



HARRIS COUNTY, TEXAS

Office of Management and Budget 1001 Preston, Suite 500 Houston, TX 77002 713-274-1135

Grants Coordination Section - Conveyance Form Application Award

Department Name / Number	DUNs	Grant Title
Flood Control - 090	Not Applicable	Lauder Stormwater Detention Basin (P500-06-00-E006)
Funding Source: Texas Water Development Board: CFDA# N/A		Grant Agency: Texas Water Development Board
Program Year: 1 st		Program Ending:
Grant Begin Date: 01/27/2023		Grant End Date: 04/25/2025
Grant Org. Key:		If applicable, Prior Year Org. Key: N/A

Grant Description:

The Texas Water Development Board (TWDB) was created in 1957. Its mission is to lead the state's efforts in ensuring a secure water future for Texas and its citizens. Passed by the Legislature and approved by Texas voters through a constitutional amendment, the FIF program provides financial assistance in the form of loans and grants for flood control, flood mitigation, and drainage projects.

	Total Budget	Grant Funded	County Funded
Salary & Benefits	\$0.00	\$0.00	\$0.00
Non-Labor	\$22,548,469.00	\$10,264,846.00	\$12,283,623.00
Sub Tot. Incremental Cost	\$22,548,469.00	\$10,264,846.00	\$12,283,623.00
Indirect Cost	\$0.00	\$0.00	\$0.00*
TOTALS	\$22,548,469.00	\$10,264,846.00	\$12,283,623.00

* under development

Full Time Equivalent Positions Date Guidelines are Available

% of Positions Paid by Grant Grant Submittal Deadline Date

Grant Discussion:

This award is related to an application approved by Commissioners Court on 3/8/21. Grant funds will be used to address chronic flooding along the Greens Bayou by constructing a 90 acre stormwater detention basin along Lauder Road. There is a local match requirement in the amount of \$12,283,623. Note: The Grant funds awarded are from two sources via the Texas Development Board and from the Natural Resource Conservation Service.

County Funded Cost Projection

Year	Required	Discretionary
2023	3,939,759.36	-
2024	5,272,957.89	-
2025	3,070,905.75	-
2026	-	-
2027	-	-

Completed by : Michael Mattingly Mattingly, Mike

Date : 1/6/23

Reviewed by : [Signature]

Date : 1/6/23

ORDER

THE STATE OF TEXAS §

COUNTY OF HARRIS §

On this, the 10th day of January 2023, the Commissioners Court of Harris County, Texas, sitting as the governing body of Harris County and acting on behalf of the Harris County Flood Control District, upon motion of Commissioner _____, seconded by Commissioner _____, duly put carried,

IT IS ORDERED that County Judge Lina Hidalgo or her designee be hereby authorized, on behalf of the Harris County Flood Control District, to accept the grant award funds from the Texas Water Development Board (TWDB) Flood Infrastructure Fund (FIF) for the Lauder Stormwater Detention Basin (P500-06-00-E006) in the amount of \$1,364,846.00 with a required local cash match of \$12,283,623.00 and \$8,900,000.00 previously awarded through a grant from the Natural Resource Conservation Service (NRCS), totaling \$22,548,469.00 for the project. Period of Performance is effective on the date the Grant Agreement is signed by the TWDB Executive Administrator and will expire upon successful completion of the Project and Final Accounting in accordance with Section 5.4 of this Agreement.

APPROVE ACCEPTANCE OF GRANT AWARD – TWDB-FIF GRANT

Previously Awarded	\$8,900,000.00
Federal Share:	\$1,364,846.00
Local Match Requirement:	<u>\$12,283,623.00</u>
Project Cost:	\$22,548,469.00

Estimated Period of Performance: 01/27/2023 – 04/25/2025



Grant Agreement Flood Infrastructure Fund

TEXAS WATER DEVELOPMENT BOARD

AND

HARRIS COUNTY FLOOD CONTROL DISTRICT

HARRIS COUNTY, TEXAS

TWDB COMMITMENT NO. G1001481

TWDB PROJECT NO. 40152

TWDB RESOLUTION NO. 22-030

HARRIS COUNTY FLOOD CONTROL DISTRICT
TWDB COMMITMENT NO. G1001481
TWDB PROJECT NO. 40152
TWDB RESOLUTION NO. 22-030

GRANT AGREEMENT

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**GRANT AGREEMENT
BETWEEN THE
TEXAS WATER DEVELOPMENT BOARD
AND THE
HARRIS COUNTY FLOOD CONTROL DISTRICT**

WHEREAS, the Harris County Flood Control District (District), located in Harris County, has filed an application with the Texas Water Development Board (TWDB) for financial assistance from the Flood Infrastructure Fund to finance a flood project identified as Project No. 40152; and

WHEREAS, on April 11, 2022 the TWDB determined that the District qualifies for financial assistance pursuant to Texas Water Code § 15.534 and the applicable Flood Intended Use Plan (FIUP) and agreed pursuant to the TWDB Resolution to provide a grant in the amount of \$2,208,906 to the District;

WHEREAS, the District has also received financial assistance in the form of a grant from the Natural Resource Conservation Service (NRCS) in the amount of \$8,900,000 for this project;

WHEREAS, the District has decided to accept the grant in the amount of \$1,364,846 for the Project; and

WHEREAS, because the District is accepting a reduced grant amount, it will provide a local share of \$12,283,623 with the option to provide the local share partially in the form of in-kind services; and

WHEREAS, the TWDB and the District are the Parties to this Agreement.

NOW, THEREFORE, the Parties mutually agree to adhere to the terms of this Agreement and to administer the Grant Funds provided through this Agreement in conformance with all applicable state and federal laws and regulations, the TWDB Resolution, TWDB guidance, and all terms and conditions set forth herein.

ARTICLE I. DEFINITIONS

The following terms, as used in this Agreement, have the meanings assigned below:

Agreement means this Grant Agreement and the attached exhibits.

Construction Account means an account dedicated to the payment of Project costs, as defined by 31 TAC § 363.2(8) and required by the TWDB Resolution.

Eligible Expenses means the expenses allowed by TWDB program requirements and authorized by the TWDB in the approved Project Budget. Expenses incurred prior to March 12, 2020, are not Eligible Expenses.

