

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: January 6, 2022

PRESENTED BY: Jeff Taylor

ACTION REQUESTED

Approve by resolution a request from El Paso County for \$34,530,000 in financial assistance consisting of \$20,718,000 in financing and \$13,812,000 in grant from the Flood Infrastructure Fund for planning, acquisition, design, and construction of a flood mitigation project.

STAFF RECOMMENDATION

Approve No Action

PROJECT NAME AND NUMBER

Sparks Arroyo A1-A3 (SSA1) Project Number 40181

BACKGROUND

Passed by the 86th Texas Legislature and approved by voters through a constitutional amendment, the Flood Infrastructure Fund (FIF) was created to provide funding for flood mitigation projects. The purpose of the FIF, as outlined in Senate Bill 7 is to assist in financing drainage, flood mitigation, and flood control projects. FIF projects presented for consideration have been scored and ranked using prioritization criteria outlined in 31 Texas Administrative Code § 363.404 and further specified in the Flood Intended Use Plan. The prioritized list of projects was approved by the Board on September 17, 2020.

This project will affect a watershed within the City of Socorro within El Paso County that impacts the lives of a population of 4,748 within the Special Flood Hazard Area (SFHA). Additionally, within the SFHA are 28 bridges and crossings, 578 residential structures, 52 commercial/industrial structures, and over 800 acres of agriculture.

PROJECT NEED AND DESCRIPTION

Frequent flooding has occurred for residences and properties in the Sparks Arroyo drainage area within El Paso County (County), approximately 15 miles southeast of the City of El Paso and just northeast of the City of Socorro within the Interstate 10 (I-10) corridor. Residences located downstream of the arroyo, on the south side of I-10, are also at risk due to the uncontrolled volume of flow and sediment deposition within the arroyo. Runoff from development north and west of the arroyo and I-10 enters the upper tributaries of the watershed that converge to form the arroyo. Approximately 1,500 feet downstream on the southern side of I-10, the arroyo becomes undefined with no clear outfall to the Mesa Spur Drain, which runs approximately parallel to I-10. Due to the large volume of the flow from the arroyo and increasing sedimentation, there is the potential to exceed the capacity of the Mesa Spur Drain and flood residences located south of the channel.

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

The County proposes to construct a detention basin at the lower end of Sparks Arroyo, on the south side of I-10 and northeast of the City of Socorro. The proposed basin has two primary purposes: first, to capture sediment being transported down the arroyos and reduce deposition in the downstream channels and floodplains; and, second, to detain the flood flows coming down the arroyos and release them slowly from the detention basin at a rate that will reduce flooding downstream. The proposed embankment for the detention basin is approximately 40 feet tall and requires approximately 300 acre-feet of excavation for flood and sediment pool storage. The proposed outlet structure for the basin consists of a two-foot reinforced concrete pipe. This project will provide flooding benefits to areas served by the El Paso County Water Improvement District as well as parts of the City of Socorro.

PROJECT SCHEDULE

Task	Schedule Date
Closing	May 15, 2022
Engineering Feasibility Report Completion (End of Planning Phase)	August 15, 2022
Design Phase Completion	August 1, 2023
Start of Construction	December 12, 2023
Construction Completion	December 12, 2024

KEY ISSUES

The County's project is eligible under Category 2 of the 2020 Flood Intended Use Plan. This category of funding was designed for planning, acquisition, design, and construction activities to implement flood mitigation projects. Category 2 projects are eligible to receive up to 70 percent in grant funding. Recipients of financial assistance may either use their own available funds or borrow FIF funds at zero percent for any portion of the required local share not provided through FIF grant funds.

The County qualified for a \$13,812,000 grant under the FIF equal to 40 percent of the total project costs. The County intends to pledge ad valorem taxes and surplus revenues from the operation of their parking garage facility. While not a typical revenue pledge, the County has pledged this revenue stream to most of their other certificates of obligation. In practice, the repayment of these obligations and of the proposed debt will come from property taxes.

LEGAL

Special Conditions

- Executed grant agreement

Attachments:

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

Financial Review El Paso County

Risk Score: 2A

Audit Reviewed: FY 2020

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2019	County: 0.03%	State: 1.24%
Top 10 Taxpayers % of Total Revenue	5%	10-15%
General Fund Balance as % of Revenues	32%	2.5-12.5%
Days of Cash on Hand (3-year Average)	127 days	30-149 days
Debt Service Coverage Ratio	1.18x	1.0x
Debt-to-Operating Revenues	0.51	4.00-5.99x
Unemployment Rate (October, 2021)	El Paso County: 5.3%	State: 4.8%
Working Capital Ratio	8.3	> 1.0

Key Risk Score Strengths

- Debt-to-operating revenues are below the state benchmark indicating the County is generating sufficient revenues to cover outstanding debts.
- A high working capital ratio of 8.3 provides the County with ample resources to cover short-term liabilities and shows a strong liquidity position.

