

# Texas Water Development Board

## PROJECT FUNDING REQUEST

**BOARD DATE:** January 6, 2022

**Team Manager:** Tom Barnett

### ACTION REQUESTED

Approve by resolution a request from the City of Comanche (Comanche County) for \$2,299,908 in financial assistance consisting of \$1,506,000 in financing and \$793,908 in principal forgiveness from the Drinking Water State Revolving Fund for planning, design, and construction of a water system improvements project.

### STAFF RECOMMENDATION

Approve       No Action

### BACKGROUND

The City of Comanche (City) is the county seat of Comanche County and is located approximately 35 miles southwest of Stephenville. The City provides water and wastewater services to approximately 4,500 residents and 1,700 active connections.

### PROJECT NEED AND DESCRIPTION

The City has been cited by the Texas Commission on Environmental Quality (TCEQ) for violating the required 0.6 gallon per minute minimum supply per connection and for excess disinfection byproducts in its system. Water system improvements are needed in order to bring the system back into compliance with minimum pressure and water quality parameters.

The proposed project includes installation of isolation valves on the City's main water line, improvements to the existing 1.1 million-gallon (MG) standpipe, improvements to an existing pump station, and replacement of approximately 10,000 linear feet of distribution lines and approximately 150 water service meters.

### PROJECT SCHEDULE

Task	Schedule Date
Closing	April 15, 2022
Engineering Feasibility Report Completion (End of Planning Phase)	September 30, 2022
Design Phase Completion	December 30, 2022
Start of Construction	March 30, 2023
Construction Completion	November 30, 2023

### KEY ISSUES

The proposed project improvements along with a proposed increase in the annual contracted water supply volume from Upper Leon River Municipal Water District are anticipated to resolve the City's TCEQ violation for failure to provide adequate water supply capacity.

**COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE JULY 31, 2022**

The City qualified for principal forgiveness as a disadvantaged community and for green project components that address water loss. The City also qualified for a portion of the remaining financing to be zero interest as a disadvantaged small/rural community.

## **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 Comanche

Risk Score: 2A

Audit Reviewed: FY 2020

## Key Indicators

Indicator	Result	Benchmark
Debt-to-Operating Revenue Ratio	1.53	4.00-5.99x
Median Household Income as % of State	66%	100%
Days of Cash on Hand (3-year Average)	132 days	30-149 days
Net Fixed Assets/ Annual Depreciation	25 years	12-24 years
Debt Service Coverage Ratio	2.30x	1.10x
Unemployment Rate (October 2021)	Comanche County: 4.2%	State: 4.8%
Population Growth, Average Annual 2010-2019	City: -0.36%	State: 1.24%
Working Capital Ratio	4.6	> 1.0

### Key Risk Score Strengths

- The City provides a strong pledge of combination tax and surplus revenues and plans to repay new debt with system revenues.
- A strong working capital ratio of 4.6 shows the City's ability to handle surges of short-term liabilities and a favorable liquidity position.
- The City's debt-to-operating revenues are below the benchmark average; therefore, the City is not over-leveraged and has revenues available to support current and future debt.

### Key Risk Score Concerns

- The population growth of the City has slightly declined, but the number of connections has remained steady for the past five years. In addition, the state water plan projections for the City show a slight increase.

### PLEDGE

Legal Pledge Name	Ad valorem tax and surplus 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 (2021)	Current Household Cost Factor	Projected Household Cost Factor
WATER	4,200	\$50.35	\$50.35	2.08	2.08
WASTEWATER	4,600	\$20.28	\$20.28		

**TAXES**

	2021 Tax Year Rate	Max Projected Tax Rate (2022)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.6227	\$0.6227	\$2.50	98.13%	\$225,499,946
Interest & Sinking	\$0.0096	\$0.0096			
Total Tax Rate	\$0.6323	\$0.6323			

Cost Savings

Based on a 32-year maturity schedule and current interest rates, the City could save approximately \$666,478 over the life of the financing. The City is also saving \$793,908 in principal forgiveness.

