

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: September 14, 2023

Team Manager: Nancy Richards

ACTION REQUESTED

Consider approving by resolution a request from the City of Magnolia (Montgomery County) for \$10,675,000 in financial assistance consisting of \$9,675,000 in financing and \$1,000,000 in principal forgiveness from the Clean Water State Revolving Fund for planning, design, and construction of a wastewater treatment plant expansion project.

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

The City of Magnolia (City) is located approximately 25 miles southwest of Conroe. The City provides water and wastewater services to a population of approximately 2,125 residents through 4,580 connections.

PROJECT NEED AND DESCRIPTION

The City's population is projected to double in the next 10 years. In 2020, the Nichols Sawmill Wastewater Treatment Plant's (WWTP) capacity was expanded to a design average flow of 1.3 million gallons per day (mgd). However, that expansion is projected to reach near capacity by the end of 2023.

The City is requesting planning, design, and construction funding to expand the Nichols Sawmill WWTP from 1.3 to 2.0 mgd. The expansion includes a new treatment unit, mechanical screening, expansion of the chlorine contact tank, new blowers, modification to the influent splitter structure, and a new retention pond. The expansion will comply with more stringent permit limitations.

PROJECT SCHEDULE

Task	Schedule Date
Closing	December 10, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	April 26, 2024
Design Phase Completion	April 25, 2025
Start of Construction	December 22, 2025
Construction Completion	December 31, 2026

KEY ISSUES

The City qualifies for \$1,000,000 in principal forgiveness as a disadvantaged, small, rural community.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE MARCH 31, 2024

To ensure that the City meets the requirements of 31 TAC 375.41(b)(2)(E), the TWDB may request it receive a transaction report for an escrow account that the City has designated as a repository for specified funds.

LEGAL/SPECIAL CONDITIONS

- Executed principal forgiveness agreement
- Return of surplus funds
- Transaction report of the Woodforest National Bank escrow account

Attachments:

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

Financial Review City of Magnolia

Risk Score: 2B

Audit Reviewed: FY 2022

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 5.41%	State: 1.49%
Top 10 Customers % of Total Revenue	18%	10-15%
Median Household Income as % of State	69%	100%
Net Fixed Assets/ Annual Depreciation	26 years	12-24 years
Debt Service Coverage Ratio	1.22x	1.0x
Debt-to-Operating Revenues	11.45	4.00-5.99x
Unemployment Rate (June 2023)	County: 4.1%	State: 4.2%
Working Capital Ratio	6.61	> 1.0

Key Risk Score Strengths

- A high working capital ratio indicates the City has high liquidity and ample resources to cover its short-term liabilities.
- The City has adequate revenues to meet current and proposed debt service.

Key Risk Score Concerns

- The self-supporting debt-to-operating revenues ratio is above the benchmark due to the City's recent financing of infrastructure improvements to its water and wastewater system. Additionally, the City has seen an increase in water and wastewater connections since 2018 and 2022 State Water Plan population projections show a 53.9 percent increase in population from 2030-2050.
- The top 10 customers of the City's water system make up 18 percent of the total water revenue with the largest being Grand Oaks at 9.69 percent. A stress test was conducted to remove Grand Oaks from the water revenues and the results indicate the City would not need a water rate increase.

PLEDGE

Legal Pledge Name	Ad Valorem Tax and System Revenues
Type of Pledge	<input type="checkbox"/> Tax <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Tax & Revenue <input type="checkbox"/> Contract <input type="checkbox"/> Other
Revenue Pledge Level	<input type="checkbox"/> First <input checked="" 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	6,835	\$42.29	\$42.29	2.69	2.69
Wastewater	3,760	\$18.23	\$18.23		

TAXES

	2022 Tax Year Rate	Max Projected Tax Rate (Year 2022)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.1152	\$0.1152	\$1.50	97%	\$521,841,285
Interest & Sinking	\$0.2661	\$0.2661			
Total Tax Rate	\$0.3813	\$0.3813			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$3,185,315 over the life of the financing. The City is also saving \$1,000,000 in principal forgiveness.

