Score Concerns

- The top 10 customers of the District's water system makes up 18 percent of the total water revenue with Long Island Village making up 4.44 percent of that total. A stress test was conducted to remove Long Island Village from the water revenues and the results indicate the District would not need a water rate increase.

### PLEDGE

Legal Pledge Name	Utility System Revenues
Type of Pledge	<input type="checkbox"/> Tax <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input checked="" type="checkbox"/> First <input type="checkbox"/> Second <input type="checkbox"/> Third <input type="checkbox"/> N/A

### RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates (Year 2023)	Current Household Cost Factor	Projected Household Cost Factor
Water	4,000	\$14.74	\$14.74	1.18	1.18
Wastewater	4,000	\$23.34	\$23.34		

### Cost Savings

Based on a 30-year maturity schedule and current interest rates, the District could save approximately \$1,648,934 over the life of the financing.

<b>Responsible Authority</b>	Laguna Madre WD
<b>Program</b>	DWSRF
<b>Commitment Number</b>	L1001691
<b>Project Number</b>	62963
<b>List Year</b>	2022
<b>Type of Pledge</b>	Revenue Pledge
<b>Pledge Level (if applicable)</b>	First Lien
<b>Legal Description</b>	\$12,980,000, Laguna Madre Water District, Waterworks and Sewer System Revenue Bonds, Proposed Series 2023
<b>Tax-exempt or Taxable</b>	Tax-Exempt
<b>Refinance</b>	No
<b>Outlay Requirement</b>	Yes
<b>Disbursement Method</b>	Escrow
<b>Outlay Type</b>	Outlay = Escrow Release
<b>Qualifies as Disadvantaged</b>	No
<b>State Revolving Fund Type</b>	Non-Equivalency
<b>Financial Managerial &amp; Technical Complete</b>	Yes
<b>Phases Funded</b>	Construction
<b>Pre-Design</b>	No
<b>Project Consistent with State Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Adopted
<b>Overall Risk Score</b>	2A

### PROJECT TEAM

<b>Team Manager</b>	<b>Financial Analyst</b>	<b>Engineering Reviewer</b>	<b>Environmental Reviewer</b>	<b>Attorney</b>
Mireya Loewe	Raul Flores	Francia Harutunian	Lauren Dill	Michael Perez

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
Laguna Madre WD

**\$12,980,000, Laguna Madre Water District, Waterworks and Sewer System Revenue Bonds, Proposed Series 2023**

Dated Date:	11/9/2023	Source:	DWSRF-NON-EQUIVALENCY
Delivery Date:	11/9/2023	Rate:	2.86%
First Interest:	3/1/2024	IUP Year:	2018
First Principal:	3/1/2024	Case:	Revenue
Last Principal:	3/1/2053	Admin.Fee:	\$254,510
Fiscal Year End:	09/30	Admin. Fee Payment Date:	11/9/2023
Required Coverage:	1.0		

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	\$12,980,000 ISSUE				TOTAL DEBT SERVICE	COVERAGE
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2024	\$2,470,010	\$1,368,479	\$270,000	2.23%	\$275,381	\$545,381	\$1,913,859	1.29
2025	2,470,010	1,372,077	310,000	2.14%	333,884	643,884	2,015,961	1.23
2026	2,470,010	1,374,629	320,000	2.05%	327,287	647,287	2,021,916	1.22
2027	2,470,010	1,376,096	325,000	1.98%	320,790	645,790	2,021,885	1.22
2028	2,470,010	1,368,451	330,000	1.95%	314,355	644,355	2,012,806	1.23
2029	2,470,010	1,361,620	335,000	1.93%	307,904	642,904	2,004,524	1.23
2030	2,470,010	964,681	345,000	1.90%	301,394	646,394	1,611,075	1.53
2031	2,470,010	962,911	350,000	1.90%	294,792	644,792	1,607,702	1.54
2032	2,470,010	960,400	355,000	1.90%	288,094	643,094	1,603,494	1.54
2033	2,470,010	962,171	365,000	1.93%	281,199	646,199	1,608,370	1.54
2034	2,470,010	963,244	370,000	2.09%	273,811	643,811	1,607,055	1.54
2035	2,470,010	321,495	380,000	2.26%	265,650	645,650	967,145	2.55
2036	2,470,010	322,192	385,000	2.42%	256,698	641,698	963,890	2.56
2037	2,470,010	-	395,000	2.58%	246,944	641,944	641,944	3.85
2038	2,470,010	-	405,000	2.68%	236,421	641,421	641,421	3.85
2039	2,470,010	-	415,000	2.74%	225,309	640,309	640,309	3.86
2040	2,470,010	-	430,000	2.79%	213,625	643,625	643,625	3.84
2041	2,470,010	-	440,000	2.82%	201,422	641,422	641,422	3.85
2042	2,470,010	-	455,000	2.87%	188,689	643,689	643,689	3.84
2043	2,470,010	-	465,000	2.91%	175,394	640,394	640,394	3.86
2044	2,470,010	-	480,000	2.95%	161,548	641,548	641,548	3.85
2045	2,470,010	-	495,000	2.97%	147,117	642,117	642,117	3.85
2046	2,470,010	-	510,000	3.00%	132,117	642,117	642,117	3.85
2047	2,470,010	-	525,000	3.02%	116,539	641,539	641,539	3.85
2048	2,470,010	-	540,000	3.05%	100,377	640,377	640,377	3.86
2049	2,470,010	-	555,000	3.07%	83,622	638,622	638,622	3.87
2050	2,470,010	-	575,000	3.07%	66,277	641,277	641,277	3.85
2051	2,470,010	-	590,000	3.09%	48,335	638,335	638,335	3.87
2052	2,470,010	-	610,000	3.09%	29,795	639,795	639,795	3.86
2053	2,470,010	-	655,000	3.11%	10,185	665,185	665,185	3.71
		\$13,678,445	\$12,980,000		\$6,224,950	\$19,204,950	\$32,883,395	

