

PROJECT FUNDING REQUEST

APPLICANT City of Brady
Application Submitted 09/03/2014

PROJECT SUMMARY

Name Radium Reduction Groundwater Treatment (10447)

Need The City of Brady (City) is under an administrative order from the Environmental Protection Agency (EPA) for exceeding Maximum Contaminant Levels (MCL) for combined Radium and Gross Alpha Particles in their groundwater supplies which is typical for water from the Hickory Aquifer in Central Texas. The City also utilizes surface water from Lake Brady. The surface water treatment plant has been cited for Disinfection By-Products (DBP). The City needs to address these non-compliance issues.

Project Description On May 16, 2013, the Texas Water Development Board (TWDB) committed a loan (L1000115, \$350,000) and a loan with forgiveness (LF1000116, \$350,000) from the Drinking Water State Revolving Fund (DWSRF) for this project (then designated 62545), for a total commitment of \$700,000. These funds were to be used to implement planning. The City is near completion of planning for the improvements required to treat its groundwater supplies to remove the radionuclide contamination, improve the surface water treatment plant, and distribute the treated water. Funds are now needed for Design of these improvements.

Funding Elements Design

Service Population 5,553

FINANCIAL SUMMARY

Funding Source Economically Distressed Areas Program
Type of Assistance \$902,000 Grant and \$902,000 Loan
Risk Score 2B
Pledge for Repayment Tax and Surplus Systems Revenue
Proposed Repayment Method Surplus System Revenues
Operating Trends Stable

PREVIOUS TWDB ASSISTANCE

Proj. No.	Program	Commitment Date	Commitment Amount
20769	CWSRF	01/1990 & 07/1990	\$1,940,000
21535	WDF	09/22/2004	\$2,200,000
60537	DWSRF	03/09/2000	\$12,695,000
62545	DWSRF	05/16/2013	\$1,4000,000
73638	CWSRF	01/31/2013	\$2,651,990

First time Applicant Established Customer-Date of last commitment: 05/16/2013

OTHER

Key Issues The Texas Department of State and Health Services is currently conducting a nuisance determination survey. Should a nuisance be found, the City may request a change in funding allocation. Funding for the project will be included under the upcoming EDAP Bond sale.

Benefits The project will enable City to address non-compliance issue for radionuclides and DBP.

Senator: District 28: Charles Perry

Representative: District 59: J.D. Sheffield

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: March 26, 2015

PRESENTED BY: Lee Huntoon

APPLICANT	City of Brady
TYPE OF ASSISTANCE	\$902,000 Loan \$902,000 Grant
LEGAL PLEDGE	Tax and Surplus Waterworks System Revenues

STAFF RECOMMENDATION

Approve No Action

ACTION REQUESTED

Approve by resolution, a request from the **City of Brady (McCulloch County)** for a \$902,000 grant and \$902,000 loan from the Economically Distressed Areas Program to finance the design of the water treatment plant and distribution improvements to comply with state and federal Maximum Contaminant Levels for radionuclides.

PROJECT

Radium Reduction Groundwater Treatment
Project Number 10447

FINANCIAL SUMMARY

Risk Score:	2B
Pledge for Repayment:	Tax and Surplus System Revenues
Proposed Repayment Method:	Surplus System Revenues
Operating Trends:	Stable
Population:	Stable
Median Household Income:	\$33,458

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE ON SEPTEMBER 30, 2015
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FINANCIAL

Key Issues

None.

Pledge and Repayment

The City of Brady (City) is offering a pledge of ad valorem tax and surplus revenues of the system for repayment of the debt. It is estimated that current tax and surplus revenues are sufficient to meet existing and proposed debt service requirements.

Financial, Managerial and Technical Assessment

Pursuant to 31TAC §363.510, the Texas Water Development Board (TWDB) may make a determination on whether an entity has the necessary financial, managerial, and technical (FMT) capabilities to operate the proposed project. One of the required tasks of the commitment for planning is for the entity to complete an assessment of FMT and submit that assessment to the TWDB. If the FMT assessment identifies any deficiencies, the entity, prior to release of any funds for Acquisition or Design, shall submit and receive approval by the TWDB of a plan of action to address those deficiencies. Any future commitments would be conditioned on the entity remedying those deficiencies.

Nuisance Determination

The Executive Administrator, on behalf of the City, requested the Texas Department of State and Health Services (TDSHS) conduct a nuisance survey for the proposed project area. If TDSHS determines a nuisance exists, the City is eligible for greater than 50% in grant funding. The City intends to request a change in funding allocation should a nuisance determination be made.