Key Risk Score Weaknesses

- Unemployment in the County is slightly higher than the State benchmark, however, this is mitigated by the large and diverse tax base.

PLEDGE

Legal Pledge Name	Tax and surplus revenue (parking 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

TAXES

	2020 Tax Year Rate	Max Projected Tax Rate (2022)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.4503	\$0.4503	\$0.80	97.89%	\$51,638,776,929
Interest & Sinking	\$0.0387	\$0.0387			
Total Tax Rate	\$0.4890	\$0.4890			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the County could save approximately \$9,270,423 over the life of the financing. The County is also saving \$13,812,000 in grant funding.

Responsible Authority	El Paso County
Program	FLOOD
Commitment Number	G1001456, L1001455
Project Number	40181
List Year	2020
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$13,812,000 El Paso County, Texas Grant Agreement, \$20,718,000 El Paso County, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Taxable Series 2022
Tax-exempt or Taxable	Taxable
Refinance	No
Outlay Requirement	Yes
Disbursement Method	Escrow
Outlay Type	Outlay = Escrow Release
Qualifies as Disadvantaged	No
Financial Managerial & Technical Complete	N/A
Phases Funded	Planning, Acquisition, Design, and Construction
Pre-Design	Yes
Project Consistent with State Water Plan	N/A
Water Conservation Plan	N/A
Overall Risk Score	2A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Jeff Taylor	Rand Zeolla	Marcus Snell	Gayla Duaine	Breann Hunter

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY

El Paso County

\$20,718,000 El Paso County, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Taxable Proposed Series 2022

Dated Date: 5/15/2022
 Delivery Date: 5/15/2022
 First Interest: 8/15/2022
 First Principal: 2/15/2023
 Last Principal: 2/15/2052
 Fiscal Year End: 09/30
 Required Coverage: 1.1

Source: FIF
 Rate: 0.00%
 IUP Year: 2021
 Case: Tax and Revenue
 Admin.Fee: \$0
 Admin. Fee Payment Date: N/A
 Total Assessed Valuation: \$51,638,776,929

