

# Texas Water Development Board

## PROJECT FUNDING REQUEST

**BOARD DATE:** June 9, 2022

**Team Manager:** Jeff Taylor

### ACTION REQUESTED

Approve by resolution a request from the Lumberton Municipal Utility District (Hardin County) for \$44,000,000 in financing from the Clean Water State Revolving Fund for construction of a wastewater treatment plant.

### STAFF RECOMMENDATION

Approve       No Action

### BACKGROUND

Lumberton Municipal Utility District (District) is located in Hardin County, approximately 15 miles north of downtown Beaumont, Texas. The District's service area is 37.2 square miles and has a population of approximately 28,586.

### PROJECT NEED AND DESCRIPTION

The District's 3.33 million-gallon-per-day (MGD) wastewater treatment plant (WWTP) is in need of replacement due to deterioration, mechanical failures of the orbital aeration unit, changing influent characteristics, and Texas Commission on Environmental Quality (TCEQ) regulations. The WWTP is operating at a reduced effective capacity of 2.1 MGD due to high levels of biological oxygen demand of the influent. With an average daily flow of 1.8 MGD the plant has exceeded 75 percent of the WWTP's capacity and must begin planning for an expansion per Texas Administrative Code Rule §305.126.

The District is proposing to construct a new 6.0 MGD WWTP at the site of the existing plant. The new plant will consist of two 3.0 MGD treatment trains with reuse of limited equipment from the existing plant. The project also includes the acquisition of land to the north of the existing site as well as resizing of the lift station to accommodate future inflow.

### PROJECT SCHEDULE

Task	Schedule Date
Closing	September 15, 2022
Engineering Feasibility Report Completion (End of Planning Phase)	January 31, 2023
Design Phase Completion	March 30, 2023
Start of Construction	August 31, 2023
Construction Completion	December 14, 2025

**COMMITMENT PERIOD:** TWELVE (12) MONTHS TO EXPIRE JUNE 30, 2023

## **KEY ISSUES**

The District will be participating in a public market bond sale for approximately \$25,000,000 to fund the planning, acquisition, design, and remaining construction of the proposed project since the expected costs are greater than the \$44,000,000 Clean Water State Revolving Fund cap. The debt service from the additional bond sale proceeds were included in the financial analysis and debt service schedule.

## **LEGAL**

### Special Conditions

- Conversion and conveyance

### Attachments:

1. Financial Review
2. Project Budget
3. Resolution (22- )
4. Water Conservation Review
5. Location Map

# Financial Review

## Lumberton Municipal Utility District

Risk Score: 2B

Audit Reviewed: FY 2021

### Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 0.29%	State: 1.49%
Top 10 Taxpayers % of Total Revenue	5%	10-15%
Median Household Income as % of State	98%	100%
Days of Cash on Hand (3-year Average)	293 days	30-149 days
Tax Base Full Value	\$1,499,495,761	\$120,000,000-\$819,999,999
Debt Service Coverage Ratio	1.0x	1.0x
Taxable Assessed Value, Per Capita	\$115,586	\$30,000-\$64,999
Unemployment Rate (March, 2022)	{Hardin Co.}: 5.60%	State: 3.90%
Working Capital Ratio	0.9	> 1.0
Cash Balance Ratio	-27%	0 – 9.99%

#### Key Risk Score Strengths

- 293 days of cash on hand exceed the state benchmark and indicates the District has sufficient reserves available for fiscal emergencies.
- The top ten taxpayers only account for five percent of the property tax revenue generated by the District, indicating it does not rely on a small concentration of taxpayers for most of its revenue.

#### Key Risk Score Concerns

- The County's unemployment rate of 5.60% is higher than the state benchmark; however, this is on a downward trend from the January and February unemployment figures of 7.2% and 6.9%, respectively.
- The District's cash balance ratio has decreased over the last several years due to the reduced debt service requirements and subsequent reduction in the I&S tax rate; however, based on the proposed obligations, the District intends to increase its tax rate thereby resolving liquidity concerns.

#### PLEDGE

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

**TAXES**

	2020 Tax Year Rate	Max Projected Tax Rate (2028)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.00	\$0.00	Unlimited	97%	\$1,499,495,761
Interest & Sinking	\$0.0787	\$0.2735			
Total Tax Rate	\$0.0787	\$0.2735			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the District could save approximately \$10,310,512 over the life of the financing.

