



## PROJECT FUNDING REQUEST

**BOARD DATE:** May 9, 2024

**Team Manager:** Bill Blaik

### ACTION REQUESTED

Consider making a determination that a nuisance dangerous to the public health and safety exists in the area to be served by the Economically Distressed Areas Program project proposed by the City of Brady (McCulloch County) and approving by resolution a request from the City of Brady for \$2,265,500 in financial assistance consisting of \$680,000 in financing and \$1,585,500 in grant from the Economically Distressed Areas Program for planning, design, and construction of a water distribution system improvements project.

### STAFF RECOMMENDATION

Approve       No Action

### BACKGROUND

The City of Brady (City) refers to itself as “The Heart of Texas,” as it is the closest city to the geographical center of the state. The City provides water service to a population of approximately 5,773 residents through approximately 2,934 connections.

### PROJECT NEED AND DESCRIPTION

A portion of the City of Brady's water distribution system has aged water lines that are undersized to serve existing connections. Most of these water lines are tuberculated with build-up within the pipe walls, which further reduces the pipe service capacity and makes them prone to leaks contributing to water loss. The City’s groundwater sources exceed the Maximum Contaminant Level (MCL) for combined Radium and Gross Alpha Particles and sample data has confirmed that these contaminants are present in the pipes.

The City proposes to replace over 11,000 feet of water lines with new properly sized pipe to eliminate leaks and reduce water loss in these areas. Included in the construction will be the replacement of existing fire hydrants and isolation valves. The project will include the development of an asset management plan.

### PROJECT SCHEDULE

Task	Schedule Date
Closing	September 1, 2024
Facility Plan A-D Completion	November 15, 2024
Design Phase Completion	January 15, 2025
Start of Construction	March 15, 2025
Construction Completion	December 15, 2025

**COMMITMENT PERIOD:** SIX (6) MONTHS TO EXPIRE NOVEMBER 30, 2024

## **KEY ISSUES**

The Executive Administrator recommends that under Texas Water Code § 17.933(b), the Texas Water Development Board (TWDB) determine that a condition of nuisance exists in the proposed project area. This recommendation is based on the analytical test results confirming the presence of radionuclides in the water distribution lines and staff's desk review of other supporting documentation provided by the City. This qualifies the applicant for a grant exceeding 50 percent of the project costs. Consistent with the Intended Use Plan for the current Economically Distressed Areas Program (EDAP) funding cycle, the Executive Administrator recommends setting the grant amount at 70 percent of eligible costs for projects that have received a nuisance determination.

The City has an existing water treatment project, funded through both the EDAP and the Drinking Water State Revolving Fund (DWSRF), which seeks to mitigate radionuclides entering the distribution system. That project is nearing completion.

In January 2024, the TWDB received an application from the City for funding through the DWSRF Lead Services Line Replacement program to complete an inventory of lead service lines and replace approximately 400 service connections.

## **LEGAL/SPECIAL CONDITIONS**

- Execute grant agreement
- Return of surplus funds

### Attachments:

1. Financial Review
2. Project Budget
3. Resolution (24- )
4. Water Conservation Review
5. Nuisance Determination
6. Location Map

# Financial Review

## City of Brady

Risk Score: 2B

Audit Reviewed: FY 2023

### Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	City: -0.77%	State: 1.49%
Top 10 Customers % of Total Revenue	15%	10-15%
Median Household Income as % of State	73%	100%
Days of Cash on Hand (3-year Average)	1,006 days	30-149 days
Net Fixed Assets/ Annual Depreciation	23 years	12-24 years
Debt Service Coverage Ratio	1.11x	1.0x
Debt-to-Operating Revenues	5.87	4.00-5.99x
Unemployment Rate (January, 2024)	County: 4.50%	State: 4.10%
Working Capital Ratio	7.63	> 1.0
Cash Balance Ratio	31.30%	0-9.99%

### Key Risk Score Strengths

- Water and sewer system revenues are sufficient to cover existing debt as well as the proposed Economically Distressed Area Program and Lead Service Line Replacement debt. Rates have been in place since 2020 and are not projected to increase as a result of the projects.
- The City's days of cash on hand has not fluctuated significantly over a three year period, indicating both sufficient and reliable reserves for operating expenses.
- A high Working Capital Ratio provides the City with ample resources to cover short-term liabilities and shows a strong liquidity position.