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 98%	PROJECTED NET PARKING REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$20,718,000 ISSUE				TOTAL DEBT SERVICE	COVERAGE	
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT	TOTAL PAYMENT			
2022	\$0.039	\$19,584,523	\$597,905	\$20,182,428	\$19,880,918	\$0	-	\$0	\$0	\$19,880,918	1.02	
2023	\$0.039	19,584,523	\$597,905	20,182,428	15,967,570	690,000	0.00%	-	690,000	16,657,570	1.21	
2024	\$0.039	19,584,523	\$597,905	20,182,428	16,431,827	690,000	0.00%	-	690,000	17,121,827	1.18	
2025	\$0.039	19,584,523	\$597,905	20,182,428	16,439,580	690,000	0.00%	-	690,000	17,129,580	1.18	
2026	\$0.039	19,584,523	\$597,905	20,182,428	16,415,555	690,000	0.00%	-	690,000	17,105,555	1.18	
2027	\$0.039	19,584,523	\$597,905	20,182,428	15,199,957	690,000	0.00%	-	690,000	15,889,957	1.27	
2028	\$0.039	19,584,523	\$597,905	20,182,428	15,138,607	690,000	0.00%	-	690,000	15,828,607	1.28	
2029	\$0.039	19,584,523	\$597,905	20,182,428	15,132,302	690,000	0.00%	-	690,000	15,822,302	1.28	
2030	\$0.039	19,584,523	\$597,905	20,182,428	15,180,720	690,000	0.00%	-	690,000	15,870,720	1.27	
2031	\$0.039	19,584,523	\$597,905	20,182,428	15,112,754	690,000	0.00%	-	690,000	15,802,754	1.28	
2032	\$0.039	19,584,523	\$597,905	20,182,428	15,163,827	690,000	0.00%	-	690,000	15,853,827	1.27	
2033	\$0.039	19,584,523	\$597,905	20,182,428	377,656	690,000	0.00%	-	690,000	1,067,656	18.90	
2034	\$0.039	19,584,523	\$597,905	20,182,428	377,845	690,000	0.00%	-	690,000	1,067,845	18.90	
2035	\$0.039	19,584,523	\$597,905	20,182,428	377,020	690,000	0.00%	-	690,000	1,067,020	18.91	
2036	\$0.039	19,584,523	\$597,905	20,182,428	377,247	690,000	0.00%	-	690,000	1,067,247	18.91	
2037	\$0.039	19,584,523	\$597,905	20,182,428	376,315	690,000	0.00%	-	690,000	1,066,315	18.93	
2038	\$0.039	19,584,523	\$597,905	20,182,428	376,421	690,000	0.00%	-	690,000	1,066,421	18.93	
2039	\$0.039	19,584,523	\$597,905	20,182,428	376,500	690,000	0.00%	-	690,000	1,066,500	18.92	
2040	\$0.039	19,584,523	\$597,905	20,182,428	376,608	690,000	0.00%	-	690,000	1,066,608	18.92	
2041	\$0.039	19,584,523	\$597,905	20,182,428	109,024	690,000	0.00%	-	690,000	799,024	25.26	
2042	\$0.039	19,584,523	\$597,905	20,182,428	108,034	690,000	0.00%	-	690,000	798,034	25.29	
2043	\$0.039	19,584,523	\$597,905	20,182,428	108,030	690,000	0.00%	-	690,000	798,030	25.29	
2044	\$0.039	19,584,523	\$597,905	20,182,428	108,044	690,000	0.00%	-	690,000	798,044	25.29	
2045	\$0.039	19,584,523	\$597,905	20,182,428	107,941	690,000	0.00%	-	690,000	797,941	25.29	
2046	\$0.039	19,584,523	\$597,905	20,182,428	107,855	690,000	0.00%	-	690,000	797,855	25.30	
2047	\$0.039	19,584,523	\$597,905	20,182,428	107,741	690,000	0.00%	-	690,000	797,741	25.30	
2048	\$0.039	19,584,523	\$597,905	20,182,428	107,633	690,000	0.00%	-	690,000	797,633	25.30	
2049	\$0.039	19,584,523	\$597,905	20,182,428	108,417	690,000	0.00%	-	690,000	798,417	25.28	
2050	\$0.039	19,584,523	\$597,905	20,182,428	108,194	690,000	0.00%	-	690,000	798,194	25.29	
2051	\$0.039	19,584,523	\$597,905	20,182,428	107,943	690,000	0.00%	-	690,000	797,943	25.29	
2052	\$0.039	19,584,523	\$597,905	20,182,428	54,683	708,000	0.00%	-	708,000	762,683	26.46	
					\$180,322,768	\$20,718,000			\$0	\$20,718,000	\$201,040,768	

AVERAGE (MATURITY) LIFE	15.26 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$ 9,270,423
AVERAGE ANNUAL REQUIREMENT	\$6,485,186

Disclaimer: This is a working document and is provided as a courtesy. All information contained herein, including the proposed interest rate, is subject to change upon further review of the TWDB in accordance with 31 Texas Administrative Code Chapters 363, 371, 375, or 384, as applicable. The TWDB does not function as a financial advisor to anyone in connection with this financing. The information contained in this document is used by TWDB staff to analyze the application for financing is illustrative only and does not constitute any guaranty of future rates. The TWDB makes no claim regarding the applicability of the information at closing, at which time actual rates will be set.



Project Budget Summary
El Paso County
40181 - Sparks Arroyo A1-A3 (SSA1)

