

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 30, 2019	AGENDA ITEM:	BUS- A
DATE SUBMITTED:	July 26, 2019	DEPARTMENT:	Planning and Development
PREPARED BY:	Zach Goodlander, Director of Development Services,	PRESENTER:	Brant Gary, Assistant City Manager
	Brant Gary, Assistant City Manager		
SUBJECT:	Texana Development Agreement		
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Development Agreement between Texana Center and the City of Fulshear (including Exhibits A & B) 2. Texana Center Final Plat, Approved June 18, 2019 		

EXECUTIVE SUMMARY

The development agreement between the City of Fulshear and Texana Center will allow for development of Texana Center to move forward as well as the FM 359 Water/Wastewater Expansion Project. Through the agreement Texana Center will be dedicating an area of land for a lift station which will be integral to the proper functioning of the wastewater lines being expanded north along FM 359, and serve their own site.

RECOMMENDATION

Staff recommends the City Council approve the development agreement under consideration.

**DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF FULSHEAR, TEXAS, AND [TEXANA CENTER]**

This Development Agreement (“Agreement”) is made and entered into by THE CITY OF FULSHEAR, TEXAS (the “City”), a home-rule municipality in Fort Bend County, Texas, acting by and through its governing body, the City Council of the City of Fulshear, Texas, and [[TEXANA CENTER]], a Texas non-profit corporation (the “Developer”).

WHEREAS, Developer is the sole owner of that certain tract of land located within the corporate boundaries of the City, being more particularly described within the attached **Exhibit A** (the “Property”); and

WHEREAS, it is the intent of this Agreement to establish certain restrictions and commitments imposed and made in connection with the development of the Property; and

WHEREAS, the City is authorized by the constitution and laws of the State of Texas to enter into this Agreement, including Section 212.172 of the Texas Local Government Code;

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the City and Developer agree as follows:

1. The City shall provide water and wastewater treatment services to the Property as needed by Developer, and shall expand its water and wastewater treatment facilities from time to time so that it may provide such services to the Property. The City shall guarantee capacity for the Project equal to not less than fifty (50) ESFCs for water supply and wastewater treatment services for the Project through Phase II of the Project. ESFC means the daily measure of wastewater discharge attributed to one (1) single-family residential home and the daily measure of water consumption that is attributed to one single-family residential home, as established by the TCEQ.

2. In exchange, the Developer shall either (1) pay the City, within ten (10) business days after the Effective Date, an amount equal to Thirty Thousand and No/100 Dollars (\$30,000.00) for utility costs, or (2) in lieu of payment, construct, at Developer’s sole cost and expense and with the permission and approval of the City, a pump/grinder station to service the Property and shall dedicate such station to the City at a date determined by both parties, if such station is determined to be needed.

3. Within thirty (30) days after the Effective Date, the Developer will convey by dedication deed to the City a portion of the Property, as described or depicted on **Exhibit B** hereto, to be used by the City for public purposes, including a sanitary sewer lift station to serve the Texana Center. –

4. The City and the Developer agree that all local City ordinances and regulations shall apply to the Property and the Project, including, without limitation, those currently in force for the Planned Unit Development (“PUD”) for the Property; the City’s development ordinance, sign ordinance, outdoor lighting ordinance, masonry ordinance, and building code.

5. The Developer shall be responsible for construction of all storm water, drainage,

and flood control facilities required to serve the Property. The Developer shall provide roads, drainage, utilities, facilities, parks and recreational facilities for the Property at Developer's sole cost. The City shall have the right to review and approve the plans and specifications for roads, pavement, and drainage improvements. The Developer, its successors and assigns, shall permit with the City for construction of any roads, pavement, and drainage improvements. The City shall have the right to inspect (and shall attempt to coordinate with any inspections performed by the County or the TCEQ) and approve the construction of roads and drainage improvements, which approval will not be unreasonably withheld, conditioned or delayed.

6. The City shall notify the Developer in writing of an alleged failure by the Developer to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The alleged defaulting Developer shall, within thirty (30) days after receipt of such notice or such longer period of time as the City may specify in such notice, either cure such alleged failure or, in a written response to the City, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

The Developer shall notify the City in writing of an alleged failure by the City to comply with a provision of this Agreement, which notice shall specify the alleged failure with reasonable particularity. The City shall, within 30 days after receipt of such notice or such longer period of time as that Developer may specify in such notice, either cure such alleged failure or, in a written response to each Developer, either present facts and arguments in refutation or excuse of such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure.

7. This Agreement shall be effective upon the mutual execution of this Agreement (the "Effective Date") and shall terminate five (5) years from the Effective Date.

8. Any person who acquires the Property or any portion of the Property shall take the Property subject to the terms of this Agreement. The terms of this Agreement are binding upon Developer, its successors and assigns, as provided herein; provided, however, notwithstanding anything to the contrary herein, the Developer's assignee shall not acquire the rights and obligations of Developer unless Developer expressly states in the deed of conveyance or by separate instrument placed of record that said assign is to become the Developer for purposes of this Agreement and notice is sent by the Developer to the City. Any contract, agreement to sell land, or instrument of conveyance of land which is a part of the Property shall recite and incorporate this Agreement as binding on any purchaser or assignee.

9. This Agreement may be amended only upon written amendment executed by the City and Developer. In the event Developer sells any portion of the Property, the Developer may assign to such purchaser the right to amend this Agreement as to such purchased property by written assignment and notice thereof to the City. Such assignment shall not grant such purchaser the authority to amend this Agreement as to any other portions of the Property.

10. The Developer shall notify the City within fifteen (15) business days after any substantial change in ownership or control of that Developer. As used herein, the words "substantial change in ownership or control" shall mean a change of more than 49% of the stock or equitable ownership of a Developer. Any contract or agreement for the sale, transfer, or

assignment of control or ownership of a Developer shall recite and incorporate this Agreement as binding on any purchaser, transferee, or assignee.

11. The parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal notices or other communications (“Notice”) required to be given by one party to another by this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party, (a) by delivering the same in person, (b) by depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to the Party to be notified; (c) by depositing the same with Federal Express or another nationally recognized courier service guaranteeing “next day delivery,” addressed to the party to be notified, or (d) by sending the same by telefax with confirming copy sent by mail.

City: City of Fulshear
P.O. Box 279
Fulshear, Texas 77441
Attn: City Secretary
Facsimile: (281) 346-2556

With copy to: J. Grady Randle
Randle Law Office LTD, LLP
820 Gessner, Suite 1570
Houston, Texas 77024
Facsimile: (832) 476-9554

Developer: Texana Center
4910 Airport Ave., Bldg. B
Rosenberg, Texas 77471

12. Time is of the essence in all things pertaining to the performance of the provisions of this Agreement.

13. If any provision of this Agreement or the application thereof to any person or circumstance is ever judicially declared invalid, such provision shall be deemed severed from this Agreement, and the remaining portions of this Agreement shall remain in effect.

14. If any provision of this Agreement or the application thereof to any person or circumstance is prohibited by or invalid under applicable law, it shall be deemed modified to conform with the minimum requirements of such law, or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any such other provision being prohibited or invalid.

15. Any failure by a party hereto to insist upon strict performance by the other party of any provision of this Agreement shall not be deemed a waiver thereof or of any other provision hereof, and such party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

16. The construction and validity of this Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law principles. Venue shall be in Fort Bend County, Texas.

17. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws, including sovereign immunity, except to enforce any rights and remedies under this Agreement.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement to be effective as of the Effective Date.

[signature pages follow]

CITY OF FULSHEAR, TEXAS

By: _____
Aaron Groff, Mayor

Date: _____

ATTEST

By: _ Kimberly Kopecky, City Secretary

Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me on _____, 2019, by
Aaron Groff, Mayor of the City Fulshear, Texas.

Notary Public, State of Texas

DEVELOPER and LANDOWNER
[TEXANA CENTER]

By: _____
Name: _____
Title: _____
Date: _____

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This instrument was acknowledged before me, the undersigned authority, this ____ day of _____, 2019, by _____, _____ of [TEXANA CENTER], on behalf of said entity.

Notary Public, State of Texas

TRUE MERIDIAN PLLC

P.O. Box 566•Pearland, Texas 77588-0566•Office: (281) 412-0149•Fax: (281) 412-5390
Email: truemarid@sbcglobal.net, RN 10037300

EXHIBIT "A"

FIELD NOTES FOR A 14.44 ACRE TRACT OF LAND IN THE CHURCHILL FULSHEAR LEAGUE, ABSTRACT 29, CITY OF FULSHEAR, FORT BEND COUNTY, TEXAS, BEING THAT CERTAIN CALLED 14.456 ACRE TRACT RECORDED UNDER COUNTY CLERK'S FILE NUMBER 2005099822, OFFICIAL PUBLIC RECORDS, FORT BEND COUNTY, TEXAS, WITH ALL BEARINGS BASED UPON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a 5/8 inch iron rod found in the Southwest right-of-way line of F.M. Highway 359 for the North corner of said called 14.456 acre tract, same being the Northeast corner of an adjoining called 131.863 acre tract (First Tract) recorded under County Clerk's File Number 2013077977, Official Public Records, Fort Bend County, Texas for the North corner and the PLACE OF BEGINNING;

THENCE S 51°54'18" E (called S 49°33'19" E) along the Northeast line of the herein described tract and the Northeast line of said called 14.456 acre tract, same being the apparent occupied Southwest right-of-way line of F.M. Highway 359, 191.67 feet to a 5/8 inch iron rod with a cap found for angle point;

THENCE S 43°49'56" E (called S 41°28'56" E) continuing along said line and along the apparent occupied Southwest right-of-way line of Wallis Street, 868.98 feet to a chain link fence corner post found for the East corner of the herein described tract and said called 14.456 acre tract, same being the North corner of an adjoining called 6.176 acre tract recorded in Volume 922, page 509, Deed Records, Fort Bend County, Texas;