AVERAGE (MATURITY) LIFE	16.76 YEARS
NET INTEREST RATE	2.861%
COST SAVINGS	\$1,648,934
AVERAGE ANNUAL REQUIREMENT	\$640,165

*Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.*



**Project Budget Summary**  
**Laguna Madre WD**  
**62963 - Water System Improvements**

Budget Items	TWDB Funds	Local and Other Funds	Total
<b>Construction</b>			
Construction	\$10,574,000.00	\$0.00	\$10,574,000.00
<b>Subtotal for Construction</b>	<b>\$10,574,000.00</b>	<b>\$0.00</b>	<b>\$10,574,000.00</b>
<b>Basic Engineering Services</b>			
Construction Engineering	\$0.00	\$171,017.00	\$171,017.00
Design	\$0.00	\$701,790.00	\$701,790.00
Planning	\$0.00	\$84,361.00	\$84,361.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$0.00</b>	<b>\$957,168.00</b>	<b>\$957,168.00</b>
<b>Special Services</b>			
Application	\$0.00	\$24,989.00	\$24,989.00
Environmental	\$0.00	\$33,599.00	\$33,599.00
Geotechnical	\$0.00	\$5,744.00	\$5,744.00
Project Management (by engineer)	\$0.00	\$54,446.00	\$54,446.00
Surveying	\$0.00	\$4,054.00	\$4,054.00
Water Distribution Modeling	\$0.00	\$40,000.00	\$40,000.00
<b>Subtotal for Special Services</b>	<b>\$0.00</b>	<b>\$162,832.00</b>	<b>\$162,832.00</b>
<b>Fiscal Services</b>			
Bond Counsel	\$81,900.00	\$0.00	\$81,900.00
Bond Reserve Fund	\$700,000.00	\$0.00	\$700,000.00
Financial Advisor	\$168,340.00	\$0.00	\$168,340.00
Issuance Costs	\$2,250.00	\$0.00	\$2,250.00
Loan Origination Fee	\$254,510.00	\$0.00	\$254,510.00
<b>Subtotal for Fiscal Services</b>	<b>\$1,207,000.00</b>	<b>\$0.00</b>	<b>\$1,207,000.00</b>
<b>Contingency</b>			
Contingency	\$1,199,000.00	\$0.00	\$1,199,000.00
<b>Subtotal for Contingency</b>	<b>\$1,199,000.00</b>	<b>\$0.00</b>	<b>\$1,199,000.00</b>
<b>Total</b>	<b>\$12,980,000.00</b>	<b>\$1,120,000.00</b>	<b>\$14,100,000.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$12,980,000 TO THE LAGUNA MADRE WATER DISTRICT  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$12,980,000 LAGUNA MADRE WATER DISTRICT WATERWORKS AND SEWER SYSTEM  
REVENUE BONDS,  
PROPOSED SERIES 2023

(23 - )