### Key Risk Score Concerns

- The City's repayment structure is a two year note. The debt and portfolio management team has approved this structure and it is not projected to result in any rate increases.
- The City's household cost factor is above the benchmark. However, the proposed debt is not projected to increase this figure.
- The population growth of the City has slightly declined by 0.77% over the previous ten years, with state water plan projections predicting a further 6.8% decrease from 2030-2050. However, overall system connections have increased from 2,884 to 2,908 over a five year period.

### PLEDGE

Legal Pledge Name	Ad Valorem Tax and Surplus 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	6,700	\$66.63	\$66.63	2.80	2.80
WASTEWATER	4,400	\$38.09	\$38.09		

**TAXES**

	2023 Tax Year Rate	Max Projected Tax Rate	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.3548	\$0.3548	\$1.50	98%	\$271,921,564
Interest & Sinking	\$0.0000	\$0.0000			
Total Tax Rate	\$0.3548	\$0.3548			

**Cost Savings**

Based on a 2-year maturity schedule and current interest rates, the City could save approximately \$2,601 over the life of the EDAP financing. The City is also saving \$1,585,500 in grant funding.



## Project Data Summary

<b>Responsible Authority</b>	Brady
<b>Program</b>	EDAP
<b>Commitment Number</b>	G1001747, L1001746
<b>Project Number</b>	10466
<b>List Year</b>	2022
<b>Type of Pledge</b>	Combo Tax and Revenue
<b>Pledge Level (if applicable)</b>	Third Lien
<b>Legal Description</b>	\$1,585,500 City of Brady, Texas Grant Agreement, \$680,000 City of Brady, TX Combination Tax and Surplus Waterworks and Sewer System Revenue Certificates of Obligation, Series 2024C
<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>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>	2B

### PROJECT TEAM

<b>Team Manager</b>	<b>Financial Analyst</b>	<b>Engineering Reviewer</b>	<b>Environmental Reviewer</b>	<b>Attorney</b>
Bill Blaik	Kyle DuQuesnay	Alyssa Garza-Medina	Chris Caran	Breann Hunter

ISSUE BEING EVALUATED  
FOR ILLUSTRATION PURPOSES ONLY

City of Brady

\$680,000 City of Brady, TX Combination Tax and Surplus Waterworks and Sewer System Revenue Certificates of Obligation, Proposed Series 2024

Dated Date: 9/1/2024	Source: EDAP
Delivery Date: 9/1/2024	Rate: 3.17%
First Interest: 6/15/2025	IUP Year: 2022
First Principal: 6/15/2025	Case: Tax and Revenue
Last Principal: 6/15/2026	Admin.Fee: \$0
Fiscal Year End: 09/30	Admin. Fee Payment Date: N/A
Required Coverage: 1.1	

FISCAL YEAR	PROJECTED NET SYSTEM REVENUES	CURRENT DEBT SERVICE	\$680,000 ISSUE				\$2,535,000 PROPOSED SERIES 2024 PID 62992(1)	\$30,000 PROPOSED SERIES 2024 PID 62992(1)	TOTAL DEBT	
			PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT	TOTAL PAYMENT	TOTAL PAYMENT	SERVICE	COVERAGE
2025	\$2,379,192	\$1,045,859	\$670,000	3.17%	\$16,997	\$686,997	\$406,225	\$5,000	\$2,144,081	1.11
2026	\$2,379,192	1,045,859	10,000	3.07%	307	10,307	102,301	5,000	\$1,163,467	2.04
		\$2,091,718	\$680,000		\$17,304	\$697,304			\$3,307,548	