Escrow Account means an account established by the District that will be used to manage the Grant Funds in accordance with an escrow agreement acceptable to the Executive Administrator, which is attached hereto as **EXHIBIT E**, until the Executive Administrator authorizes the release of the Grant Funds to the Construction Account.

Executive Administrator means the Executive Administrator of the TWDB or a designated representative.

Force Majeure means a failure or delay in a Party's performance under this Agreement that is caused by acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and that, by the exercise of all reasonable due diligence, such Party is unable to overcome.

Grant Funds means the amount of financial assistance from the TWDB under Commitment Number G1001481 in the amount of \$1,364,846 to finance the Project.

Outlay Report means TWDB form regarding the total amount of costs incurred relating to the Project for the specified period.

Parties or Party means TWDB and the District and their authorized successors and assignees.

Project means the project for which the TWDB is providing financial assistance under this Agreement and as further described in the TWDB Resolution and identified as Project No. 40152.

State means the State of Texas.

Surplus Funds means those grant funds remaining after the District has submitted final accounting to the Executive Administrator pursuant to 31 TAC § 363.42(a)(2)(C), including interest earned.

TAC means the Texas Administrative Code.

TWDB means the Texas Water Development Board.

TWDB Resolution means TWDB Resolution No. 22-030 dated April 11, 2022 approving the application for financial assistance filed by the District and authorizing the execution of this Agreement.

ARTICLE II. AUTHORITY AND RECITALS

2.1. AUTHORITY. This Agreement is authorized by Texas Water Code Chapter 15, Subchapter I and is also governed by Texas Water Code, Chapter 6; 31 TAC Chapter 363, Subchapters A and D; and the TWDB Resolution.

2.2. RECITALS. The Parties agree that the following representations are true and correct and form the basis of this Agreement:

- A. The TWDB may provide financial assistance in the form of a grant for all or a portion of the Project costs in an amount that the TWDB has determined to be eligible.
- B. On April 11, 2022, TWDB considered an application filed by the District for financial assistance for a flood project. Based on the representations made by the District in that application, the TWDB adopted the TWDB Resolution in which the TWDB:
 - 1. determined that the District qualifies for a grant and is eligible for financial assistance; and
 - 2. made a commitment to provide financial assistance consisting of a grant in the amount of \$2,208,906 for the construction of the Project.
- C. The District has determined it will accept the grant in the amount of \$1,364,846.
- D. The TWDB and the District enter this Agreement to memorialize and set forth the terms and conditions for the Grant Funds. The Executive Administrator is authorized to execute this Agreement on behalf of TWDB pursuant to TWDB Resolution, which is attached to this Agreement as **EXHIBIT A**. The District is authorized to execute this Agreement through its authorized representative designated in a resolution duly adopted by the governing body of the District, a copy of which is attached hereto as **EXHIBIT B**.
- E. If the District signs this Agreement with a false statement or it is subsequently determined that the District has violated any of the representations, guarantees, warranties, certifications, or affirmations included in the Agreement, the District will be in default under the Agreement and TWDB may terminate or void the Agreement.
- F. The District and TWDB act in their individual capacities and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party will not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.
- G. The District represents and warrants that the provision of financial assistance under this Agreement will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. The District also represents that if

any existing or potential conflict arises during the term of this contract, it will immediately notify TWDB.

ARTICLE III. LEGAL REQUIREMENTS

3.1. APPLICABLE LAWS. In consideration of the performance of the mutual agreements set forth in this Agreement, the District, by and through its designated and authorized representatives, agrees to construct the Project in compliance with the following:

- A. all federal laws and regulations that may be applicable to the Project;
- B. Texas Water Code Chapter 15, Subchapter I; and
- C. 31 TAC Chapter 363.

3.2. PROCUREMENT. The District must engage in competitive procurements for work on the Project. All purchases for goods, services, or commodities made with funds provided under this Agreement will comply with State and local procurement and contracting laws.

3.3. IRON AND STEEL. The District will abide by all applicable construction contract requirements related to the use of iron and steel products and manufactured goods produced in the United States, as required by Texas Government Code, Chapter 2252, Subchapter G.

3.4 NATIONAL FLOOD INSURANCE PROGRAM. The appropriate entities within the PLANNING/PROJECT AREA must currently enforce and continue to enforce floodplain management standards at least equivalent to National Flood Insurance Program minimum standards and may exceed the National Flood Insurance Program minimum standards.

3.5 TERRORIST WATCH LIST. The District certifies that it will not enter into a contract with any contractor or subcontractor that is listed on the federal government's terrorism watch list as described in Executive Order 13224.

3.6 FOREIGN TERRORIST ORGANIZATION. The District certifies that it will not enter into a contract with any contractor or subcontractor that is engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code § 2252.152.

3.7 HUMAN TRAFFICKING PROHIBITION. Under Texas Government Code § 2155.0061, the District certifies that the District is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

3.8 PRIOR DISASTER RELIEF. Texas Government Code §§ 2155.006 and 2261.053 prohibit state agencies from accepting a response or awarding a contract that includes

proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Texas Government Code § 418.004, occurring after September 24, 2005. Under Texas Government Code §§ 2155.006 and 2261.053, the District certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

3.9 LOBBYING PROHIBITION. The District represents and warrants that TWDB's payments to the District and the District's receipt of appropriated or other funds under the contract are not prohibited by Texas Government Code §§ 556.005 or 556.0055, related to the prohibition on payment of state funds to a lobbyist or for lobbying activities.

ARTICLE IV. PLANNING, ACQUISITION, DESIGN OR CONSTRUCTION

4.1. PROJECT REQUIREMENTS. The District must comply with the following requirements.

- A. Plans and Specifications. The District will construct the Project in accordance with the plans and specifications as sealed by a State licensed engineer and as approved by the Executive Administrator in compliance with 31 TAC § 363.41.
- B. Changes to Plans and Specifications. The District will not make or implement any changes to the scope of the Executive Administrator's approved Project or to the specifications for the Project without the written approval of the Executive Administrator.
- C. Project Schedule. The District will adhere to the TWDB approved Project schedule, attached as **EXHIBIT C**. The District must not exceed or revise the Project schedule except upon written approval from the TWDB. The District must not delay the Project completion date except by amendment to this Agreement.
- D. Project Budget. The District will be solely responsible for all costs that exceed the TWDB approved Project Budget, attached as **EXHIBIT D**. The District must notify the Executive Administrator immediately of all changes to the Project Budget, including when it appears that the Project Budget may not be sufficient to complete the Project.
- E. Environmental Compliance. The District must comply with all environmental conditions and will implement environmental mitigation measures as required through TWDB environmental review under 31 TAC § 363.14.
- F. Final Environmental Finding/Determination. The District will not begin construction for a portion of the Project until the environmental finding has been issued for that portion of the Project.