<b>Responsible Authority</b>	Comanche
<b>Program</b>	DWSRF
<b>Commitment Number</b>	L1001415, L1001470, LF1001471
<b>Project Number</b>	62906
<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>	\$1,020,000 City of Comanche, Texas Combination Tax and Surplus Revenue Certificate of Obligation Proposed Series 2022, \$486,000 City of Comanche, Texas Combination Tax and Surplus Revenue Certificate of Obligation, Proposed Series 2022, \$793,908 City of Comanche, Texas 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>	Yes
<b>Phases Funded</b>	Planning, Design, and Construction
<b>Pre-Design</b>	Yes
<b>Project Consistent with State Water Plan</b>	Yes
<b>Water Conservation Plan</b>	Adopted
<b>Overall Risk Score</b>	2A

### PROJECT TEAM

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

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY  
City of Comanche

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

Dated Date: 4/15/2022  
Delivery Date: 4/15/2022  
First Interest: 9/1/2022  
First Principal: 9/1/2024  
Last Principal: 9/1/2053

Fiscal Year End: 09/30  
Required Coverage: 1.1

Source: DWSRF-EQUIVALENCY  
Rate: 0.00%  
IUP Year: 2021  
Case: Tax and Revenue  
Admin.Fee: \$ 20,000

Admin. Fee Payment Date: 4/15/2022  
Total Assessed Valuation: \$ 225,499,946

**\$486,000 City of Comanche, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Series 2022**

Dated Date: 4/15/2022  
Delivery Date: 4/15/2022  
First Interest: 9/1/2022  
First Principal: 9/1/2024  
Last Principal: 9/1/2053

Fiscal Year End: 9/30  
Required Coverage: 1.1

Source: DWSRF-EQUIVALENCY  
Rate: 1.87%  
IUP Year: 2021  
Case: Tax and Revenue  
Admin.Fee: \$ 9,529