Cost Savings

Based on a 20-year maturity and current market interest rates, the City could save \$46,683 on the loan portion of the funding. The City could save \$902,000 in principal repayment and \$296,352 in interest savings from the grant subsidy associated with their EDAP application.

Internal Risk Score

Staff assigns a risk score of 2B. This means that the applicant's repayment capacity is adequate. The applicant's earnings trends and coverage ratios, while stable, may be more susceptible to adverse changes in circumstances and economic conditions than the higher rated obligations. Certain risk elements may exist that suggest susceptibility to future impairment, if not managed.

The City's population in the past ten years has fluctuated up and down over time. It has been as high as 6,773 in 2007 and presently is estimated to be 5,553; a decline of 18%. The City's median household income (MHI) has been very low for several years but has increased to \$33,458 which is approximately 64.5% of the median for the State overall. The current unemployment rate for the City was 3.1% as of December 2014, compared to the current 4.1% in the State overall.

Currently, the average annual water and sewer bill (\$62.55 per month) represents 2.24% of the MHI, which is currently above the 2% benchmark for assessing affordability of rates. The City's last rate increase was in October of 2009. Revenue coverage for the first 5 years is strong at 2.20-2.66 times the average annual debt service; increasing to 5.08x in the tenth year and continuing to increase as the debt service continues.

As of September 30, 2013, the City had approximately \$1,252 of total debt per capita, the amount will increase to \$1,415 with the proposed funding associated with this EDAP loan. On March 7, 2012 the City received a credit rating of A+ from Standard and Poor's rating service and the City's refunding bond Series 2003 maintains an investment grade Baa1 rating from Moody's Investor's Service.

LEGAL

Key Issues

None.

Model Subdivision Rules

Based on the information provided, the TWDB'S legal staff has determined that McCulloch County and the City of Brady has adopted and is adequately enforcing the provisions of 31 TAC Chapter 364, the Model Subdivision Rules.

CONDITIONS

Standard EDAP loan and grant revenue conditions and further conditioned as follows:

- Executed grant agreement;
- Return surplus grant funds;
- Abide by all applicable construction contract requirements related to the use of iron and steel products and manufactured goods produced in the United States;
- Water Conservation Plan

Attachments:

1. Project Data Summary
2. Debt Service
3. Engineering/Environmental Review
4. Project Budget
5. Resolution (15-)
6. Water Conservation Review
7. Location Map

Project Data Summary

Authority	City of Brady
Program	Economically Distressed Areas Program
Commitment Code	L1000404/G1000424
Project Number	10447
Intended Use Plan Year	2015
Fund Number	375
Type of Pledge	3- Combo Tax and Rev
Revenue Pledge Level	Third
Legal Description	\$902,000 Combination Tax and Surplus Waterworks System Revenue Certificate of Obligation, Proposed Series 2015
Tax-exempt or Taxable	Tax-exempt
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow
Population	5,553
Rural	Yes
Water Connections	2,438
Wastewater Connections	1,836
Qualifies as Disadvantaged	Yes
Disadvantaged Level	9
Clean Water State Revolving Fund Type	N/A
Financial Managerial & Technical Complete	No
Funding Phase Code	Design
Pre-Design	Yes
Project Consistent with Water Plan	Yes
Water Conservation Plan	Approvable
Water Rights Certification Required	No
Internal Risk Score	2B
External Ratings (for SRF rates)	
Standard and Poor's	A+
Moody's	Baa1
Fitch	Non-Rated
Special Issues	None

Project Team

Team Manager	Lee Huntoon
Financial Analyst	James Horan
Engineering Reviewer	David Yager
Environmental Reviewer	Chris Caran
Attorney	Joe Reynolds

ISSUE BEING EVALUATED

City of Brady

Combination Tax and Surplus Waterworks System Revenue Certificates of Obligation, Series 2014 (EDAP) □

Dated Date 06/01/15
 Delivery Date 06/01/15
 First Interest 11/01/15
 First Principal 06/01/16
 Last Principal 06/01/35
 Fiscal Year End 9/30

Source: EDAP
 Rate: 2.88%
 Insurance:
 Case:
 Admin. Fee Payment Date:

FOR ILLUSTRATION PURPOSES ONLY

FISCAL YEAR	PROJECTED ASSESSED VALUE	REQUIRED TAX RATE	REQUIRED TAX REVENUES WITH COLL. @ 90%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	----- THIS \$902,000 ISSUE -----				TOTAL DEBT SERVICE	COVERAGE		
							PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT		BEING REQUIRED	ACTUAL COVERAGE	
2016	209,748,160	0.313	590,483	786,500	1,376,983	563,800	35,000	2.88%	25,978	60,978	624,778	1.10	2.20	
2017	209,748,160	0.313	590,483	786,500	1,376,983	483,762	35,000	2.88%	24,970	59,970	543,732	1.10	2.53	
2018	209,748,160	0.313	590,483	786,500	1,376,983	460,432	35,000	2.88%	23,962	58,962	519,394	1.10	2.65	
2019	209,748,160	0.313	590,483	786,500	1,376,983	455,904	35,000	2.88%	22,954	57,954	513,858	1.10	2.68	
2020	209,748,160	0.313	590,483	786,500	1,376,983	455,497	40,000	2.88%	21,946	61,946	517,443	1.10	2.66	
2021	209,748,160	0.313	590,483	786,500	1,376,983	459,348	40,000	2.88%	20,794	60,794	520,142	1.10	2.65	
2022	209,748,160	0.313	590,483	786,500	1,376,983	453,061	40,000	2.88%	19,642	59,642	512,703	1.10	2.69	
2023	209,748,160	0.313	590,483	786,500	1,376,983	246,943	40,000	2.88%	18,490	58,490	305,433	1.10	4.51	
2024	209,748,160	0.313	590,483	786,500	1,376,983	246,001	45,000	2.88%	17,338	62,338	308,339	1.10	4.47	
2025	209,748,160	0.313	590,483	786,500	1,376,983	210,000	45,000	2.88%	16,042	61,042	271,042	1.10	5.08	
2026	209,748,160	0.313	590,483	786,500	1,376,983	210,000	45,000	2.88%	14,746	59,746	269,746	1.10	5.10	
2027	209,748,160	0.313	590,483	786,500	1,376,983	210,000	45,000	2.88%	13,450	58,450	268,450	1.10	5.13	
2028	209,748,160	0.313	590,483	786,500	1,376,983	210,000	50,000	2.88%	12,154	62,154	272,154	1.10	5.06	
2029	209,748,160	0.313	590,483	786,500	1,376,983	210,000	50,000	2.88%	10,714	60,714	270,714	1.10	5.09	
2030	209,748,160	0.313	590,483	786,500	1,376,983	210,000	50,000	2.88%	9,274	59,274	269,274	1.10	5.11	
2031	209,748,160	0.313	590,483	786,500	1,376,983	210,000	50,000	2.88%	7,834	57,834	267,834	1.10	5.14	
2032	209,748,160	0.313	590,483	786,500	1,376,983	-	55,000	2.88%	6,394	61,394	61,394	1.10	22.43	
2033	209,748,160	0.313	590,483	786,500	1,376,983	-	55,000	2.88%	4,810	59,810	59,810	1.10	23.02	
2034	209,748,160	0.313	590,483	786,500	1,376,983	-	55,000	2.88%	3,226	58,226	58,226	1.10	23.65	
2035	209,748,160	0.313	590,483	786,500	1,376,983	-	57,000	2.88%	1,642	58,642	58,642	1.10	23.48	
							\$ 27,539,660	\$ 5,294,748	\$ 902,000			\$ 296,352	\$ 1,198,352	\$ 6,493,100

AVERAGE (MATURITY) LIFE	11.41 YEARS
NET INTEREST RATE	2.880%
COST SAVINGS	\$ 1,245,035
AVERAGE ANNUAL REQUIREMENT	\$324,655

Brady**Engineering and Environmental Review****Engineering:**Key Issues

None known at this time.

Project Need / Description

Need: The City is under an administrative order from the Environmental Protection Agency (EPA) for exceeding Maximum Contaminant Levels (MCL) for combined Radium and Gross Alpha Particles in their groundwater supplies which is typical for water from the Hickory Aquifer in Central Texas. The City also utilizes surface water from Lake Brady. The Surface Water Treatment Plant has been cited for Disinfection By-Products (DBP). The City needs to address these non-compliance issues.

Project Description: The City is near completion of planning for the improvements required to treat its groundwater supplies to remove the Radionuclide contamination, improve the surface water treatment plant, and distribute the treated water. Funds are now needed for Design of these improvements.

Project Schedule

Project Task	Schedule Date
Closing	6/1/2015
EDAP Facility Plan Completion	8/31/2015
Design Phase Complete	3/31/2016

Environmental:Key Issues

None known at this time.

Environmental Summary

Pursuant to the requirements of 31 Texas Administrative Code Chapter 371, Subchapter E, financial assistance shall be conditioned that funding for design shall not be released until an environmental review has been completed and a favorable environmental determination has been issued. The project is currently funded through the Drinking Water State Revolving Fund (DWSRF) for planning. Because of the previous DWSRF funding, the project must meet all requirements of the DWSRF program, including a NEPA-level environmental review. In addition, an Affirmation of Commitment for the existing loans will be necessary in order to comply with the National Environmental Policy Act (NEPA).