G. Personnel. The District must assign only qualified personnel to perform the services required to execute the Project as required under this Agreement. The District is responsible for ensuring that any contractor or subcontractor also assigns only qualified personnel. Qualified personnel are persons who are properly licensed to perform the work and who have sufficient knowledge, skill, and ability to perform the tasks and services required herein according to the standards of performance and care for their trade or profession.

H. Professional Standards. The District must provide the services and deliverables in accordance with applicable professional standards. The District represents and warrants that it is authorized to acquire contractors and/or subcontractors with the requisite qualifications, experience, personnel and other resources to perform in the manner required by this Agreement.

4.2. **PROGRESS REPORTS.** The District must submit status reports on the progress of the project as 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 status reports and the projected needs for the project.

ARTICLE V. SPECIAL COVENANTS AND REPRESENTATIONS

5.1. **CONDITIONS FOR DISBURSEMENT OF GRANT FUNDS.** No Grant Funds will be deposited into the Escrow Account or released until the applicable requirements and conditions in the TWDB Resolution and 31 TAC § 363.43, relating to Release of Funds, are met.

5.2. **DELIVERY OF GRANT FUNDS.** The TWDB will deposit the Grant Funds in an approved Escrow Account to be released to the District's Construction Account at the direction of the Executive Administrator.

A. Outlay Reports and Invoices. The District must submit TWDB Outlay Report forms identifying:

1. the total amount of expenses incurred by the District for the period covered by the Outlay Report; and
2. identification and description of the District's share of the total costs for the billing period, if applicable; and
3. invoices, receipts, or other documentation satisfactory in form and in substance to the TWDB sufficient to establish the requested amount as an Eligible Expense incurred by the District.

B. Release of Funds.

1. The Executive Administrator will authorize the release of Grant Funds from Escrow when Outlay Reports have been approved by the TWDB.
2. Prior to release of funds for each Project phase or portion of a Project phase, the District must deposit into the District's construction account the District'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

5.3. ELIGIBLE EXPENSES. The District must use Grant Funds for Eligible Expenses. The District must return any Grant Funds that are used for expenses that cannot be verified as eligible or that are ineligible. The amount of Grant Funds used for any ineligible or unverified expenses will be credited against verified Eligible Expenses. If the total amount of Eligible Expenses is insufficient to fully offset the amount of improperly expended Grant Funds, the District must use other funds to fully repay the TWDB. This Section 5.3, Eligible Expenses, survives the termination or expiration of this Agreement.

5.4. FINAL ACCOUNTING. The District will provide a final accounting of funds expended on the Project pursuant to 31 TAC § 363.42 and return any Surplus Funds from the grant. This Section 5.4, Final Accounting, survives the termination or expiration of this Agreement.

5.5. WATER AUDIT. If the District is a retail public utility as defined in Texas Water Code § 13.002 and the District provides potable water, then the District annually must perform and file a water audit computing the District's most recent annual system water loss with the TWDB. The first water audit must be submitted by May 1st following the passage of one year after the effective date of this Agreement and then by May 1st every year thereafter during the term of this Agreement. The District agrees to comply with 31 TAC § 358.6 relating to water audits. This Section 5.5, Water Audit, survives the termination or expiration of this Agreement.

5.6. ANNUAL FINANCIAL AUDIT. During the Term of this Agreement, the District must submit an annual audit of the general purpose financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) by a certified public accountant or licensed public accountant. Audits will be submitted to the TWDB no later than 120 days after the close of the District's fiscal year.

5.7. INVESTMENT AND COLLATERALIZATION OF PUBLIC FUNDS. Grant proceeds are public funds and, as such, these proceeds must 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.

5.8. LEGAL STATUS. The District must notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another entity.

5.9 SPECIAL CONDITIONS.

- A. Prior to closing, the District must execute an escrow agreement, approved as to form and substance by the Executive Administrator, and must submit the executed agreement to TWDB.
- B. Prior to closing, the District must demonstrate its required local share of \$12,283,623, which may be provided through in-kind services with prior approval by the Executive Administrator.
- C. Prior to release of funds for construction, the District shall submit an affidavit attesting that the technical requirements for the proposed flood project have been completed and compared against any other potential flood projects in the same area.

ARTICLE VI. INTELLECTUAL PROPERTY

6.1. OWNERSHIP OF WORKS. It is agreed that all works developed by the District and any subcontractors using funds provided under this Agreement or otherwise rendered in or related to the performance in whole or part of this Agreement, including but not limited to reports, drafts of reports, material, data, drawings, studies, analyses, notes, plans, computer programs and codes, or other work products, whether final or intermediate, are the joint property of the TWDB and the District. The District hereby conveys co-ownership of such works to TWDB as they are created in whole or part. If present conveyance is ineffective under applicable law, the District agrees to convey a co-ownership interest of such works to TWDB after creation and to provide written documentation of such conveyance upon request by TWDB. The TWDB and the District each have full and unrestricted rights to use such works with no compensation obligation.

6.2. SUBCONTRACTORS. The District must include terms and conditions in all contracts or other engagement agreements with any subcontractors as are necessary to secure these rights and protections and must require that subcontractors include similar such terms and conditions in any contracts or other engagements with their subcontractors.

ARTICLE VII. NON-PERFORMANCE, TERMINATION, AND REMEDIES

7.1. STOP WORK ORDERS.

- A. Stop Work Order (SWO). The Executive Administrator may issue a written SWO to the District at any time for failure to comply with any provision of this Agreement. The SWO will provide the District with notice of the facts supporting the determination to issue the SWO. The SWO may require cessation of work immediately or at a definite future date. The SWO will provide the District with a specified time to cure.