THENCE S 69°06'10" W (called S 71°27'09" W) along the common line of the herein described tract and said adjoining called 6.176 acre tract, 296.46 feet to a 1/2 iron rod set with a cap stamped "True Meridian" for an angle point, from which a found 5/8 inch iron rod with a cap stamped "Kalkomy Surveying" bears N 02°38' E - 0.9 feet;

THENCE S 56°13'52" W (called S 59°09'08" W) continuing along said common line, 30.66 feet (called 30.44 feet) to a 1/2 inch iron rod set with a cap stamped "True Meridian" for an angle point;

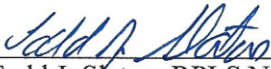
THENCE S 16°20'12" W (called S 18°41'19" W) continuing along said common line, 515.00 feet to a 5/8 inch iron rod found with a cap stamped "Kalkomy Surveying" set for the Southeast corner of the herein described tract, same being the Southwest corner of said adjoining called 6.176 acre tract and being an angle point in the North line of an adjoining called 101 acre tract recorded under County Clerk's File Number 2005014004, Official Public Record, Fort Bend County, Texas and described as Tract A in Volume 562, Page 741, Deed Records, Fort Bend County, Texas, from which point a 3/4 inch iron pipe found bears S 17°25' W - 3.8 feet;

THENCE S 85°39'49" W along the South line of the herein described tract, same being the North line of said adjoining called 101 acre tract, 407.29 feet to a 1/2 inch iron pipe found for the Southwest corner of

the herein described tract and said called 14.456 acre tract, same being the Northwest corner of said adjoining called 101 acre tract and being an angle point in the East line of the aforementioned adjoining called 131.863 acre tract, from said corner a found 1/2 inch iron pipe bears N 21°04' W - 0.3 feet;

THENCE N 03°05'07" E (called N 05°25'59" E) along the common line of the herein described tract and said adjoining called 131.863 acre tract, 307.55 feet to a 1/2 inch iron pipe found for an angle point;

THENCE N 04°26'06" E (called N 06°47'20" E) continuing along said common line, 1,089.06 feet to the PLACE OF BEGINNING and containing 14.44 acres of land, more or less.



Todd J. Slaton, RPLS No. 5082

July 25, 2019

18-2879



TRUE MERIDIAN PLLC

P.O. Box 566•Pearland, Texas 77588-0566•Office: (281) 412-0149•Fax: (281) 412-5390
Email: truemarid@sbcglobal.net, RN 10037300

EXHIBIT "B"


FIELD NOTES FOR A 0.2161 ACRE TRACT OF LAND IN THE CHURCHILL FULSHEAR LEAGUE, ABSTRACT 29, CITY OF FULSHEAR, FORT BEND COUNTY, TEXAS, BEING THAT CERTAIN CALLED 14.456 ACRE TRACT RECORDED UNDER COUNTY CLERK'S FILE NUMBER 2005099822, OFFICIAL PUBLIC RECORDS, FORT BEND COUNTY, TEXAS, WITH ALL BEARINGS BASED UPON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a 5/8 inch iron rod found in the Southwest right-of-way line of F.M. Highway 359 for the North corner of said called 14.456 acre tract, same being the Northeast corner of an adjoining called 131.863 acre tract (First Tract) recorded under County Clerk's File Number 2013077977, Official Public Records, Fort Bend County, Texas for the North corner and the PLACE OF BEGINNING;

THENCE S 51°54'18" E along the Northeast line of the herein described tract and the Northeast line of said called 14.456 acre tract, same being the apparent occupied Southwest right-of-way line of F.M. Highway 359, a distance of 150.79 feet to the Easterly corner of this herein described tract of land;

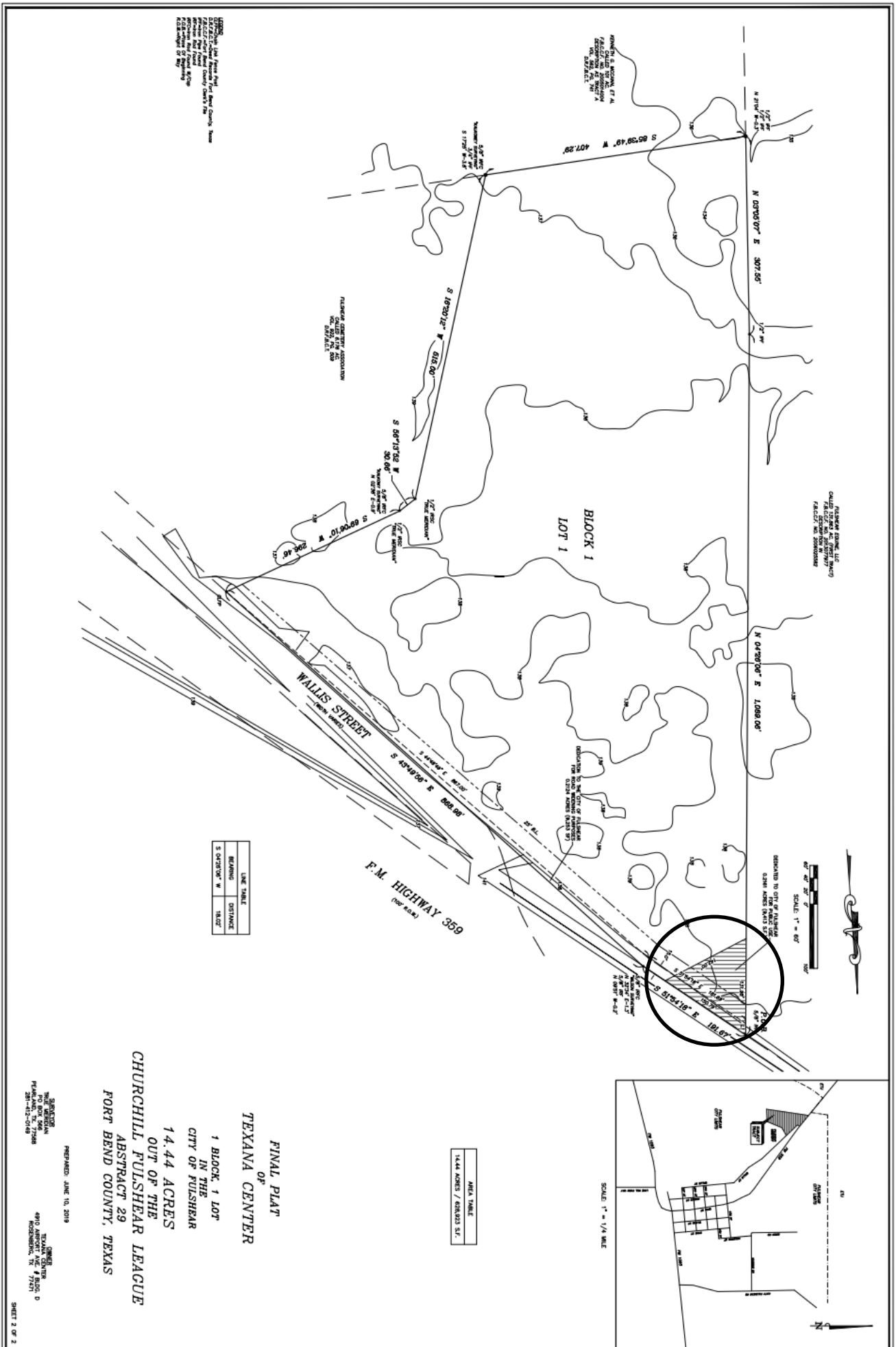
THENCE S 66°32'42" W crossing said 14.456 acre tract, a distance of 142.00 feet to the Southerly corner of this herein described tract on the East line of the aforementioned adjoining called 131.863 acre tract;

THENCE N 04°26'06" E continuing along the East line of said 131.863 acre tract, a distance of 150.00 feet to the PLACE OF BEGINNING and containing 0.2161 acres (9,413 square feet) of land, more or less.



Todd J. Slaton, RPLS No. 5082
July 25, 2019
18-2879

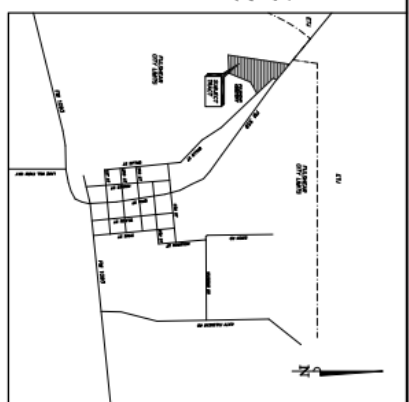




PLANNING GROUP, LLC
 2000 WEST 10TH STREET
 FORT WORTH, TEXAS 76102
 PREPARED BY: [Name]



SEARCHED TO OTHER RECORDS
 6286 ACRES (MAY 2012)



AREA TABLE

14.44 ACRES / 628623 S.F.

LINE TABLE

BEARING	DISTANCE
S 54°20'00\"/>	

FINAL PLAT
OF
TEXANA CENTER
 1 BLOCK, 1 LOT
 IN THE
 CITY OF FULSHEAR
 14.44 ACRES
 OUT OF THE
CHURCH HILL PULSHEAR LEAGUE
 ABSTRACT 29
 FORT BEND COUNTY, TEXAS

PREPARED: JUNE 10, 2019

BY: [Name]
 SURVEYOR
 4910 ARBONNET AVE # 5100, D
 ROCKWELL, TX 75087

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 30,2019	AGENDA ITEM:	BUS-B
DATE SUBMITTED:	July 26, 2019	DEPARTMENT:	Public Works/CIP
PREPARED BY:	Sharon Valiante/Public Works Director	PRESENTER:	Sharon Valiante/Brant Gary
SUBJECTS:	RESOLUTION NO. 2019-425, ADOPTION OF POLICY GUIDELINES APPLICABLE TO ALL PROCUREMENTS MADE WITH FEDERAL FUNDS		
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Resolution No. 2019-425 2. Exhibit A – Procurement Policy Applicable to All Procurements Made with Federal Funds 3. Exhibit B – Guidelines; Community Development & Revitalization Procurement 		
EXPENDITURE EXPECTED:	N/A		
FUNDING ACCOUNT:			
ADDITIONAL APPROPRIATION REQUIRED:			
FUNDING ACCOUNT:			

EXECUTIVE SUMMARY

The City of Fulshear received a notice from the Texas General Land Office (GLO) indicating a funding availability was awarded through the Fort Bend County Method of Distribution (MOD) for the City of Fulshear (City) in the amount of \$415,865.54 for any unmet needs resulting from the 2015/2016 Floods for the most impacted infrastructure. City Council supported the application for project eligibility with Resolution 2018-405. The City’s application was approved and is receiving a grant for the project design and construction - Site 1 Lea Drainage Improvements and Site 2 Penn Drainage Improvements.

