

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: September 1, 2022

Team Manager: Mireya Loewe

ACTION REQUESTED

Approve by resolution a request from the City of Alice (Jim Wells County) for \$7,000,000 in financial assistance consisting of \$4,954,000 in financing and \$2,046,000 in principal forgiveness from the Drinking Water State Revolving Fund for planning, acquisition, design, and construction of a water supply project.

STAFF RECOMMENDATION

☒ Approve ☐ No Action

BACKGROUND

The City of Alice (City) is the county seat of Jim Wells County and has a population of approximately 22,500. The City provides water and wastewater services to its residents, as well as treated water to Jim Wells Fresh Water District No. 1 (District) on an as-needed basis through a month-to-month agreement with the District. The City obtains all of its raw water from the City of Corpus Christi's Nueces River Basin system (Choke Canyon and Lake Corpus Christi reservoir system). The City's contract with Corpus Christi is "perpetual" and their water allocation is 7,500 acre-feet per year. However, the City only pays for the amount it pumps from the reservoir. Raw water from Lake Corpus Christi reservoir is transported via one of two independent transmission mains (a 20-inch and a 30-inch pipeline) to the City's Lake Findley reservoir. From there, it is pumped as needed to the City's Homer E. Dean, Jr. water treatment plant (WTP) for treatment.

The City's surface WTP has a capacity of 8.63 million gallons per day (MGD). According to the City, the actual average production at this facility is approximately 3.5 MGD with maximum peaks of approximately 5 MGD during summer months. When the economy has been strong, mostly due to the surge in activity in the area by the oil and gas industry, the average production has peaked to approximately 7 MGD.

In July 2019, the City received a commitment from the Drinking Water State Revolving Fund (DWSRF), totaling \$5,499,000 in financing and principal forgiveness. The project was to develop a new primary brackish groundwater source. The project was to alleviate the City's concerns about increasing raw water costs from Corpus Christi. It was also to ensure that the City would have an additional water source during drought.

Per the City's consulting engineer, the groundwater in the area was anticipated to be high in dissolved solids TDS (approximately 3,000 milligrams per liter (mg/l)). The existing conventional surface WTP, which is designed for suspended solids, would not properly treat the groundwater. Therefore, the project had to include a reverse osmosis treatment system.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE MARCH 31, 2023

The project scope included two phases. The 2019 commitment was for the first phase, which included planning and design of two groundwater wells, each with a 2.0 MGD capacity, and a 3.0 MGD reverse osmosis brackish groundwater treatment plant (ROTP); and the construction of one groundwater well. The second phase would include construction of the second groundwater well and the ROTP. The treated ROTP water would be blended with treated water from the surface water treatment plant in the existing ground storage tank at the plant site. Once the first phase was completed, the City planned to request additional funding for the second phase. The City anticipated that once the full groundwater system was completed, the City would regularly use only a smaller amount of water from Corpus Christi and increase its use only when demand exceeded the capacity of the groundwater system.

In January 2020, the City issued a request for proposals for an alternative groundwater delivery system. In September 2021, the City entered into a public-private partnership (P3) agreement with Seven Seas Water Solutions USA, L.L.C. (7Seas), for the financing, design, construction, ownership, and operation of an ROTP on City property. Per the P3 agreement, the City will purchase treated water from 7Seas until the ownership and operation of the ROTP is transferred to the City after 15 years. The P3 contract has a clause allowing its renewal if both parties agree at the end of the original term. The City will be responsible for the construction and operation of two groundwater wells, raw water delivery infrastructure to the 7Seas ROTP, and a brine concentrate discharge line from the ROTP to a location adjacent to the City's surface WTP discharge point.

The City has designed and constructed the first well and has been conducting water sampling with a temporary, half-horse-power pump. The well will not be fitted with the full-capacity pump until the second well has been completed and testing of the system is conducted with the two wells in operation.

Given the new P3 agreement for the ROTP, the City wishes to amend the project scope of the original 2019 funding. The new project scope includes all project components to be funded by the DWSRF 2019 commitment and this funding request.

PROJECT NEED AND DESCRIPTION

The City's current sole source of raw water is purchased and pumped from the City of Corpus Christi. The City plans to develop a second water source to ensure a reliable, drought-resistant water supply.