- B. District's Response. The District must provide a written response to the SWO and will provide the Executive Administrator with a detailed plan to address and cure the conditions causing the SWO. The District must provide the response within five business days from its receipt of the SWO.
- C. Executive Administrator's Reply. The Executive Administrator may accept, reject, or amend the District's plan and will provide notice of such action to the District within five business days of receipt of the plan. The Executive Administrator may issue an amended SWO that allows resumption of work contingent upon the District's execution of the plan to cure. The Executive Administrator may modify the District's plan to cure only in a manner consistent with the terms and conditions of this Agreement.
- D. District's Option. The District must notify the Executive Administrator within five business days whether it accepts the amended plan. If the District does not accept the amended plan, the Executive Administrator may terminate this Agreement. Upon successful completion of the plan to cure the conditions causing the SWO, the District will continue work to complete all obligations under this Agreement.

7.2. TERMINATION. The TWDB may terminate this Agreement, in whole or in part, at any time, without penalty to the TWDB. Upon receipt of a written notice of termination, the District will immediately discontinue all work in connection with the performance of this Agreement and will promptly cancel all existing orders or other financial commitments chargeable to funding provided pursuant to this Agreement provided, however, that any costs for Eligible Expenses incurred prior to the receipt of such written notice by the District will be payable from the funding provided pursuant to this Agreement.

Within thirty (30) days of the notice of termination, the District must submit a statement showing in detail the work performed, all payments received by the District, and all payments made by or due from the District to any contractor prior to the date of termination.

7.3. SURVIVAL OF TERMS AND CONDITIONS. Termination or expiration of this Agreement for any reason does not release either Party from any liabilities or obligations set forth in this Agreement that:

- A. the Parties have expressly agreed will survive any such termination or expiration, if any; or
- B. by their nature, would be intended to be applicable following any such termination or expiration.

7.4. REAL ESTATE. If the District purchases real estate for the Project with Grant Funds and any of the real estate or portion of the real estate is not used for the Project, the District will repay to the TWDB the full amount of the Grant Funds for purchase of the real estate that is not used for the Project. Such amount will be due and payable within 90 days after

termination or expiration of this Agreement.

7.5. REMEDIES.

- A. The District will have all remedies available in law or equity.
- B. The TWDB must have all remedies available in law or equity, including remedies available under Texas Water Code §§ 6.114 and 6.115.
- C. Notwithstanding the availability of all remedies listed above, pursuant to 31 TAC § 363.406(d), if TWDB determines non-performance of the terms of this Agreement, TWDB may require repayment of all or part of the funds provided by grant assistance or impose sanctions such as prohibition of further board financial assistance.
- D. This Section 7.5 survives the termination or expiration of this Agreement.

ARTICLE VIII. GENERAL TERMS AND CONDITIONS

8.1 NEPOTISM. The District must comply with Texas Government Code Chapter 573 by ensuring that no officer, employee or member of the District's governing body votes or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition does not prohibit the employment of a person who has been continuously employed for a period of two years prior to the election or appointment of the officer, employee or governing body member related to such person in the prohibited degree.

8.2. OPEN MEETINGS. The District must comply with Texas Government Code Chapter 551, which requires all regular, special or called meetings of governmental bodies to be open to the public, except as otherwise provided by law.

8.3. EXCESS OBLIGATIONS PROHIBITED/NO DEBT AGAINST THE STATE. This Agreement is subject to termination or cancellation without penalty to TWDB, either in whole or in part, subject to the availability of state funds.

8.4. INSURANCE AND INDEMNIFICATION.

- A. The District must at all times keep insured with a responsible insurance company or companies such portions of the Project as are customarily insured by political subdivisions in the State that operate like properties in similar locations under similar circumstances. The District will insure against risks, accidents, casualties, or loss in an amount that is customarily carried by such municipalities and political subdivisions and is at least sufficient to protect the TWDB's interest in the Project.
- B. The District is solely responsible for liability resulting from acts or omissions of the

District, its employees, contractors, or agents. The District will indemnify and hold the TWDB and the State harmless to the extent that the District may do so in accordance with State law.

- C. Grant Funds for the Project must not be used by the District when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The District 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 District, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law.

8.5. PERMITS. The District will be responsible for timely filing applications for all licenses, permits, registrations, and other authorizations that the District has identified in the application for financial assistance as required for the planning, acquisition, design, and construction of the Project. The District will submit copies of all of these final licenses, permits, registrations, and other authorizations issued by local, state, and federal agencies to the TWDB within thirty (30) days of receipt from the issuing agency.

8.6. RECORDS. The District will comply with all terms and conditions relating to records of the Project as follows:

- A. Duty to Maintain Records. The District will maintain financial accounting records relating to the Project in accordance with Generally Accepted Accounting Principles. The District must also require its contractors to maintain financial accounting records consistent with Generally Acceptable Accounting Principles and with State laws applicable to government accounting. All accounting and other financial documentation will be accurate, current, and will reflect recordation of the transactions at or about the time the transactions occurred;
- B. Duty to Retain Records. The District will retain all financial records and supporting documents and any other documents pertinent to the Project in accordance with the requirements of applicable State law relating to retention and access to records. The TWDB requires the District to retain all records related to this Agreement for a period of three (3) years after Project completion;
- C. Public Records. The District understands and agrees that all documents relating to this Agreement are subject to the Public Information Act, Texas Government Code, Chapter 552, and that such documents may not be withheld from public disclosure, except in accordance with law and with the rulings of the Texas Attorney General. The District is required to make any information created or exchanged pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional

charge. The District must promptly respond to a request by the TWDB for copies of any of the District's records related to this Agreement; and

D. Access to Records.

1. State Auditor. By executing this Agreement, the District accepts the authority of the Texas State Auditor's Office to conduct audits and investigations in connection with all Grant Funds received pursuant to this Agreement. The District must comply with directives from the Texas State Auditor and will cooperate in any such investigation or audit. The District agrees to provide the Texas State Auditor with access to any information the Texas State Auditor considers relevant to the investigation or audit. The District also agrees to include a provision in any contract or subcontract related to this Agreement that requires the contractor and the subcontractor to submit to audits and investigations by the Texas State Auditor's Office in connection with all Grant Funds received pursuant to the contract or subcontract.
2. TWDB. The District agrees that the standards of administration, property management, audit procedures, procurement and financial management, and the records and facilities of the District and its contractors are subject to audit and inspection by the TWDB and by any other authorized state or federal entity. All books, documents, papers, and records of the District related to this Agreement will be made available for audit, examination, excerption, and transcription by the TWDB within a reasonable time after a request from the TWDB.

