



CITY OF FULSHEAR

“FIND YOUR FUTURE IN FULSHEAR”

30603 FM 1093 WEST/ PO Box 279 ~ FULSHEAR, TEXAS 77441

PHONE: 281-346-1796 ~ FAX: 281-346-2556

www.FulshearTexas.gov

CITY COUNCIL:

MAYOR: Aaron Groff

MAYOR PRO-TEM: Debra Cates

COUNCIL MEMBER: Kent Pool

COUNCIL MEMBER: John Kelly

COUNCIL MEMBER: Kaye Kahlich

COUNCIL MEMBER: Lisa Martin

COUNCIL MEMBER: Joel
Patterson

COUNCIL MEMBER: Sarah B.
Johnson

STAFF:

CITY MANAGER: Jack Harper

CITY SECRETARY: Kimberly
Kopecky

CITY ATTORNEY: J. Grady Randle

SPECIAL CITY COUNCIL MEETING

May 3, 2022

NOTICE IS HEREBY GIVEN OF A SPECIAL CITY COUNCIL MEETING OF THE CITY OF FULSHEAR TO BE HELD ON **Tuesday, May 3, 2022 AT 6:00 PM** IN IRENE STERN COMMUNITY CENTER, 6920 KATY FULSHEAR ROAD, FULSHEAR, TEXAS FOR CONSIDERING THE FOLLOWING ITEMS. THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY MATTERS LISTED ON THE AGENDA, AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE, INCLUDING, BUT NOT LIMITED TO, SECTIONS 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATIONS ABOUT REAL PROPERTY), 551.073 (DELIBERATIONS ABOUT GIFTS AND DONATIONS), 551.074 (PERSONNEL MATTERS), 551.076 (DELIBERATIONS ABOUT SECURITY DEVICES), 551.087 (ECONOMIC DEVELOPMENT), 418.175.183 (DELIBERATIONS ABOUT HOMELAND SECURITY ISSUES) AND AS AUTHORIZED BY THE TEXAS TAX CODE, INCLUDING, BUT NOT LIMITED TO, SECTION 321.3022 (SALES TAX INFORMATION).

Incidental Meeting Notice: A quorum of the City of Fulshear City Council, Planning and Zoning Commission, City of Fulshear Development Corporation (Type A), Fulshear Development Corporation (Type B), Parks and Recreation Commission, Historic Preservation and Museum Commission, Zoning Board of Adjustment, Charter Review Commission, or any or all of these, may be in attendance at the meeting specified in the foregoing notice, which attendance may constitute a meeting of such governmental body or bodies as defined by the Texas Open Meetings Act, Chapter

551, Texas Government Code. Therefore, in addition to the foregoing notice, notice is hereby given of a meeting of each of the above-named governmental bodies, the date, hour, place, and subject of which is the same as specified in the foregoing notice.

Notice Pertaining to Social Distancing Requirements: In accordance with the Texas Open Meetings Act, Chapter 551, Government Code, this meeting shall be open to the public, except as provided by said Act. However, any members of the public who attend the meeting are individually responsible for complying with any applicable proclamation or order issued by the governor or any local official which may be in effect at the time of the meeting, including but not limited to any restrictions which may require such members of the public to implement social distancing, to minimize social gatherings, or to minimize in-person contact with people who are not in the same household.

I. CALL TO ORDER

II. QUORUM AND ROLL CALL

III. CITIZEN'S COMMENTS

THIS IS AN OPPORTUNITY FOR CITIZENS TO SPEAK TO COUNCIL RELATING TO AGENDA AND NON-AGENDA ITEMS. SPEAKERS ARE ADVISED THAT COMMENTS CANNOT BE RECEIVED ON MATTERS WHICH ARE THE SUBJECT OF A PUBLIC HEARING ONCE THE HEARING HAS BEEN CLOSED. SPEAKERS ARE REQUIRED TO REGISTER IN ADVANCE AND MUST LIMIT THEIR COMMENTS TO THREE (3) MINUTES.

IV. BUSINESS

A. CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 2022-548 REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD TO FINANCE IMPROVEMENTS TO THE CITY'S TREATED WATER SYSTEM, AUTHORIZING THE FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

V. ADJOURNMENT

NOTE: IN COMPLIANCE WITH THE AMERICAN WITH DISABILITIES ACT, THIS FACILITY IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICE MUST BE MADE AT LEAST 48 BUSINESS HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT 281-346-1796 FOR FURTHER INFORMATION.