AVERAGE (MATURITY) LIFE	0.8 YEARS
NET INTEREST RATE	3.167%
COST SAVINGS	\$2,051
AVERAGE ANNUAL REQUIREMENT	\$348,652

*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.*

**(1) Projected debt service figures for proposed simultaneous LSLR debt**



**Project Budget Summary**  
**Brady**  
**10466 - City of Brady Water Line Replacement Project**

Budget Items	This Commitment	Total
<b>Construction</b>		
Construction	\$1,813,000.00	\$1,813,000.00
<b>Subtotal for Construction</b>	<b>\$1,813,000.00</b>	<b>\$1,813,000.00</b>
<b>Basic Engineering Services</b>		
Planning	\$15,000.00	\$15,000.00
Design	\$80,000.00	\$80,000.00
Construction Engineering	\$45,000.00	\$45,000.00
<b>Subtotal for Basic Engineering Services</b>	<b>\$140,000.00</b>	<b>\$140,000.00</b>
<b>Special Services</b>		
Application	\$5,000.00	\$5,000.00
Environmental	\$5,000.00	\$5,000.00
Geotechnical	\$5,000.00	\$5,000.00
O&M Manual	\$10,000.00	\$10,000.00
Surveying	\$20,000.00	\$20,000.00
Testing	\$15,000.00	\$15,000.00
<b>Subtotal for Special Services</b>	<b>\$60,000.00</b>	<b>\$60,000.00</b>
<b>Fiscal Services</b>		
Bond Counsel	\$25,500.00	\$25,500.00
Financial Advisor	\$25,500.00	\$25,500.00
Fiscal/Legal	\$750.00	\$750.00
Issuance Costs	\$2,000.00	\$2,000.00
<b>Subtotal for Fiscal Services</b>	<b>\$53,750.00</b>	<b>\$53,750.00</b>
<b>Contingency</b>		
Contingency	\$198,750.00	\$198,750.00
<b>Subtotal for Contingency</b>	<b>\$198,750.00</b>	<b>\$198,750.00</b>
<b>Total</b>	<b>\$2,265,500.00</b>	<b>\$2,265,500.00</b>

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF  
\$2,265,500 TO CITY OF BRADY  
FROM THE ECONOMICALLY DISTRESSED AREAS PROGRAM ACCOUNT OF  
THE TEXAS WATER DEVELOPMENT FUND II  
THROUGH THE PROPOSED PURCHASE OF \$680,000  
CITY OF BRADY, TEXAS COMBINATION TAX AND SURPLUS WATERWORKS AND SEWER  
SYSTEM REVENUE CERTIFICATES OF OBLIGATION PROPOSED SERIES 2024C  
AND  
THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$1,585,500

(24 -\_\_)

Recitals:

City of Brady (City) filed an application seeking financial assistance in the amount of \$2,265,500 from the Economically Distressed Areas Program Account of the Texas Water Development Fund II to finance certain water system improvements, identified as Project No. 10466.

The City seeks financial assistance from the Texas Water Development Board (the TWDB) through the TWDB's proposed purchase of \$680,000 City of Brady, Texas Combination Tax and Surplus Waterworks and Sewer System Revenue Certificates of Obligation, Proposed Series 2024C (together with all authorizing documents (Obligations)) and a grant of \$1,585,500 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.

The City has offered a pledge of ad valorem taxes and surplus waterworks and sewer system revenues as sufficient security for the repayment of the Obligations.

The commitment is approved for funding under the TWDB's pre-design funding option, and initial and future releases of funds are subject to 31 TAC § 363.16 and § 363.43.

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).

Findings:

1. 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.
2. 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. 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. 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).
5. A current water audit required by Texas Water Code § 16.0121 and 31 TAC § 358.6 has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.053(j).
6. The public interest will benefit from state assistance in the financing of the treatment works, in accordance with Texas Water Code § 17.277.
7. A nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project, in accordance with Texas Water Code § 17.933(b).

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

1. Based on the finding stated above, the TWDB determines that a nuisance dangerous to the public health and safety exists in the area to be served by the proposed project, pursuant to Texas Water Code § 17.933.
2. A commitment is made by the TWDB to the City of Brady for financial assistance in the amount of \$2,265,500 from the Economically Distressed Areas Account of the Texas Water Development Funds through the TWDB's proposed purchase of \$680,000 City of Brady, Texas Combination Tax and Surplus Waterworks and Sewer System Revenue Certificates of Obligation, Proposed Series 2024C and a grant of \$1,585,500. This commitment will expire on November 30, 2024.

The 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 and Grant Agreement that restricts or limits the TWDB's full exercise of these remedies will be of no force and effect.