Admin. Fee Payment Date: 4/15/2022

FISCAL YEAR	REQUIRED TAX RATE	REQUIRED TAX REVENUES WITH COLL. @ 98%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE*	\$1,020,000 ISSUE				\$486,000 ISSUE				DEBT SERVICE	ACTUAL COVERAGE
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		
2022	\$ 0.0096	\$ 21,243	\$ 605,059	\$ 626,302	\$ 194,351	-	-	-	-	-	1.60%	\$3,273	\$3,273	\$197,624	3.17
2023	0.0096	21,243	605,059	626,302	217,654	-	-	-	-	-	1.60%	8,663	8,663	226,316	2.77
2024	0.0096	21,243	605,059	626,302	217,816	35,000	-	-	35,000	11,000	1.60%	8,575	19,575	272,391	2.30
2025	0.0096	21,243	605,059	626,302	220,796	35,000	-	-	35,000	12,000	1.60%	8,391	20,391	276,186	2.27
2026	0.0096	21,243	605,059	626,302	218,438	35,000	-	-	35,000	12,000	1.60%	8,199	20,199	273,636	2.29
2027	0.0096	21,243	605,059	626,302	221,949	35,000	-	-	35,000	12,000	1.60%	8,007	20,007	276,956	2.26
2028	0.0096	21,243	605,059	626,302	219,301	35,000	-	-	35,000	12,000	1.60%	7,815	19,815	274,116	2.28
2029	0.0096	21,243	605,059	626,302	222,560	35,000	-	-	35,000	13,000	1.60%	7,615	20,615	278,175	2.25
2030	0.0096	21,243	605,059	626,302	226,513	35,000	-	-	35,000	13,000	1.60%	7,407	20,407	281,920	2.22
2031	0.0096	21,243	605,059	626,302	228,138	35,000	-	-	35,000	13,000	1.60%	7,199	20,199	283,337	2.21
2032	0.0096	21,243	605,059	626,302	225,458	35,000	-	-	35,000	14,000	1.60%	6,983	20,983	281,440	2.23
2033	0.0096	21,243	605,059	626,302	223,652	35,000	-	-	35,000	14,000	1.60%	6,759	20,759	279,411	2.24
2034	0.0096	21,243	605,059	626,302	220,645	35,000	-	-	35,000	14,000	1.60%	6,535	20,535	276,179	2.27
2035	0.0096	21,243	605,059	626,302	221,506	35,000	-	-	35,000	15,000	1.60%	6,303	21,303	277,809	2.25
2036	0.0096	21,243	605,059	626,302	202,092	35,000	-	-	35,000	15,000	1.60%	6,063	21,063	258,154	2.43
2037	0.0096	21,243	605,059	626,302	204,318	35,000	-	-	35,000	15,000	1.60%	5,823	20,823	260,140	2.41
2038	0.0096	21,243	605,059	626,302	206,442	35,000	-	-	35,000	16,000	1.60%	5,575	21,575	263,017	2.38
2039	0.0096	21,243	605,059	626,302	202,331	35,000	-	-	35,000	16,000	1.60%	5,319	21,319	258,650	2.42
2040	0.0096	21,243	605,059	626,302	210,166	35,000	-	-	35,000	16,000	1.60%	5,063	21,063	266,229	2.35
2041	0.0096	21,243	605,059	626,302	170,472	35,000	-	-	35,000	17,000	1.64%	4,795	21,795	227,267	2.76
2042	0.0096	21,243	605,059	626,302	166,301	35,000	-	-	35,000	17,000	1.71%	4,511	21,511	222,811	2.81
2043	0.0096	21,243	605,059	626,302	168,123	35,000	-	-	35,000	18,000	1.78%	4,205	22,205	225,328	2.78
2044	0.0096	21,243	605,059	626,302	99,760	35,000	-	-	35,000	18,000	1.84%	3,879	21,879	156,639	4.00
2045	0.0096	21,243	605,059	626,302	57,688	35,000	-	-	35,000	19,000	1.89%	3,534	22,534	115,222	5.44
2046	0.0096	21,243	605,059	626,302	63,135	35,000	-	-	35,000	19,000	1.94%	3,170	22,170	120,305	5.21
2047	0.0096	21,243	605,059	626,302	62,550	30,000	-	-	30,000	19,000	1.98%	2,798	21,798	114,348	5.48
2048	0.0096	21,243	605,059	626,302	62,965	30,000	-	-	30,000	20,000	2.01%	2,409	22,409	115,374	5.43
2049	0.0096	21,243	605,059	626,302	62,348	30,000	-	-	30,000	20,000	2.04%	2,004	22,004	114,351	5.48
2050	0.0096	21,243	605,059	626,302	62,730	30,000	-	-	30,000	21,000	2.07%	1,582	22,582	115,312	5.43
2051	0.0096	21,243	605,059	626,302	63,080	30,000	-	-	30,000	21,000	2.10%	1,145	22,145	115,225	5.44
2052	0.0096	21,243	605,059	626,302	62,398	30,000	-	-	30,000	22,000	2.10%	693	22,693	115,091	5.44
2053	0.0096	21,243	605,059	626,302	22,715	35,000	-	-	35,000	22,000	2.10%	231	22,231	79,946	7.83
					\$5,228,385.00	\$1,020,000.00	\$0	\$1,020,000.00	\$486,000.00	\$164,516.53	\$650,516.53	\$6,898,901.53			

\$1,020,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	16.05 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$ 533,300
AVERAGE ANNUAL REQUIREMENT	\$31,875

\$486,000 ISSUANCE	
AVERAGE (MATURITY) LIFE	18.11 YEARS
NET INTEREST RATE	1.869%
COST SAVINGS	\$ 133,178
AVERAGE ANNUAL REQUIREMENT	\$20,329

TOTAL AVERAGE ANNUAL REQUIREMENTS
\$215,591

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.