I, KIMBERLY KOPECKY, CITY SECRETARY OF THE CITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF MEETING AND AGENDA FOR THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS WAS POSTED ON FRIDAY, APRIL 29, 2022 BY 3:00 P.M. IN PLACE CONVENIENT AND READILY ACCESSIBLE AT ALL TIMES TO THE GENERAL PUBLIC, IN COMPLIANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

KIMBERLY KOPECKY, CITY SECRETARY

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

AGENDA OF: 5/3/2022 **ITEMS:** IV.A.
DATE 3/30/2022 **DEPARTMENT:** Public Works
SUBMITTED:
PREPARED BY: Sharon Valiante, Public Works **PRESENTER:** Sharon Valiante, Public Works
Director Director

SUBJECT: CONSIDERATION AND POSSIBLE ACTION TO APPROVE RESOLUTION NO. 2022-548 REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD TO FINANCE IMPROVEMENTS TO THE CITY'S TREATED WATER SYSTEM, AUTHORIZING THE FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

Expenditure Required: Estimated at \$14.5M

Amount Budgeted: Proposed Via Bond = \$14.5M

Funding Account: W21B New Water Plant No. 2 Acct No: 501-000-5701-01

Additional Appropriation Required:

Funding Account:

EXECUTIVE SUMMARY

The City adopted the current Water and Wastewater Master Plan (the "Plan") in September 2021. The Plan set out the infrastructure improvements necessary to meet the project growth and demands for water and wastewater. One of the projects determined as an urgent need to plan, design and construct is Water Plant # 2 (the "Project"). The Project consists of a new water well, ground storage facilities, and booster pumps with related appurtenances. The Project is estimated to cost \$14.5M.

In January 2022, an abridged application was submitted to the Texas Water Development Board (TWDB), with the desire to present this project for consideration in the TWDB's State Water Implementation Fund for Texas (SWIFT Program). The SWIFT Program, created pursuant to Subchapter G of Chapter 15, Texas Water Code, is a financial assistant program that provides affordable, ongoing state financial assistance in the form of low interest loans for projects in the state water plan and helps communities develop cost-effective repayment terms.

The City received a notification letter from the TWDB with an invitation to submit a complete application for financial assistance through the SWIFT Program in April 2022 with a deadline for submittal of May 11, 2022. Although the invitation for the project cost consideration originally submitted by the abridged application reflects \$13,255,000, the Project is currently estimated at \$14.5M, taking into account the rapidly fluctuating change in material costs (supply chain issues).

The request for financial assistance requires a Resolution adopted by City Council in support of the request, designating authorized Representatives of the City, and approval of the Professionals: Financial Advisor, Bond Counsel, and the Engineer, that will be completing the application for submittal.

Resolution 2022-548 is presented for consideration and adoption.

RECOMMENDATION

City Council approve and adopt Resolution 2022-548, requesting financial assistance from the Texas Water Development Board to finance Improvements to the City's Treated Water System; authorizing the filing of an application for financial assistance; and making certain findings in connection therewith

ATTACHMENTS:

Description	Upload Date	Type
Resolution 2022-548 SWIFT App	4/29/2022	Resolution
Affidavit of Financial Assistance	4/27/2022	Backup Material
SWIFT Invitation Letter	4/27/2022	Backup Material
SWIFT Financial Assistance Program at a Glance	4/27/2022	Backup Material

RESOLUTION NO. 2022-548

RESOLUTION 2022-548 REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD TO FINANCE IMPROVEMENTS TO THE CITY'S TREATED WATER SYSTEM; AUTHORIZING THE FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

THE STATE OF TEXAS
COUNTY OF FORT BEND
CITY OF FULSHEAR

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WHEREAS, the **CITY OF FULSHEAR, TEXAS** (the "*City*") is a home-rule municipality operating pursuant to the Constitution and laws of the State of Texas and its Home Rule Charter initially approved by the voters of the City on May 7, 2016; and

WHEREAS, the City owns and operates a treated water and wastewater utility system; and

WHEREAS, the City Council of the City hereby finds and determines that there is an urgent need to plan, design, acquire, construct, and equip improvements to the City's treated water system, including but not limited to a new water well, ground storage facilities, and booster pumps (the "*Project*"); and

WHEREAS, the City Council has further determined that it is necessary to request financial assistance from the Texas Water Development Board through the *State Water Implementation Revenue Fund for Texas* created pursuant to Subchapter G of Chapter 15, Texas Water Code (and more commonly known as the "*SWIFT Program*") in the amount not to exceed \$14,500,000 to finance the costs to plan, design, acquire, construct, and equip the Project and to finance costs of issuance and other related costs; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code;

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

SECTION 1. REQUEST FOR FINANCIAL ASSISTANCE; APPROVAL OF APPLICATION. The Texas Water Development Board is hereby requested to grant financial assistance, through its SWIFT Program, in an amount not to exceed \$14,500,000.00 to provide funds to pay all or a portion of the costs to plan, design, acquire, construct, and equip the Project and to finance costs of issuance and other related costs, all as further described in the application for financial assistance related to the Project (the "*Application*").