E. Proprietary and Confidential Information. The District warrants and represents that any information that is proprietary or confidential and is received by the District from TWDB will not be disclosed to any third party without the written consent of TWDB, whose consent will not be unreasonably withheld.

8.7. UPDATING INFORMATION. The District must provide TWDB with updated information, reports, statements, and certifications as requested by the Executive Administrator relating to the financial condition of the District or the Project and the use of Grant Funds. The District will promptly notify TWDB of any material change in the activities, prospects, or conditions of the District relating to the Project, or its ability to observe and perform its duties, covenants, and agreements under this Grant Agreement.

8.8. FORCE MAJEURE. Unless otherwise provided, neither the District nor the TWDB nor any agency of the State will be liable to the other for any delay in or failure of performance of a requirement contained in this Agreement caused by *Force Majeure*. The existence of such causes of delay or failure will extend the period of performance until after the causes of delay or failure have been removed provided the non-performing Party exercises all reasonable due diligence to perform. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of such *Force Majeure* or otherwise waive this

right as a defense.

8.9. NON-ASSIGNABILITY. The terms and conditions of the financial assistance provided by this Agreement may not be assigned, transferred, or subcontracted in any manner without the express written consent of TWDB.

8.10. ENTIRE AGREEMENT AND AMENDMENT. This Agreement, which incorporates all attached Exhibits, constitutes the entire agreement between the Parties. This Agreement may be amended only in writing signed by the Parties. The changes allowed under Section 4.1 do not require an amendment to this Agreement unless a change to the Project Schedule, **EXHIBIT C**, or the Project Budget, **EXHIBIT D**, results in a different project completion date or total budget amount.

8.11. NO WAIVER. The failure of any Party to insist upon the strict performance of any of the terms, provisions, or conditions of this Agreement will not be construed as a waiver or relinquishment for the future of the strict performance of any such term, provision, or condition or any other term, provision, or condition.

8.12. LAW AND VENUE. The validity, operation, and performance of this Agreement will be governed and controlled by the laws of the State of Texas and applicable federal regulations, and the terms and conditions of this Agreement will be construed and interpreted in accordance with the laws of the State. The Parties understand and agree that this Agreement is for the provision of financial assistance for the planning, design, acquisition and construction of the Project, as applicable, and as such all or part of the performance of the terms and obligations of the Agreement will be performed in Harris County, Texas. Notwithstanding the location of the Project, the Parties understand and agree that any proceeding brought for any breach of this Agreement involving the TWDB will be in Travis County, Texas. This section does not waive the sovereign immunity of the State or the TWDB.

8.13. NOTICES. All notices, notifications, or requests required or permitted by this Agreement will be in writing and will be transmitted by (1) email and or (2) personal delivery or transmitted by United States certified mail, return receipt requested, postage prepaid, to the addresses of the Parties shown below. Notice shall be effective when received by the Party to whom notice is sent.

Email:

Nancy.Richards@twdb.texas.gov

Personal delivery to mail:

Texas Water Development Board
Attn: Executive Administrator
1700 N. Congress Ave., 6th Floor
Austin, Texas 78711-3231

Harris County Flood Control District
Attn: Executive Director
9900 Northwest Freeway
Houston, TX 77092

8.14. TERM. This Agreement is effective on the date signed by the Executive Administrator. The Agreement will expire upon successful completion of the Project and Final Accounting in accordance with Section 5.4 of this Agreement.

8.15. SURVIVAL OF TERMS AND CONDITIONS. This Article VIII, General Terms and Conditions, survives the termination or expiration of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be duly executed in multiple counterparts, each of which shall be deemed to be an original.

Harris County

By: _____

Name: Lina Hidalgo

Title: County Judge

Date: _____

APPROVED AS TO FORM:

By: _____

Name: Christian D. Menefee

Title: Senior Assistant County Attorney

Date: _____

By: _____

Name: Laura Fiorentino Cahill

Title: Harris County Flood Control District Attorney

Date: _____

TEXAS WATER DEVELOPMENT BOARD

By: _____

Name: Jeff Walker

Title: Executive Administrator

Date: _____

EXHIBIT A

TWDB Resolution No. 22-030

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE IN THE AMOUNT OF
\$2,208,906 TO THE HARRIS COUNTY FLOOD CONTROL DISTRICT
FROM THE FLOOD INFRASTRUCTURE FUND
THROUGH
THE EXECUTION OF A GRANT AGREEMENT IN THE AMOUNT OF \$2,208,906

(22-030)

WHEREAS, the Harris County Flood Control District (District), located in Harris 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 construction of a flood project, identified as Project No. 40152; and

WHEREAS, the District seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$2,208,906 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 District will provide a local share of \$19,880,156;

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 District 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 the District has submitted a written memorandum of understanding relating to the management of the project watershed executed by all governing bodies of eligible political subdivisions located in the project watershed;
4. that no debt obligations are to be assumed by the District for the financial assistance and no taxes or revenues are required to be pledged by the District in accordance with Texas Water Code § 15.536(3);
5. that the District is eligible to receive grant funding in accordance with Texas Water Code § 15.534 and the applicable FIUP;
6. that the District has demonstrated that the benefit-cost ratio of the Project meets the requirements of the FIUP; and

7. 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
8. that the District 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
9. that the Project was developed using the best and most recent available data, in accordance with the FIUP; and
10. that the District has documented that it has planned for operations and maintenance costs associated with the Project, in accordance with the FIUP; and
11. that the District has considered possible floodwater capture techniques that could be associated with the Project for water supply purposes, in accordance with the FIUP; and