4. Financial assistance funds are public funds and, as such, the Grant Agreement and Obligations must include a provision requiring that these proceeds will 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. Financial assistance funds must not be used by the City when sampling, testing, removing, or disposing of contaminated soils or media at the project site. The Obligations must provide that the City is solely responsible for liability resulting from acts or omissions of the City, its employees, contractors, or agents arising from the sampling, analysis, transport, storage, treatment, recycling, and disposition of any contaminated sewage sludge, contaminated sediments 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. Before closing, if not previously provided with the application, the City must submit executed contracts for engineering, and, if applicable, financial advisor and bond counsel services 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. Before closing, when any portion of the financial assistance is to be held in escrow or in trust, the City must execute an escrow agreement or trust agreement, approved as to form and substance by the Executive Administrator, and must 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 the Obligations were issued have been complied with; that the Obligations were issued in conformity with the Constitution and laws of the State of Texas; and that the 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, must, 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 the 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 Rule 15c2-12, the 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 Rule 15c2-12.
12. The Obligations must require the City to levy a tax 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 required by the Obligations.
13. The Obligations must require the City to use any loan proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the project and after completion of a final accounting in a manner approved by the Executive Administrator.
14. Before closing, the City must 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.
15. The City must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition).
16. The Obligations must require the City to comply with all applicable TWDB laws and rules related to the use of the financial assistance.
17. The Obligations must require the City to 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.

18. The Obligations must require the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project.
19. The Obligations must require the City to submit annually an audit prepared by a certified public accountant in accordance with generally accepted auditing standards.
20. The Obligations must require the City to 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.

Conditions Related To Tax-Exempt Status:

21. The City's bond counsel must prepare a written opinion that states 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 prohibit the City from using the financial assistance funds 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 under § 141 (Regulations).
24. The Obligations must provide that no portion of the financial assistance funds 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 that were used, directly or indirectly, to acquire Nonpurpose Investments (as defined in the Code and Regulations) that produce a yield materially higher than the yield on the TWDB's bonds issued to provide the financial assistance (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.
  
- 25. The Obligations must require the City to 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 require the City to:
  - a. account for all Gross Proceeds as defined in the Code and Regulations, (including all receipts, expenditures, and investments) on its books of account separately and apart from all other funds (and receipts, expenditures, and investments) and retain all records of the 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 relevant rulings. The City must 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 of the Source Series Bonds for federal income tax purposes, pay to the United States the amount described in paragraph (b) above within 30 days after each Computation Date; and
  - d. exercise reasonable diligence to ensure that no errors are made in the calculations required by paragraph (b) and, if an error is made, to discover and promptly to correct the error within a reasonable amount of time after discovery, including payment to the United States of any interest and any penalty required by the Regulations.
  
- 26. The Obligations must prohibit 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 prohibit the City from causing or permitting the Obligations to be treated as “federally guaranteed” obligations within the meaning of § 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 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.
30. The Obligations must provide that neither the City nor a related party will acquire any of the TWDB’s Source Series Bonds in an amount related to the amount of the Obligations.
31. Before closing, the City must provide certification that the average weighted maturity of the Obligations purchased by the TWDB does not exceed 120% of the average reasonably expected economic life of the Project.

EDAP Conditions:

32. The Grant Agreement and Obligations must require compliance with Texas Water Code § 16.356 that no revenues received from rates or fees collected from the water supply or wastewater system constructed in whole or in part from this commitment 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 include a specific report on compliance with this condition.
33. Before 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:

34. The Obligations must provide that:

- a. If, for any year, 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, 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 require 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 must 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 require that for each year the Obligations are outstanding, and before the time taxes are to be levied for the year, the City must establish, adopt, and maintain an annual budget that provides for either the monthly deposit of sufficient surplus pledged revenues 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.
  - iii. the Obligations must require that the City must 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 the Obligations, or the City must 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.



Special Conditions:

- 35. Before closing, the City and the Executive Administrator must execute an Grant Agreement that sets forth the terms and uses of the financial assistance funds.
- 36. The Grant Agreement must include a provision stating that the City must return any grant funds that are determined to be Surplus Funds in a manner determined by the Executive Administrator.

APPROVED and ordered of record this 9th day of May 2024.