\*Includes Debt from the City of Comanche's CWSRF (Project No. 73902) Commitment, approved by the Board on 10/07/2021.



**Project Budget Summary**  
**City of Comanche**  
**62906 - Water System Improvements**

Budget Items	TWDB Funds	Total
<b>Construction</b>		
Construction	\$1,650,000.00	\$1,650,000.00
<b>Subtotal for Construction</b>	<b>\$1,650,000.00</b>	<b>\$1,650,000.00</b>
<b>Basic Engineering Services</b>		
Construction Engineering	\$30,000.00	\$30,000.00
Design	\$120,000.00	\$120,000.00
Planning	\$45,000.00	\$45,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$195,000.00</b>	<b>\$195,000.00</b>
<b>Special Services</b>		
Application	\$7,500.00	\$7,500.00
Environmental	\$25,000.00	\$25,000.00
Geotechnical	\$15,000.00	\$15,000.00
Inspection	\$85,000.00	\$85,000.00
Surveying	\$40,000.00	\$40,000.00
Testing	\$15,000.00	\$15,000.00
Water Conservation Plan	\$2,500.00	\$2,500.00
<b>Subtotal for Special Services</b>	<b>\$190,000.00</b>	<b>\$190,000.00</b>
<b>Fiscal Services</b>		
Bond Counsel	\$13,300.00	\$13,300.00
Financial Advisor	\$27,500.00	\$27,500.00
Fiscal/Legal	\$2,300.00	\$2,300.00
Issuance Costs	\$1,500.00	\$1,500.00
Loan Origination Fee	\$29,529.00	\$29,529.00
<b>Subtotal for Fiscal Services</b>	<b>\$74,129.00</b>	<b>\$74,129.00</b>
<b>Contingency</b>		
Contingency	\$190,779.00	\$190,779.00
<b>Subtotal for Contingency</b>	<b>\$190,779.00</b>	<b>\$190,779.00</b>
<b>Total</b>	<b>\$2,299,908.00</b>	<b>\$2,299,908.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$2,299,908 TO THE CITY OF COMANCHE  
FROM THE DRINKING WATER STATE REVOLVING FUND  
THROUGH THE PROPOSED PURCHASE OF  
\$1,506,000 CITY OF COMANCHE, TEXAS COMBINATION TAX AND  
SURPLUS REVENUE CERTIFICATES OF OBLIGATION,  
IN ONE OR MORE SERIES  
AND  
\$793,908 IN PRINCIPAL FORGIVENESS

(22 - )

WHEREAS, the City of Comanche (City), located in Comanche County, Texas, has filed an application for financial assistance in the amount of \$2,299,908 from the Drinking Water State Revolving Fund (DWSRF) to finance the planning, design, and construction of certain water system improvements identified as Project No. 62906; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) through the TWDB's proposed purchase of \$1,506,000 City of Comanche, Texas Combination Tax and Surplus Revenue Certificates of Obligation, in one or more series (together with all authorizing documents (Obligations)), and the execution of a Principal Forgiveness Agreement in an amount of \$793,908, all as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the City has offered a pledge of tax and surplus revenues of the water and sewer system 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 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); and
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 \$626,140 and the TWDB has determined that the entire Project, or a portion of the Project, satisfies the applicable Intended Use Plan’s criteria for Green Projects and is eligible for Principal Forgiveness in the amount of \$167,768, the City is therefore eligible for principal forgiveness through the DWSRF in a total amount not to exceed \$793,908.

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

A commitment is made by the TWDB to the City of Comanche for financial assistance in the amount of \$2,299,908 from the Drinking Water State Revolving Fund through the TWDB’s proposed purchase of \$1,506,000 City of Comanche, Texas Combination Tax and Surplus Revenue Certificates of Obligation, in one or more series and the execution of a Principal Forgiveness Agreement in an amount of \$793,908. This commitment will expire on July 31, 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 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 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. prior to closing, the City shall execute a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator; and
- 42. 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 6th day of January 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 Comanche Comanche County

