

AGENDA ITEM MEMO

BOARD MEETING DATE: December 7, 2023

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Ashley Harden, General Counsel
Annette Mass, Assistant General Counsel
Jessica Peña, Deputy Executive Administrator, Water Supply & Infrastructure

FROM: T. Clay Schultz, Ph.D., Director, Regional Water Project Development
Nancy Richards, Manager, Regional Water Project Development

SUBJECT: Harris County Flood Control District General Revenue Grant – T. C. Jester
Stormwater Detention Basin - TWDB Project No. 21822

ACTION REQUESTED

Consider authorizing the Executive Administrator to execute an agreement with the Harris County Flood Control District (District) for a \$12,000,000 grant pursuant to House Bill 1, 88th Legislative Regular Session, Article IX, §17.38.

BACKGROUND

In the 88th Legislative Session, \$12,000,000 was appropriated for the construction of one of three wet-bottom stormwater detention basins in the Cypress Creek Watershed. The other two basins will be constructed using Community Development Block Grant – Mitigation and Federal Emergency Management Agency grant funds. Together, the three basins will provide 931 acre-feet of detention volume and will remove an estimated 26 structures from the 100-year area of inundation and an estimated 43 structures from the 500-year floodplain.

KEY ISSUES

The Legislature set aside funds for the project and specifically directed the Texas Water Development Board (TWDB) to provide those funds for the above stated purpose. Consequently, the TWDB may provide the funds from the general revenue account without reference to the requirements of other TWDB programs. The conditions necessary to affect

the financing are only those necessary to protect the interests of the TWDB and document the transaction to the satisfaction of the Executive Administrator.

RECOMMENDATION

The Executive Administrator recommends authorizing the execution of an agreement with the District for a \$12,000,000 grant pursuant to House Bill No. 1, 88th Legislature.

Attachment:

1. Proposed Resolution (23-)

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE
TO THE HARRIS COUNTY FLOOD CONTROL DISTRICT
FROM THE GENERAL REVENUE FUND
THROUGH A GRANT IN THE AMOUNT OF \$12,000,000

(23 -)

Recitals:

The 88th Texas Legislature, through House Bill 1, 88th Leg. R.S., Art. IX, §17.38, appropriated to the Texas Water Development Board (TWDB) an amount not to exceed \$12,000,000 out of the General Revenue Fund for the purposes of financial assistance for the T.C. Jester Stormwater Detention Basin Project in Harris County.

The Harris County Flood Control District (District), filed an application for financial assistance in the amount of \$12,000,000 in grant funds to carry out the T.C. Jester Stormwater Detention Basin Project in Harris County, identified as Project No. 21822.

In accordance with its duties and responsibilities under Texas Water Code §6.12, the TWDB has considered all matters required by law and in particular, the instructions of the 88th Legislature.

The Board finds that the project is eligible to receive funds in accordance with House Bill 1.

NOW THEREFORE, the Texas Water Development Board resolves as follows:

A commitment is made by the TWDB to the Harris County Flood Control District for financial assistance in the amount of \$12,000,000 in grant funds from the General Revenue Fund for the T.C. Jester Stormwater Detention Basin Project in Harris County. This commitment will expire on August 31, 2024.

The commitment is conditioned as follows:

1. This commitment is contingent upon the District's compliance with all applicable requirements contained in House Bill 1, Art. IX, §17.38.
2. Prior to closing, the District and the Executive Administrator of the TWDB shall execute a Grant Agreement that sets forth the terms and uses of the grant funds.
3. The 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 Grant Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect.

4. Financial assistance funds are public funds and, as such, the Grant Agreement 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. Financial assistance funds shall not be used by the District when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Principal Forgiveness Agreement 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 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
6. Prior to closing, the District shall execute an escrow agreement, approved by the Executive Administrator.
7. The District shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines.

APPROVED and ordered of record this 7th day of December, 2023.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator