

# Texas Water Development Board

## PROJECT FUNDING REQUEST

**BOARD DATE:** March 3, 2022

**Team Manager:** Tom Barnett

### ACTION REQUESTED

Approve by resolution a request from the City of Breckenridge (Stephens County) for \$4,162,420 in financial assistance consisting of \$2,935,000 in financing and \$1,227,420 in principal forgiveness from the Clean Water State Revolving Fund for planning, design, and construction of a wastewater system improvements project.

### STAFF RECOMMENDATION

Approve       No Action

### BACKGROUND

The City of Breckenridge (City) is the county seat of Stephens County and is located approximately 100 miles west of Fort Worth. The City provides water and wastewater services to approximately 5,500 residents and 2,800 active connections.

### PROJECT NEED AND DESCRIPTION

The City experiences significant inflow and infiltration into their wastewater collection system during wet weather events, so improvements are necessary to reduce the risk of system overflows.

The proposed project includes rehabilitation of four existing lift stations, as well as manholes and collection lines in various parts of the City's wastewater collection system. In addition, improvements will be made at the City's wastewater treatment plant, including construction of an equalization basin to handle increased flows during rain events as well as improvements to the solids handling system.

### PROJECT SCHEDULE

Task	Schedule Date
Closing	July 15, 2022
Engineering Feasibility Report Completion (End of Planning Phase)	September 14, 2022
Design Phase Completion	December 14, 2022
Start of Construction	May 10, 2023
Construction Completion	May 15, 2024

### KEY ISSUES

The City qualified for principal forgiveness as a disadvantaged community and for a portion of the remaining financing to be zero interest as a disadvantaged small/rural community.

**COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE SEPTEMBER 30, 2022**

The City has also applied for Drinking Water State Revolving Fund financing for a water system improvements project to be considered at this same board meeting. The financial analysis and pro forma included herein account for both proposed obligations.

## **LEGAL**

### Special Conditions

- Executed Principal Forgiveness Agreement
- Return of Surplus Principal Forgiveness Funds

### Attachments:

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

# Financial Review City of Breckenridge

Risk Score: 2B

Audit Reviewed: FY 2020

## Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: -1.08%	State: 1.49%
Top 10 Customers % of Total Revenue	20.32%	10-15%
Median Household Income as % of State	74%	100%
Days of Cash on Hand (3-year Average)	23 days	30-149 days
Net Fixed Assets/ Annual Depreciation	27 years	12-24 years
Debt Service Coverage Ratio	2.45x	1.1x
Debt-to-Operating Revenues	0.00	4.00-5.99x
Net Direct Debt to Total Assessed Valuation	7.53%	2.00-4.99%
Unemployment Rate (November 2021)	{County}: 4.1%	State: 4.5%
Working Capital Ratio	2.23	> 1.0

### Key Risk Score Strengths

- The pledged revenues of an ad valorem tax and surplus utility system revenues provide a high debt service coverage ratio.
- The City supports the majority of its outstanding debt with ad valorem tax, leading to a net direct debt to total assessed valuation slightly above the benchmark. However, the City does not have debt on the revenue side. This indicates that the City has flexibility for self-supporting revenue debt.
- A low unemployment rate and a historically high tax collection rate indicate a strong socioeconomic base to support the proposed obligation.

### Key Risk Score Concerns

- Over the last ten years, there has been a slight population decline at an average annual rate of 1.08 percent. However, the active connections over that same period has remained relatively stable with a slightly upward trend.
- Of the top ten customers, a Texas Department of Criminal Justice prison facility accounts for approximately 11 percent of the City's utility revenues. A stress test excluding those revenues revealed that the City would still exceed 2.27 times coverage for the life of the financing.

