



P.O. Box 13231, 1700 N. Congress Ave.  
Austin, TX 78711-3231, [www.twdb.texas.gov](http://www.twdb.texas.gov)  
Phone (512) 463-7847, Fax (512) 475-2053

## AGENDA ITEM MEMO

**BOARD MEETING DATE:** April 11, 2024

**TO:** Board Members

**THROUGH:** Bryan McMath, Interim Executive Administrator  
Ashley Harden, General Counsel  
Jessica Peña, Deputy Executive Administrator, Water Supply & Infrastructure

**FROM:** T. Clay Schultz, Ph.D., Director, Regional Water Project Development  
Breann Hunter, Assistant General Counsel  
Nancy Richards, Manager, Regional Water Project Development

**SUBJECT:** City of Sugar Land General Revenue Grant – Brazos Riverbank Erosion Mitigation Project - Project No. 21836

### **ACTION REQUESTED**

Consider authorizing the Executive Administrator to execute an agreement with the City of Sugar Land (City) for a \$28,000,000 grant pursuant to House Bill 1, 88th Legislative Regular Session, Article IX, §17.38.

### **BACKGROUND**

In the 88<sup>th</sup> Legislative Session, \$28,000,000 was appropriated for the repair of erosion of the banks of the Brazos River near Fort Bend County Levee Improvement District No. 15 (FBCLID No. 15). The work includes design and installation of erosion control measures on the outside banks of a meandering section of the Brazos River in two locations to prevent migration of the riverbank in the direction of existing homes and flood protection levees maintained by FBCLID No. 15.

### **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

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Leading the state's efforts  
in ensuring a secure  
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#### **Board Members**

Brooke T. Paup, Chairwoman | George B. Peyton V, Board Member | L'Oreal Stepney, P.E., Board Member  
Bryan McMath, Interim Executive Administrator

Board Members

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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 City for a \$28,000,000 grant pursuant to House Bill No. 1, 88<sup>th</sup> Legislature.

Attachment:

1. Proposed Resolution (24- )

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE  
TO THE CITY OF SUGAR LAND  
FROM THE GENERAL REVENUE FUND  
THROUGH A GRANT IN THE AMOUNT OF \$28,000,000

(24-)

Recitals:

The 88<sup>th</sup> Texas Legislature, through House Bill 1, 88<sup>th</sup> Leg. R.S., Article IX, §17.38, appropriated to the Texas Water Development Board (TWDB) an amount not to exceed \$28,000,000 out of the General Revenue Fund for the purposes of financial assistance for the repair of erosion of the banks of the Brazos River near Fort Bend County Levee Improvement District No. 15.

The City of Sugar Land (City), has filed an application for financial assistance in the amount of \$28,000,000 in grant funds to design and construct erosion control measures on the outside banks of a meandering section of the Brazos River in two locations to prevent migration of the riverbank in the direction of existing homes and flood protection levees maintained by Fort Bend County Levee Improvement District No. 15, identified as Project No. 21836.

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 hereby 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 City of Sugar Land for financial assistance in the amount of \$28,000,000 in grant funds from the General Revenue Fund for the design and construction of the Brazos Riverbank Erosion Mitigation Project. This commitment will expire on August 31, 2024.

Such commitment is conditioned as follows:

1. This commitment is contingent upon the City's compliance with all applicable requirements contained in House Bill 1, Art. IX, §17.38.
2. Prior to closing, the City 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 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 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.
6. Prior to closing, the City shall execute an escrow agreement or a segregated trust account agreement, approved by the Executive Administrator.
7. The City 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 11th day of April, 2024.

TEXAS WATER DEVELOPMENT BOARD

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Brooke T. Paup, Chairwoman

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

ATTEST:

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Bryan McMath, Interim Executive Administrator