The proposed project will construct two brackish groundwater wells and an ROTP to create a new potable water source. The components to be funded by the DWSRF include: 1) planning, design, and construction of two groundwater wells with a combined capacity of 4.0 MGD, and a raw water line and pumping system from the wells to the ROTP, all located within City-owned property; 2) all work necessary to obtain an environmental clearance that meets the National Environmental Policy Act (NEPA) requirements for the entire project, including the two wells, raw water line, ROTP, and brine discharge line and outfall; 3) acquisition of easements for the brine discharge line; and 4) engineering services that include owner's representation for P3 contracting review, and review and oversight of the design and construction of the ROTP.

7Seas will be responsible for the financing, design, permitting, construction, and operation of a 3.0-MGD ROTP on City-owned property. The City will use local funds and crews to design and construct the discharge line and outfall from the ROTP to the discharge point at the City's wastewater treatment plant site, where the two discharges will be blended.

PROJECT SCHEDULE

Task	Schedule Date
Closing	December 15, 2022
Engineering Feasibility Report Completion (End of Planning Phase)	October 2, 2023
Design Phase Completion	October 2, 2023
Start of Construction	November 1, 2023
Construction Completion	December 31, 2024

KEY ISSUES

The City qualified for \$2,046,000 in principal forgiveness and \$1,020,000 in zero-percent interest financing as a disadvantaged/rural community. To complete the project, the City is eligible for \$3,934,000 in equivalency financing.

Per DWSRF regulations, if a project is fully or partially funded with DWSRF, all phases or components of a project that are connected in purpose, place, and time are subject to certain DWSRF requirements. Therefore, the full project, from well field to brine discharge and including the ROTP, will be subject to DWSRF requirements, including: NEPA-level environmental compliance, American Iron and Steel, and Davis-Bacon Act wages.

The City's utility system cash reserves were zero at the end of fiscal years 2020 and 2021. Therefore, the funding will be conditioned to create a reserve equal to 30 days of operation and maintenance (O&M) costs prior to closing the commitment. The City must then increase it to equal 60 days of O&M costs prior to the end of the City's 2023 fiscal year and maintain it throughout the life of the financing.

LEGAL

The special conditions for this item are:

- Provision of additional documentation
- Executed Principal Forgiveness Agreement
- Return of surplus principal forgiveness funds
- Useful life certification
- 30 days of cash reserves prior to closing
- 60 days of cash reserves prior to end of FY 2023
- Maintenance of 60 days of cash reserves
- Third-party contractual documentation that includes conditions related to:
 - American Iron and Steel, as applicable
 - Compliance with environmental conditions
 - Compliance with Davis-Bacon Act
 - Authorization for the Texas Water Development Board (TWDB) to inspect the project for compliance with conditions
 - Compliance with all applicable TWDB laws and rules

Attachments:

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

Financial Review

City of Alice

Attachment 1

Risk Score: 2C

Audit Reviewed: FY 2021

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: -0.65%	State: 1.49%
Top 10 Customers % of Total Revenue	9.5%	10-15%
Median Household Income as % of State	58%	100%
Days of Cash on Hand (3-year Average)	15 days	30-149 days
Net Fixed Assets/ Annual Depreciation	22 years	12-24 years
Debt Service Coverage Ratio	0.85x	1.1x
Debt-to-Operating Revenues	2.30	4.00-5.99x
Unemployment Rate (May, 2022)	County: 6.50%	State: 3.80%
Working Capital Ratio	1.185	> 1.0

Key Risk Score Strengths

- The City maintains a low debt to operating revenues ratio indicating the City has the capacity to take on new system debt.
- Over the past three years, the City's utility system net income has increased by **107%**.

Key Risk Score Concerns

- The City has a debt service coverage ratio below the benchmark due to additional expenses associated with the recent contract signed with Seven Seas Water Solutions USA, L.L.C. (7Seas) and Performance Services of Texas, Inc (PSI). Through the contract with 7Seas, the City will reduce its previous water purchases from Corpus Christi. **Based on these contracts, the City is projected to need a maximum rate increase of approximately \$25 by 2030.**
- The population growth of the City has declined over the past ten years, but according to state water plan projections, the population of the City is projected to increase into the future. The connections of the City have also increased by approximately three percent from 2018 to 2020.
- Based on the last three fiscal years, the City currently averages 15 days of cash on hand; however, over the last two years, the City has had zero days of cash on hand. Due to this amount, an additional condition has been added to the commitment resolution.
- Based on the contract with 7Seas, the City will be liable for any additional maintenance and operations expenses above the contracted amounts. After 2038, the City will be liable for the full operations and maintenance of the new reverse osmosis plant.