### PLEDGE

Legal Pledge Name	Tax and Surplus Waterworks and Sewer Systems 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	Current Household Cost Factor	Projected Household Cost Factor
WATER	6,660	\$34.80	\$34.80	2.16	2.16
WASTEWATER	4,889	\$26.85	\$26.85		

**TAXES**

	2021 Tax Year Rate	Max Projected Tax Rate (Year 2021)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.8384	\$0.8384	\$2.50	96%	\$189,045,621
Interest & Sinking	\$0.2839	\$0.2839			
Total Tax Rate	\$1.1223	\$1.1223			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the City could save approximately \$526,505 over the life of the regular loan and \$595,157 over the life of the 0% interest loan. The City is also saving \$1,227,420 in principal forgiveness.

## Project Data Summary

<b>Responsible Authority</b>	Breckenridge
<b>Program</b>	CWSRF
<b>Commitment Number</b>	L1001426, L1001491, LF1001492
<b>Project Number</b>	73905
<b>List Year</b>	2021
<b>Type of Pledge</b>	Combo Tax and Revenue
<b>Pledge Level (if applicable)</b>	Third Lien
<b>Legal Description</b>	\$1,915,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation Series 2022A, \$1,020,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation Series 2022B, \$1,227,420 Principal Forgiveness Agreement
<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>	Yes
<b>State Revolving Fund Type</b>	Equivalency
<b>Financial Managerial &amp; Technical Complete</b>	N/A
<b>Phases Funded</b>	Planning, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with State Water Plan</b>	N/A
<b>Water Conservation Plan</b>	Adopted
<b>Overall Risk Score</b>	2B

### PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Tom Barnett	Lina Linehan	Ge Song	Chris Caran	Marshall Walters

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Breckenridge

**\$1,915,000 City of Breckenridge, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2022A**

Dated Date: 7/15/2022  
 Delivery Date: 7/15/2022  
 First Interest: 3/15/2023  
 First Principal: 9/15/2024  
 Last Principal: 9/15/2053

Source: CWSRF-EQUIVALENCY  
 Rate: 1.75%  
 IUP Year: 2021  
 Case: Tax and Revenue  
 Admin.Fee: \$ 32,936

Fiscal Year End: 09/30  
 Required Coverage: 1.1

Admin. Fee Payment Date: 7/15/2022  
 Total Assessed Valuation: \$ 189,045,621

**\$1,305,000 City of Breckenridge, Texas Combination Tax and Revenue Certificates of Obligation, Proposed Series 2022C**

Dated Date: 7/15/2022  
 Delivery Date: 7/15/2022  
 First Interest: 3/15/2023  
 First Principal: 9/15/2024  
 Last Principal: 9/15/2053

Source: DWSRF-EQUIVALENCY  
 Rate: 1.81%  
 IUP Year: 2021  
 Case: Tax and Revenue  
 Admin.Fee: \$ 25,588

