

## 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 –Lower Clear  
Creek Watershed - TWDB Project No. 21821

### **ACTION REQUESTED**

Consider authorizing the Executive Administrator to execute an agreement with the Harris County Flood Control District (District) for a \$10,000,000 grant pursuant to House Bill 1, 88<sup>th</sup> Legislative Regular Session, Article VI-68.

### **BACKGROUND**

In the 88<sup>th</sup> Legislative Session, \$10,000,000 was appropriated for the design and construction of the proposed Whitcomb Terracing and Detention Projects, which consists of channel expansion, bank terracing, and construction of an off-line stormwater detention basin along the northern bank of Clear Creek. The goal of the projects will be to reduce flood risk for a range of flood events up to and including the 100-year storm event. In addition to these funds, the project will utilize local funding from the City of Friendswood for the proposed improvements.

### **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 \$10,000,000 grant pursuant to House Bill No. 1, 88<sup>th</sup> 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 \$10,000,000

(23 - )

Recitals:

The 88<sup>th</sup> Texas Legislature, through House Bill 1, 88<sup>th</sup> Leg. R.S., Art. VI-68, appropriated to the Texas Water Development Board (TWDB) an amount not to exceed \$10,000,000 out of the General Revenue Fund for the purposes of flood mitigation projects for the Lower Clear Creek Watershed.

The Harris County Flood Control District (District), filed an application for financial assistance in the amount of \$10,000,000 in grant funds to carry out flood mitigation projects in the Lower Clear Creek Watershed, identified as Project No. 21821.

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 88<sup>th</sup> 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 \$10,000,000 in grant funds from the General Revenue Fund for flood mitigation projects in the Lower Clear Creek Watershed. 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. VI-68.
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 7<sup>th</sup> day of December 2023.

TEXAS WATER DEVELOPMENT BOARD

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Brooke T. Paup, Chairwoman

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

ATTEST:

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Jeff Walker, Executive Administrator