



PROJECT FUNDING REQUEST

BOARD DATE: March 9, 2023

PRESENTED BY: Jesse Milonovich

ACTION REQUESTED

Consider approving by resolution a request from El Paso County (El Paso County) for \$1,956,400 in financial assistance consisting of \$1,780,000 in financing and \$176,400 in grant from the Flood Infrastructure Fund for the planning, acquisition, design, and construction of a flood mitigation project.

STAFF RECOMMENDATION

Approve No Action

PROJECT NAME AND NUMBER

Flow Path Number 42 (CAN1) Project Number 40202

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 El Paso County (County), in the vicinity of Canutillo, a small unincorporated community in the northwestern part of the county, that impacts a population of approximately 186, 62 residential structures, and five roadways.

PROJECT NEED AND DESCRIPTION

The watershed of Flow Path Number 42 in the vicinity of Canutillo, a small unincorporated community in the northwestern part of El Paso County, is subject to recurring significant flooding primarily during the summer monsoonal season, resulting in inundation of adjacent residences, streambank and channel erosion, and transport and deposition of alluvial sediment.

The County proposes to construct approximately 1,240 feet of concrete lined channel along Flow Path Number 42, in addition to acquiring right-of-way property for maintenance of the channel. These improvements would provide sufficient capacity within the channel to convey the 100-year flood and benefit the residents in Canutillo.

COMMITMENT PERIOD: SIX (6) MONTHS TO EXPIRE SEPTEMBER 30, 2023

PROJECT SCHEDULE

Task	Schedule Date
Closing	June 30, 2023
Engineering Feasibility Report Completion (End of Planning Phase)	January 20, 2025
Design Phase Completion	December 17, 2025
Start of Construction	January 1, 2026
Construction Completion	July 1, 2026

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 \$176,400 grant under the FIF equal to 9 percent of the total project costs. The County intends to pledge a combination of ad valorem taxes and subordinate revenue 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 (23-)
4. Location Map

Financial Review El Paso County

Attachment 1

Risk Score: 2A

Audit Reviewed: FY 2021

Key Indicators

Indicator	Result	Benchmark
Population Growth, Average Annual 2010-2020	County: 0.78%	State: 1.49%
Top 10 Taxpayers % of Total Revenue	4.86%	10-15%
Median Household Income as % of State	76%	100%
Days of Cash on Hand (3-year Average)	603 days	30-149 days
Fund Balance as % of Revenues	30.43%	5-10%
Debt Service Coverage Ratio	1.01x	1.0x
Net Direct Debt-to-Operating Revenues	0.52x	4.00-5.99x
Unemployment Rate (December 2022)	County : 4.0%	State: 3.6%
Working Capital Ratio	5.986	> 1.0
Cash Balance Ratio	10%	0-9.99%

Key Risk Score Strengths

- A cash balance ratio of 10 percent shows an increase in cash on hand over a 5-year span, indicating an overall upward trend.
- A high working capital ratio provides the County with ample resources to cover short-term liabilities and shows a strong liquidity position.

Key Risk Score Concerns

- Based on the current tax rate and assessed valuation, the County is projected to need a \$0.002 increase in 2025 to meet the debt service coverage requirement for the proposed obligation.

PLEDGE

Legal Pledge Name	Combination Tax and Parking Garage Subordinate Lien Revenue
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 checked="" type="checkbox"/> Second <input type="checkbox"/> Third <input type="checkbox"/> N/A

TAXES

	2021 Tax Year Rate	Max Projected Tax Rate (Year 2025)	Maximum Allowable Rate	3-Year Avg Current Tax Collections	Assessed Valuation
Maintenance & Operation	\$0.432	\$0.432	\$0.80	97.367%	\$56,036,752,465
Interest & Sinking	\$0.038	\$0.040			
Total Tax Rate	\$0.470	\$0.472			

Cost Savings

Based on a 30-year maturity schedule and current interest rates, the County could save approximately \$1,497,381 over the life of the financing. The County is also saving \$176,400 in grant funding.

Project Data Summary

Responsible Authority	El Paso County
Program	FLOOD
Commitment Number	G1001576, L1001575
Project Number	40202
List Year	2020
Type of Pledge	Combo Tax and Revenue
Pledge Level (if applicable)	Second Lien
Legal Description	\$176,400 Grant Agreement, \$1,780,000 El Paso County, Texas Combination Tax and Subordinate Revenue Certificates of Obligation, Proposed Taxable Series 2023C
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	Exempt
Overall Risk Score	2A

PROJECT TEAM

Team Manager	Financial Analyst	Engineering Reviewer	Environmental Reviewer	Attorney
Jesse Milonovich	Kyle DuQuesnay	Andrew Tilton	Chris Caran	Breann Hunter

ISSUE BEING EVALUATED
FOR ILLUSTRATION PURPOSES ONLY
El Paso County

\$1,780,000 El Paso County, Texas Combination Tax and Subordinate Revenue Certificates of Obligation, Proposed Series 2023