Fiscal Year End: 9/30  
 Required Coverage: 1.1

Admin. Fee Payment Date: 7/15/2022

FISCAL YEAR	CURRENT TAX RATE	REQUIRED TAX REVENUES WITH COLL. @ 96.71%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$1,915,000 ISSUE				\$1,305,000 ISSUE				\$1,020,000 Series 2022B & \$1,020,000 Series 2022 D*		DEBT SERVICE	ACTUAL COVERAGE
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT				
2023	0.2839	\$519,043	\$1,115,052	\$1,634,095	\$464,139	-	-	\$37,845	\$37,845	-	-	\$26,465	\$26,465	-	\$528,448	3.09	
2024	0.2839	519,043	1,115,052	1,634,095	462,360	\$55,000	1.60%	32,439	87,439	\$35,000	1.60%	22,684	57,684	\$60,000	667,483	2.45	
2025	0.2839	519,043	1,115,052	1,634,095	464,589	55,000	1.60%	31,559	86,559	35,000	1.60%	22,124	57,124	60,000	668,272	2.45	
2026	0.2839	519,043	1,115,052	1,634,095	460,816	55,000	1.60%	30,679	85,679	35,000	1.60%	21,564	56,564	60,000	663,058	2.46	
2027	0.2839	519,043	1,115,052	1,634,095	458,191	55,000	1.60%	29,799	84,799	35,000	1.60%	21,004	56,004	60,000	658,994	2.48	
2028	0.2839	519,043	1,115,052	1,634,095	459,274	55,000	1.60%	28,919	83,919	35,000	1.60%	20,444	55,444	60,000	658,637	2.48	
2029	0.2839	519,043	1,115,052	1,634,095	461,355	55,000	1.60%	28,039	83,039	35,000	1.60%	19,884	54,884	60,000	659,277	2.48	
2030	0.2839	519,043	1,115,052	1,634,095	461,452	55,000	1.60%	27,159	82,159	35,000	1.60%	19,324	54,324	70,000	667,935	2.45	
2031	0.2839	519,043	1,115,052	1,634,095	458,599	55,000	1.60%	26,279	81,279	40,000	1.60%	18,764	58,764	70,000	668,641	2.44	
2032	0.2839	519,043	1,115,052	1,634,095	458,482	55,000	1.60%	25,399	80,399	40,000	1.60%	18,124	58,124	70,000	667,004	2.45	
2033	0.2839	519,043	1,115,052	1,634,095	459,373	55,000	1.60%	24,519	79,519	40,000	1.60%	17,484	57,484	70,000	666,375	2.45	
2034	0.2839	519,043	1,115,052	1,634,095	464,313	55,000	1.60%	23,639	78,639	40,000	1.60%	16,844	56,844	70,000	669,795	2.44	
2035	0.2839	519,043	1,115,052	1,634,095	464,135	55,000	1.60%	22,759	77,759	40,000	1.60%	16,204	56,204	70,000	668,098	2.45	
2036	0.2839	519,043	1,115,052	1,634,095	458,692	60,000	1.60%	21,879	81,879	40,000	1.60%	15,564	55,564	70,000	666,134	2.45	
2037	0.2839	519,043	1,115,052	1,634,095	459,233	60,000	1.60%	20,919	80,919	40,000	1.60%	14,924	54,924	70,000	665,075	2.46	
2038	0.2839	519,043	1,115,052	1,634,095	461,821	60,000	1.60%	19,959	79,959	45,000	1.60%	14,284	59,284	70,000	671,063	2.44	
2039	0.2839	519,043	1,115,052	1,634,095	461,267	65,000	1.60%	18,999	83,999	45,000	1.60%	13,564	58,564	70,000	673,829	2.43	
2040	0.2839	519,043	1,115,052	1,634,095	459,352	65,000	1.60%	17,959	82,959	45,000	1.60%	12,844	57,844	70,000	670,154	2.44	
2041	0.2839	519,043	1,115,052	1,634,095	463,256	65,000	1.60%	16,919	81,919	45,000	1.60%	12,124	57,124	70,000	672,298	2.43	
2042	0.2839	519,043	1,115,052	1,634,095	465,246	65,000	1.60%	15,879	80,879	45,000	1.64%	11,404	56,404	70,000	672,528	2.43	
2043	0.2839	519,043	1,115,052	1,634,095	458,175	70,000	1.60%	14,839	84,839	45,000	1.70%	10,666	55,666	70,000	668,680	2.44	
2044	0.2839	519,043	1,115,052	1,634,095	456,855	70,000	1.67%	13,719	83,719	45,000	1.77%	9,901	54,901	70,000	665,474	2.46	
2045	0.2839	519,043	1,115,052	1,634,095	463,225	70,000	1.72%	12,550	82,550	50,000	1.82%	9,105	59,105	70,000	674,879	2.42	
2046	0.2839	519,043	1,115,052	1,634,095	350,994	70,000	1.77%	11,346	81,346	50,000	1.87%	8,195	58,195	70,000	560,534	2.92	
2047	0.2839	519,043	1,115,052	1,634,095	213,870	70,000	1.81%	10,107	80,107	50,000	1.91%	7,260	57,260	70,000	421,236	3.88	
2048	0.2839	519,043	1,115,052	1,634,095	213,524	75,000	1.84%	8,840	83,840	50,000	1.94%	6,305	56,305	70,000	423,668	3.86	
2049	0.2839	519,043	1,115,052	1,634,095	213,210	75,000	1.87%	7,460	82,460	50,000	1.97%	5,335	55,335	70,000	421,004	3.88	
2050	0.2839	519,043	1,115,052	1,634,095	213,490	75,000	1.90%	6,057	81,057	50,000	2.00%	4,350	54,350	70,000	418,896	3.90	
2051	0.2839	519,043	1,115,052	1,634,095	213,773	80,000	1.93%	4,632	84,632	55,000	2.03%	3,350	58,350	70,000	426,754	3.83	
2052	0.2839	519,043	1,115,052	1,634,095	213,919	80,000	1.93%	3,088	83,088	55,000	2.03%	2,233	57,233	70,000	424,240	3.85	
2053	0.2839	519,043	1,115,052	1,634,095	213,030	80,000	1.93%	1,544	81,544	55,000	2.03%	1,117	56,117	70,000	420,690	3.88	
				\$50,656,947	\$12,450,006	\$1,915,000		\$595,715	\$2,510,715	\$1,305,000		\$423,434	\$1,728,434	\$2,040,000	\$18,729,155		