<b>Responsible Authority</b>	Lumberton MUD
<b>Program</b>	CWSRF
<b>Commitment Number</b>	L1001520
<b>Project Number</b>	73918
<b>List Year</b>	2022
<b>Type of Pledge</b>	Tax Pledge
<b>Pledge Level (if applicable)</b>	N/A
<b>Legal Description</b>	\$44,000,000 Lumberton Municipal Utility District Unlimited Tax Bonds Proposed Series 2022
<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>	N/A
<b>Phases Funded</b>	Construction
<b>Pre-Design</b>	No
<b>Project Consistent with State Water Plan</b>	N/A
<b>Water Conservation Plan</b>	Adopted
<b>Overall Risk Score</b>	2B

**PROJECT TEAM**

<b>Team Manager</b>	<b>Financial Analyst</b>	<b>Engineering Reviewer</b>	<b>Environmental Reviewer</b>	<b>Attorney</b>
Jeff Taylor	Rand Zeolla	Bill Blaik	Gayla Duaine	Annette Mass

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
Lumberton Municipal Utility District

\$44,000,000 Lumberton Municipal Utility District Unlimited Tax Bonds Proposed Series 2022

Dated Date: 9/15/2022  
 Delivery Date: 9/15/2022  
 First Interest: 2/15/2023  
 First Principal: 8/15/2023  
 Last Principal: 8/15/2052  
 Fiscal Year End: 06/30  
 Required Coverage: 1.0

Source: CWSRF-NON-EQUIVALENCY  
 Rate: 2.37%  
 IUP Year: 2022  
 Case: Tax  
 Admin.Fee: \$756,757  
 Admin. Fee Payment Date: 9/15/2022  
 Total Assessed Valuation: \$1,499,495,761

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 97%	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE*	\$44,000,000 ISSUE			TOTAL DEBT SERVICE	COVERAGE	
					PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			
2023	\$0.1503	\$2,185,888	\$2,185,888	\$1,789,873	\$0	-	\$396,015	\$2,185,888	1.00	
2024	0.2644	3,845,392	3,845,392	1,950,513	950,000	1.17%	944,879	3,845,392	1.00	
2025	0.2688	3,909,444	3,909,444	1,951,888	1,025,000	1.32%	932,556	3,909,444	1.00	
2026	0.2713	3,945,579	3,945,579	1,952,313	1,075,000	1.40%	918,266	3,945,579	1.00	
2027	0.2730	3,970,328	3,970,328	1,967,562	1,100,000	1.45%	902,766	3,970,328	1.00	
2028	0.2735	3,978,722	3,978,722	1,967,312	1,125,000	1.49%	886,410	3,978,722	1.00	
2029	0.2553	3,713,393	3,713,393	1,639,763	1,205,000	1.56%	868,630	3,713,393	1.00	
2030	0.2557	3,719,758	3,719,758	1,640,306	1,230,000	1.59%	849,452	3,719,758	1.00	
2031	0.2561	3,724,483	3,724,483	1,640,038	1,255,000	1.63%	829,445	3,724,483	1.00	
2032	0.2563	3,727,549	3,727,549	1,638,956	1,280,000	1.66%	808,593	3,727,549	1.00	
2033	0.2564	3,728,940	3,728,940	1,637,063	1,305,000	1.70%	786,877	3,728,940	1.00	
2034	0.2570	3,737,710	3,737,710	1,639,275	1,335,000	1.85%	763,435	3,737,710	1.00	
2035	0.2570	3,738,272	3,738,272	1,640,513	1,360,000	1.96%	737,759	3,738,272	1.00	
2036	0.2572	3,740,958	3,740,958	1,640,775	1,390,000	2.05%	710,183	3,740,958	1.00	
2037	0.2569	3,735,929	3,735,929	1,640,063	1,415,000	2.13%	680,866	3,735,929	1.00	
2038	0.2567	3,733,348	3,733,348	1,638,375	1,445,000	2.19%	649,973	3,733,348	1.00	
2039	0.2567	3,733,262	3,733,262	1,640,631	1,475,000	2.24%	617,631	3,733,262	1.00	
2040	0.2561	3,725,709	3,725,709	1,636,831	1,505,000	2.29%	583,878	3,725,709	1.00	
2041	0.2558	3,720,738	3,720,738	1,636,975	1,535,000	2.33%	548,763	3,720,738	1.00	
2042	0.2556	3,718,157	3,718,157	1,640,900	1,565,000	2.38%	512,257	3,718,157	1.00	
2043	0.2549	3,707,940	3,707,940	1,638,606	1,595,000	2.42%	474,334	3,707,940	1.00	
2044	0.2544	3,700,222	3,700,222	1,640,094	1,625,000	2.45%	435,128	3,700,222	1.00	
2045	0.2540	3,694,919	3,694,919	1,640,281	1,660,000	2.48%	394,638	3,694,919	1.00	
2046	0.2535	3,686,951	3,686,951	1,639,169	1,695,000	2.51%	352,782	3,686,951	1.00	
2047	0.2528	3,676,381	3,676,381	1,636,756	1,730,000	2.53%	309,625	3,676,381	1.00	
2048	0.2519	3,663,264	3,663,264	1,637,963	1,760,000	2.55%	265,301	3,663,264	1.00	
2049	0.2515	3,657,527	3,657,527	1,637,706	1,800,000	2.56%	219,821	3,657,527	1.00	
2050	0.2509	3,649,015	3,649,015	1,640,906	1,835,000	2.58%	173,109	3,649,015	1.00	
2051	0.2498	3,632,784	3,632,784	1,637,563	1,870,000	2.59%	125,221	3,632,784	1.00	
2052	0.2491	3,623,754	3,623,754	1,637,675	1,910,000	2.61%	76,079	3,623,754	1.00	
2053	0.2480	3,606,740	3,606,740	1,636,163	1,945,000	2.63%	25,577	3,606,740	1.00	
				\$52,552,807	\$44,000,000		\$17,780,246	\$61,780,246	\$114,333,053	