Budget Items	TWDB Funds	Total
Construction		
Construction	\$25,704,000.00	\$25,704,000.00
Subtotal for Construction	\$25,704,000.00	\$25,704,000.00
Basic Engineering Services		
Construction Engineering	\$300,000.00	\$300,000.00
Design	\$2,365,000.00	\$2,365,000.00
Planning	\$50,000.00	\$50,000.00
Subtotal for Basic Engineering Services	\$2,715,000.00	\$2,715,000.00
Special Services		
Application	\$20,000.00	\$20,000.00
Environmental	\$150,000.00	\$150,000.00
Geotechnical	\$200,000.00	\$200,000.00
Inspection	\$322,000.00	\$322,000.00
O&M Manual	\$25,000.00	\$25,000.00
Permits	\$100,000.00	\$100,000.00
Project Management (by engineer)	\$250,000.00	\$250,000.00
Special Service Other (Geological Investigation)	\$300,000.00	\$300,000.00
Surveying	\$110,000.00	\$110,000.00
Testing	\$200,000.00	\$200,000.00
Subtotal for Special Services	\$1,677,000.00	\$1,677,000.00
Fiscal Services		
Bond Counsel	\$54,000.00	\$54,000.00
Financial Advisor	\$56,975.00	\$56,975.00
Issuance Costs	\$11,500.00	\$11,500.00
Subtotal for Fiscal Services	\$122,475.00	\$122,475.00
Other		
Administration	\$300,000.00	\$300,000.00
Land/Easements Acquisition	\$300,000.00	\$300,000.00
Other (Structural)	\$100,000.00	\$100,000.00
Subtotal for Other	\$700,000.00	\$700,000.00
Contingency		
Contingency	\$3,611,525.00	\$3,611,525.00
Subtotal for Contingency	\$3,611,525.00	\$3,611,525.00
Total	\$34,530,000.00	\$34,530,000.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$34,530,000 TO THE EL PASO COUNTY
FROM THE FLOOD INFRASTRUCTURE FUND
THROUGH THE PROPOSED PURCHASE OF
\$20,718,000 EL PASO COUNTY, TEXAS COMBINATION TAX AND SURPLUS REVENUE
CERTIFICATES OF OBLIGATION
PROPOSED TAXABLE SERIES 2022
AND
THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$13,812,000

(22 -)

WHEREAS, El Paso County (County), Texas, has filed an application for financial assistance from the Flood Infrastructure Fund (FIF) in accordance with Texas Water Code Chapter 15, Subchapter I, to finance planning, design, acquisition, and construction of a flood project, identified as Project No. 40181; and

WHEREAS, the County seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$34,530,000 through the TWDB's proposed purchase of \$20,718,000 El Paso County, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Taxable Series 2022 (together with all authorizing documents) and \$13,812,000 through execution of a Grant Agreement (Obligations), all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff; and

WHEREAS, the County has offered a pledge of ad valorem tax and surplus revenue from the County's parking garage facility as sufficient security for the repayment of the Obligations; and

WHEREAS, the TWDB hereby finds:

1. that the application and financial assistance requested meet the requirements of Texas Water Code, Chapter 15, Subchapter I; 31 TAC Chapter 363, Subchapters A and D; and the State Fiscal Year 2020 Flood Intended Use Plan (FIUP);
2. the County has demonstrated a sufficient level of cooperation among eligible political subdivisions and has included all of the eligible political subdivisions substantially affected by the flood project in accordance with Texas Water Code § 15.536(2);
3. that in its opinion the taxes or revenues pledged by the County will be sufficient to meet all Obligations assumed by the County in accordance with Texas Water Code § 15.536(3);

4. that the County is eligible to receive grant funding in accordance with Texas Water Code § 15.534 and the FIUP;
5. that the County has demonstrated that the benefit-cost ratio of the Project meets the requirements of the FIUP;
6. that the request for financial assistance does not include redundant funding for activities already performed and/or funded through another source, in accordance with the FIUP; and
7. that the County has demonstrated that the application meets the requirements of the FIUP related to the National Flood Insurance Program in the area to be served by the Project;
8. that the Project was developed using the best and most recent available data, in accordance with the FIUP;
9. that the County has documented that it has planned for operations and maintenance costs associated with the Project, in accordance with the FIUP; and
10. that the County has considered possible floodwater capture techniques that could be associated with the Project for water supply purposes, in accordance with the FIUP.

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

A commitment is made by the TWDB to El Paso County for financial assistance in the amount of \$34,530,000 from the Flood Infrastructure Fund, to be evidenced by the TWDB's proposed purchase of \$20,718,000 El Paso County, Texas Combination Tax and Surplus Revenue Certificates of Obligation, Proposed Taxable Series 2022 and execution of a Grant Agreement in the amount of \$13,812,000. This commitment will expire on July 31, 2022; however, the Executive Administrator may, at his discretion, grant up to one extension for a maximum of three months.