TEXAS WATER DEVELOPMENT BOARD

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

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

ATTEST:

\_\_\_\_\_  
Bryan McMath, Interim Executive Administrator

Review Date:

Project ID:

Water

Wastewater

Other

**WATER CONSERVATION REVIEW**

Entity:

Other entity:

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

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

**WATER LOSS AUDIT YEAR:**

Service connections:

Length of main lines (miles):

Water Loss GCD:

Retail population:

Connections per mile:

Water Loss GPCD:

ILI<sup>1</sup>:

1 – Infrastructure Leakage Index only applicable if > 16 connections per mile and > 3,000 service connections

**WATER LOSS THRESHOLDS**

Water Loss Project:

Wholesale Adjusted:

Threshold Type:

Apparent Loss Gallons per connection per day	Real Loss Gallons per mile per day	Real Loss Gallons per connection per day	Apparent Loss Threshold Gallons per connection per day	Real Loss Threshold Gallons per mile per day	Real Loss Threshold Gallons per connection per day

Does the applicant meet Water Loss Threshold Requirements?

**Yes****No****NA****ADDITIONAL INFORMATION****STAFF NOTES AND RECOMMENDATIONS**

## DEFINITIONS

**Adopted** refers to a water conservation plan that meets the minimum requirements of the water conservation plan rules and has been formally approved and adopted by the applicant's governing body.

**Apparent losses** are paper losses that occur when the water reaches a customer, but the volume is not accurately measured and/or recorded due to unauthorized consumption, customer meter inaccuracy, or billing system and collection data errors.

**Approvable** refers to a water conservation plan that substantially meets the minimum requirements of the water conservation plan rules but has not yet been adopted by the applicant's governing body.

**Best Management Practices** are voluntary efficiency measures that save a quantifiable amount of water, either directly or indirectly, and that can be implemented within a specific time frame.

**GPCD** means gallons per capita per day.

**GCD** means gallons per connection per day.

**Infrastructure Leakage Index (ILI)** is the current annual real loss divided by the unavoidable annual real loss (theoretical minimum real loss) and only applies to utilities with more than 3,000 connections and a connection density of more than 16 connections per mile. The **ILI** is recommended to be less than 3 if water resources are greatly limited and difficult to develop, between 3 and 5 if water resources are adequate to meet long-term needs but water conservation is included in long-term water planning, and between 5 and 8 if water resources are plentiful, reliable, and easily extracted. The **ILI** is recommended as a bench marking tool, but until there is increased data validity of the variables used in the calculation, the **ILI** should be viewed with care.

**NA** means not applicable.

**Real losses** are the physical losses, largely leakage, from the infrastructure: mains, valves, and storage tank overflows. Real loss constitutes background leakage (unreported and difficult to detect), unreported leakage (leaks that do not surface but could be detected), and reported leakage (leaks that often surface and those that are detected by the utility through leak detection).

**Residential GPCD** is the amount of residential water use (single and multi-family customer use) divided by the residential population divided by 365.

**Total GPCD** is the amount of total system input volume divided by the retail population divided by 365.

**Total water loss** is the sum of the apparent and real water losses.

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

**Water Loss GPCD** is the amount of water loss divided by the retail population divided by 365.

**Water Loss per Connection per Day** Calculated as the water loss volume divided by the number service connections divided by 365. This indicator allows for reliable performance tracking in the water utility's efforts to reduce water losses. It replaces water loss percentage.

**Water Loss Thresholds** are levels of real and apparent water loss determined by the size and connection density of a retail public utility, at or above which a utility receiving financial assistance from the Texas Water Development Board must use a portion of that financial assistance to mitigate the utility's system water loss.

**Wholesale Adjusted** represents that some utilities provide large volumes of wholesale water to other providers that travel through the general distribution system, so a calculation has been established to adjust for that volume of wholesale water. These adjustments are only applicable for use in determining whether a utility meets or exceeds water loss thresholds in review of their application for financial assistance. These adjustments should not be used for performance tracking or benchmarking.

**March 1, 2024**

## **RECOMMENDATION FOR NUISANCE DETERMINATION**

Under the Economically Distressed Areas Program (EDAP) the eligible grant percentage for an applicant cannot exceed 50 percent unless a public health and safety nuisance exists, as determined by either the Texas Water Development Board (TWDB) or the Texas Department of State Health Services (DSHS).

