

Texas Water Development Board

PROJECT FUNDING REQUEST

BOARD DATE: June 9, 2022

PRESENTED BY: Nancy Richards

ACTION REQUESTED

Approve by resolution a request from the City of Sugar Land (Fort Bend County) for \$27,500,000 in financing from the Flood Infrastructure Fund for the planning, design, and construction of a flood mitigation project.

STAFF RECOMMENDATION

Approve No Action

PROJECT NAME AND NUMBER

Oyster Creek Diversion Channel and Storage Facility, Project Number 40191

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.

The City of Sugar Land (City) is in Fort Bend County approximately 20 miles southwest of downtown Houston. The proposed project is located within the Fort Bend County Drainage District, along Highway US 90 Alternate just southwest of its intersection with Texas State Highway 6. The City's total population is approximately 111,026 and the total population to be served by this project is approximately 1,144.

PROJECT NEED AND DESCRIPTION

Recent flood events have impacted multiple facilities including the Sugar Land Regional Airport, the City of Sugar Land Police and Fire Training Facility, and the historical Central Unit Prison. These properties are currently located in an overflow area of Oyster Creek and are almost completely inundated during a 100-year event or greater.

The City is requesting funds for the planning, design, and construction of a drainage improvement project that removes these properties from the 100-year floodplain. The proposed project will provide detention and flood control for larger events within the Oyster Creek watershed without adverse impact to upstream and downstream properties. The project will provide necessary protection from Oyster Creek overflows while providing flood storage, stormwater harvesting, and water quality features. The project includes a wet detention pond, channel improvements, weir diversion structure, drop structures, and

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

diversion channels from Oyster Creek to Bullhead Bayou. The estimated number of structures removed from the floodplain is 392.

PROJECT

Task	Schedule Date
Closing	September 15, 2022
Engineering Feasibility Report Completion (End of Planning Phase)	January 16, 2023
Design Phase Completion	December 1, 2023
Start of Construction	January 15, 2024
Construction Completion	November 30, 2024

KEY ISSUES

The City’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.

LEGAL

Special Conditions

None.

Attachments:

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

TAXES

	2021 Tax Year Rate	Max Projected Tax Rate (Year 2021)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.2089	\$0.2089	\$2.50	99%	\$16,898,968,598
Interest & Sinking	\$0.1376	\$0.1376			
Total Tax Rate	\$0.3465	\$0.3465			

Cost Savings

Based on a 30 -year maturity schedule and current interest rates, the City could save approximately \$14,442,461 over the life of the financing.

Project Data Summary

Responsible Authority	Sugar Land
Program	FLOOD
Commitment Number	L1001525
Project Number	40191
List Year	2020
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Third Lien
Legal Description	\$27,500,000 City of Sugar Land, Texas Combination Tax and Revenue Certificates of Obligation, Proposed 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, 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
Nancy Richards	Tyrone Alcorn	Lucia Loera	Britt Paredes	Annette Mass

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
City of Sugar Land

\$27,500,000 City of Sugar Land, Texas Tax and Revenue Certificates of Obligation, Proposed Taxable Series 2022

Dated Date: 9/15/2022
 Delivery Date: 9/15/2022
 First Interest: 3/15/2023
 First Principal: 3/15/2023
 Last Principal: 3/15/2052
 Fiscal Year End: 09/30
 Required Coverage: 1.1

Source: FIF
 Rate: 0.00%
 IUP Year: 2022
 Case: Tax and Revenue
 Admin.Fee: \$0
 Admin. Fee Payment Date: N/A
 Total Assessed Valuation: \$16,898,968,598