PLEDGE

Legal Pledge Name	Ad Valorem Tax and Utility 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 type="checkbox"/> Second <input checked="" type="checkbox"/> Third <input type="checkbox"/> N/A

RATES AND CHARGES

Average Residential Use	Gallons/Month	Current Rates	Projected Rates (Year 2030)	Current Household Cost Factor	Projected Household Cost Factor
WATER	8,000	\$47.40	\$62.26	2.70	3.52
WASTEWATER	8,000	\$33.63	\$43.63		

TAXES

	2021 Tax Year Rate	Max Projected Tax Rate	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.3492	\$0.3492	\$1.50	95%	\$819,593,399
Interest & Sinking	\$0.1646	\$0.1646			
Total Tax Rate	\$0.5138	\$0.5138			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$1,793,461 over the life of the financing. The City is also saving \$2,046,000 in principal forgiveness.

Project Data Summary

Responsible Authority	Alice
Program	DWSRF
Commitment Number	L1001421, L1001555, LF1001556
Project Number	62835
List Year	2021
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$3,934,000 City of Alice, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022, \$1,020,000 City of Alice, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022, \$2,046,000 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	Yes
Phases Funded	Planning, Acquisition, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	Yes
Water Conservation Plan	Adopted
Overall Risk Score	2C

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Mireya Loewe	Arnoldo Rubio	Francia Harutunian	Lauren Dill	Michael Perez

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Alice

\$3,934,000 City of Alice, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022

Dated Date:	12/15/2022	Source:	DWSRF-EQUIVALENCY
Delivery Date:	12/15/2022	Rate:	2.32%
First Interest:	2/1/2023	IUP Year:	2021
First Principal:	8/1/2023	Case:	Tax and Revenue
Last Principal:	8/1/2052	Admin.Fee:	\$77,137
Fiscal Year End:	09/30	Admin. Fee Payment Date:	12/15/2022
Required Coverage:	1.1	Total Assessed Valuation:	\$819,593,399

\$1,020,000 City of Alice, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022

Dated Date:	12/15/2022	Source:	DWSRF-EQUIVALENCY
Delivery Date:	12/15/2022	Rate:	0.00%
First Interest:	2/1/2023	IUP Year:	2021
First Principal:	8/1/2023	Case:	Tax and Revenue
Last Principal:	8/1/2052	Admin.Fee:	\$20,000
Fiscal Year End:	9/30	Admin. Fee Payment Date:	12/15/2022
Required Coverage:	1.1		

FISCAL YEAR	CURRENT TAX RATE	CURRENT TAX REVENUES WITH COLL. @ 95%	PROJECTED NET SYSTEM REVENUES	(-) PSI PERFORMANCE CONTRACT*	(-) SEVEN SEAS MINIMUM PAYMENT*	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$3,934,000 ISSUE				\$1,020,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
								PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2023	0.1646	\$1,275,662	\$3,153,392	\$290,001	\$1,103,760	\$3,035,293	\$2,652,989	\$20,000	1.30%	\$52,369	\$72,369	\$34,000	-	-	\$34,000	\$2,759,357	1.10
2024	0.1646	1,275,662	4,426,591	290,001	2,207,520	3,204,732	2,776,234	20,000	1.30%	83,159	103,159	34,000	-	-	34,000	2,913,393	1.10
2025	0.1646	1,275,662	4,431,024	298,672	2,252,305	3,155,709	2,696,927	55,000	1.30%	82,899	137,899	34,000	-	-	34,000	2,868,826	1.10
2026	0.1646	1,275,662	4,468,752	307,602	2,291,721	3,145,092	2,682,990	60,000	1.30%	82,184	142,184	34,000	-	-	34,000	2,859,174	1.10
2027	0.1646	1,275,662	4,543,049	316,801	2,331,826	3,170,085	2,669,491	97,000	1.30%	81,404	178,404	34,000	-	-	34,000	2,881,895	1.10
2028	0.1646	1,275,662	4,603,860	326,276	2,372,633	3,180,614	2,677,324	100,000	1.30%	80,143	180,143	34,000	-	-	34,000	2,891,467	1.10
2029	0.1646	1,275,662	4,603,860	336,035	2,414,154	3,129,334	2,618,929	103,000	1.30%	78,843	181,843	34,000	-	-	34,000	2,834,772	1.10
2030	0.1646	1,275,662	4,650,156	346,086	2,456,402	3,123,330	2,620,887	107,000	1.30%	77,504	184,504	34,000	-	-	34,000	2,839,391	1.10
2031	0.1646	1,275,662	4,650,156	356,439	2,499,389	3,069,990	1,752,067	110,000	1.30%	76,113	186,113	34,000	-	-	34,000	1,972,180	1.56
2032	0.1646	1,275,662	4,650,156	367,103	2,543,128	3,015,587	1,675,308	113,000	1.35%	74,683	187,683	34,000	-	-	34,000	1,896,991	1.59
2033	0.1646	1,275,662	4,650,156	378,087	2,587,633	2,960,098	1,313,985	117,000	1.57%	73,158	190,158	34,000	-	-	34,000	1,538,143	1.92
2034	0.1646	1,275,662	4,650,156	389,400	2,632,916	2,903,502	1,317,870	120,000	1.71%	71,321	191,321	34,000	-	-	34,000	1,543,191	1.88
2035	0.1646	1,275,662	4,650,156	401,053	2,678,992	2,845,773	1,320,424	124,000	1.83%	69,269	193,269	34,000	-	-	34,000	1,547,693	1.84
2036	0.1646	1,275,662	4,650,156	413,055	2,725,875	2,786,888	1,321,555	128,000	1.93%	67,000	195,000	34,000	-	-	34,000	1,550,555	1.80
2037	0.1646	1,275,662	4,650,156	425,417	2,773,577	2,726,823	1,321,358	132,000	2.03%	64,529	196,529	34,000	-	-	34,000	1,551,887	1.76
2038	0.1646	1,275,662	4,650,156	438,150	2,822,115	2,665,553	403,064	136,000	2.10%	61,850	197,850	34,000	-	-	34,000	634,914	4.20
2039	0.1646	1,275,662	4,650,156	-	-	5,925,818	402,272	140,000	2.17%	58,994	198,994	34,000	-	-	34,000	635,266	9.33
2040	0.1646	1,275,662	4,650,156	-	-	5,925,818	401,432	144,000	2.23%	55,956	199,956	34,000	-	-	34,000	635,388	9.33
2041	0.1646	1,275,662	4,650,156	-	-	5,925,818	221,000	148,000	2.29%	52,745	200,745	34,000	-	-	34,000	455,745	13.00
2042	0.1646	1,275,662	4,650,156	-	-	5,925,818	216,000	153,000	2.35%	49,355	202,355	34,000	-	-	34,000	452,355	13.10
2043	0.1646	1,275,662	4,650,156	-	-	5,925,818	222,000	157,000	2.39%	45,760	202,760	34,000	-	-	34,000	458,760	12.92
2044	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	162,000	2.43%	42,008	204,008	34,000	-	-	34,000	238,008	24.90
2045	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	167,000	2.47%	38,071	205,071	34,000	-	-	34,000	239,071	24.79
2046	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	172,000	2.50%	33,946	205,946	34,000	-	-	34,000	239,946	24.70
2047	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	178,000	2.52%	29,646	207,646	34,000	-	-	34,000	241,646	24.52
2048	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	183,000	2.55%	25,161	208,161	34,000	-	-	34,000	242,161	24.47
2049	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	188,000	2.57%	20,494	208,494	34,000	-	-	34,000	242,494	24.44
2050	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	194,000	2.59%	15,662	209,662	34,000	-	-	34,000	243,662	24.32
2051	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	200,000	2.61%	10,638	210,638	34,000	-	-	34,000	244,638	24.22
2052	0.1646	1,275,662	4,650,156	-	-	5,925,818	-	206,000	2.63%	5,418	211,418	34,000	-	-	34,000	245,418	24.15
								\$33,284,103	\$3,934,000	\$1,660,284	\$5,594,284	\$1,020,000			\$1,020,000	\$39,898,387	

*These payments are contracted by the City for the completion and payment of the project. The payments for Seven Seas are contracted to increase at a rate of 1.75% or the current year's CPI, whichever is less.