Pertaining to receipt of Federal Funds, it is necessary for The City to adopt a Procurement Policy applicable to all procurements made with federal funds and adopt the guidelines set forth in the Community Development & Revitalization Procurement Guidance for Subrecipients Under 2 DFR Part 200 (Uniform Rules).

RECOMMENDATION

Staff recommends Council approve the **Resolution 2019-425** that will adopt a Procurement Policy applicable to all procurements made with federal funds and adopt the guidelines set forth in the Community Development & Revitalization Procurement Guidance for Subrecipients Under 2 DFR Part 200 (Uniform Rules).

RESOLUTION NO. 2019-425

A RESOLUTION OF THE CITY OF FULSHEAR, TEXAS, ADOPTING A POLICY APPLICABLE TO ALL PROCUREMENTS MADE WITH FEDERAL FUNDS AND ADOPTING GUIDELINES FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY RESOURCES.

WHEREAS, the Texas General Land Office has granted the City of Fulshear, Texas, certain funds and resources as part of the Community Development Block Grant Disaster Recovery program authorized for the 2016 Floods Most Impacted Infrastructure; and

WHEREAS, the City has accepted such grant of funds and resources; and

WHEREAS, in connection with such grant, the City now wishes to adopt certain policies and guidelines relating to such grant and the use of such resources;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts set out in the preamble are hereby found to be true and correct and are incorporated herein for all purposes.

Section 2. The City Council hereby adopts the Procurement Policy Applicable To All Procurements Made With Federal Funds attached hereto as **Exhibit A** and authorizes the Mayor to execute such Procurement Policy on behalf of the City.

Section 3. The City Council hereby adopts the guidelines set forth in the Community Development & Revitalization Procurement Guidance for Subrecipients Under 2 CFR Part 200 (Uniform Rules) attached hereto as **Exhibit B**.

PASSED, APPROVED, and ADOPTED on the 30th day of July 2019.

Aaron Groff, Mayor

ATTEST:

Kimberly Kopecky, City Secretary

EXHIBIT “A”
CITY OF FULSHEAR
PROCUREMENT POLICY APPLICABLE TO ALL PROCUREMENTS
MADE WITH FEDERAL FUNDS
Adopted July 30,2019

PREAMBLE

All procurements made by the CITY OF FULSHEAR (“CITY”) involving the expenditure of Federal funds must be conducted in accordance with the procedures set forth in this Policy. This Policy is in accord with all applicable Federal, State, and local government statutes and regulations, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §§ 200.317 to 200.326.

It is the policy of the CITY to conduct all procurements in the highest ethical manner, and in accordance with all applicable laws and regulations. To the extent required by law and regulation, and the maximum extent practical, CITY will conduct all procurement transactions in a manner providing full and open competition, consistent with the standards set forth 2 C.F.R. § 200.319.

Subject to specified cost thresholds and documented delegation of authority, all procurements will be reviewed by the City Attorney, the City Finance Director, and the City Manager to ensure compliance with this Policy.

I. SOLICITATIONS

Procurements subject to this Policy will be made on the basis of a written solicitation, after careful consideration by CITY Staff (with, as applicable, the support of a selection committee) of the needs of CITY and available resources. The written procedures in this Policy are intended to ensure that all solicitations meet the following Federal requirements as well as contracting best practices.

A. Clear Description

The solicitation must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. This description should include a written statement of work. 2 C.F.R. § 200.319(c)(1).

B. Nonrestrictive Specification

The description of the technical requirements must not contain features that unduly restrict competition. 2C.F.R. § 200.319(c)(1).

C. Qualitative Requirements

The description of the technical requirements may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform

EXHIBIT "A"

if it is to satisfy its intended use. 2 C.F.R. § 200.319(c)(1). Product specifications should be limited to essential specifications only.

a. Brand Name or Equal

When it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the property or services to be acquired, "brand name or equal" descriptions may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offerors must be clearly stated. The need for a "brand name or equal" specification should be documented.

b. Preference for Performance Specifications

Product or service specifications based on performance, rather than designed specifications, are preferred. A performance specification describes an end result, an objective, or standard to be achieved, and leaves the determination of how to reach the result to the contractor. Performance specifications describe *what* the product should be able to do or the services to accomplish, without imposing unnecessarily detailed requirements on *how* to accomplish the tasks.

D. Requirements

The solicitation must identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R. §200.319(c)(2). All solicitations for competitive proposals must notify offerors that the CITY reserves the right to award to other than the lowest-priced offeror. Generally, the CITY will make a best value determination, balancing cost against technical merits, in awarding competitive contracts.

E. Type of Federal Funding

The solicitation must acknowledge the source of the Federal funding for the contract, in compliance with the terms of its financial assistance award.

The solicitation should inform prospective contractors that they will need to comply with all applicable Federal Laws, regulations, Executive Orders and requirements affecting the procurement. As appropriate, specific flow-down requirements may be included in the solicitation itself, in any resulting contract, or incorporated by reference.

F. Contract Type

The solicitation should state the type of contract that will be awarded.

a. Fixed Price

A fixed price contract provides for a firm price that remains irrespective of the contractor's actual cost of performing the scope of work under the contract. The risk of performing the work, at the fixed price, is borne by the contractor. Fixed price contracts may include an economic price adjustment, incentives, or both.

EXHIBIT "A"

b. Cost Reimbursement

Cost-reimbursement type contracts provide for payment of certain incurred costs to the extent provided in the contract. They normally provide for the reimbursement of the contractor for its reasonable, allocable, actual, and allowable costs, with an agreed-upon fee. There is a limit to the costs that a contractor may incur at the time of contract award, and the contractor may not exceed those costs without the CITY's prior approval. Cost allowability is determined by Federal regulations. There are many varieties of cost-reimbursement contracts, such as cost-plus-fixed-fee, cost-plus-incentive-fee, and cost-plus-award-fee. Because the CITY incurs more risk in a cost reimbursement contract, these types of contracts should only be entered into after a careful analysis of the benefits compared to other contract types.

c. Time and Materials Contracts

A time and materials type contract is a contract whose cost to the CITY is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. 2C.F.R. § 200.318G(1)(i) and (ii). This type of contract is used if no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.

d. Cost Plus Percentage of Cost

The use of cost-plus percentage of cost and cost plus a percentage of construction cost methods of contracting are prohibited.

G. Prohibitions

Certain provisions that unduly restrict competition are prohibited. 2 C.F.R. § 200.319(a). The following are some examples of these prohibited provisions. Note that the provisions described below are not prohibited when they are improper or excessive. For example, some qualifications and experience may be required for a particular type of contract; only "excessive" or "unnecessary" requirements are not allowed:

a. Excessive Qualifications

Placing unreasonable requirements on firms in order for them to qualify to do business. 2 C.F.R. § 200.319(a)(1).

b. Unnecessary Experience

Requiring unnecessary experience. 2 C.F.R. § 200.319(a)(2).

c. Unnecessary Bonding

Requiring excessive bonding. 2 C.F.R. § 200.319(a)(2).

d. Improper Qualification

Using improper prequalification procedures that conflict with 2 C.F.R. § 200.319(d).

EXHIBIT "A"

e. **Retainer Contract**

Making a noncompetitive solicitation only to a person or firm on retainer contract where that award is not for property or services specified for delivery under the scope of work of the retainer contract. 2 C.F.R. § 200.319(a)(4).

f. **In-State, Local, or Tribal Geographic Preferences**

Imposing prohibited in-state, local, or tribal geographic preferences that conflict with 2 C.F.R. 200.319(b).

g. **Organizational Conflicts of Interest**

Allowing entities to submit bids or proposals in response to the solicitation where there would be a prohibited organizational conflict of interest. 2 C.F.R. §200.319(a)(5).

II. **METHODS FOR PROCUREMENT**

Procurements shall be made using one of the following methods: (A) Micro-Purchases (B) Small Purchase procedures, (C) Competitive sealed bids, (D) Competitive negotiations, (E) Non-competitive negotiations. All procurements shall be made in accordance with these procedures.

A. **Micro-Purchases**

Purchases below the Simplified Acquisition Threshold may be awarded without soliciting competitive proposals if the CITY considers the price to be reasonable. Efforts will be made to get the lowest and best price, but written records of such efforts are not necessary. Procurements may not be disaggregated for the purpose of falling below the Micro-Purchase threshold.

B. **Small Purchases**

Purchases of supplies, equipment and services which cost below \$50,000 require written supplier estimates but no formal bid is required. The CITY will solicit a verbal or written response from at least three (3) vendors and will document why the vendor was selected if it is not the lowest priced offerer. If no such responses are available, a statement explaining the procurement will be prepared and filed.