FISCAL YEAR	CURRENT TAX RATE	TAX REVENUES WITH COLL. @ 99.69%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$27,500,000 ISSUE			TOTAL DEBT SERVICE	COVERAGE	
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			
2023	0.1376	\$23,180,897	\$27,416,274	\$50,597,170	\$45,082,428	\$915,000	0.00%	-	\$915,000	\$45,997,428	1.10
2024	0.1376	23,180,897	27,416,274	50,597,170	43,906,540	915,000	0.00%	-	915,000	44,821,540	1.13
2025	0.1376	23,180,897	27,416,274	50,597,170	41,530,296	915,000	0.00%	-	915,000	42,445,296	1.19
2026	0.1376	23,180,897	27,416,274	50,597,170	37,496,112	915,000	0.00%	-	915,000	38,411,112	1.32
2027	0.1376	23,180,897	27,416,274	50,597,170	34,220,546	915,000	0.00%	-	915,000	35,135,546	1.44
2028	0.1376	23,180,897	27,416,274	50,597,170	33,858,060	915,000	0.00%	-	915,000	34,773,060	1.46
2029	0.1376	23,180,897	27,416,274	50,597,170	31,289,108	915,000	0.00%	-	915,000	32,204,108	1.57
2030	0.1376	23,180,897	27,416,274	50,597,170	28,239,793	915,000	0.00%	-	915,000	29,154,793	1.74
2031	0.1376	23,180,897	27,416,274	50,597,170	25,858,201	915,000	0.00%	-	915,000	26,773,201	1.89
2032	0.1376	23,180,897	27,416,274	50,597,170	23,989,893	915,000	0.00%	-	915,000	24,904,893	2.03
2033	0.1376	23,180,897	27,416,274	50,597,170	23,801,153	915,000	0.00%	-	915,000	24,716,153	2.05
2034	0.1376	23,180,897	27,416,274	50,597,170	21,260,784	915,000	0.00%	-	915,000	22,175,784	2.28
2035	0.1376	23,180,897	27,416,274	50,597,170	21,019,665	915,000	0.00%	-	915,000	21,934,665	2.31
2036	0.1376	23,180,897	27,416,274	50,597,170	17,971,930	915,000	0.00%	-	915,000	18,886,930	2.68
2037	0.1376	23,180,897	27,416,274	50,597,170	15,958,947	915,000	0.00%	-	915,000	16,873,947	3.00
2038	0.1376	23,180,897	27,416,274	50,597,170	13,399,805	915,000	0.00%	-	915,000	14,314,805	3.53
2039	0.1376	23,180,897	27,416,274	50,597,170	13,349,276	915,000	0.00%	-	915,000	14,264,276	3.55
2040	0.1376	23,180,897	27,416,274	50,597,170	9,208,716	915,000	0.00%	-	915,000	10,123,716	5.00
2041	0.1376	23,180,897	27,416,274	50,597,170	8,536,436	915,000	0.00%	-	915,000	9,451,436	5.35
2042	0.1376	23,180,897	27,416,274	50,597,170	2,125,810	915,000	0.00%	-	915,000	3,040,810	16.64
2043	0.1376	23,180,897	27,416,274	50,597,170	2,126,308	920,000	0.00%	-	920,000	3,046,308	16.61
2044	0.1376	23,180,897	27,416,274	50,597,170	2,124,440	920,000	0.00%	-	920,000	3,044,440	16.62
2045	0.1376	23,180,897	27,416,274	50,597,170	2,120,208	920,000	0.00%	-	920,000	3,040,208	16.64
2046	0.1376	23,180,897	27,416,274	50,597,170	2,117,038	920,000	0.00%	-	920,000	3,037,038	16.66
2047	0.1376	23,180,897	27,416,274	50,597,170	2,119,538	920,000	0.00%	-	920,000	3,039,538	16.65
2048	0.1376	23,180,897	27,416,274	50,597,170	550,000	920,000	0.00%	-	920,000	1,470,000	34.42
2049	0.1376	23,180,897	27,416,274	50,597,170	550,000	920,000	0.00%	-	920,000	1,470,000	34.42
2050	0.1376	23,180,897	27,416,274	50,597,170	550,000	920,000	0.00%	-	920,000	1,470,000	34.42
2051	0.1376	23,180,897	27,416,274	50,597,170	550,000	920,000	0.00%	-	920,000	1,470,000	34.42
2052	0.1376	23,180,897	27,416,274	50,597,170	550,000	920,000	0.00%	-	920,000	1,470,000	34.42
					\$505,461,028	\$27,500,000		\$0	\$27,500,000	\$532,961,028	

AVERAGE (MATURITY) LIFE	15.02 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$ 14,442,461
AVERAGE ANNUAL REQUIREMENT	\$916,667

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.

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; and
11. that the current water audit has been completed by the City and filed with the TWDB in accordance with Texas Water Code § 16.0121.

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

12. A commitment is made by the TWDB to the City of Sugar Land for financial assistance in the amount of \$27,500,000 from the Flood Infrastructure Fund, to be evidenced by the TWDB's proposed purchase of \$27,500,000 City of Sugar Land, Texas Combination Tax and Revenue Certificates of Obligation Proposed Taxable Series 2022. This commitment will expire on December 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 City 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 City;

3. 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;
4. the City 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 City will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
6. the Obligations 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;
7. the Obligations 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;
8. the Obligations must contain a provision requiring the City to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
9. the Obligations must include a provision wherein 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, 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 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 SEC Rule 15c2-12;
10. the Obligations must contain a provision requiring the City 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 City 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 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;
14. 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;
15. 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 Obligations 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;
16. the Obligations 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;
17. the Obligations 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.

Pledge Conditions for the Loan

18. 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 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 shall 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 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 City 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
 - ii. the Obligations must include a requirement that the City 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 City and other obligations of the City that are secured in whole or in part by the pledged revenues, for which the City is budgeting the repayment of such Obligations, or the City 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:

19. prior to closing, the City 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 debt service requirements;
20. 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 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;
21. 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;
22. prior to closing, the City'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 City when rendering this opinion; and
23. 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.

APPROVED and ordered of record this, the 9th day of June, 2022.

TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker
Executive Administrator