\* Includes both current debt service and proposed open market issuance of \$30.275 million dollars

AVERAGE (MATURITY) LIFE	17.04 YEARS
NET INTEREST RATE	2.372%
COST SAVINGS	\$ 10,310,512
AVERAGE ANNUAL REQUIREMENT	\$1,992,911

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**  
**Lumberton MUD**  
**73918 - Lumberton MUD - WWTP Expansion**

Budget Items	TWDB Funds	Local Funds	Total
<b>Construction</b>			
Construction	\$37,243,478.00	\$14,131,334.00	\$51,374,812.00
<b>Subtotal for Construction</b>	<b>\$37,243,478.00</b>	<b>\$14,131,334.00</b>	<b>\$51,374,812.00</b>
<b>Basic Engineering Services</b>			
Construction Engineering	\$0.00	\$268,000.00	\$268,000.00
Design	\$0.00	\$4,640,030.00	\$4,640,030.00
Planning	\$0.00	\$53,164.00	\$53,164.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$0.00</b>	<b>\$4,961,194.00</b>	<b>\$4,961,194.00</b>
<b>Special Services</b>			
Environmental	\$0.00	\$40,000.00	\$40,000.00
Geotechnical	\$0.00	\$100,000.00	\$100,000.00
Inspection	\$0.00	\$463,300.00	\$463,300.00
Surveying	\$0.00	\$100,000.00	\$100,000.00
<b>Subtotal for Special Services</b>	<b>\$0.00</b>	<b>\$703,300.00</b>	<b>\$703,300.00</b>
<b>Fiscal Services</b>			
Bond Counsel	\$125,000.00	\$77,077.00	\$202,077.00
Financial Advisor	\$265,000.00	\$162,855.00	\$427,855.00
Fiscal/Legal	\$9,500.00	\$7,873.00	\$17,373.00
Issuance Costs	\$13,740.00	\$0.00	\$13,740.00
Loan Origination Fee	\$756,757.00	\$528,699.00	\$1,285,456.00
<b>Subtotal for Fiscal Services</b>	<b>\$1,169,997.00</b>	<b>\$776,504.00</b>	<b>\$1,946,501.00</b>
<b>Other</b>			
Land/Easements Acquisition	\$0.00	\$3,000,000.00	\$3,000,000.00
Other (Bond Issuance Fee)	\$0.00	\$62,729.00	\$62,729.00
<b>Subtotal for Other</b>	<b>\$0.00</b>	<b>\$3,062,729.00</b>	<b>\$3,062,729.00</b>
<b>Contingency</b>			
Contingency	\$5,586,525.00	\$1,271,820.00	\$6,858,345.00
<b>Subtotal for Contingency</b>	<b>\$5,586,525.00</b>	<b>\$1,271,820.00</b>	<b>\$6,858,345.00</b>
<b>Total</b>	<b>\$44,000,000.00</b>	<b>\$24,906,881.00</b>	<b>\$68,906,881.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$44,000,000 TO THE LUMBERTON MUNICIPAL UTILITY DISTRICT  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$44,000,000 LUMBERTON MUNICIPAL UTILITY DISTRICT UNLIMITED TAX BONDS,  
PROPOSED SERIES 2022