\*The Admin Fee for CWSRF Series 2022B is \$17,543 and the Admin Fee for DWSRF Series 2022D is \$20,000

\$1,915,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	17.81 YEARS
NET INTEREST RATE	1.747%
COST SAVINGS	\$3,106,812
AVERAGE ANNUAL REQUIREMENT	\$80,991

\$1,305,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	17.92 YEARS
NET INTEREST RATE	1.811%
COST SAVINGS	\$3,000,989
AVERAGE ANNUAL REQUIREMENT	\$55,756

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$604,166

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**  
**City of Breckenridge**  
**73905 - Wastewater System**  
**Improvements**

Budget Items	TWDB Funds	Total
<b>Construction</b>		
Construction	\$3,150,000.00	\$3,150,000.00
<b>Subtotal for Construction</b>	<b>\$3,150,000.00</b>	<b>\$3,150,000.00</b>
<b>Basic Engineering Services</b>		
Construction Engineering	\$60,000.00	\$60,000.00
Design	\$138,000.00	\$138,000.00
Planning	\$53,000.00	\$53,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$251,000.00</b>	<b>\$251,000.00</b>
<b>Special Services</b>		
Application	\$10,000.00	\$10,000.00
Environmental	\$30,000.00	\$30,000.00
Geotechnical	\$7,500.00	\$7,500.00
I/I Studies/Sewer Evaluation	\$20,000.00	\$20,000.00
Inspection	\$154,000.00	\$154,000.00
O&M Manual	\$5,000.00	\$5,000.00
Project Management (by engineer)	\$25,000.00	\$25,000.00
Surveying	\$16,500.00	\$16,500.00
Testing	\$15,000.00	\$15,000.00
<b>Subtotal for Special Services</b>	<b>\$283,000.00</b>	<b>\$283,000.00</b>
<b>Fiscal Services</b>		
Bond Counsel	\$40,000.00	\$40,000.00
Financial Advisor	\$39,800.00	\$39,800.00
Fiscal/Legal	\$2,950.00	\$2,950.00
Issuance Costs	\$3,500.00	\$3,500.00
Loan Origination Fee	\$50,479.00	\$50,479.00
<b>Subtotal for Fiscal Services</b>	<b>\$136,729.00</b>	<b>\$136,729.00</b>
<b>Contingency</b>		
Contingency	\$341,691.00	\$341,691.00
<b>Subtotal for Contingency</b>	<b>\$341,691.00</b>	<b>\$341,691.00</b>
<b>Total</b>	<b>\$ 4,162,420.00</b>	<b>\$ 4,162,420.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF \$4,162,420  
TO THE CITY OF BRECKENRIDGE  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$1,915,000 CITY OF BRECKENRIDGE, TEXAS COMBINATION TAX AND  
SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2022A,  
AND  
\$1,020,000 CITY OF BRECKENRIDGE, TEXAS COMBINATION TAX AND  
SURPLUS REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2022B,  
AND  
\$1,227,420 IN PRINCIPAL FORGIVENESS