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

A commitment is made by the TWDB to Harris County Flood Control District for financial assistance in the amount of \$2,208,906 from the Flood Infrastructure Fund, to be evidenced by the execution of a Grant Agreement. This commitment will expire on October 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 District'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 District 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 District 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 District 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 District to maintain insurance coverage sufficient to protect the TWDB's interest in the project;
7. the Grant Agreement 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;
8. the Grant Agreement must include a provision stating that the District 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 District 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 District 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 District, 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 District 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 District 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 District 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 District 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 District must provide the TWDB with evidence that the necessary acquisitions of land, leases, easements, and rights-of-way have been completed, or that the District has the legal authority necessary to complete the acquisitions;

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

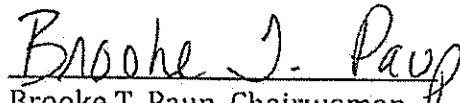
Special Conditions:

17. prior to closing, the District shall execute a Grant Agreement in a form and substance acceptable to the Executive Administrator;
18. prior to closing, the District must demonstrate its required local share of \$19,880,156, which may be provided through in-kind services with prior approval by the Executive Administrator;
19. prior to release of funds for construction, the District shall submit an affidavit attesting that the technical requirements for the proposed flood project have been completed and compared against any other potential flood projects in the same area;
20. the District must notify the Executive Administrator in writing thirty (30) days prior to taking any actions to alter its legal status in any manner;

21. the Grant Agreement must include a provision requiring that prior to any action by the District to convey its Obligations held by the TWDB to another entity, the conveyance and the assumption of the Obligations must be approved by the TWDB;
22. prior to release of funds for each Project phase or portion of a Project phase, the District must deposit into the District's construction account the District'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 April, 2022.

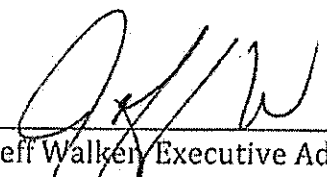
TEXAS WATER DEVELOPMENT BOARD



Brooke T. Paup, Chairwoman

DATE SIGNED: April 11, 2022

ATTEST:



Jeff Walker, Executive Administrator

EXHIBIT B

Harris County Commissioners Court Resolution

Authorized Representative Agreement Execution Resolution

A RESOLUTION by the Commissioners Court of Harris County, Texas authorizing Judge Lina Hidalgo, the Designated Representative of Harris County, to execute an agreement with the Texas Water Development Board for funding in the amount of \$1,364,846.

WHEREAS, the Texas Water Development Board made a commitment to provide financial assistance in the form of a grant in the amount of \$1,364,846 to Harris County Flood Control District to finance a stormwater system project upon execution of a grant agreement; therefore

BE IT RESOLVED BY THE COMMISSIONERS COURT OF HARRIS COUNTY, TEXAS:

SECTION 1. Approval of Agreement. The agreement setting out the terms and conditions of the financial assistance between the Texas Water Development Board and Harris County Flood Control District is approved and Harris County Flood Control District's Designated Representative is authorized to execute the agreement on behalf of Harris County.

SECTION 2. Effective Date. This Resolution shall become effectively immediately after its adoption.

PASSED AND APPROVED, this the _____ day of _____, 20_____.

ATTEST: _____

By: _____

(Seal)

EXHIBIT C
Project Schedule



Harris Co FCD
40152 P500-06-00 - Lauder Stormwater Detention Basin

Project Schedule:

Project Task	Schedule Date
Start of Construction	November 7, 2022
Construction Completion	June 9, 2024

EXHIBIT D
Project Budget



Project Budget Summary

Harris Co FCD

40152 - P500-06-00 - Lauder Stormwater Detention Basin

Budget Items	FLOOD G1001481 (Commitment)	Local and Other Funds	Total
Construction			
Construction	\$1,364,846.00	\$21,183,622.00	\$22,548,468.00
Subtotal for Construction	\$1,364,846.00	\$21,183,623.00	\$22,548,469.00
Basic Engineering Services			
Construction Engineering	\$0.00	\$0.00	\$0.00
Design	\$0.00	\$0.00	\$0.00
Planning	\$0.00	\$0.00	\$0.00
Subtotal for Basic Engineering Services	\$0.00	\$0.00	\$0.00
Special Services			
Application	\$0.00	\$0.00	\$0.00
Environmental	\$0.00	\$0.00	\$0.00
Inspection	\$0.00	\$0.00	\$0.00
Permits	\$0.00	\$0.00	\$0.00
Project Management (by engineer)	\$0.00	\$0.00	\$0.00
Special Service Other (Public Involvement)	\$0.00	\$0.00	\$0.00
Special Service Other (Subsurface Utility Exploration)	\$0.00	\$0.00	\$0.00
Special Service Other (Vegetation Establishment)	\$0.00	\$0.00	\$0.00
Surveying	\$0.00	\$0.00	\$0.00
Testing	\$0.00	\$0.00	\$0.00
Subtotal for Special Services	\$0.00	\$0.00	\$0.00
Contingency			
Contingency	\$0.00	\$0.00	\$0.00
Subtotal for Contingency	\$0.00	\$0.00	\$0.00
Total	\$1,364,846.00	\$21,183,623.00	\$22,548,469.00

EXHIBIT E
Escrow Agreement

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (Agreement), made by and between Harris County Flood Control District, a political subdivision of the State of Texas in Harris County Texas ("District") acting by and through Commissioners Court of Harris County, and Cadence Bank N.A. ("Escrow Agent") together with any successor in such capacity.

WITNESSETH:

WHEREAS, the District desires to obtain financial assistance from the Texas Water Development Board ("TWDB") to fund flood mitigation improvements known as Project #40152 ("Project") and will accept the contractual obligations ("Obligations") set out herein pursuant to the Grant Agreement Flood Infrastructure Fund TWDB No. G1001481, TWDB Project 40152, TWDB Resolution 22-030; and

WHEREAS, a condition of the Obligations is the deposit of the proceeds of the Obligations (Proceeds) in escrow subject to being withdrawn only with the approval of the TWDB Executive Administrator or their designee ("Administrator"), provided, however, the Proceeds can be transferred to different investments so long as all parties hereto consent to such transfer; and

WHEREAS, the Escrow Agent is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code, Chapter 404, Subchapter D and is otherwise qualified and empowered to enter into this Agreement, and hereby acknowledges its acceptance of the terms and provisions hereof; and

NOW, THEREFORE, in consideration of the mutual agreements herein contained and in consideration of the amount of fees to be paid by the District to the Escrow Agent, as set forth on **EXHIBIT A**, the receipt of which is hereby acknowledged, and in order to secure the delivery of the Obligations, the parties, promise, and agree for themselves, their respective representatives and successors, as follows:

SECTION 1: ESCROW ACCOUNT(S). Upon the delivery of the Obligations described above, the Proceeds identified under TWDB Commitment Number G1001481 shall be deposited to the credit of a special escrow account(s) or escrow subaccount(s) (Escrow Account(s)) maintained at the Escrow Agent's offices on behalf of the District and the TWDB and shall not be commingled with any other accounts or with any other proceeds or funds. The Proceeds received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the District, and the Escrow Agent shall have no right to title with respect thereto except as Escrow Agent under the terms of this Agreement.