Such commitment is conditioned as follows:

Standard Conditions:

1. this commitment is contingent on availability of TWDB 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 the County has complied with all of the requirements of the laws under which said Obligations were issued, 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 County;

3. this commitment is contingent upon the County's continued compliance with all applicable laws, rules, policies, and guidance (as these may be amended from time to time to adapt to a change in law, in circumstances, or any other legal requirement), including but not limited to 31 TAC Chapter 363;
4. the County shall use a paying agent/registrar in accordance with 31 TAC § 363.42(c)(2);

The Following Conditions Must Be Included in the Obligations:

5. the Obligations must provide that the County will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
6. the Obligations must provide that the County 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;
7. the Obligations must provide that the County will not begin construction for a portion of the Project until the environmental finding has been issued for that portion of the Project;
8. the Obligations must contain a provision requiring the County to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
9. the Obligations must include a provision wherein the County, 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 County'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 County's Obligations, if the TWDB sells or otherwise transfers such Obligations, and the beneficial owners of the TWDB's bonds if the County is an obligated person with respect to such bonds under SEC Rule 15c2-12;
10. the Obligations must contain a provision requiring the County to levy a tax and/or maintain and collect sufficient rates and charges to produce 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;

11. the Obligations must include a provision requiring a final accounting to be made of the total sources and authorized use of Project funds within 60 days of the completion of the Project;
12. the Obligations must include a provision requiring the County to deposit any bond proceeds from the Obligations that are determined to be surplus proceeds remaining after completion of the Project and completion of a final accounting, including any interest earned on the bond proceeds, into the Interest and Sinking Fund;
13. the Grant Agreement must include a provision stating that the County shall either return or deposit into the Interest and Sinking Fund any grant funds that are determined to be surplus funds remaining after completion of the Project and completion of a final accounting, including any interest earned on the grant funds;
14. 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;
15. financial assistance 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;
16. financial assistance proceeds shall not be used by the County 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 County 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, recycling, and disposition of any contaminated sewage sludge, contaminated sediments, and/or contaminated media that may be generated by the County, its contractors, consultants, agents, officials, and employees as a result of activities relating to the Project to the extent permitted by law;
17. the Obligations must contain a provision stating that the County shall abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by Texas Government Code, Chapter 2252, Subchapter G;
18. the Obligations must contain a provision requiring the County to submit quarterly status reports on the progress of the project that details information requested by the Executive Administrator. The Executive Administrator may withhold authorization to release funds from escrow or adjust the amount of funds to be

released from escrow based on the receipt of the quarterly status reports and the projected quarterly needs for the project;

19. the Obligations shall include a special covenant prohibiting the County from encumbering, pledging, or otherwise impairing the revenues of the System in any manner with respect to the payment of any Obligations or with respect to any liability, except for the payment of the following: (1) maintenance and operating expenses payable within the current fiscal year with current revenues; and (2) additional debt, and that the County shall in no way encumber, pledge, or otherwise impair its title to the land used by or for the System or any interests therein, including improvements and facilities of the System, without prior TWDB approval;

Pledge Conditions for the Loan:

20. 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 County 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 County shall not transfer any funds from the County'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 County 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 County shall at all times maintain and collect sufficient rates and charges so that after payment of the costs of operating and maintaining the project, it produces revenues in an amount not less than 1.10 times debt service requirements of all outstanding Obligations of the County and other obligations of the County that are secured in whole or in part by the pledged revenues, for which the County is budgeting the repayment of such Obligations, or the County shall provide documentation that 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;

Conditions to Close or for Release of Funds:

21. prior to closing, the County 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;
22. prior to release of funds for the relevant services, and if required under the TWDB's financial assistance program and if not previously provided with the application, the County shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel, 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;
23. prior to closing, when any portion of financial assistance is to be held in escrow or in trust, the County 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;
24. prior to closing, the County's bond counsel must prepare a written, unqualified approving opinion acceptable to the executive administrator. Bond counsel may rely on covenants and representations of the County when rendering this opinion;

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

Special Conditions:

25. prior to closing, the County shall execute a Grant Agreement in a form and substance acceptable to the Executive Administrator; and

26. prior to release of funds for each Project phase or portion of a Project phase, the County must deposit into the County's construction account the County's share of funds, based on the Board-approved grant percentage, necessary to complete the upcoming phase(s) or portion of the phase of the Project, as approved by the Executive Administrator.

APPROVED and ordered of record this, the 6th day of January, 2022.

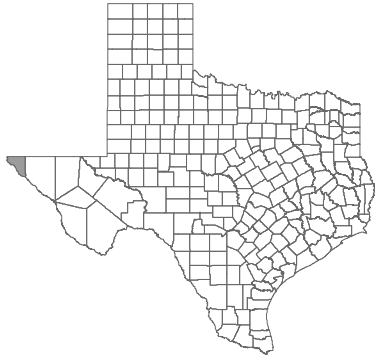
TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator



El Paso County