Dated Date: 6/30/2023
 Delivery Date: 6/30/2023
 First Interest: 10/15/2024
 First Principal: 10/15/2024
 Last Principal: 10/15/2053
 Fiscal Year End: 09/30
 Required Coverage: 1.0

Source: FIF
 Rate: 0.00%
 IUP Year: 2022
 Case: Tax and Revenue
 Admin. Fee: \$0
 Admin. Fee Payment Date: N/A
 Total Assessed Valuation: \$56,036,752,465

FISCAL YEAR	PROJECTED TAX RATE	TAX REVENUES WITH COLL. @ 97%	PROJECTED NET SYSTEM REVENUES	PROJECTED TOTAL REVENUES	CURRENT DEBT SERVICE	\$1,780,000 ISSUE			TOTAL DEBT SERVICE	COVERAGE	
						PRINCIPAL PAYMENT	INTEREST RATE	INTEREST PAYMENT			
2025	0.040	\$21,824,522	\$429,957.00	\$22,254,479	\$21,985,371	\$60,000	-	-	\$60,000	\$22,045,371	1.01
2026	0.038	20,842,418	429,957.00	21,272,375	17,335,406	60,000	0.00%	-	60,000	17,395,406	1.22
2027	0.038	20,842,418	429,957.00	21,272,375	17,309,559	60,000	0.00%	-	60,000	17,369,559	1.22
2028	0.038	20,842,418	429,957.00	21,272,375	16,104,128	60,000	0.00%	-	60,000	16,164,128	1.32
2029	0.038	20,842,418	429,957.00	21,272,375	16,041,467	60,000	0.00%	-	60,000	16,101,467	1.32
2030	0.038	20,842,418	429,957.00	21,272,375	16,033,807	60,000	0.00%	-	60,000	16,093,807	1.32
2031	0.038	20,842,418	429,957.00	21,272,375	16,080,893	60,000	0.00%	-	60,000	16,140,893	1.32
2032	0.038	20,842,418	429,957.00	21,272,375	16,013,571	60,000	0.00%	-	60,000	16,073,571	1.32
2033	0.038	20,842,418	429,957.00	21,272,375	16,073,287	60,000	0.00%	-	60,000	16,133,287	1.32
2034	0.038	20,842,418	429,957.00	21,272,375	1,285,231	60,000	0.00%	-	60,000	1,345,231	15.81
2035	0.038	20,842,418	429,957.00	21,272,375	1,283,555	60,000	0.00%	-	60,000	1,343,555	15.83
2036	0.038	20,842,418	429,957.00	21,272,375	1,291,853	60,000	0.00%	-	60,000	1,351,853	15.74
2037	0.038	20,842,418	429,957.00	21,272,375	1,289,723	60,000	0.00%	-	60,000	1,349,723	15.76
2038	0.038	20,842,418	429,957.00	21,272,375	1,287,387	60,000	0.00%	-	60,000	1,347,387	15.79
2039	0.038	20,842,418	429,957.00	21,272,375	1,226,085	60,000	0.00%	-	60,000	1,286,085	16.54
2040	0.038	20,842,418	429,957.00	21,272,375	1,227,669	60,000	0.00%	-	60,000	1,287,669	16.52
2041	0.038	20,842,418	429,957.00	21,272,375	1,228,295	60,000	0.00%	-	60,000	1,288,295	16.51
2042	0.038	20,842,418	429,957.00	21,272,375	962,192	60,000	0.00%	-	60,000	1,022,192	20.81
2043	0.038	20,842,418	429,957.00	21,272,375	962,684	60,000	0.00%	-	60,000	1,022,684	20.80
2044	0.038	20,842,418	429,957.00	21,272,375	964,152	60,000	0.00%	-	60,000	1,024,152	20.77
2045	0.038	20,842,418	429,957.00	21,272,375	965,624	60,000	0.00%	-	60,000	1,025,624	20.74
2046	0.038	20,842,418	429,957.00	21,272,375	966,949	60,000	0.00%	-	60,000	1,026,949	20.71
2047	0.038	20,842,418	429,957.00	21,272,375	967,300	60,000	0.00%	-	60,000	1,027,300	20.71
2048	0.038	20,842,418	429,957.00	21,272,375	970,602	60,000	0.00%	-	60,000	1,030,602	20.64
2049	0.038	20,842,418	429,957.00	21,272,375	970,892	60,000	0.00%	-	60,000	1,030,892	20.63
2050	0.038	20,842,418	429,957.00	21,272,375	973,063	60,000	0.00%	-	60,000	1,033,063	20.59
2051	0.038	20,842,418	429,957.00	21,272,375	974,221	55,000	0.00%	-	55,000	1,029,221	20.67
2052	0.038	20,842,418	429,957.00	21,272,375	975,340	55,000	0.00%	-	55,000	1,030,340	20.65
2053	0.038	20,842,418	429,957.00	21,272,375	942,440	55,000	0.00%	-	55,000	997,440	21.33
2054	0.038	20,842,418	429,957.00	21,272,375	224,573	55,000	0.00%	-	55,000	279,573	76.09
					\$174,917,320	\$1,780,000		\$0	\$1,780,000	\$176,697,320	