Brady
10447 - Radium Reduction Groundwater Treatment

Budget Items	Previous Commitment (DWSRF)	This Commitment (EDAP)	Total Cost
Basic Engineering Services			
Planning	\$490,000		\$490,000
Design		\$1,420,000	\$1,420,000
Basic Engineering Services Total	\$490,000	\$1,420,000	\$1,910,001
Special Services			
Geotechnical		\$50,000	\$50,000
Application	\$10,000		\$10,000
Environmental	\$44,000		\$44,000
Pilot Testing	\$63,000		\$63,000
Permits		\$25,000	\$25,000
Project Management (by engineer)		\$25,000	\$25,000
Surveying	\$15,000	\$75,000	\$90,000
Special Services Total	\$132,000	\$175,000	\$307,000
Contingency			
Contingency	\$2,744	\$138,000	\$140,744
Contingency Total	\$2,744	\$138,000	\$140,744
Other			
Administration	\$23,446	\$27,000	\$50,446
Other Total	\$23,446	\$27,000	\$50,446
Fiscal Services			
Bond Counsel	\$21,108	\$20,000	\$41,108
Financial Advisor	\$20,000	\$22,000	\$42,000
Origination Fee	\$7,702		\$7,702
Fiscal/Legal	\$3,000	\$2,000	\$5,000
Fiscal Services Total	\$51,810	\$44,000	\$95,810
Grand Total	\$700,000	\$1,804,000	\$2,504,000

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$1,804,000 TO
CITY OF BRADY
FROM THE ECONOMICALLY DISTRESSED AREAS PROGRAM ACCOUNT OF
THE TEXAS WATER DEVELOPMENT FUND II
THROUGH THE PROPOSED PURCHASE OF \$902,000
CITY OF BRADY, TEXAS COMBINATION TAX AND SURPLUS WATERWORKS
SYSTEM REVENUE CERTIFICATES OF OBLIGATION, PROPOSED SERIES 2015
AND
THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$902,000

(15-)

WHEREAS, City of Brady (City), has filed an application seeking financial assistance in the amount of \$1,804,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, to finance the planning and design of certain water system improvements, identified as Project No. 10447; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (the TWDB) through the TWDB's proposed purchase of \$902,000 City of Brady, Texas Combination Tax and Surplus Waterworks System Revenue Certificates of Obligation, Proposed Series 2015 (together with all authorizing documents (Obligations)) and a grant of \$902,000 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II, all as is more specifically set forth in the application and in recommendations of TWDB's staff; and

WHEREAS, the City has offered a pledge of ad valorem tax and surplus net revenues from the City's waterworks system as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB has carefully considered all matters required by law and in particular the following:

1. the feasibility of creating a conservation and reclamation district to provide and finance the water supply or sewer services, in accordance with Texas Water Code § 16.346;
2. the need of the economically distressed area to be served by the water supply and sewer services in relation to the need of other political subdivisions requiring economically distressed areas financing, and the relative costs and benefits of all applications, in accordance with Texas Water Code § 17.929(a)(1);
3. the availability to the political subdivision of revenue from alternative sources for the payment of the cost of the proposed project, in accordance with Texas Water Code § 17.929 (a)(2);

4. financing of the proposed water supply or sewer project, in accordance with Texas Water Code § 17.929(a)(3);
5. the feasibility of achieving cost savings by providing a regional facility for water supply and wastewater service and the feasibility of financing the facilities by using funds from the economically distressed areas account or any other financial assistance, in accordance with Texas Water Code § 17.929(a)(5);
6. the rates, fees and charges that the average customer to be served by the project will be able to pay, sources of funding available to the City, and any local funds of the City, in accordance with Texas Water Code § 17.933(d)(1);
7. sources of funding available to the City from federal and private funds and from other state funds, in accordance with Texas Water Code § 17.933(d)(2);
8. any local funds of the City to be served by the project if the economically distressed area to be served is within the boundary of the City, in accordance with Texas Water Code § 17.933(d)(3);
9. the just, fair, and reasonable charges for water and wastewater service as provided in the Texas Water Code, in accordance with Texas Water Code § 17.933(d)(4);

WHEREAS, the TWDB hereby finds:

1. that the City has submitted a proposed program of water conservation 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;
2. that the area to be served by the proposed project has a median household income that is not greater than 75 percent of the median state household income for the most recent year for which statistics are available, in accordance with Texas Water Code § 17.929(b);
3. that the County and City have adopted model subdivision rules as promulgated by the TWDB pursuant to Texas Water Code § 16.343 and the manner of enforcement, in accordance with Texas Water Code § 17.929(a) (4);
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 that 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, in accordance with Texas Water Code § 16.053(j); and
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).