\$3,934,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	18.16 YEARS
NET INTEREST RATE	2.324%
COST SAVINGS	\$1,080,127
AVERAGE ANNUAL REQUIREMENT	\$186,476

\$1,020,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	15.13 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$713,334
AVERAGE ANNUAL REQUIREMENT	\$34,000

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$1,329,946

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
Alice
62835 - Supplemental Water Resource

Budget Items	Previous Commitments	This Commitment	Local and Other Funds	Total
Construction				
Construction	\$1,497,518.50	\$5,404,585.00	\$0.00	\$6,902,103.50
Construction Contract- Test Drilling and Production Well #1 Construction	\$2,748,225.00	\$0.00	\$8,660.00	\$2,756,885.00
Subtotal for Construction	\$4,245,743.50	\$5,404,585.00	\$8,660.00	\$9,658,988.50
Basic Engineering Services				
Construction Engineering	\$86,000.00	\$589,400.00	\$0.00	\$675,400.00
Design	\$230,000.00	\$30,000.00	\$0.00	\$260,000.00
Planning	\$42,000.00	\$0.00	\$0.00	\$42,000.00
Subtotal for Basic Engineering Services	\$358,000.00	\$619,400.00	\$0.00	\$977,400.00
Special Services				
Application	\$0.00	\$0.00	\$0.00	\$0.00
Environmental	\$35,000.00	\$0.00	\$0.00	\$35,000.00
Geotechnical	\$0.00	\$121,250.00	\$0.00	\$121,250.00
Inspection	\$48,000.00	\$0.00	\$0.00	\$48,000.00
O&M Manual	\$0.00	\$0.00	\$0.00	\$0.00
Permits	\$5,000.00	\$0.00	\$0.00	\$5,000.00
Project Management (by engineer)	\$359,076.00	\$0.00	\$0.00	\$359,076.00
Surveying	\$5,000.00	\$0.00	\$0.00	\$5,000.00
Testing	\$15,000.00	\$20,000.00	\$0.00	\$35,000.00
Other (P3 Owner's Representative)	\$126,360.00	\$0.00	\$0.00	\$126,360.00
Subtotal for Special Services	\$593,436.00	\$141,250.00	\$0.00	\$734,686.00
Fiscal Services				
Bond Counsel	\$43,495.00	\$60,000.00	\$0.00	\$103,495.00
Financial Advisor	\$86,214.50	\$155,000.00	\$0.00	\$241,214.50
Fiscal/Legal	\$0.00	\$0.00	\$0.00	\$0.00
Loan Origination Fee	\$84,611.00	\$97,137.00	\$0.00	\$181,748.00
Subtotal for Fiscal Services	\$214,320.50	\$312,137.00	\$0.00	\$526,457.50
Other				
Administration	\$85,000.00	\$50,000.00	\$0.00	\$135,000.00
Land/Easements Acquisition	\$2,500.00	\$0.00	\$0.00	\$2,500.00
Subtotal for Other	\$87,500.00	\$50,000.00	\$0.00	\$137,500.00
Contingency				
Contingency	\$0.00	\$472,628.00	\$0.00	\$472,628.00
Subtotal for Contingency	\$0.00	\$472,628.00	\$0.00	\$472,628.00
Total	\$5,499,000.00	\$7,000,000.00	\$8,660.00	\$12,507,660.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
 APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
 \$7,000,000 TO THE CITY OF ALICE
 FROM THE DRINKING WATER STATE REVOLVING FUND
 THROUGH THE PROPOSED PURCHASE IN ONE OR MORE SERIES OF
 \$4,954,000 CITY OF ALICE, TEXAS COMBINATION TAX AND SURPLUS REVENUE
 CERTIFICATES OF OBLIGATION
 AND
 \$2,046,000 IN PRINCIPAL FORGIVENESS

(22 -)