The Escrow Account(s) shall be entitled "FLOOD CONTROL TWDB G1001481 Escrow Account" and shall not be subject to warrants, drafts or checks drawn by the District but shall be disbursed or withdrawn to pay the costs of the Project for which the Obligations were issued or other purposes in accordance with the Grant Agreement and solely upon written authorization from the Administrator. The Escrow Agent shall provide to the District and to the TWDB the Escrow Account(s) bank statements upon request.

SECTION 2: COLLATERAL. All cash deposited to the credit of such Escrow Account(s) and any accrued interest in excess of the amounts insured by the FDIC and remaining uninvested under the terms of this Agreement shall be continuously secured by a valid pledge of direct obligations of the United States of America or other collateral meeting the requirements of the Public Funds Collateral Act, Texas Government Code, Chapter 2257.

SECTION 3: INVESTMENTS. While the Proceeds are held in escrow, the Escrow Agent shall invest escrowed Proceeds only in investments that are authorized by the Public Funds Investment Act, Texas Government Code, Chapter 2256 ("PFIA"). The District is responsible for directing the Escrow Agent to invest all public funds in a manner that is consistent with both the PFIA and Harris County's written investment policy.

SECTION 4: DISBURSEMENTS. The Escrow Agent shall not honor any disbursement from the Escrow Account(s), or any portion thereof, unless and until it has been supplied with written approval and consent by the Administrator (Exhibit B Sample). The Escrow Agent is authorized to restrict internal transfer for the designated amount per the consent, as follows:

Debit: Escrow Account# 4200053231

Credit: Flood Control General Fund Account# 4200000224

However, no written approval and consent by the Administrator shall be required if the disbursement involves transferring Proceeds from one investment to another within the Escrow Account(s) provided that all such investments are consistent with the PFIA requirements.

SECTION 5: UNEXPENDED FUNDS. Any Proceeds remaining unexpended in the Escrow Account(s) after completion of the Project and after the final accounting has been submitted to and approved by the TWDB shall be disposed of pursuant to the provisions of the Obligations. The District shall deliver a copy of TWDB approval of the final accounting to the Escrow Agent together with instructions concerning the disbursement of unexpended Proceeds. The Escrow Agent shall have no obligation to ensure that such unexpended Proceeds are used as required by the provisions of the Obligations, that being the sole obligation of the District.

SECTION 6: CERTIFICATIONS. The Escrow Agent shall be authorized to accept and rely upon the certifications and documents furnished to the Escrow Agent by the District and shall not be liable for the payment of any funds made in reliance in good faith upon such certifications or other documents or approvals, as herein recited.

SECTION 7: LIABILITY OF ESCROW AGENT. To the extent permitted by law, the Escrow Agent shall not be liable for any act done or step taken or omitted by it or any mistake of fact or law, except for its negligence or default or failure in the performance of any obligation imposed upon it hereunder. The Escrow Agent shall not be responsible in any manner for any proceedings in connection with the Obligations or any recitation contained in the Obligations.

SECTION 8: RECORDS. The Escrow Agent will keep complete and correct books of record and account relating to the receipts, disbursements, allocations and application of the money deposited to the Escrow Account, and investments of the Escrow Account and all proceeds thereof. The records shall be available for inspection and copying at reasonable hours and under reasonable conditions by the District and the TWDB.

SECTION 9: MERGER/CONSOLIDATION. In the event that the Escrow Agent merges or consolidates with another bank or sells or transfers substantially all of its assets or corporate trust business, then the successor bank shall be the successor Escrow Agent without the necessity of further action as long as the successor bank is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code Chapter 404, Subchapter D. The Escrow Agent must provide the TWDB with written notification within 30 days of acceptance of the merger, consolidation, or transfer. If the merger, consolidation or other transfer has occurred between state banks, the newly-created entity shall forward the certificate of merger or exchange issued by the Texas Department of Banking as well as the statement filed with the pertinent chartering authority, if applicable, to the TWDB within five business days following such merger, consolidation or exchange.

SECTION 10: AMENDMENTS. This Agreement may be amended from time to time as necessary with the written consent of the District and the TWDB, but no such amendments shall increase the liabilities or responsibilities or diminish the rights of the Escrow Agent without its consent.

SECTION 11: TERMINATION. In the event that this Agreement is terminated by either the District or by the Escrow Agent, the Escrow Agent must report said termination in writing to the TWDB within five business days of such termination. The District is responsible for ensuring that the following criteria are satisfied in selecting the successor escrow agent and notifying the TWDB of the change in escrow agents: (a) the successor escrow agent must be an FDIC-insured state or national bank designated by the Texas Comptroller as a state depository; (b) the successor escrow agent must be retained prior to or at the time of the termination; (c) an escrow agreement must be executed by and between the District and the successor escrow agent and must contain the same or substantially similar terms and conditions as are present in this Agreement; and (d) the District must forward a copy of the executed escrow agreement with the successor escrow agent within five business days of said termination. No funds shall be released by the TWDB until it has received, reviewed and approved the escrow agreement with the successor escrow agent. If the District has not appointed a successor escrow agent within thirty (30) days of receipt of the notice of termination, the Escrow Agent may petition any court of competent jurisdiction in Texas for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the District. Whether appointed by the District or a court, the successor escrow agent and escrow agreement must be approved by the TWDB for the appointment to be effective. The Escrow Agent is responsible for performance under this Agreement until a successor has been approved by the TWDB and has signed an acceptable escrow agreement.