C. **Competitive Sealed Bids**

The use of sealed bids will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services, other than those personal (procuring the services of an individual for staff augmentation services) or professional (provided by a degreed, licensed professional, principally engineering, accounting, and legal services), exceeds \$50,000, an Invitation for Bids ("IFB") notice will generally be prepared. This notice will be published in the CITY newspaper of record and/or such other places as the CITY deems appropriate. This notice will appear at least fourteen (14) days before the due date for bid proposals. The CITY may also solicit sealed bids from

EXHIBIT "A"

responsible prospective suppliers by sending them a copy of such notice. To the extent possible, the CITY Staff is encouraged to maintain an open Bidders List.

The IFB will include a complete, accurate and realistic specification and description of the goods or services to be procured, any required bid deposit, the amount of a payment bond and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the basis of the lowest price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be used must be stated in the IFB.

Sealed bids will be opened in public at the time and place stated in the IFB. The bids will be tabulated by the TABULATOR at the time of bid opening. The results of the tabulation and the bid procurements will be examined for accuracy and completeness by the EXAMINER who will make recommendations to the CITY. In addition, the CITY shall determine that all firms are responsive and responsible. The CITY will make the decision as to whom the contract shall be awarded. After the bid award is made by the CITY, a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders.

The CITY may cancel an Invitation for Bid or reject all bids if it is determined that such is in the best interests of the CITY. Bidders will be notified in writing of such cancellation or rejection. The CITY may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened. Bids which do not accept all terms and conditions of the IFB shall be deemed to be non-responsive and will be rejected. Any changes to the bidding terms and conditions shall be communicated to all bidders, and all bidders will have an equal chance to submit a bid responsive to those changed terms and conditions.

D. Competitive Negotiations

The CITY will use competitive negotiations, regardless of contract amount, upon a written determination that either of the following conditions apply:

- a. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (in other words, sealed bidding is not feasible); or
- b. The services to be procured are professional (provided by a degreed, licensed professional, principally engineering, accounting, and legal services) in nature.

Competitive negotiations will proceed as follows:

1. Proposals will be solicited through advertisement in the CITY newspaper of record and/or such other places as the CITY deems appropriate;

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additionally, a Request for Proposal (RFP) may be prepared and mailed, emailed, or faxed to qualified vendors. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the applicable regulations. Requests for proposals will always include cost as a selection factor.

2. Award must be made to the offerer whose proposal is determined in writing by the CITY to be the most advantageous to the CITY with price and other factors considered. This evaluation and award process contemplates a balancing of cost and technical merit in arriving at a determination as to which proposal provides the best value to the CITY. Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The selection committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

For the procurement of certain professional services, an alternative to RFPs may be used. The CITY may publish a Request for Qualifications. RFQ's are handled in a similar method to RFP's with the exception that cost is not a factor in the initial evaluation. The selection committee will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted, and the CITY will negotiate cost. If the CITY is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The CITY will maintain a written record of all such negotiations.

E. Noncompetitive Negotiations

The CITY requires competitive bids for purchases of goods or services including consulting services) over ~~\$50,000~~; however, some exceptions apply.

In some circumstances, when competition cannot be obtained or the situation necessitates the required number of competitive bids to be reduced, a Sole Source or Reduction Justification Form must be submitted. The following information is a guide for requesting the waiver or reduction of competitive bids on RFPs for goods or services greater than \$50,000. The CITY may purchase goods and services through non-competitive negotiations when it is determined in writing by the CITY that competitive negotiation or bidding is not feasible and that:

1. SOLE SOURCE DEFINITION AND CRITERIA

A single supplier that is exclusively capable of meeting the CITY's requirements within the time available, including emergency and other

EXHIBIT "A"

situations, which preclude conventional planning and processing. These situations include:

- a. **One-of-a-Kind/Specialized-** the commodity or service has no competitive product or must meet specialized seaport, boat or marine requirements, or specialized professional or technical services, and is available from only one supplier.
- b. **Compatibility-** the commodity or service must match an existing brand of equipment for compatibility and is available from only one vendor.
- c. **Replacement Part** - the commodity is a replacement part for a specific brand of existing equipment and is available from only one supplier.
- d. **Delivery Date** - only one supplier can meet necessary delivery requirements.
- e. **Emergency** - URGENT NEED for the item or service does not permit soliciting competitive bids; including purchases needed to address major facility failures, damages due to disasters, or purchases necessary to address immediate safety and security issues.
- f. Only one satisfactory proposal is received through RFP or RFQ
- g. The Federal or State awarding agency has authorized the particular type of non-competitive ~~negotiation~~.

Procurement by noncompetitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The CITY must approve all procurements by non-- competitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

- F. Bids will be accepted only from those contractors who have a proven record of ability to successfully complete the scope of work being bid. References will be requested along with the contractor's bid proposal. Any contractors submitting a bid must produce (along with his/her bid documents) written proof of liability insurance and worker's compensation coverage. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources in awarding contracts.

III. CONTRACTS

Generally, all procurement in excess of the Simplified Acquisition Threshold will be memorialized and supported by a written contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared.

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- A. All contracts will contain language which allows the CITY the opportunity to cancel any contract for cause. Said cause shall include (but not be limited to) demonstrated lack of ability to perform the work specified, unwillingness to complete the work in a timely fashion, cancellation of liability insurance or worker's compensation, failure to pay suppliers or workers, unsafe working conditions caused by the contractor, failure to comply with Davis-Bacon wage laws (where applicable), failure to keep accurate and timely records of the job, or failure to make those records available to the CITY (on request) or any other documented matter which could cause a hardship for the CITY if a claim should arise or the work not be completed on schedule at the specified cost.
- B. All contracts will contain a termination for convenience provision, which allows the CITY to cancel the contract without fault on the part of the contractor. In the event of a termination for convenience the contractor will receive reimbursement and/or pro- rate payment for costs and work done until the point of termination, but not anticipated profits on the work that was cancelled. The termination provision will specify the procedures for the contractor to submit a claim for termination costs.
- C. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "Federally assisted construction contract" in 41 C.F.R. § 60-1.3 must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth in 2 C.F.R. §200.326. These provisions will be provided to all bidders

IV. DOCUMENTATION

All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is not feasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc.). Whatever form of documentation and filing is employed, the purpose of this section is to ensure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost, (including the issue of reasonableness of cost), rationale for method of procurement and selection of contract type, and basis for payment.

V. LOCALLY OWNED, MINORITY-OWNED, FEMALE-OWNED AND SMALL BUSINESSES

All necessary affirmative steps will be taken and documented to solicit participation of small and minority businesses, women's business enterprises, and labor surplus area firms. Where possible and feasible, delivery schedules will be established, and work will be subdivided to maximize participation by small businesses or minority- or women-owned

EXHIBIT "A"

businesses. Subdivided components will be bid as a separate contract. A list of locally owned, minority-owned, female-owned, and small businesses and also minority businesses located within the trade region shall be used when issuing IFBs, RFPs and RFQs. This list shall also be consulted when making small purchases. The CITY will use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce when appropriate. The successful bidder will be required to use these same criteria in selection of suppliers and subcontractors whenever possible.

VI. CODE OF CONDUCT

A. Conflict of Interest

No CITY member, employee, consultant, elected official, appointed official or designated agent of the CITY will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of the CITY, partners of such individuals, immediate family members, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms, or will otherwise benefit financially or otherwise from a contract award.

No CITY member, employee or designated agent of the CITY may acquire a financial interest in or benefit in any way from any activity which uses any Federal funding, nor shall they have any interest in any contract, subcontract or agreement for themselves or any family members.

NOTE: These rules apply to all named parties and shall be effective for the period of service and for one year after leaving said position (or office, in the case of elected officials).

B. Acceptance of Gratuities

No CITY member, employee or designated agent of the CITY shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors or potential subcontractors.

C. Penalties

Any CITY member, employee or designated agent of CITY who knowingly and deliberately violates the provisions of this code will be open to civil suit by the CITY without the legal protection of the CITY. Furthermore, such a violation of these procurement standards is grounds for dismissal by the CITY (if an employee) or such sanctions as available under the law (if an elected official).

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with the CITY.

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VII. ADDITIONAL PROVISIONS

CITY Federally funded contracts are subject to a variety of required of statutes, regulations, and contract clauses. While it is the responsibility of bidders and offerors to be aware of and comply with those requirements, CITY staff shall include applicable requirements in all CITY contracts to the maximum extent possible, either in full text, via addendum or attachment, or by reference. The list below is not exhaustive, and other provisions may apply based on the type of work being performed and the dollar amount of the contract. The provisions below are common to many covered contracts:

A. Labor and Employment Laws and Regulations

A variety of construction and non-construction labor and employment laws and regulations are required as a condition of the CITY's Federal funding. These are assembled at 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, and include provisions related to Equal Employment Opportunity, Prevailing Wages, Anti-Kickback provisions, Overtime and Work Safety requirements, and a variety of whistleblower protections. In dealing with all potential bidders and offerors, CITY Staff should ensure that the applicable requirements are included in all solicitations and contracts. To the extent possible, CITY Staff should highlight these requirements to bidders and offerors unfamiliar with or inexperienced in Federally funded projects.

B. Rights to Inventions Made Under a Grant or Contract

If a contract awarded by the CITY may result in the creation of protectable intellectual property, including a patentable invention, copyrighted material, trade secret or technical data, or any other invention or discovery, the requirements of 37 CFR § 401 may apply.

C. Environmental Regulations

Contracts over \$150,000 require the contractor to comply with Clean Air Act and Federal Water Pollution Control Act. Specific provisions and requirements are set forth in 2 C.F.R. Part 200, Appendix II

D. Contracting with Suspended or Debarred Persons or Entities

The CITY shall not enter into any agreement with any person or entity subject to Federal Debarment or suspension, nor consent to a subcontract with any such person or entity. A list of all such persons or entities can be found at www.sam.gov. The CITY should obtain written certification from all contractors that they are not suspended or debarred from federal procurements.

E. Byrd Anti-Lobbying Amendment

The following provision should be included in each contract over \$100,000 (Federal Byrd threshold):

"Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress,

EXHIBIT "A"

officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

Adopted by the Council members of the City of Fulshear, this 30th day of July 2019, by Resolution 2019-425.

Jack Harper, City Manager

Date

EXHIBIT "B"

TEXAS GENERAL LAND OFFICE



COMMUNITY DEVELOPMENT & REVITALIZATION PROCUREMENT GUIDANCE FOR SUBRECIPIENTS UNDER 2 CFR PART 200 (UNIFORM RULES)

The Texas General Land Office Community Development & Revitalization (GLO-CDR) is the state agency designated by the Governor and responsible to the U.S. Department of Housing and Urban Development (HUD) for the grant administration of this funding, herein referred to as the “grantee”. Eligible applicants (city and county governments) located within, or performing activities within the Texas counties as declared in DR-4223 and/or DR-4245, are herein referred to as “subrecipient” and are the desired audience of the guidance.

This guidance is designed to help make better use of your Community Development Block Grant Disaster Recovery (CDBG-DR) resources and to avoid common procurement pitfalls in managing your grant.

The procurement checklist will assist subrecipients of CDBG-DR funds provided by HUD to comply with the federal procurement requirements and reasonably ensure the allowability of eligible program expenses.

This checklist is intended to provide general guidance only and does NOT provide a detailed explanation of the federal procurement requirements – it is not intended to serve as legal advice and GLO-CDR makes no guarantee that adherence to this checklist will result in full reimbursement of eligible expenses.

To understand the requirements fully, the user should review the provisions of 2 CFR § 200.318 – 326 and Appendix II to Part 200, which are the source of these requirements.

Contact your servicing attorney or legal counsel with any questions on the application of these standards. Our guidance is limited to the content within 2 CFR § 200.318 – 326 and Appendix II to Part 200.

Grant Administrator and Engineer Procurement

GLO-CDR will allow a subrecipient to use a single vendor to both assist in the preparation of an application and to perform work under the grant. The vendor procurement should clearly identify preparation of an application and grant administration services within the solicitation document. The solicitation must take place prior to the initiation of the application process and comply with 2 CFR 200.318 – 200.326.

Procurement File Maintenance

The Procurement Checklist must be filled out per the prescribed procurement methodology used for each solicitation. This checklist must be maintained with each procurement file. Subsequent sealed bid or competitive proposal procurement activities will require the following documents be submitted to GLO-CDR:

- Procurement Checklist
- RFP/RFQ as applicable
- Listing of Bid Proposals/Summary of Scoring Criteria
- Grantee approval of selected vendor/winning bid
- Contract

GLO-CDR PROCUREMENT CHECKLIST

These documents must be provided to identify the actions taken to ensure procurement activities. GLO-CDR will not review or approve the compliance of procurement activities as they occur. GLO-CDR is available to provide technical assistance during the phases of the procurement process.

Note: Non-competitive or sole-source procurements require notification to and authorization by GLO-CDR.

Monitoring

Monitoring reviews to determine procurement compliance are performed independently of the process noted above as part of GLO-CDR's Subrecipient Monitoring Plan. GLO-CDR will monitor to the standards of 2 CFR 200.318 – 200.326 or state or local procurement law and policies if they are more restrictive.

Criteria

Sections 22 Procurement of the Federal Register, Vol. 81, No. 117 (June 17, 2016) for the 2015 allocations of Public Law 114–113 and Federal Register, Vol. 81, No. 224 (November 21, 2016) for the 2016 allocations of Public Law 114–223 and 245, combined with 24 CFR Part 570, direct the state to establish requirements for policies and procedures for units of general local government based on full and open competition (e.g., small purchase, sealed bids/formal advertising, competitive proposals).

GLO-CDR has established that subrecipients must follow the procurement methods as outlined in 2 CFR 200.318 – 200.326. This includes the requirement to follow state and local procurement law and policies as prescribed by 2 CFR 200.318(a) as well as the additional requirements stated in 2 CFR Part 200.

Subrecipients should update local procurement policies and procedures to correspond with the procurement and contract requirements of 2 CFR 200.318 – 200.326 for CDBG-DR funding.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 1)

§200.318 General procurement standards

Task	Yes	No	N/A	Notes
1.1 Do you maintain documented policies and procedures that reflect applicable state, local, and tribal laws and regulations and provide that they conform to applicable federal law and the standards identified in this part? § 200.318(a)				
1.2 Do you maintain contract oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders? § 200.318(b)				
1.3 Do you maintain a written standard of conduct addressing a real or apparent conflict of interest, both direct and indirect, and governing the actions of employees engaged in the selection, award, and administration of contracts to ensure conflicts of interest are identified, substantiate nominal financial interests or value, and disciplinary actions for violations of the standards?				
1.4 Do you avoid acquisition of unnecessary or duplicative items? Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. § 200.318(d)				
1.5 Is the contract being awarded to a responsible contractor possessing the ability to perform successfully under the terms and conditions of the proposed procurement, considering such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources? § 200.318(h) and §200.213 (Suspension and Debarment)				
1.6 Did you determine no other contract other than time and materials type ¹ contract is suitable, and include a price ceiling that if exceeded, the contractor exceeds at their own risk? § 200.318(j)				
1.7 Do you have more oversight being asserted for time and material contracts to obtain reasonable assurance that the contractor is maintaining efficient methods and effective cost controls related to price ceiling related risks? § 200.318(j)				
1.8 Do you responsibly resolve any related protests, disputes, or claims arising out of procurements? § 200.318(j)				

¹ A time and material's contract is defined as the sum of (i) the actual cost of materials and (ii) direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 2)

§200.319 Competition

Task	Yes	No	N/A	Notes
2.1 Procurement transactions cannot be conducted in a manner that does not provide full and open competition. Does the procurement involve any of the following? § 200.319(a)				
<ul style="list-style-type: none"> Placing unreasonable requirements on firms for them to qualify to do business? 				
<ul style="list-style-type: none"> Requiring unnecessary experience and excessive bonding? 				
<ul style="list-style-type: none"> Noncompetitive pricing practices between firms or between affiliated companies? 				
<ul style="list-style-type: none"> Noncompetitive contracts to consultants that are on retainer contracts? 				
<ul style="list-style-type: none"> Organizational conflicts of interest? 				
<ul style="list-style-type: none"> Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement? 				
<ul style="list-style-type: none"> Any arbitrary action in the procurement process? 				
2.2 Was the contractor that is bidding on the contract also involved with developing or drafting the specifications, requirements, statement of work, invitation for bids or request for proposals? (If so, that contractor must be excluded from competing for such procurements) § 200.319(a)				
2.3 Note: Procurement MUST be conducted in a manner that prohibits the use of statutorily or administratively imposing state or local geographical preferences in the evaluation of bids or proposals.				
2.4 Do you have written procurement procedures that ensure that all solicitations comply with the following? § 200.319(c)				
<ul style="list-style-type: none"> Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured? 				
<ul style="list-style-type: none"> Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals? 				
2.5 If you are using a prequalified list of persons, firms, or products to acquire goods and services, did you consider the following? § 200.319(d)				
<ul style="list-style-type: none"> Is the list current? 				
<ul style="list-style-type: none"> Does the list include enough qualified sources to ensure maximum open and free competition? 				
<ul style="list-style-type: none"> Were any potential bidders precluded from qualifying during the solicitation period? 				

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 3)
§200.320 Method of Procurement

Task	Yes	No	N/A	Notes
3.1 Which of the following acceptable methods of procurement are you using?				
Micro-purchase procedures² § 200.320(a)				
<ul style="list-style-type: none"> To the extent practicable, are you distributing micro-purchases equitably among qualified suppliers? 				
Does the aggregate dollar of supplies or services exceed the micro-purchase threshold of \$3,000, or \$2,000 for construction contracts subject to the Davis-Bacon Act?				
Small purchase procedures³ § 200.320(b)				
<ul style="list-style-type: none"> Did you obtain price or rate quotations from an adequate number of qualified sources? 				
Sealed bids⁴ §200.320(c)				
<ul style="list-style-type: none"> Is a complete, adequate, and realistic specification or purchase description available for bidders? 				
<ul style="list-style-type: none"> Are two or more responsible bidders willing and able to compete effectively for the business in relation to the bid advertisement? 				
<ul style="list-style-type: none"> Can the procurement lend itself to a firm fixed price contract and the selection of the successful bidder be made principally based on price? 				
<ul style="list-style-type: none"> Did you solicit bids from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids? 				
<ul style="list-style-type: none"> Was the invitation for bids publicly advertised? 				
<ul style="list-style-type: none"> Did the invitation for bids include any specifications and pertinent attachments, and define the items or services for the bidder to properly respond? 				
<ul style="list-style-type: none"> Did you publicly open all bids at the time and place prescribed in the invitation for bids? 				
<ul style="list-style-type: none"> Did you award a firm fixed price contract award in writing to the lowest responsive and responsible bidder? 				

² Micro-purchases are purchases below \$3,000, and may be awarded without soliciting competitive quotations if you consider the price to be reasonable.

³ Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that does not cost more than the Simplified Acquisition Threshold (i.e. \$150,000), or (2) whatever amount State or local procurement rules set as the small purchase threshold – if more restrictive than the federal threshold.

⁴ Sealed bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 3)
§200.320 Method of Procurement CONTINUED

Task	Yes	No	N/A	Notes
Sealed bids (continued)				
<ul style="list-style-type: none"> If any bids were rejected, was there a sound documented reason supporting the rejection? 				
3.2 Procurement by competitive proposals ⁵ If this method is used, the following requirements apply: § 200.320(d)				
<ul style="list-style-type: none"> Did you publicize the Requests for Proposals (RFPs) and identify all evaluation factors and their relative importance? 				
<ul style="list-style-type: none"> Did you solicit proposals from an adequate number of qualified sources? 				
<ul style="list-style-type: none"> Did you have a written method for conducting technical evaluations of the proposals received and for selecting recipients? 				
<ul style="list-style-type: none"> Did you award the contract to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered? 				
Note: You may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.				
3.3 Procurement by noncompetitive proposals ⁶ Do one or more of the following circumstances apply? § 200.320(f)				
Note: When only one bid is received in response to a competitive bid solicitation, you do not have price competition. If you decide to award on the basis of a single submitted bid price, without negotiation, you must: 1) justify the price is fair and reasonable; 2)compare the bid price to your own in-house estimate or engineers estimate and past prices paid for the same or substantially similar item(s) in the past; 3)obtain information from the marketplace; 4) obtain a complete cost breakdown; 5) perform a cost analysis of the proposed price and ; 6) document the rationale for the award decision and place in the procurement file.				
<ul style="list-style-type: none"> The item is available only from a single source. 				
<ul style="list-style-type: none"> The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. 				

GLO-CDR PROCUREMENT CHECKLIST

<ul style="list-style-type: none"> The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity. 				
<ul style="list-style-type: none"> After solicitation of several sources, competition is determined inadequate. 				

⁵ Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.

⁶ Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one (or an improperly limited number of) source(s).

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 4)

§200.321 Contracting with Small and Minority Businesses, Women’s Business enterprises, and Labor Surplus Area Firms.

Task	Yes	No	N/A	Notes
4.1 You must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises and labor surplus area firms are used when possible. § 200.321(a) Does your procurement include the following? § 200.321(b)				
<ul style="list-style-type: none"> Do you place qualified small and minority businesses and women’s business enterprises on solicitation lists? 				
<ul style="list-style-type: none"> Do you assure that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources? 				
<ul style="list-style-type: none"> Do you divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises? 				
<ul style="list-style-type: none"> Did you establish delivery schedules where the requirement permits, which encourages participation by small and minority businesses, and women’s business enterprises? 				
<ul style="list-style-type: none"> When appropriate, did you use the services and assistance of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce? 				
<ul style="list-style-type: none"> Do you require the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above? 				

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 5)
§200.323 Contract Cost and Price

Task	Yes	No	N/A	Notes
<p>5.1 Did you conduct a cost or price analysis about every procurement action more than the Simplified Acquisition Threshold including contract modifications? § 200.323(a)</p> <p>Note: You must perform a cost or price analysis relating to every procurement action more than the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis are dependent on the facts surrounding the procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable under Subpart E—Cost Principles. You may reference its own cost principles that comply with the Federal cost principles.</p>				
<p>5.2 Did you negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed? § 200.323(b)</p> <p>Note: You must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.</p>				

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 6)

§200.325 Bonding Requirements

Task	Yes	No	N/A	Notes
6.1 For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements provided that the Federal awarding agency or pass-through entity has decided that the Federal interest is adequately protected. If such a determination has not been made, does the procurement include the following?				
<ul style="list-style-type: none"> A bid guarantee⁷ from each bidder equivalent to five percent of the bid price? § 200.325(a) 				
<ul style="list-style-type: none"> A performance bond⁸ on the part of the contractor for 100 percent of the contract price? § 200.325(b) 				
<ul style="list-style-type: none"> A payment bond⁹ on the part of the contractor for 100 percent of the contract price? § 200.325(c) 				

⁷ The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

⁸ A performance bond is one executed relating to a contract to secure fulfillment of all the contractor's obligations under such contract.

⁹ A payment bond is one executed relating to a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 7)

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

7.1	<p>In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering Appendix II to Part 200. As stated previously in this document, to understand the requirements fully, please review the provisions of Appendix II to Part 200 in the Code of Federal Regulations.</p>
	<ul style="list-style-type: none"> • Contracts for more than the Simplified Acquisition Threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provided for such sanctions and penalties as appropriate.
	<ul style="list-style-type: none"> • Contracts more than \$10,000 must address termination for cause and for convenience by the non-Federal entity including how it will be affected and the basis for settlement.
	<ul style="list-style-type: none"> • Contracts that meet the definition of “federally assisted construction contract” must include the equal employment opportunity clause.
	<ul style="list-style-type: none"> • Construction contracts more than \$2,000 must include a provision for compliance with the Davis-Bacon Act.
	<ul style="list-style-type: none"> • Contracts more than \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 W.S.C 3702 and 3704.
	<ul style="list-style-type: none"> • Contracts entered into with a small business firm or nonprofit organization and the Federal award meets the definition of “funding agreement”, must comply with the requirements of 37 CFR Part 401.
	<ul style="list-style-type: none"> • Contracts more than \$150,000 must contain a provision that requires the non-Federal award to agree to comply with the Clean Air Act and the Federal Water Pollution Control Act.
	<ul style="list-style-type: none"> • Contracts must not be entered into with parties listed on the governmentwide exclusions in the System for Award Management (SAM).
	<ul style="list-style-type: none"> • Contractors that apply or bid for an award more than \$100,000 must file the required certification regarding the Byrd Anti-Lobbying Amendment.
	<ul style="list-style-type: none"> • Contracts must include provisions regarding section 6002 of the Solid Waste Disposal Act.
	<ul style="list-style-type: none"> • Contracts must include a Section 3 clause, if funded by the Department of Housing and Urban Development (HUD). The Section 3 program requires recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents about projects and activities in their neighborhoods.
	<ul style="list-style-type: none"> • Contractors must allow access to any books, documents, papers, or records of the project by the City, State, Federal agencies, and the Comptroller General of the United States. Records must be maintained for five years after the Grantee formally closes out each program.

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 30,2019	AGENDA ITEM:	BUS-C
DATE SUBMITTED:	July 26, 2019	DEPARTMENT:	Public Works/CIP
PREPARED BY:	Sharon Valiante/Public Works Director	PRESENTER:	Sharon Valiante/Brant Gary
SUBJECTS:	PROCLAMATION – FAIR HOUSING MONTH		
ATTACHMENTS:	1. Proclamation		
EXPENDITURE EXPECTED:			
FUNDING ACCOUNT:			
ADDITIONAL APPROPRIATION REQUIRED:			
FUNDING ACCOUNT:			

EXECUTIVE SUMMARY

The City of Fulshear received a notice from the Texas General Land Office (GLO) indicating a funding availability was awarded through the Fort Bend County Method of Distribution (MOD) for the City of Fulshear (City) in the amount of \$415,865.54 for any unmet needs resulting from the 2015/2016 Floods for the most impacted infrastructure. City Council supported the application for project eligibility with Resolution 2018-405. The City’s application was approved and is receiving a grant for the project design and construction - Site 1 Lea Drainage Improvements and Site 2 Penn Drainage Improvements.

Pertaining to receipt of Federal funding, a proclamation to promote Fair Housing with the City is necessary. Fair Housing Month is a National event that marks the anniversary of Title VIII of the Civil Rights Act of 1968, known as the Civil Rights Fair Housing Act.

RECOMMENDATION

Staff recommends Council approve the declaration of National Fair Housing Month by Proclamation.



PROCLAMATION DECLARING APRIL 2020 AS FAIR HOUSING MONTH

WHEREAS Title VIII of the Civil Rights Act of 1968, as amended, prohibits discrimination in housing and declares it a national policy to provide, within constitutional limits, for fair housing in the United States; and

WHEREAS The principle of Fair Housing is not only national law and national policy, but a fundamental human concept and entitlement for all Americans; and

WHEREAS The National Fair Housing Law, during the month of April, provides an opportunity for all Americans to recognize that complete success in the goal of equal housing opportunity can only be accomplished with the help and cooperation of all Americans.

NOW, THEREFORE, WE, the City of FULSHEAR, do proclaim APRIL 2020 as Fair Housing Month in FORT BEND County and do hereby urge all the citizens of this locality to become aware of and support the Fair Housing law.

Passed and adopted by City Council members, the City of FULSHEAR of FORT BEND County, State of Texas, on the 30 th day of JULY .2019.

Aaron Groff, Mayor

Attested by:

Kimberly Kopecky, City Secretary

Place City Seal Here

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 30,2019	AGENDA ITEM:	BUS-D
DATE SUBMITTED:	July 25, 2019	DEPARTMENT:	Public Works/CIP
PREPARED BY:	Sharon Valiante, Public Works Director	PRESENTER:	Sharon Valiante/ Brant Gary
SUBJECTS:	Resolution Accepting a General Land Office (GLO)_2015/2016 Flood Grant and Authorizing Mayor to Execute Contract via DocuSign		
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Resolution No. 2019-426 2. 2018 Application Cover Letter & Scope of Work 3. MOD showing distribution of recovery funds 4. Email – GLO; 6.20.2019 		
EXPENDITURE EXPECTED:	\$415,865.00		
AMOUNT AVAILABLE FROM GLO:	\$415,865.00		
FUNDING ACCOUNT:	TBD – Reimbursement from GLO		
ADDITIONAL APPROPRIATION REQUIRED:	Unknown		
FUNDING ACCOUNT:	TBD		

EXECUTIVE SUMMARY

The City of Fulshear received a notice from the Texas General Land Office (GLO) indicating a funding availability was awarded through the Fort Bend County Method of Distribution (MOD) for the City of Fulshear (City) in the amount of \$415,865.54 for any unmet needs resulting from the 2015/2016 Floods for the most impacted infrastructure. City Council supported the application for project eligibility with Resolution 2018-405.

Staff prepared a scope of work for an underserved drainage system in the several locations along Lea Ln, Penn Ln, Oak Ln and Terry Ln. The Project as listed in the application is: Site 1 Lea Drainage Improvements and Site 2 Penn Drainage Improvements. Staff were notified recently that the project has been approved for funding. A contract is being prepared for the Mayor’s signature and will arrive via DocuSign.

The Resolution 2019-426 will provide City Council support for the City to accept the grant funding to assist/fund the Drainage Improvement Project Site 1 Lea Drainage Improvements and Site 2 Penn Drainage Improvements and authorize the Mayor to execute the contract document via DocuSign.

RECOMMENDATION

Staff recommends Council approve the Resolution 2019-426 accepting the GLO 2015/2016 Floods Most Impacted Infrastructure Grant Funds in the amount of \$415,865.54 for the drainage project: Project Site 1 Lea Drainage Improvements and Site 2 Penn Drainage Improvements and to authorize the Mayor to execute the Contract with the GLO via DocuSign.



CITY OF FULSHEAR

PO Box 279 / 30603 FM 1093
Fulshear, Texas 77441
Phone: 281-346-1796 ~ Fax: 281-346-2556
www.fulsheartexas.gov

September 18, 2018

Ms. Heather Lagrone
Deputy Director
Community Development and Revitalization
Texas General Land Office
1700 North Congress Avenue
Austin, TX 78711-2873

Re: Application – 2016 Floods Most Impacte4d Infrastructure
DRs – 4266,4269 and/or 4272

Dear Ms. Lagrone:

We are excited to submit the City of Fulshear's 2016 Floods Most Impacted Infrastructure Application. We understand there is a \$415,865.54 award via the Fort Bend County MOD for the 2016 Floods for the City of Fulshear. We truly hope our application is sufficient to enable us to qualify and utilize the funding to provide some much-needed drainage improvements to a good part of our large acreage community that historically has seen flooding from other storm events as well.

Our project, Site 1 Lea Drainage Improvements and Site 2 Penn Drainage Improvements, we believe is a project that will benefit and provide resiliency to the area that has experienced flooding for many years.

We thank you for the opportunity to apply for the CDBG funding through the Texas General Land Office Grant Program.

Please do not hesitate to contact us if you have any questions or need additional information. Our contact is Ms. Sharon Valiante, Director of Public Works. Her contact information is 281-346-8814 or via email at svaliatne@fulsheartexas.gov.

Best Regards,



Jack Harper
City Manager

Lean and Penn CBGB Scope of Work

The following is a project description and scope of work for drainage improvements to the subdivision within the City of Fulshear City Limits just east of Bois D' Arc Road and generally served by the neighborhood roads Lean, Penn, Oak, and Terry herein referred to as Lea/Penn. This area is underserved with the current drainage system creating high water and increased risk of structural flooding during frequent rainfall events. In recent history, multiple storm events have caused structural flooding to occur mostly concentrated at the intersections of Oak/Penn and Terry/Penn. The undersized system creates high ponding levels even during normal rainfall events impacting mobility in the subdivision and increasing the risk of structural flooding.



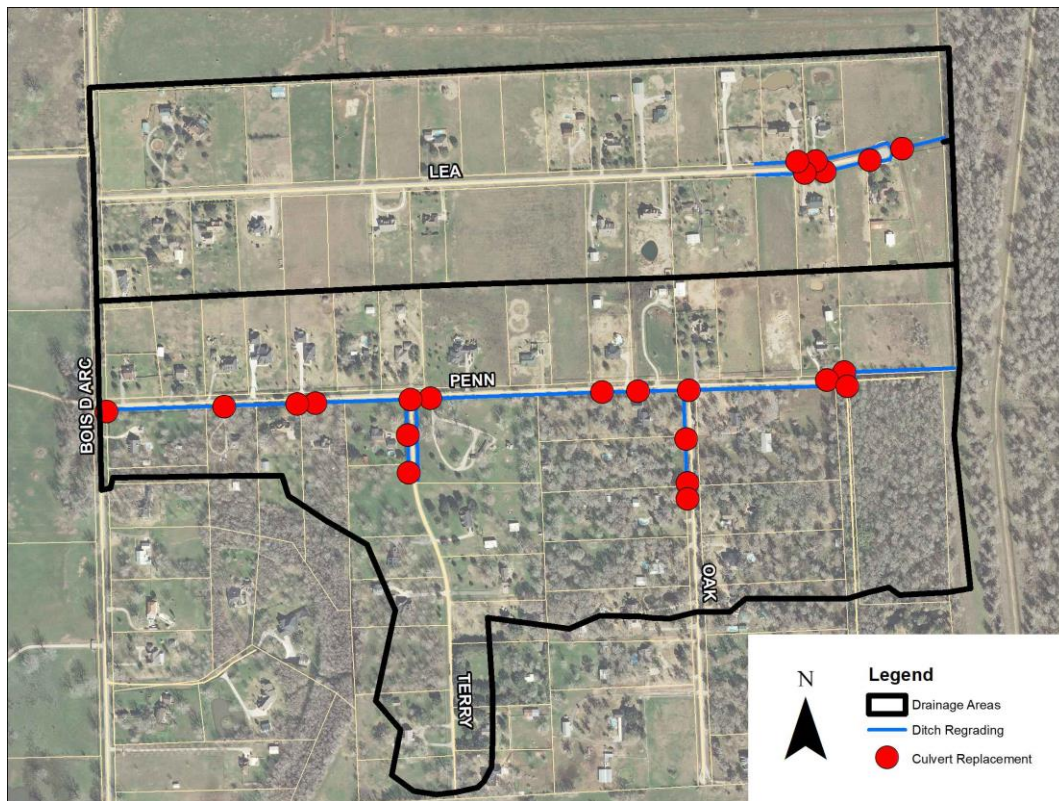
The existing drainage systems consist of roadside ditch drainage with driveway culverts of varying sizes that ultimately discharge into a tributary of Flewellen Creek. A review of the topography and existing roadside ditch drainage indicates that much of the roadside ditch system does not have positive

drainage. Overtime, siltation has occurred in the roadside ditch system reducing ditch capacity. Many of the culverts are undersized for the drainage area they serve. Due to the age of the system, many of the culverts have structural damage and siltation reducing the intended capacity of the driveway culverts.

To reduce the flooding levels within the neighborhood, the city reviewed potential roadside ditch improvement projects to regrade ditches to provide positive drainage and the replace driveway culverts with adequate sized culverts for the upstream drainage areas. The city undertook a Master Drainage Plan with initial improvement alternatives identified in that study to allow for planning of long-term drainage improvements. An inventory of the culvert sizes and locations was taken as part of that study. The attached Exhibit depicts the culvert sizes and lengths based on field verification by the engineer.

Scope of Work

Drainage improvements to both Lea and Penn streets are included in this grant application. These improvements include regrading and deepening of the roadside ditch system to meet the drainage requirements within the Fort Bend County Drainage Criteria Manual (version February 2011) for roadside ditch drainage systems. Driveway culverts that are impacted will be replaced with culverts sized to drain the design storm event for that culvert's upstream drainage area. Generally, final ditch depths will be limited to a maximum of 4-feet as measured at the right-of-way with special considerations by the city as needed. A preliminary review of the topography and right-of-way mapping indicates that all improvements can be performed within existing city right-of-way, but a review of potential right-of-way impacts will need to be evaluated. Additionally, construction easements may be required with adjacent property owners. A preliminary layout of the proposed improvements is included in the figure below.



Final construction plans will be developed and bid in accordance with the city’s procurement policy with accommodations for any requirements of the grant program. A preliminary construction cost estimate was prepared for the above improvements as shown in the Table below.

**Preliminary Cost Estimate
Lea/Penn Roadside Ditch Improvements**

Item	QTY	UNIT	UNIT PRICE	COST
1 Clearing/Stripping ROW	6	AC	\$2,600	\$14,862
2 Turf Establishment	6	AC	\$3,900	\$22,293
3 Roadside Ditch Regrading	8300	LF	\$13	\$107,900
4 Culvert Replacement (assume 36-inch RCP with SET)	26	EA	\$2,600	\$67,600
5 Driveway Replacement (assume 6-inch concrete, 20-ft width and 20-ft cut)	26	EA	\$4,550	\$118,300
6 Traffic Control	1	EA	\$19,500	\$19,500
7 Mobilization	1	EA	\$6,500	\$6,500
Sub-Total Construction Cost:				\$356,956
Engineering (12%):				\$42,835
Total Construction Cost:				\$399,790

Fort Bend County – Non-Housing Allocation

City, County or Housing Authority	First Distribution Factor: LMI Percentage			Second Distribution Factor: Damage Level					Entity Weighted Factor Total (EWFtot)	Weighted Factor Total (Wftot)	Proportional Weighted Factor (PWF) EWFtot/Wftot	Allocation for Formulaic Distribution (A)	Proportional Distribution PWF x A
	Maximum Factor Measure:	59.5500		Maximum Factor Measure: \$26,817,971.29		Factor Weight: 70							
	Factor Weight:	30		Factor Measure (FM)	Factor Measure Maximum (FMmax)	Weight (W)	Weighted Factor Wx(FM/FM max)						
	Factor Measure Maximum (FMmax)	Weight (W)	Weighted Factor Wx(FM/FM max)										
Fort Bend County	24.92	59.5500	30	13	\$26,817,971.29	\$26,817,971.29	70	70	83	327.227351	0.25228379	\$7,660,204.65	\$1,932,545.46
Arcola	54.55	59.5500	30	27	\$1,440.99	\$26,817,971.29	70	0.003761258	27	327.227351	0.083993192	\$7,660,204.65	\$643,405.04
Fulshear	34.36	59.5500	30	17	\$174,336.56	\$26,817,971.29	70	0.455051542	18	327.227351	0.05428909	\$7,660,204.65	\$415,865.54
Katy	33.17	59.5500	30	17	\$272,832.89	\$26,817,971.29	70	0.712145676	17	327.227351	0.053242717	\$7,660,204.65	\$407,850.11
Kendleton	59.55	59.5500	30	30	\$220.21	\$26,817,971.29	70	0.00057479	30	327.227351	0.091681135	\$7,660,204.65	\$702,296.25
Missouri City	24.79	59.5500	30	12	\$134,090.70	\$26,817,971.29	70	0.350002202	13	327.227351	0.039234701	\$7,660,204.65	\$300,545.84
Richmond	57.49	59.5500	30	29	\$1,419,602.03	\$26,817,971.29	70	3.705430997	33	327.227351	0.099831654	\$7,660,204.65	\$764,730.90
Rosenberg	49.66	59.5500	30	25	\$2,076,448.81	\$26,817,971.29	70	5.419925882	30	327.227351	0.093016547	\$7,660,204.65	\$712,525.78
Simonton	21.37	59.5500	30	11	\$7,508,293.38	\$26,817,971.29	70	19.59807216	30	327.227351	0.09279119	\$7,660,204.65	\$710,799.50
Stafford	35.3	59.5500	30	18	\$6,372.87	\$26,817,971.29	70	0.016634401	18	327.227351	0.054396461	\$7,660,204.65	\$416,688.02
Sugar Land	17.29	59.5500	30	9	\$839,622.02	\$26,817,971.29	70	2.191572985	11	327.227351	0.033315982	\$7,660,204.65	\$255,207.24
Thompsons	31.25	59.5500	30	16	\$478,022.95	\$26,817,971.29	70	1.247730715	17	327.227351	0.051923544	\$7,660,204.65	\$397,744.97
									327.227351		1.00		\$7,660,204.65

Key

LMI

Percentage

Damage

Level

Low to Moderate Income - Percentage of Jurisdictional Population that is considered Low to Moderate Income according to HUD

FEMA Public Assistance + FEMA Verified Loss + FEMA Individual Assistance (Housing Assistance and Other Needs Assistance) + Small Business Administration (SBA) Loan Amounts

From: Suzanne Nelson <suzanne.nelson.glo@recovery.texas.gov>
Sent: Thursday, June 20, 2019 9:30 AM
To: Sharon Valiante
Cc: Ann Linthicum; Esmeralda Sanchez
Subject: RE: City of Fulshear

Thank you Sharon. This will finalize the City of Fulshear's application and we will proceed to the next step. Your Grant Manager is Ann Linthicum, who has been copied on this email stream. She will assisting the City with this grant once the contract is executed.

Suzanne

**AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS**

AGENDA OF:	July 30,2019	AGENDA ITEM:	BUS-E
DATE SUBMITTED:	July 26, 2019	DEPARTMENT:	Public Works/CIP
PREPARED BY:	Sharon Valiante/Public Works Director	PRESENTER:	Sharon Valiante/Brant Gary
SUBJECTS:	RESOLUTION 2019-427, DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY PROGRAM (CDBG-DR) CONTRACT		
ATTACHMENTS:	1. Resolution No. 2019-427		
EXPENDITURE EXPECTED:	N/A		
FUNDING ACCOUNT:			
ADDITIONAL APPROPRIATION REQUIRED:			
FUNDING ACCOUNT:			

EXECUTIVE SUMMARY

The City of Fulshear received a notice from the Texas General Land Office (GLO) indicating a funding availability was awarded through the Fort Bend County Method of Distribution (MOD) for the City of Fulshear (City) in the amount of \$415,865.54 for any unmet needs resulting from the 2015/2016 Floods for the most impacted infrastructure. City Council supported the application for project eligibility with Resolution 2018-405. The City’s application was approved and is receiving a grant for the project design and construction - Site 1 Lea Drainage Improvements and Site 2 Penn Drainage Improvements.

Pertaining to receipt of Federal Funds, it is necessary for several documents to be signed on behalf of the City as the project proceeds. The Resolution 2019-427 designates authorized signatories for contractual documents and documents for funding requests pertaining to the Community Development Block Grant - Disaster Recovery Program Contract.

RECOMMENDATION

Staff recommends Council approve the **Resolution 2019-427** that designates authorized signatories for contractual documents and documents for funding requests pertaining to the Community Development Block Grant -Disaster Recovery Program Contract.

RESOLUTION NO. 2019-427

A RESOLUTION BY THE CITY COUNCIL OF CITY OF FULSHEAR, TEXAS, DESIGNATING AUTHORIZED SIGNATORIES FOR CONTRACTUAL DOCUMENTS AND DOCUMENTS FOR REQUESTING FUNDS PERTAINING TO THE COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RECOVERY PROGRAM (CDBG-DR).

WHEREAS, the City of Fulshear has received a 2016 Flood Allocation Community Development Block Grant - Disaster Recovery program award to provide Flood and Drainage Facilities; and

WHEREAS, it is necessary to appoint persons to execute contractual documents and documents requesting funds from the Texas General Land Office and;

WHEREAS, an original signed copy of the CDBG-DR Depository/Authorized Signatories Designation Form is to be submitted with a copy of this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

SECTION 1: That the Mayor, the City Manager, the Assistant City Manager, the Public Works Director are authorized to execute contractual documents between the Texas General Land Office and the City for the 2016 Flood Allocation Community Development Block Grant Disaster Recovery Program.

SECTION 2: That the Mayor, the City Manager, the Assistant City Manager, the Public Works Director, the Finance Director, and the City Secretary are authorized to execute the State of Texas Purchase Voucher and Request for Payment Form documents required for requesting funds approved in the 2016 Flood Allocation Community Development Block Grant Disaster Recovery Program.

PASSED, APPROVED, and ADOPTED on the 30th day of July 2019.

Aaron Groff, Mayor

ATTEST:

Kimberly Kopecky, City Secretary

AGENDA MEMO
BUSINESS OF THE CITY COUNCIL
CITY OF FULSHEAR, TEXAS

AGENDA OF:	July 30, 2019	AGENDA ITEM:	BUS- F
DATE SUBMITTED:	July 26, 2019	DEPARTMENT:	Administration
PREPARED BY:	Brant Gary, Assistant City Manager	PRESENTER:	Brant Gary, Assistant City Manager
	Kimberly Kopecky, City Secretary		
SUBJECT: DISCUSSION OF AND ACTION ON RATIFYING THE CORRECTION OF A MISPRINT ON THE AMENDMENTS TO THE UTILITY AGREEMENTS ADOPTED ON JULY 16, 2019, SPECIFICALLY:			
<p>(a) FOURTH AMENDMENT TO UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 169,</p> <p>(b) THIRD AMENDMENT TO UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 170,</p> <p>(c) FOURTH AMENDMENT TO UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 171,</p> <p>(d) THIRD AMENDMENT TO UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 172,</p> <p>(e) THIRD AMENDMENT TO UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO 173, AND</p> <p>(f) FIRST AMENDMENT TO UTILITY AGREEMENT BETWEEN THE CITY OF FULSHEAR AND FULSHEAR MUNICIPAL UTILITY DISTRICT NO. 1 OF FORT BEND COUNTY, TEXAS</p>			
ATTACHMENTS: Sample Corrected Utility Agreement Page 2			
EXPENDITURE REQUIRED:	N/A		
AMOUNT BUDGETED:	N/A		
ACCOUNT NO.:	N/A		
ADDITIONAL APPROPRIATION REQUIRED:	N/A		
ACCOUNT NO.:	N/A		

EXECUTIVE SUMMARY

After the approval by Council of the amendments to the various Utility and Development Agreements it was discovered that there was a minor error in the chart on page 2 of the documents that could be interpreted that no annual payment calculation would be due if the tax rate dropped below \$.16 cents. After consultations between the City Attorney and the MUD attorneys, it was decided to have the MUDs approve the corrected amendments which has the corrected chart on page two. We are asking that the Council ratify the change as shown on page two of the attachment. For reference, that chart is also copied below:

City Ad Valorem Tax Rate Per \$100 of Assessed Value	Percentage
\$.162510 -- \$0.219999 <u>or less</u>	.062510%
\$0.22 -- \$0.239999	.07%
\$0.24 -- \$0.259999	.08%
\$0.26 -- \$0.279999	.09%
\$0.28 -- \$0.299999	.10%
\$ 0.30 or higher	.11%

RECOMMENDATION

City Staff recommends the City Council approve the ratification as presented.

Percentage shall initially mean 0.062510% and shall be revised as described below:

In the event that the City’s ad valorem tax is equal to or greater than \$0.22 per \$100 of assessed value but less than \$0.24 per \$100 of assessed value, then the Percentage shall be 0.07%.

In the event that the City’s ad valorem tax is equal to or greater than \$0.24 per \$100 of assessed value but less than \$0.26 per \$100 of assessed value, then the Percentage shall be 0.08%.

In the event that the City’s ad valorem tax is equal to or greater than \$0.26 per \$100 of assessed value but less than \$0.28 per \$100 of assessed value, then the Percentage shall be 0.09%.

In the event that the City’s ad valorem tax is equal to or greater than \$0.28 per \$100 of assessed value but less than \$0.30 per \$100 of assessed value, then the Percentage shall be 0.10%.

In the event that the City’s ad valorem tax is equal to or greater than \$0.30 per \$100 of assessed value, then the Percentage shall be 0.11%.¹

Taxable Value means the taxable assessed value for all property within the District on the City’s tax rolls. The term “Taxable Value” does not include the value for property that is exempt from ad valorem taxation (for example, schools owned by Katy Independent School District or Lamar Consolidated Independent School District or certain property of charitable organizations or religious organizations).

Utility Agreement means that certain Utility Agreement entered into by the City and District dated November 11, 2009, as amended by a First Amendment dated January 18, 2011, and a Second Amendment dated August 1, 2016.

¹ The definition of “Percentage” is reflected in chart form below:

City Ad Valorem Tax Rate Per \$100 of Assessed Value	Percentage
-\$0.162510 -- \$0.219999 or less	.062510%
\$0.22 -- \$0.239999	.07%
\$0.24 -- \$0.259999	.08%
\$0.26 -- \$0.279999	.09%
\$0.28 -- \$0.299999	.10%
\$ 0.30 or higher	.11%