WHEREAS, the City of Alice (City), located in Jim Wells County, has filed an application for financial assistance in the amount of \$7,000,000 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, acquisition, design, and construction of certain water system improvements identified as Project No. 62835; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase in one or more series of \$4,954,000 City of Alice, Texas Combination Tax and Surplus Revenue Certificates of Obligation, (together with all authorizing documents (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$2,046,000, 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 ad valorem taxes and a lien on the surplus revenues of the City's combined utility systems 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 § 371.13; and

WHEREAS, the TWDB hereby finds:

1. that the revenue and/or 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 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 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;

4. 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);
5. that a current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j);
6. that the City meets the definition of “Disadvantaged Community” in 31 TAC § 371.1(23) and is therefore eligible for principal forgiveness in the amount of \$2,046,000.

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

A commitment is made by the TWDB to the City of Alice for financial assistance in the amount of \$7,000,000 from the Drinking Water State Revolving Fund through the TWDB’s proposed purchase in one or more series of \$4,954,000 City of Alice, Texas Combination Tax and Surplus Revenue Certificates of Obligation, and the execution of a Principal Forgiveness Agreement in the amount of \$2,046,000. This commitment will expire on March 31, 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 City;
3. this commitment is contingent upon the City’s compliance with all applicable requirements contained in 31 TAC Chapter 371;
4. the Obligations must provide that the City 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 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 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 City 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 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 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 City 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 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 and/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 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 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 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 City will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
19. 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;
20. the Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project;

Conditions Related to Tax-Exempt Status:

21. 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;
22. 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;
23. the Obligations must include a provision prohibiting the City 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);
24. 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;
25. 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 in order 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 Loan 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 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 City 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;
26. 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;
 27. 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;
 28. 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;
 29. 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);

30. 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;
31. 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;

State Revolving Fund Conditions:

32. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
33. 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 contracts clauses as provided by the TWDB;
34. 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 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;
35. 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 City will adhere to the approved project schedule;
36. 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 § 371.4 and related State Revolving Fund Policy Guidelines;

Drinking Water State Revolving Fund Conditions:

37. the City shall pay at closing an origination fee approved by the Executive Administrator of the TWDB pursuant to 31 TAC Chapter 371;
38. 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 City 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;
39. prior to the 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;

Pledge Conditions for the Loan:

40. the Obligations must contain a provision that provides as follows:
 - a. if system revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied and collected may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund; or
 - b. if surplus revenues are based upon budgeted amounts:
 - i. the Obligations must include a requirement that the City transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Obligations until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Obligations; further, that the ordinance authorizing the issuance of the Obligations must include a requirement that the City shall not transfer any funds from the City's pledged system revenues to any fund other than the Interest and Sinking Fund until such time as an amount equal to the annual debt service on the Obligations for the then-current fiscal year has been deposited in the Interest and Sinking Fund;

- ii. the Obligations must include a requirement that for each year the Obligations are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues and/or tax revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, or a combination thereof, into the Interest and Sinking Fund for the repayment of the Obligations; and;
- iii. the Obligations must include a requirement that the City shall at all times maintain and collect sufficient rates and charges in conjunction with any other legally available funds so that after payment of the costs of operating and maintaining the system, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the City and other obligations of the City which are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City shall provide documentation which evidences the levy and collection of an ad valorem tax rate dedicated to the Interest and Sinking Fund, in conjunction with any other legally available funds, sufficient for the repayment of debt service requirements;

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

Special Conditions:

- 41. the Obligations must include a provision requiring that the City will provide the TWDB with such additional information, reports, statements and certifications with respect to the Obligations that the TWDB may from time to time reasonably request;
- 42. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
- 43. 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;
- 44. prior to the release of funds, the City shall provide 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 estimated useful life of the project, as determined by the schedule;

