

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: May 11, 2022

PRESENTED BY: Joe Koen

ACTION REQUESTED

Approve by resolution a request from the City of Kennedale (Tarrant County) for \$432,285 in grant from the Flood Infrastructure Fund for the construction of a flood management project.

PROJECT NAME AND NUMBER

Valley Lane Streambank Stabilization, Project Number 40187

STAFF RECOMMENDATION

Approve No Action

BACKGROUND

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

The City of Kennedale (City) is in Tarrant County and located approximately 34 miles west southwest of the City of Dallas. The City's extraterritorial jurisdiction is approximately 4,237 acres and has an estimated population of 8,517 residences.

PROJECT NEED AND DESCRIPTION

The Kennedale Branch channel has experienced several historical bank failures and adjacent road damage along Valley Lane Road due to high water and channel water velocities. Due to these bank failures, reliable safe access to approximately 37 businesses and residences has been limited during storm events.

The City is requesting grant funds for construction to stabilize the Kennedale Branch channel bank. The project includes approximately 2,400 cubic yards of gabion baskets and 1,673 linear feet of metal beam guard fence. The current drainage area at the project location meets a 3-year storm event. The proposed improvements will address riverbank failure along Valley Lane Road to a 50-year storm event.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE NOVEMBER 30, 2022
--

PROJECT SCHEDULE

Task	Schedule Date
Closing	October 1, 2022
Engineering Feasibility Report Completion (End of Planning Phase)	January 1, 2023
Design Phase	November 1, 2023
Start of Construction	February 1, 2024
Construction Completion	November 1, 2024

KEY ISSUES

The funding being provided by the TWDB is in the form of 100 percent grant and therefore is not subject to our internal risk score analysis that is applied to loan. For this request, staff reviewed the City's annual audit and funding application information to assess the City's ability to manage existing obligations and business practices. Based on this analysis, staff believes the City has adequate capabilities to manage its obligations.

The City qualified for a \$432,285 grant under the FIF equal to approximately 20 percent of the total project costs and is contributing \$1,729,141 in local funds, for a total project cost of \$2,161,426.

LEGAL

Special Conditions

- Executed Grant Agreement
- Demonstration of local share
- Deposit of City's construction funds into share account

Attachments:

1. Project Data Summary
2. Project Budget
3. Resolution (22-)
4. Location Map

Responsible Authority	Kennedale
Program	FLOOD
Commitment Number	G1001517
Project Number	40187
List Year	2020
Type of Pledge	N/A
Pledge Level (if applicable)	N/A
Legal Description	\$432,285 Grant Agreement
Tax-exempt or Taxable	Tax-Exempt
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	Construction
Pre-Design	No
Project Consistent with State Water Plan	N/A
Water Conservation Plan	N/A
Overall Risk Score	N/A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Joe Koen	Thomas Quick	Dennis Newman	Chris Caran	Breann Hunter



Project Budget Summary

City of Kennedale

40187 - Valley Lane Streambank Stabilization

Budget Items	This Commitment	Local Funds	Total
Construction			
Construction	\$432,285.00	\$1,108,695.00	\$1,540,980.00
Subtotal for Construction	\$432,285.00	\$1,108,695.00	\$1,540,980.00
Basic Engineering Services			
Design	\$0.00	\$227,050.00	\$227,050.00
Planning	\$0.00	\$25,000.00	\$25,000.00
Subtotal for Basic Engineering Services	\$0.00	\$252,050.00	\$252,050.00
Special Services			
Geotechnical	\$0.00	\$19,800.00	\$19,800.00
Surveying	\$0.00	\$40,400.00	\$40,400.00
Subtotal for Special Services	\$0.00	\$60,200.00	\$60,200.00
Contingency			
Contingency	\$0.00	\$308,196.00	\$308,196.00
Subtotal for Contingency	\$0.00	\$308,196.00	\$308,196.00
Total	\$432,285.00	\$1,729,141.00	\$2,161,426.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$432,285 TO THE CITY OF KENNEDALE
FROM THE FLOOD INFRASTRUCTURE FUND
THROUGH
THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$432,285

(22 -)

WHEREAS, the City of Kennedale (City), located in Tarrant 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 the construction of a flood project, identified as Project No. 40187; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$432,285 through execution of a Grant Agreement, all as is more specifically set forth in the application and in recommendations of the Executive Administrator's staff; and

WHEREAS, the City will provide a local share of \$1,729,141.

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 City 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 no debt obligations are to be assumed by the City for the financial assistance and no taxes or revenues are required to be pledged by the City in accordance with Texas Water Code § 15.536(3);
4. that the City is eligible to receive grant funding in accordance with Texas Water Code § 15.534 and the applicable FIUP;
5. that the City has demonstrated that the benefit-cost ratio of the Project meets the requirements of the FIUP; and
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 City 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; and
8. that the Project was developed using the best and most recent available data, in accordance with the FIUP; and
9. that the City has documented that it has planned for operations and maintenance costs associated with the Project, in accordance with the FIUP; and
10. that the City 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 City of Kennedale for financial assistance in the amount of \$432,285 from the Flood Infrastructure Fund, to be evidenced by the execution of a Grant Agreement. This commitment will expire on November 30, 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 City'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;

The Following Conditions Must Be Included in the Grant Agreement:

3. the Grant Agreement must provide that the City will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
4. the Grant Agreement must provide that the City 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;
5. the Grant Agreement must provide that the City will not begin construction for a portion of the Project until the environmental finding has been issued for that portion of the Project;

6. the Grant Agreement must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
7. the Grant Agreement must include a provision requiring City's final accounting to be made of the total sources and authorized use of Project funds within 60 days of the completion of the Project;
8. the Grant Agreement must include a provision stating that the City shall return 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;
9. 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;
10. financial assistance proceeds 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;
11. financial assistance proceeds shall not be used by the City when sampling, testing, removing, or disposing of contaminated soils and/or media at the Project site. The 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, recycling, 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;
12. the Grant Agreement must contain a provision requiring the City 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;
13. the Grant Agreement must contain a provision stating that the City 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;

14. 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 City shall submit executed contracts for engineering and, if applicable, financial advisor and legal 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, reflected in the contract, and acceptable to the Executive Administrator;
15. prior to closing, when any portion of 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;
16. prior to release of funds for construction, the City must provide the TWDB with evidence that the necessary acquisitions of land, leases, easements, and rights-of-way have been completed, or that the City has the legal authority necessary to complete the acquisitions;

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

Special Conditions:

17. prior to closing, the City shall execute a Grant Agreement in a form and substance acceptable to the Executive Administrator;
18. prior to closing, the City must demonstrate the availability of its required local share of \$1,729,141 as approved by the Executive Administrator; and
19. prior to release of funds for each Project phase or portion of a Project phase, the City must deposit into the City's construction account the City'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 11th day of May, 2022

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator



City of Kennedale Tarrant County