Responsible Authority	Magnolia
Program	CWSRF
Commitment Number	L1001678, LF1001679
Project Number	73938
List Year	2023
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Second Lien
Legal Description	\$9,675,000 City of Magnolia, Texas, Tax and Revenue Certificates of Obligation, Proposed Series 2023, \$1,000,000 Principal Forgiveness Agreement
Tax-exempt or Taxable	Tax-Exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	Yes
State Revolving Fund Type	Equivalency
Financial Managerial & Technical Complete	N/A
Phases Funded	Planning, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	Adopted
Overall Risk Score	2B

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Nancy Richards	Chelsea Duran	Lucia Loera	Britt Paredes	Annette Mass

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
The City of Magnolia

\$9,675,000 City of Magnolia, Texas Tax and Revenue Certificates of Obligation, Proposed Series 2023

Dated Date: 12/10/2023 Delivery Date: 12/10/2023 First Interest: 6/1/2024 First Principal: 12/1/2024 Last Principal: 12/1/2053 Fiscal Year End: 09/30 Required Coverage: 1.0	Source: CWSRF-EQUIVALENCY Rate: 2.45% IUP Year: 2023 Case: Tax and Revenue Admin.Fee: \$166,400 Admin. Fee Payment Date: 12/10/2023 Total Assessed Valuation: \$521,841,285
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FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 97%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$9,675,000 ISSUE				TOTAL DEBT SERVICE	TOTAL DEBT COVERAGE
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2024	\$0.2661	\$1,350,710	\$2,658,086	\$4,008,796	\$2,827,421	\$0	-	\$104,448	\$104,448	\$2,931,870	1.37
2025	0.2661	1,350,710	2,658,086	4,008,796	2,882,505	195,000	1.91%	218,029	413,029	3,295,534	1.22
2026	0.2661	1,350,710	2,658,086	4,008,796	2,883,077	200,000	1.84%	214,327	414,327	3,297,404	1.22
2027	0.2661	1,350,710	2,658,086	4,008,796	2,877,468	205,000	1.76%	210,683	415,683	3,293,151	1.22
2028	0.2661	1,350,710	2,658,086	4,008,796	2,687,352	230,000	1.70%	206,924	436,924	3,124,276	1.28
2029	0.2661	1,350,710	2,658,086	4,008,796	2,689,091	240,000	1.67%	202,965	442,965	3,132,056	1.28
2030	0.2661	1,350,710	2,658,086	4,008,796	2,684,799	245,000	1.66%	198,928	443,928	3,128,726	1.28
2031	0.2661	1,350,710	2,658,086	4,008,796	2,682,790	250,000	1.63%	194,857	444,857	3,127,647	1.28
2032	0.2661	1,350,710	2,658,086	4,008,796	2,677,623	260,000	1.63%	190,700	450,700	3,128,323	1.28
2033	0.2661	1,350,710	2,658,086	4,008,796	2,621,230	265,000	1.63%	186,421	451,421	3,072,652	1.30
2034	0.2661	1,350,710	2,658,086	4,008,796	2,621,574	270,000	1.65%	182,034	452,034	3,073,608	1.30
2035	0.2661	1,350,710	2,658,086	4,008,796	2,613,889	280,000	1.79%	177,301	457,301	3,071,190	1.31
2036	0.2661	1,350,710	2,658,086	4,008,796	1,770,935	290,000	1.94%	171,982	461,982	2,232,917	1.80
2037	0.2661	1,350,710	2,658,086	4,008,796	1,706,775	295,000	2.08%	166,101	461,101	2,167,876	1.85
2038	0.2661	1,350,710	2,658,086	4,008,796	1,470,375	305,000	2.21%	159,662	464,662	1,935,037	2.07
2039	0.2661	1,350,710	2,658,086	4,008,796	1,470,275	310,000	2.30%	152,727	462,727	1,933,002	2.07
2040	0.2661	1,350,710	2,658,086	4,008,796	1,473,675	320,000	2.35%	145,402	465,402	1,939,077	2.07
2041	0.2661	1,350,710	2,658,086	4,008,796	1,470,575	330,000	2.39%	137,699	467,699	1,938,274	2.07
2042	0.2661	1,350,710	2,658,086	4,008,796	1,466,075	340,000	2.42%	129,641	469,641	1,935,716	2.07
2043	0.2661	1,350,710	2,658,086	4,008,796	1,469,975	345,000	2.46%	121,284	466,284	1,936,259	2.07
2044	0.2661	1,350,710	2,658,086	4,008,796	1,471,044	355,000	2.49%	112,620	467,620	1,938,664	2.07
2045	0.2661	1,350,710	2,658,086	4,008,796	1,474,131	365,000	2.53%	103,583	468,583	1,942,715	2.06
2046	0.2661	1,350,710	2,658,086	4,008,796	1,186,025	375,000	2.54%	94,204	469,204	1,655,229	2.42
2047	0.2661	1,350,710	2,658,086	4,008,796	1,186,925	385,000	2.57%	84,494	469,494	1,656,419	2.42
2048	0.2661	1,350,710	2,658,086	4,008,796	1,186,125	395,000	2.59%	74,431	469,431	1,655,556	2.42
2049	0.2661	1,350,710	2,658,086	4,008,796	1,183,625	410,000	2.62%	63,945	473,945	1,657,570	2.42
2050	0.2661	1,350,710	2,658,086	4,008,796	1,184,319	420,000	2.63%	53,051	473,051	1,657,370	2.42
2051	0.2661	1,350,710	2,658,086	4,008,796	1,187,994	430,000	2.63%	41,874	471,874	1,659,867	2.42
2052	0.2661	1,350,710	2,658,086	4,008,796	1,184,650	445,000	2.65%	30,323	475,323	1,659,973	2.41
2053	0.2661	1,350,710	2,658,086	4,008,796	-	455,000	2.65%	18,398	473,398	473,398	8.47
2054	0.2661	1,350,710	2,658,086	4,008,796	-	465,000	2.66%	6,185	471,185	471,185	8.51
					\$56,292,317	\$9,675,000		\$4,155,219	\$13,830,219	\$70,122,537	