45. prior to closing, the City must provide contractual documentation satisfactory to the EA that it has obligated any 3rd party participating entity, its contractors and its subcontractors:
- a. to not begin construction of the Project, including land and vegetation clearing, until the environmental review process has been completed in accordance with 31 TAC § 371.41 and to comply with all conditions as specified in the final environmental finding of the Executive Administrator, including the standard emergency discovery conditions for threatened and endangered species and cultural resources;
 - b. to 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, related EPA SRF Policy Guidelines and the TWDB American Iron and Steel Guidance, unless the City has requested and obtained a waiver from EPA pertaining to the Project;
 - c. to pay all laborers and mechanics at rates not less than those prevailing on similar projects in the same locality, as determined by the U.S. Secretary of Labor's Wage and Hour Division, in conformance with the Davis-Bacon Act, 40 U.S.C. §§ 3141 - 3148, 29 CFR Part 5 and 29 CFR Part 3. Further, the contractual documentation must require 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.
 - d. to allow the Board or the Executive Administrator to inspect the construction of the project at any time to assure that the project is complying with environmental mitigation measures, Davis-Bacon and related federal laws and regulations relating to prevailing wage rates, and American Iron and Steel requirements.
 - e. to comply with all applicable TWDB laws and rules related to the Project.
46. prior to closing, the City shall submit documentation to the Executive Administrator of the TWDB that it has reserved thirty (30) days of cash for operating expenses, based on the daily average of operation and maintenance expenses reflected in the City's most recent audit, restricted for use by the City's waterworks and sewer system for operations, including repair and maintenance of the waterworks and sewer system;
47. prior to the end of the City's 2023 fiscal year, the City shall submit documentation to the Executive Administrator of the TWDB that it has reserved sixty (60) days of cash for operating expenses, based on the daily average of operation and maintenance expenses reflected in the City's most recent audit, restricted for use by the City's

waterworks and sewer system for operations, including repair and maintenance of the waterworks and sewer system;

48. after the end of the City's 2023 fiscal year and while the TWDB is the holder of the Obligations, the City will maintain sixty days (60) of cash for operating expenses, based on the daily average of operation and maintenance expenses reflected in the City's most recent audit, restricted for use by the City's waterworks and sewer system. If the restricted cash for operating expenses reserve falls below sixty (60) days of reserve, the fund must be replenished within twelve (12) months.

APPROVED and ordered of record this 1st day of September, 2022.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator

☒ Water
☐ Wastewater
☐ Other _____

WATER CONSERVATION REVIEW

Review Date: 06/09/2022

Project ID: 62835

Entity: City of Alice

Other entity: _____

WATER CONSERVATION PLAN DATE:

☐

Approvable

☒

Adopted

	Total GPCD	Residential GPCD	Water Loss GPCD
Baseline	158	76	45
5-year Goal	149	74	38
10-year Goal	142	72	33

WATER LOSS AUDIT YEAR: 2021

Service connections: 7,247

Length of main lines (miles): 100

Water Loss

Retail population: 17,891

Connections per mile: 72

(gal/connection/day): 20

Water Loss GPCD: 8

ILI¹: 1

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
If population > 10K :	17	NA	31	20	NA	35

Does the applicant meet Water Loss Threshold Requirements?

Yes ☒No ☐NA ☐

ADDITIONAL INFORMATION

In its water conservation plan, the city describes the water conservation goals of reducing water consumption, reducing the loss and waste of water, improving efficiency in water use, and better understanding and documenting the level of recycling and reuse within the system. The city is taking steps to improve its leak detection program by preparing a map which will identify repaired leaks based on work orders submitted by the city's maintenance crews. Also, the city is reaching out to leak detection vendors regarding detection units and metering equipment to assist in identifying and locating leaks before main breaks occur.

STAFF NOTES AND RECOMMENDATIONS

Over the past few years the city has replaced 5,324 customer meters, with an additional 368 meters replaced so far in 2022. The city has also changed certain operational procedures such as line flushing, and has installed meters going into its distribution system. These steps have improved the city's water loss.

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.

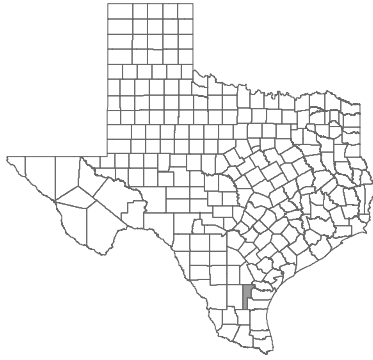
Water loss is the difference between the input volume and the authorized consumption within a water system. Water Loss consists of real losses and apparent losses.

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.



City of Alice Jim Wells County