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

A commitment is made by the TWDB to the City of Brady for financial assistance in the amount of \$1,804,000 from the Economically Distressed Areas Account of the Texas Water Development Funds through the TWDB's proposed purchase of \$902,000 City of Brady, Texas Combination Tax and Surplus Waterworks System Revenue Certificates of Obligation, Proposed Series 2015 and a grant of \$902,000. This commitment will expire on September 30, 2015.

This 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 City's compliance with all applicable requirements contained in 31 TAC Chapter 363;
3. the Obligations and Grant Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Obligations or Grant Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
4. loan proceeds and grant funds are public funds and, as such, the Grant Agreement and 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;
5. loan proceeds and grant funds 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 and Grant Agreement 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;
6. 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, under the contract, and acceptable to the Executive Administrator;

7. 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 agreement or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;
8. the Executive Administrator may require that the City execute a separate financing agreement in form and substance acceptable to the Executive Administrator;
9. 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;
10. the Obligations must provide that the Obligations can be called for early redemption only in inverse order of maturity, and 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;
11. 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;
12. the Obligations must contain a provision requiring the City to levy a tax and/or maintain and collect sufficient rates and charges to produce system revenues 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;
13. the Obligations must include a provision requiring the City to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the project for the following purposes as approved by the Executive Administrator: (1) to redeem, in inverse annual order, the Obligations owned by the TWDB; (2) deposit into the Interest and Sinking Fund or other debt service account for the payment of interest or principal on the Obligations owned by the TWDB; or (3) eligible project costs as authorized by the Executive Administrator;
14. prior to closing, the City shall submit documentation evidencing the adoption and implementation of sufficient system rates and charges or, if applicable, the levy of an

interest and sinking tax rate sufficient for the repayment of all system debt service requirements;

Conditions Related To Tax-Exempt Status

15. 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;
16. 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;
17. 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 § 141 of the Internal Revenue Code of 1986, as amended (Code), and the Treasury Regulations promulgated thereunder (Regulations);
18. 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 § 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 § 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;
19. 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 § 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 § 148(f) of the Code, § 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;
20. 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;
 21. 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 § 149(b) of the Code;
 22. 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;
 23. the transcript must include evidence that the information reporting requirements of § 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 § 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;

24. 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;

EDAP Conditions

24. The Grant Agreement and Obligations must include a provision that requires compliance with Texas Water Code § 16.356 that no revenues received from rates or fees collected from the water/wastewater system to be constructed through this commitment shall be used for any purposes other than utility purposes and that the annual financial statement prepared by the City under Texas Local Government Code § 103.001 shall include a specific report on compliance with this condition;
26. Prior to the release of funds provided for construction, the City must provide the TWDB with evidence satisfactory to the Executive Administrator that the City has received and will maintain a designation as an authorized agent of the Texas Commission on Environmental Quality, in compliance with Texas Health and Safety Code § 366.035;

Pledge Conditions for the Loan

27. 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:

28. prior to closing, the City shall adopt and implement the water conservation program approved by the TWDB;
29. prior to closing, the City and the Executive Administrator shall execute an Agreement that sets forth the terms and uses of the grant funds;
30. the Grant Agreement must include a provision stating that the City shall return any grant funds that are determined to be Surplus Funds in a manner determined by the Executive Administrator; and
31. 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 and manufactured goods produced in the United States, as required by Texas Water Code § 17.183.

APPROVED and ordered of record this 26th day of March, 2015.

TEXAS WATER DEVELOPMENT BOARD

Carlos Rubinstein, Chairman

DATE SIGNED: _____

ATTEST:

Kevin Patteson
Executive Administrator

WATER CONSERVATION REVIEW

Entity: _____ Review date: _____

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

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

WATER LOSS AUDIT YEAR:

Apparent loss (gallons): _____ Real loss (gallons): _____
 Produced water (gallons): _____ Total water loss (percent): _____
 Connections per mile: _____ Total water loss (GPCD): _____

If < 32 connections per mile, real loss (gallons) per mile per day: _____
(Average real loss for less than 32 connections is 1,154 gal/mile/day)

If > 32 connections per mile, real loss (gallons) per connection per day: _____
(Average real loss for greater than 32 connections is 47 gal/connection/day)

If > 16 connections per mile and > 3,000 connections
 Infrastructure Leakage Index (ILI): _____

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 formerly 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.

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.

**City of Brady,
McCulloch County**