WHEREAS, the Laguna Madre Water District (District), located in Cameron County, has filed an application for financial assistance in the amount of \$12,980,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the construction of certain water system improvements identified as Project No. 62963; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$12,980,000 Laguna Madre Water District Waterworks and Sewer System Revenue Bonds, Proposed Series 2023 (together with all authorizing documents (Obligations)), all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the District has offered a pledge of a first lien on the system revenues as sufficient security for the repayment of the Obligations; and

WHEREAS, the District is requesting a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the District's system water loss because it has recently completed replacing a major distribution line identified as having a high number of leaks; and

WHEREAS, the TWDB hereby finds:

1. that the revenue pledged by the District will be sufficient to meet all the Obligations assumed by the District, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* as well as state law, in accordance with Texas Water Code § 15.607;
3. that the term of the Obligations does not exceed the expected useful life of the project proposed by the District;
4. that the District has adopted and implemented a water conservation program for the more efficient use of water that will meet reasonably anticipated local needs and conditions and that incorporates practices, techniques or technology prescribed by the Texas Water Code and TWDB's rules;

5. that the TWDB has approved a regional water plan for the region of the state that includes the area benefiting from the project and the needs to be addressed by the project will be addressed in a manner that is consistent with the approved regional and state water plans, as required by Texas Water Code § 16.053(j);
6. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the District and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
7. that based on the conditions, as described above, that the District is satisfactorily addressing the District's system water loss which supports a waiver of the requirement that a portion of the financial assistance received from the TWDB be used to mitigate the District's system water loss in accordance with Texas Water Code § 16.0121(g);

NOW, THEREFORE, based on these findings, the TWDB resolves as follows:

1. For the reasons stated above, the TWDB hereby waives the requirements of Texas Water Code § 16.0121(g); and
2. A commitment is made by the TWDB to the Laguna Madre Water District for financial assistance in the amount of \$12,980,000 from the Drinking Water State Revolving Fund through the TWDB's proposed purchase of \$12,980,000 Laguna Madre Water District Waterworks and Sewer System Revenue Bonds, Proposed Series 2023. This commitment will expire on September 30, 2024.

Such commitment is conditioned as follows:

Standard Conditions:

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;
2. this commitment is contingent upon the issuance of a written approving opinion of the Attorney General of the State of Texas stating that all of the requirements of the laws under which said Obligations were issued have been complied with; that said Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that said Obligations are valid and binding obligations of the District;
3. this commitment is contingent upon the District's compliance with all applicable requirements contained in 31 TAC Chapter 371;
4. the Obligations must provide that the District agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein;



5. the Obligations must provide that the Obligations can be called for early redemption on any date beginning on or after the first interest payment date which is 10 years from the dated date of the Obligations, at a redemption price of par, together with accrued interest to the date fixed for redemption;
6. the District, or an obligated person for whom financial or operating data is presented to the TWDB in the application for financial assistance either individually or in combination with other issuers of the District's Obligations or obligated persons, will, at a minimum, regardless of the amount of the Obligations, covenant to comply with requirements for continuing disclosure on an ongoing basis substantially in the manner required by Securities and Exchange Commission (SEC) in 17 CFR § 240.15c2-12 (Rule 15c2-12) and determined as if the TWDB were a Participating Underwriter within the meaning of such rule, such continuing disclosure undertaking being for the benefit of the TWDB and the beneficial owners of the District's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the District is an obligated person with respect to such bonds under SEC Rule 15c2-12;
7. the Obligations must contain a provision requiring the District to maintain and collect sufficient rates and charges to produce system funds in an amount necessary to meet the debt service requirements of all outstanding obligations and to maintain the funds established and required by the Obligations;
8. the Obligations must include a provision requiring the District to use any financial assistance proceeds from the Obligations that are determined to be remaining unused funds, which are those funds unspent after the original approved project is completed, for enhancements to the original project that are explicitly approved by the Executive Administrator or if no enhancements are authorized by the Executive Administrator, requiring the District to submit a final accounting and disposition of any unused funds;
9. the Obligations must include a provision requiring the District to use any financial assistance proceeds from the Obligations that are determined to be surplus funds remaining after completion of the project and completion of a final accounting in a manner as approved by the Executive Administrator;
10. the Obligations must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
11. financial assistance proceeds are public funds and, as such, the Obligations must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;