AVERAGE (MATURITY) LIFE	15.65 YEARS
NET INTEREST RATE	0.000%
COST SAVINGS	\$ 1,497,381
AVERAGE ANNUAL REQUIREMENT	\$59,333

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
40202 - Flow Path Number 42 (CAN1)

Budget Items	TWDB Funds	Total
Construction		
Construction	\$724,000.00	\$724,000.00
Subtotal for Construction	\$724,000.00	\$724,000.00
Basic Engineering Services		
Planning	\$25,000.00	\$25,000.00
Design	\$86,743.00	\$86,743.00
Construction Engineering	\$57,000.00	\$57,000.00
Subtotal for Basic Engineering Services	\$168,743.00	\$168,743.00
Special Services		
Application	\$22,461.00	\$22,461.00
Environmental	\$70,000.00	\$70,000.00
Geotechnical	\$15,000.00	\$15,000.00
Inspection	\$120,965.00	\$120,965.00
O&M Manual	\$15,000.00	\$15,000.00
Permits	\$20,000.00	\$20,000.00
Project Management (by engineer)	\$45,000.00	\$45,000.00
Surveying	\$25,000.00	\$25,000.00
Testing	\$15,000.00	\$15,000.00
Subtotal for Special Services	\$348,426.00	\$348,426.00
Fiscal Services		
Bond Counsel	\$26,000.00	\$26,000.00
Financial Advisor	\$20,000.00	\$20,000.00
Issuance Costs	\$7,784.00	\$7,784.00
Subtotal for Fiscal Services	\$53,784.00	\$53,784.00
Other		
Land/Easements Acquisition	\$485,047.00	\$485,047.00
Subtotal for Other	\$485,047.00	\$485,047.00
Contingency		
Contingency	\$176,400.00	\$176,400.00
Subtotal for Contingency	\$176,400.00	\$176,400.00
Total	\$1,956,400.00	\$1,956,400.00

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$1,956,400 TO EL PASO COUNTY FROM THE FLOOD INFRASTRUCTURE FUND
THROUGH THE PROPOSED PURCHASE OF
\$1,780,000 EL PASO COUNTY, TEXAS COMBINATION TAX AND SUBORDINATE LIEN
REVENUE CERTIFICATES OF OBLIGATION, PROPOSED TAXABLE SERIES 2023C
AND
THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$176,400

(23-)

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, acquisition, design, and construction of a flood project, identified as Project No. 40202; and

WHEREAS, the County seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$1,956,400 through the TWDB's proposed purchase of \$1,780,000 El Paso County, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Taxable Series 2023C (together with all authorizing documents and \$176,400 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 taxes and subordinate revenues from the operation of their 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; 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 Project was developed using the best and most recent available data, in accordance with the FIUP; and
8. that the County has documented that it has planned for operations and maintenance costs associated with the Project, in accordance with the FIUP; and
9. 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 \$1,956,400 from the Flood Infrastructure Fund, to be evidenced by the TWDB's proposed purchase of \$1,780,000 El Paso County, Texas Combination Tax and Subordinate Lien Revenue Certificates of Obligation, Proposed Taxable Series 2023C and execution of a Grant Agreement in the amount of \$176,400. This commitment will expire on September 30, 2023; 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);
5. the County must immediately notify TWDB, in writing, of any suit against it by the Attorney General of Texas Under Texas Penal Code § 1.10(f) (related to federal laws regulating firearms, firearm accessories, and firearm ammunition);

The Following Conditions Must Be Included in the Obligations:

6. the Obligations must provide that the County will comply with all applicable TWDB laws and rules related to the use of the financial assistance;
7. 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;
8. 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;
9. the Obligations must contain a provision requiring the County to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
10. 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;
11. 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;
12. 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;

13. 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;
14. 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;
15. 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;
16. 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;
17. 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;
18. 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;
19. 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.

Conditions to Close or for Release of Funds:

20. 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;
21. 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;
22. 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;
23. 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; and
24. prior to release of funds for construction, the County must provide the TWDB with evidence that the necessary acquisitions of land, leases, easements, and rights-of-way have been completed, or that the County has the legal authority necessary to complete the acquisitions.

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

Special Condition:

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

APPROVED and ordered of record this, the 9th Day of March, 2023

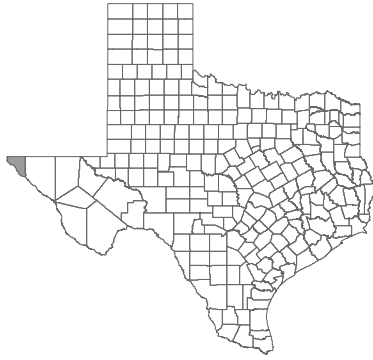
TEXAS WATER DEVELOPMENT BOARD

Brooke T. Paup, Chairwoman

DATE SIGNED: _____

ATTEST:

Jeff Walker, Executive Administrator



El Paso County