AVERAGE (MATURITY) LIFE	17.56 YEARS
NET INTEREST RATE	2.445%
COST SAVINGS	\$ 3,185,315
AVERAGE ANNUAL REQUIREMENT	\$446,136

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
Magnolia
73938 - Nichols Sawmill WWTP
Expansion

Budget Items	TWDB Funds	Total
Construction		
Construction	\$7,500,000	\$7,500,000
Subtotal for Construction	\$7,500,000	\$7,500,000
Basic Engineering Services		
Construction Engineering	\$175,000	\$175,000
Design	\$950,000	\$950,000
Planning	\$50,000	\$50,000
Subtotal for Basic Engineering Services	\$1,175,000	\$1,175,000
Special Services		
Application	\$12,500	\$12,500
Environmental	\$30,000	\$30,000
Geotechnical	\$25,000	\$25,000
Inspection	\$139,000	\$139,000
O&M Manual	\$5,000	\$5,000
Permits	\$2,500	\$2,500
Surveying	\$25,000	\$25,000
Testing	\$15,000	\$15,000
Subtotal for Special Services	\$254,000	\$254,000
Fiscal Services		
Bond Counsel	\$42,500	\$42,500
Financial Advisor	\$139,000	\$139,000
Fiscal/Legal	\$3,105	\$3,105
Issuance Costs	\$9,500	\$9,500
Loan Origination Fee	\$166,400	\$166,400
Subtotal for Fiscal Services	\$360,505	\$360,505
Contingency		
Contingency	\$1,385,495	\$1,385,495
Subtotal for Contingency	\$1,385,495	\$1,385,495
Total	\$10,675,000	\$10,675,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$10,675,000 TO THE CITY OF MAGNOLIA
FROM THE CLEAN WATER STATE REVOLVING FUND
THROUGH THE PROPOSED PURCHASE OF
\$9,675,000 CITY OF MAGNOLIA, TEXAS TAX AND REVENUE CERTIFICATES OF
OBLIGATION,
PROPOSED SERIES 2023
AND
\$1,000,000 IN PRINCIPAL FORGIVENESS

(23 -)

WHEREAS, the City of Magnolia (City), located in Montgomery County has filed an application for financial assistance in the amount of \$10,675,000 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, design, and construction of certain wastewater system improvements identified as Project No. 73938 and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$9,675,000 City of Magnolia, Texas Tax and Revenue Certificates of Obligation (together with all authorizing documents, "Obligations"), and the execution of a Principal Forgiveness Agreement in an amount of \$1,000,000, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of tax and system revenue as sufficient security for the repayment of the Obligations; and

WHEREAS, the commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 375.14; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and taxes pledged by the City will be sufficient to meet all the Obligations assumed by the City, in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *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 City;
4. that the City 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 City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007;
6. that the City meets the definition of a "Disadvantaged Community" in 31 TAC § 375.1(23) and that the City qualifies as a Disadvantaged Community and a "small" or "rural" system as determined by the applicable Intended Use Plan, and the project is therefore eligible for principal forgiveness through the CWSRF in a total amount not to exceed \$1,000,000;

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

A commitment is made by the TWDB to the City of Magnolia for financial assistance in the amount of \$10,675,000 from the Clean Water State Revolving Fund through the TWDB's proposed purchase of \$9,675,000 City of Magnolia, Texas Tax and Revenue Certificates of Obligation, Proposed Series 2023 and the execution of a Principal Forgiveness Agreement in the amount of \$1,000,000. This commitment will expire on March 31, 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 as determined by the TWDB. If the financial assistance is funded with available cash-on-hand, the TWDB reserves the right to change the designated source of funds to bond proceeds issued for the purpose of reimbursing funds used to provide the financial assistance approved in this Resolution;
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 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 City;
3. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375;
4. the Obligations must provide that the City agrees to comply with all the conditions set forth in the TWDB Resolution;
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 City, 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 City'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 City's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the City is an obligated person with respect to such bonds under SEC Rule 15c2-12;
7. the Obligations must contain a provision requiring the City to levy a tax or maintain and collect sufficient rates and charges, as applicable, 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 City 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 City to submit a final accounting and disposition of any unused funds;
9. the Obligations must include a provision requiring the City 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 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. financial assistance proceeds shall not be used by the City when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The

Obligations shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment, and disposition of any contaminated sewage sludge, contaminated sediments, or contaminated media that may be generated by the City, 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 City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or the levy of an interest and sinking tax rate (if applicable) sufficient for the repayment of all system debt service requirements;
14. prior to closing, and if not previously provided with the application, the City 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 City 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 City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
17. the Obligations must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
18. the Obligations must provide that the City 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;
19. the Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
20. the City 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);

21. the Obligations must provide that the City will submit annually, an audit prepared by a certified public accountant in accordance with generally accepted auditing standards:

Conditions Related to Tax-Exempt Status:

22. the City'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 City when rendering this opinion;
23. the City'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 City when rendering this opinion;
24. the Obligations must include a provision prohibiting the City 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 City 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 to satisfy the

requirements of section 148 of the Code. The Obligations must provide that the City 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 City may, however, to the extent permitted by law, commingle Gross Proceeds of its financial assistance with other money of the City, provided that the City 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 City 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 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 City 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 City 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 City's reasonable expectations regarding the use, expenditure, and investment of the proceeds of the Obligations;

30. the Obligations must contain a provision that the City 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 City 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 City by the TWDB;
33. the City'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 City 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 City, 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 contract clauses as provided by the TWDB;
36. the Obligations must include a provision stating that the City 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 City shall obtain a Unique Entity Identification Number and shall register with 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 shall provide that the City will adhere to the approved project schedule;
38. the Obligations and Principal Forgiveness Agreement must contain a covenant that the City 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 § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;
39. the Obligations and Principal Forgiveness Agreement must contain a covenant that the City will abide by all applicable requirements related to the Build America, Buy America Act, Public Law 117-58;
40. the Obligations must contain language detailing compliance with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP). These standards and principles also apply to the reporting of underlying infrastructure assets;
41. The Obligations and Principal Forgiveness Agreement must contain a covenant that the City shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216;

Clean Water State Revolving Fund Conditions:

42. the City shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant 31 TAC Chapter 375;
43. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City must provide documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program;
44. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)–(C), the City must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq.* and 33 U.S.C. § 1382(b)(14).

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

Special Conditions:

45. the Obligations must include a provision requiring the City to submit to the TWDB, upon request, a transaction report of the escrow account titled: the Woodforest National Bank, Escrow Agent for the City of Magnolia; Groundwater Contract Water Rate Revenue; until such time as the TWDB determines the request is no longer required;
46. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
47. the Principal Forgiveness Agreement must include a provision stating that the City shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator.

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**

	Total GPCD	Residential GPCD	Water Loss GPCD
Baseline			
5-year Goal			
10-year Goal			

WATER LOSS AUDIT YEAR:

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:
ILI¹:

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.



City of Magnolia Montgomery County