The TWDB has received a request to review the following project for issuance of a Nuisance Determination:

City of Brady, McCulloch County, Texas  
TWDB EDAP Project No. **10466**  
City of Brady Water Line Replacement Project  
Total Anticipated Financial Assistance: \$2,265,000

The City of Brady (City) is proposing to use \$2,265,000 in financial assistance from the EDAP to plan, design, and construct water distribution system improvements within the City. The replacement of approximately 11,000 feet of aging and undersized water lines, existing fire hydrants, and insulation valves will meet pressure requirements, increase distribution efficiency, reduce water loss, and contribute to the City's effort to reduce the presence of radionuclides in the water system.

### **EDAP ELIGIBILITY AND PROJECT PRIORITIZATION**

After the Abridged Application solicitation period, the TWDB performed an eligibility and prioritization review based on the criteria outlined in the 2022 EDAP Intended Use Plan (IUP). The review confirmed a non-compliant water system with inadequate water pressure and aging undersized water lines.

### **GRANT CALCULATION**

The City received a 50 percent preliminary grant calculation determined during the eligibility review based on documentation provided within the Abridged Application.

Recommendation for Nuisance Determination  
Presidio County, Texas  
TWDB EDAP Project No. 10466  
March 1, 2024

On July 21, 2023, the TWDB invited the City to request a TWDB review for issuance of a Nuisance Determination. The invitation included the EDAP Nuisance Determination Request Form and Supporting Documentation Checklist. Under the 2022 EDAP IUP, projects may be eligible for a maximum grant amount of 70 percent if a public health nuisance exists.

### **NUISANCE DETERMINATION REQUEST**

On July 31, 2023, the TWDB received the City's Nuisance Determination review request. The request included a nuisance determination made by DSHS in 2015 for scope of work and areas defined by TWDB Project No. 10447.

In response to the TWDB's request, the City provided additional supporting documentation confirming consistency of the proposed water lines replacement with the 2015 DSHS nuisance determination, a detailed status of scope of work performed under Project 10447, and laboratory test results confirming the presence of radionuclides in the water distribution system.

### **PROJECT AREA AND PROJECT SCOPE VERIFICATION**

The TWDB performed a technical review of the Abridged Application, including review of the proposed project scope and area evaluated and scored during the eligibility review, and compared it to the proposed project scope and area identified in the Nuisance Determination request and in the complete application for financial assistance received on August 31, 2023.

The TWDB concludes that the project scope and area identified in the Abridged Application, Nuisance Determination request, and completed application for financial assistance are consistent, and that the issues identified in the Nuisance Determination request will be addressed by the proposed project.

### **EXECUTIVE ADMINISTRATOR'S RECOMMENDATION**

After technical review of the City's Nuisance Determination request and supporting documentation, the Executive Administrator (EA) concurs with the determination that a nuisance, dangerous to the public health and safety, exists in the proposed project area and that the proposed project will contribute to resolving the issues identified in the request.


The EA recommends the Board determine a nuisance condition exists for the area of the proposed project. The recommendation is based on the analytical test results confirming radionuclides in the water system and staff's desk review of other supporting documentation provided by the City and verification that a public health nuisance, as defined in Section 341.011 of the Health and Safety Code, 30 Texas Administrative Code

Recommendation for Nuisance Determination  
Presidio County, Texas  
TWDB EDAP Project No. 10466  
March 1, 2024

Chapters 290, and Chapter 285 of the Health & Safety Code, exists in the proposed project area.

Sincerely,

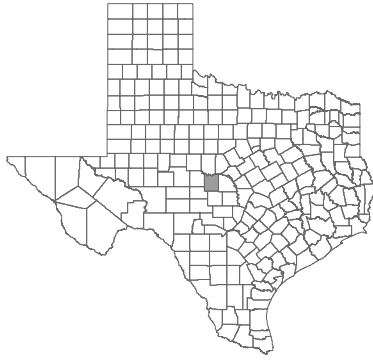
**Jessica N Pena**

 Digitally signed by Jessica N Pena  
Date: 2024.02.29 18:31:34 -06'00'

Jessica Peña  
Deputy Executive Administrator  
Texas Water Development Board

Enc: Attachment 1: Nuisance Determination Review Request Materials  
Attachment 2: Nuisance Determination Relevant Provisions

CC: Steven Miller, P.E., Project Manager, City of Brady, [smiller@bradytx.us](mailto:smiller@bradytx.us)  
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# City of Brady McCulloch County