(22 - )

WHEREAS, the City of Breckenridge (City), located in Stephens County has filed an application for financial assistance in the amount of \$4,162,420 from the Clean Water State Revolving Fund (CWSRF) to finance the planning, design, and construction of certain wastewater system improvements identified as Project No. 73905; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$1,915,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022A, and \$1,020,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022B (together with all authorizing documents, (Obligations)), which Obligations may be combined and issued as \$2,935,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022A utilizing a blended interest rate, and the execution of a Principal Forgiveness Agreement in an amount of \$1,227,420, 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 tax revenues and the surplus revenues of its waterworks and sewer systems 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 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 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 City has considered cost-effective, innovative, and nonconventional methods of treatment, in accordance with Texas Water Code § 15.007; and
5. that the City meets the definition of a "Disadvantaged Community" in 31 TAC § 375.1 (23) and is therefore eligible for principal forgiveness in the amount of \$1,227,420.

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

A commitment is made by the TWDB to the City of Breckenridge for financial assistance in the amount of \$4,162,420 from the Clean Water State Revolving Fund through the TWDB's proposed purchase, in one or more series, of \$1,915,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022A, and \$1,020,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed series 2022B, which may be combined and issued as \$2,935,000 City of Breckenridge, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022A utilizing a blended interest rate, and the execution of a Principal Forgiveness Agreement in the amount of \$1,227,420. This commitment will expire on September 30, 2022.

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 375;
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 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;

#### Conditions Related to Tax-Exempt Status

20. 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;
21. 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;
22. 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);

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 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;
- 25. 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;
  - 26. 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;
  - 27. 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;
  - 28. 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);
  - 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 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

- 31. the City 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 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;
33. 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;
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 City will adhere to the approved project schedule;
35. 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;
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 City 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

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

40. 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;
41. 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);

#### Pledge Conditions for the Loan

42. 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

- 43. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
- 44. 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 3rd day of March 2022.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

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



Water  
 Wastewater  
 Other

## WATER CONSERVATION REVIEW

Entity: \_\_\_\_\_

Review date: \_\_\_\_\_

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

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

**WATER LOSS AUDIT YEAR:**

Total water loss (GPCD): \_\_\_\_\_      Total water loss (percent): \_\_\_\_\_      Wholesale Water  
 Total no. of connections: \_\_\_\_\_      Length of mains (miles): \_\_\_\_\_      Connections per mile: \_\_\_\_\_  
 If > 16 connections per mile and > 3,000 connections, Infrastructure Leakage Index (ILI): \_\_\_\_\_

**WATER LOSS THRESHOLDS:**

	Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Threshold Gallons per connection per day	Real Threshold Gallons per mile per day	Real Threshold Gallons per connection per day
If population ≤ 10K, connections/mile < 32 :			NA			NA
If population ≤ 10K, connections/mile ≥ 32 :		NA			NA	
If population > 10K :		NA			NA	

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 loss** refers to unauthorized consumption, meter inaccuracy, billing adjustments, and waivers.

**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 5,000 connections, average pressure greater than 35 psi, and a connection density of more than 32 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 benchmarking 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.

**Produced water** is the total amount of water purchased or produced by the utility.

**Real loss** comes from main breaks and leaks, storage tank overflows, customer service line breaks, and leaks.

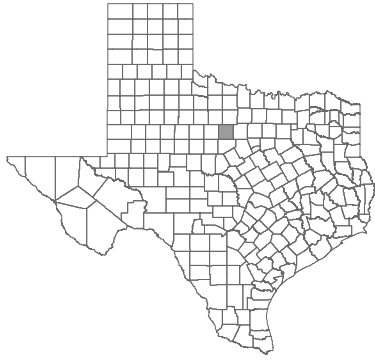
**Residential GPCD** is the amount of water per capita used solely for residential use and ideally includes both single and multi-family customer use.

**Total baseline GPCD** is the amount of all water purchased or produced by the utility divided by the service area population and then 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 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.



# City of Breckenridge Stephens County