SECTION 12: EXPIRATION. This Agreement shall expire upon final transfer of the funds in the Escrow Account(s) to the District.

SECTION 13: POINT OF CONTACT. The points of contact for the Escrow Agent and the TWDB are as follows:

Cadence Bank
1333 West Loop South Suite 1600
Houston, TX 77027
Phone 1-800-329-0829/713-871-3916

Executive Administrator-Jeff Walker
Texas Water Development Board
1700 North Congress Avenue
Austin, Texas 78701

Email: harriscounty@cadencebank.com Phone:
katrina.michalk@cadencebank.com Email: outlays@twdb.texas.gov

512-463-7847cc:

Harris County Flood Control District-Anthony Bacarisse
9900 Northwest Freeway
Houston, TX 77092
Phone: 346-286-4188
Email: Anthony.Bacarisse@hcfcd.hctx.net

SECTION 14: CHOICE OF LAW. This Agreement shall be governed exclusively by the applicable laws of the State of Texas. Venue for disputes shall be in the District Court of Travis County, Texas.

SECTION 15: ASSIGNABILITY. This Agreement shall not be assignable by the parties hereto, in whole or in part, and any attempted assignment shall be void and of no force and effect.

SECTION 16: ENTIRE AGREEMENT. This Agreement evidences the entire Escrow Agreement between the Escrow Agent and the District and supersedes any other agreements, whether oral or written, between the parties regarding the Proceeds or the Escrow Account(s). No modification or amendment of this Agreement shall be valid unless the same is in writing and is signed by the District and consented to by the Escrow Agent and the TWDB.

SECTION 17: VALIDITY OF PROVISIONS. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 18: COMPENSATION FOR ESCROW SERVICES. The Escrow Agent shall be entitled to compensation for its services as stated in Exhibit A, which compensation shall be paid by the District but may not be paid directly from the Escrow Account(s).

SECTION 19: ANTI-BOYCOTT VERIFICATION. The Escrow Agent represents that, to the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2271.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2271 of the Texas Government Code, and subject to applicable Federal law, the Escrow Agent or any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Escrow Agent either (i) meets one of the exemption criteria under Section 2271.002 of the Texas Government Code or (ii) does not boycott Israel and will not boycott Israel through the term of this Agreement. The term "boycott Israel" as used in this paragraph has the meaning assigned in Section 808.001 of the Texas Government Code, as amended.

SECTION 20: IRAN, SUDAN AND FOREIGN TERRORIST ORGANIZATIONS. The Escrow Agent represents that, to the extent this Agreement constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, neither the Escrow Agent nor any wholly-owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Escrow Agent (i) engages in business with Iran, Sudan,

or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code. The term "foreign terrorist organization" in this paragraph has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

SECTION 21: ANTI-BOYCOTT VERIFICATION OF ENERGY COMPANIES. To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2274.002 of the Texas Government Code, as amended, the District and the Escrow Agent hereby certify that the aggregate value of this Agreement shall not exceed the dollar limitation set forth in Chapter 2274 of the Texas Government Code and is therefore exempt from Section 2274.002(b), Texas Government Code , as amended.

SECTION 22: ANTI-BOYCOTT VERIFICATION OF FIREARM COMPANIES AND ASSOCIATED TRADE ASSOCIATIONS. To the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2274.002 of the Texas Government Code, as amended. the District and the Escrow Agent hereby certify that the aggregate value of this Agreement shall not exceed the dollar limitation set forth in Chapter 2274 of the Texas Government Code and is therefore exempt from Section 2274.002(b), Texas Government Code, as amended, pursuant to Section 2274.002(a)(2), Texas Government Code, as amended.

SECTION 23. SCRUTINIZED BUSINESS OPERATIONS. The Escrow Agent represents and certifies that, at the time of execution of this Agreement, the Engineer (including, in this provision, any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same) is not listed by the Texas Comptroller of Public Accounts pursuant to Chapters 2252 or 2270 of the Texas Government Code, nor will the Engineer engage in scrutinized business operations or other business practices that could cause it to be listed during the term of this Agreement.

SECTION 24: FRAUD, WASTE OR ABUSE HOTLINE. The Escrow Agent shall immediately report to the District through the District's Fraud, Waste, or Abuse Hotline and also notify the District in accordance with all the Notice provisions contained in this Agreement all suspected or known instances and facts concerning fraud, waste, abuse, or criminal activity under this Agreement. The District's Fraud, Waste, or Abuse Hotline can be accessed by phone at 866-556-8181 or online at <https://secure.ethicspoint.com/domain/media/en/gui/68174/index.html>

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective upon signature of both parties.

APPROVED AS TO FORM:

CHRISTIAN D. MENEFFEE
Harris County Attorney

HARRIS COUNTY FLOOD CONTROL
DISTRICT

By _____

By _____

LAURA FIORENTINO CAHILL
Senior Assistant County Attorney

LINA HIDALGO
County Judge

Cadence Bank
as Escrow Agent

By: _____
Katrina King-Michalk

Title: EVP, Treasury Management

Date: _____

Address: 2800 Post Oak Boulevard
Suite 3800
Houston, TX 77056

EXHIBIT A
Fee Schedule

Tri-Party/DACA Non-standard Agreement (one time set-up fee) \$2500.00
Tri-Party/DACA Monthly Maintenance (Per account) \$100.00
Monthly Money Market Fund Sweep \$150.00
Monthly Positive Pay \$20.00
Monthly ACH Positive Pay \$20.00
Checks/Debits (Per item) \$0.24
Account Monthly Maintenance \$30.00
Account Transfer PC initiated (Per item) \$2.00

EXHIBIT B
Sample signatures

Pursuant to the Escrow Agreement dated _____ between Harris County Flood Control District and Cadence Bank as the Escrow Agent for the purpose of disbursements to pay the costs of the Project for which the obligations were issued or other purposes in accordance with the Grant Agreement.

The Escrow Agent shall disburse funds as directed in Section 4 by restricting internal transfers from the Escrow Account to the Harris County Flood Control General Fund as per the written approval and consent by the TWDB Executive Administrator as evidenced by his specimen signature below:

Jeff Walker (specimen signature)
Executive Administrator for the Texas Water Development Board

Accepted by:

Cadence Bank
Katrina King-Michalk
EVP Treasury Management

Date