(22 - )

WHEREAS, the Lumberton Municipal Utility District (District), located in Hardin County has filed an application for financial assistance in the amount of \$44,000,000 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of certain wastewater system improvements identified as Project No. 73918; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$44,000,000 Lumberton Municipal Utility District Unlimited Tax Bonds, Proposed Series 2022 (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 unlimited taxes as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or taxes 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 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 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; and
4. that the District has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007.

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

A commitment is made by the TWDB to the Lumberton Municipal Utility District for financial assistance in the amount of \$44,000,000 from the Clean Water State



Revolving Fund through the TWDB's proposed purchase of \$44,000,000 Lumberton Municipal Utility District Unlimited Tax Bonds, Proposed Series 2022. This commitment will expire on June 30, 2023.

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 375;
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 levy a tax and/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 District to use any loan 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 loan 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. loan 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. loan proceeds shall not be used by the District when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Obligations shall include an environmental indemnification provision wherein the District 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 and/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 and/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 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 Obligations must provide that the District will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
18. 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;
19. the Obligations must contain a provision requiring the District to maintain insurance coverage sufficient to protect the TWDB's interest in the project;

Conditions Related to Tax-Exempt Status:

20. 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;
21. 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;
22. the Obligations must include a provision prohibiting the District from using the proceeds of this loan 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);
23. the Obligations must provide that no portion of the proceeds of the loan 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 loan (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;
24. 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 loan 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 loan, 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 the making of the loan, and in order to induce the making of the loan 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;
25. 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;
26. 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;
27. 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;
28. 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);
29. 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;
30. 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;

State Revolving Fund Conditions:

31. the District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
32. 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;

33. 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 obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Obligations are outstanding;
34. the Obligations shall provide that all loan 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;
35. 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 § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;
36. 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;
37. the Obligations must contain a covenant that the District shall abide by the prohibition on certain telecommunications and video surveillance services or equipment as required by 2 CFR § 200.216;
38. the District shall submit, prior to the release of funds, a schedule of the useful life of the project components prepared by an engineer as well as a certification by the applicant that the average weighted maturity of the obligations purchased by the TWDB does not exceed 120% of the average projected useful life of the project, as determined by the schedule;

Clean Water State Revolving Fund Conditions:

39. the District shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant 31 TAC Chapter 375;

40. at the TWDB's option, the TWDB may fund the financial assistance under this Resolution with either available cash-on-hand or from bond proceeds. 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;

Pledge Conditions for the Loan:

41. the Obligations must contain a provision that for each year the Bonds are outstanding, the District will levy a debt service tax rate, and collect taxes sufficient for the repayment of annual principal and interest requirements on the Obligations;

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

Special Conditions:

42. 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;
43. 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; and

APPROVED and ordered of record this 9th day of June 2022.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

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

Review Date:

Project ID:

# WATER CONSERVATION REVIEW

- Water
- Wastewater
- Other

Entity:

Other entity:

**WATER CONSERVATION PLAN DATE:**

Approvable

Adopted

	Total GPCD	Residential GPCD	Water Loss GPCD
<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

Retail population:

Connections per mile:

(gal/connection/day):

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.

**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.

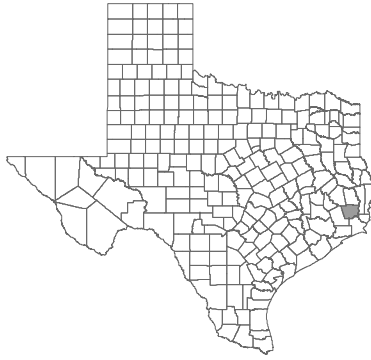
**Water loss** is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

**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.



# Lumberton MUD Hardin County