12. Proceeds of this commitment must not be used by the District when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The Obligations must provide that the District is solely responsible for liability resulting from acts or omissions of the District, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments or contaminated media that may be generated by the District, its contractors, consultants, agents, officials, and employees as a result of activities relating to the Project to the extent permitted by law;
13. prior to closing, the District shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges for the repayment of all system debt service requirements;
14. prior to closing, and if not previously provided with the application, the District shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;
15. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the District shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
16. the Executive Administrator may require that the District execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
17. the TWDB retains the option to purchase the Obligations in separate lots and/or on an installment basis, with delivery of the purchase price for each installment to be paid against delivery of the relevant installment of Obligations as approved by the Executive Administrator;
18. the Obligations must provide that the District will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
19. the Obligations must provide that the District must comply with all conditions as specified in the final environmental finding of the Executive Administrator when issued, including the standard emergency discovery conditions for threatened and endangered species and cultural resources;
20. the Obligations must contain a provision requiring the District to maintain insurance coverage sufficient to protect the TWDB's interest in the project;

21. the District must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition);

Conditions Related to Tax-Exempt Status:

22. the District's bond counsel must prepare a written opinion that states that the interest on the Obligations is excludable from gross income or is exempt from federal income taxation. Bond counsel may rely on covenants and representations of the District when rendering this opinion;
23. the District's bond counsel opinion must also state that the Obligations are not "private activity bonds." Bond counsel may rely on covenants and representations of the District when rendering this opinion;
24. the Obligations must include a provision prohibiting the District from using the proceeds of this financial assistance in a manner that would cause the Obligations to become "private activity bonds" within the meaning of section 141 of the Internal Revenue Code of 1986, as amended (Code) and the Treasury Regulations promulgated thereunder (Regulations);
25. the Obligations must provide that no portion of the proceeds of the financial assistance will be used, directly or indirectly, in a manner that would cause the Obligations to be "arbitrage bonds" within the meaning of section 148(a) of the Code and Regulations, including to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) which produce a yield materially higher than the yield on the TWDB's bonds that are issued to provide financing for the financial assistance (Source Series Bonds), other than Nonpurpose Investments acquired with:
  - a. proceeds of the TWDB's Source Series Bonds invested for a reasonable temporary period of up to three (3) years after the issue date of the Source Series Bonds until such proceeds are needed for the facilities to be financed;
  - b. amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Regulations; and
  - c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Obligations, 125% of average annual debt service on the Obligations, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Obligations;
26. the Obligations must include a provision requiring the District take all necessary steps to comply with the requirement that certain amounts earned on the

investment of gross proceeds of the Obligations be rebated to the federal government in order to satisfy the requirements of section 148 of the Code. The Obligations must provide that the District will:

- a. account for all Gross Proceeds, as defined in the Code and Regulations, (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and retain all records of such accounting for at least six years after the final Computation Date. The District may, however, to the extent permitted by law, commingle Gross Proceeds of its financial assistance with other money of the District, provided that the District separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith;
  - b. calculate the Rebate Amount, as defined in the Code and Regulations, with respect to its financial assistance, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings thereunder. The District shall maintain a copy of such calculations for at least six years after the final Computation Date;
  - c. as additional consideration for making the commitment, and in order to induce making the commitment by measures designed to ensure the excludability of the interest on the TWDB's Source Series Bonds from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date;
  - d. exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (b) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations;
27. the Obligations must include a provision prohibiting the District from taking any action that would cause the interest on the Obligations to be includable in gross income for federal income tax purposes;
  28. the Obligations must provide that the District will not cause or permit the Obligations to be treated as "federally guaranteed" obligations within the meaning of section 149(b) of the Code;
  29. the transcript must include a No Arbitrage Certificate or similar Federal Tax Certificate setting forth the District's reasonable expectations regarding the use, expenditure and investment of the proceeds of the Obligations;

30. the Obligations must contain a provision that the District will refrain from using the proceeds provided by this TWDB commitment or the proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Obligations in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);
31. the transcript must include evidence that the information reporting requirements of section 149(e) of the Code will be satisfied. This requirement may be satisfied by filing an IRS Form 8038 with the Internal Revenue Service. In addition, the applicable completed IRS Form 8038 or other evidence that the information reporting requirements of section 149(e) have been satisfied must be provided to the Executive Administrator within fourteen (14) days of closing. The Executive Administrator may withhold the release of funds for failure to comply;
32. the Obligations must provide that neither the District nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Obligations to be acquired from the District by the TWDB;
33. the District's federal tax certificate shall provide that the weighted average maturity of the Obligations purchased by the TWDB does not exceed 120% of the weighted average reasonably expected economic life of the Project;

State Revolving Fund Conditions:

34. the District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
35. the Obligations must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The District, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB;
36. the Obligations must include a provision stating that the District shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The District shall register with the System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;

37. the Obligations shall provide that all financial assistance proceeds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the District will adhere to the approved project schedule;
38. the Obligations must contain a covenant that the District will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions:

39. the District shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371;
40. prior to closing, the Texas Commission on Environmental Quality, must make a determination, the form and substance of which is satisfactory to the Executive Administrator, that the District has demonstrated the necessary financial, managerial, and technical capabilities to proceed with the project or projects to be funded with the proceeds of these Obligations;

Pledge Conditions for the Financial Assistance:

41. the Obligations shall be on parity with any existing obligations that are secured with the same pledge of security as the proposed Obligations; and
42. the Obligations shall be governed by the additional debt test and reserve requirement as provided in the outstanding \$5,425,000 Laguna Madre Water District Waterworks and Sewer System Revenue Bonds, Series 2019 (L1000879), and \$5,815,000 Laguna Madre Water District Waterworks and Sewer System Revenue Bonds, Series 2016 (L100539).

PROVIDED, however, the commitment is subject to the following special conditions:

Special Conditions:

51. the District must notify the Executive Administrator in writing, thirty (30) days prior to taking any actions to alter its legal status in any manner;
52. the Obligations must include a provision requiring that the District notify the Executive Administrator in writing prior to any action by it to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB;

APPROVED and ordered of record this 14th day of September, 2023.

TEXAS WATER DEVELOPMENT BOARD

\_\_\_\_\_  
Brooke T. Paup, Chairwoman

DATE SIGNED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jeff Walker, Executive Administrator

Review Date:

Project ID:

Water

Wastewater

Other

**WATER CONSERVATION REVIEW**

Entity:

Other entity:

**WATER CONSERVATION PLAN DATE:****Approvable****Adopted**

	<b>Total GPCD</b>	<b>Residential GPCD</b>	<b>Water Loss GPCD</b>
<b>Baseline</b>			
<b>5-year Goal</b>			
<b>10-year Goal</b>			

**WATER LOSS AUDIT YEAR:**

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:

ILI<sup>1</sup>:

1 – Infrastructure Leakage Index only applicable if > 16 connections per mile and > 3,000 service connections

**WATER LOSS THRESHOLDS**

Water Loss Project:

Wholesale Adjusted:

Threshold Type:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Loss Threshold Gallons per connection per day	Real Loss Threshold Gallons per mile per day	Real Loss Threshold Gallons per connection per day

Does the applicant meet Water Loss Threshold Requirements?

**Yes****No****NA****ADDITIONAL INFORMATION****STAFF NOTES AND RECOMMENDATIONS**



## DEFINITIONS

**Adopted** refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formally approved and adopted by the applicant's governing body.

**Apparent losses** are paper losses that occur when the water reaches a customer, but the volume is not accurately measured and/or recorded due to unauthorized consumption, customer meter inaccuracy, or billing system and collection data errors.

**Approvable** refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

**Best Management Practices** are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

**GPCD** means gallons per capita per day.

**GCD** means gallons per connection per day.

**Infrastructure Leakage Index (ILI)** is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 3,000 connections and a connection density of more than 16 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a bench marking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

**NA** means not applicable.

**Real losses** are the physical losses, largely leakage, from the infrastructure: mains, valves, and storage tank overflows. Real loss constitutes background leakage (unreported and difficult to detect), unreported leakage (leaks that do not surface but could be detected), and reported leakage (leaks that often surface and those that are detected by the utility through leak detection).

**Residential GPCD** is the amount of residential water use (single and multi-family customer use) divided by the residential population divided by 365.

**Total GPCD** is the amount of total system input volume divided by the retail population divided by 365.

**Total water loss** is the sum of the apparent and real water losses.

**Water loss** is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

**Water Loss GPCD** is the amount of water loss divided by the retail population divided by 365.

**Water Loss per Connection per Day** Calculated as the water loss volume divided by the number service connections divided by 365. This indicator allows for reliable performance tracking in the water utility's efforts to reduce water losses. It replaces water loss percentage.

**Water Loss Thresholds** are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

**Wholesale Adjusted** represents that some utilities provide large volumes of wholesale water to other providers that travel through the general distribution system, so a calculation has been established to adjust for that volume of wholesale water. These adjustments are only applicable for use in determining whether a utility meets or exceeds water loss thresholds in review of their application for financial assistance. These adjustments should not be used for performance tracking or benchmarking.



## Laguna Madre Water District Cameron County