SECTION 2. AUTHORIZED REPRESENTATIVES OF THE CITY. The City Manager, the Public Works Director, the Utilities Manager, and the Finance Director of the City are hereby designated as authorized representatives of the City for purposes of furnishing such information and executing such documents as may be required in connection with the preparation and filing of the Application for financial assistance and the rules of the Texas Water Development Board. The City Manager, the Public Works Director, the Utilities Manager, and the Finance Director of the City, together with bond counsel, financial advisor, and consulting engineers named in Section 3 below, are hereby authorized to appear before the Texas Water Development Board in support of the Application and the Project. The City Manager, the Public Works Director, the Utilities Manager, and the Finance Director of the City are each further specifically authorized, individually or collectively, to make the required assurances to the Texas Water Development Board in accordance with the rules, regulations, and policies of the Texas Water Development Board.

SECTION 3. APPROVAL OF PROFESSIONALS. The following firms and individuals are hereby authorized and directed to aid and assist in the preparation and submission of the Application and appear on behalf of and represent the City before any hearing held by the Texas Water Development Board on the Application, to-wit:

Financial Advisor	Bond Counsel
<p>Robert V. Henderson Robert D. ("Dusty") Traylor RBC Capital Markets, LLC 303 Pearl Parkway, Suite 220 San Antonio, Texas 78215</p>	<p>Thomas K. Spurgeon McCall, Parkhurst & Horton L.L.P. 112 E. Pecan Street, Suite 1310 San Antonio, Texas 78205 and Nikki P. Hill McCall, Parkhurst & Horton L.L.P. 1200 Smith Street, Suite 1550 Houston, Texas 77002_____</p>

Engineer
<p>Amanda Englert Mark Evans Hailey Mueller Lavigne Richard Weatherly Freese and Nichols 1251 Sadler Drive Building One, Suite 1150 San Marcos, Texas 78666</p>

SECTION 4. INCLUSION OF RESOLUTION. A certified copy of this Resolution shall be included with the Application herein authorized to be prepared in final form and submitted to the Texas Water Development Board.

SECTION 5. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and City Council hereby incorporates such recitals as a part of this Resolution.

SECTION 6. EFFECTIVE DATE. This Resolution shall become effective immediately after its adoption.

[The remainder of this page intentionally left blank]

***PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
FULSHEAR, TEXAS DURING A SPECIAL MEETING HELD ON MAY 3, 2022.***

CITY OF FULSHEAR, TEXAS

Mayor

ATTEST:

City Secretary

(SEAL)

Execution Page to the Resolution Requesting Financial Assistance
from the Texas Water Development Board
to Finance Improvements to the City's Treated Water System

CERTIFICATE FOR RESOLUTION

**THE STATE OF TEXAS
COUNTY OF FORT BEND
CITY OF FULSHEAR**

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I, the undersigned City Secretary of the **CITY OF FULSHEAR, TEXAS** (the "**City**"), hereby certify as follows:

The City Council of the City (the "**City Council** ") convened in Special Meeting on May 3, 2022, at the designated meeting place (the "**Meeting**"), and the roll was called of the duly constituted officers and members of the City Council, to-wit:

Aaron, Groff, Mayor	Joel M. Patterson, District 4
Sarah B. Johnson, District 1	Kaye Kahlich, District 5
Debra Cates, District 2 and Mayor Pro-Tem	Kent Pool, At-Large Position 1
Lisa Kettler Martin, District 3	John Kelly, At-Large Position 2

and all of said persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at the Meeting: a written

RESOLUTION NO. 2022-548 REQUESTING FINANCIAL ASSISTANCE FROM THE TEXASWATER DEVELOPMENT BOARD TO FINANCE IMPROVEMENTS TO THE CITY'S TREATED WATER SYSTEM; AUTHORIZING THE FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

(the "**Resolution**") was duly read. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, said motion, carrying with it the adoption of the Resolution, prevailed and carried by the following vote:

AYES: _____ NOES: _____ ABSTENTIONS: _____

2. A true, full, and correct copy of the Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; the Resolution has been duly recorded in the City Council's minutes of the Meeting; the above and foregoing paragraph is a true, full, and correct excerpt from the City Council's minutes of the Meeting pertaining to the adoption of the Resolution; the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of the City Council as indicated therein; each of the officers and members of the City Council was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting, and that the Resolution would be introduced and considered for adoption at the Meeting; and the Meeting was open to the public, and public notice of the time, place, and purpose of the Meeting was given, all as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED the 3rd day of May, 2022.

(Seal)

City Secretary
City of Fulshear, Texas

Signature Page to the Certificate for Resolution Relating to the
Resolution Requesting Financial Assistance from the Texas Water Development Board
to Finance Improvements to the City's Treated Water System

AFFIDAVIT

STATE OF TEXAS
COUNTY OF FORT BEND
CITY OF FULSHEAR

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Before me, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Jack Harper, as the City Manager of the **CITY OF FULSHEAR, TEXAS** (the "*City*"), who being by me duly sworn, upon oath says that:

1. This Affidavit is given in connection with the submission by the City to the **TEXAS WATER DEVELOPMENT BOARD** (the "*Board*") of an *Application for Financial Assistance*, dated as of May __, 2022 (the "*Application*"), to finance costs to plan, design, acquire, construct, and equip improvements to the City's treated water system, which is further described in the Application.
2. The decision by the City Council of the City to request financial assistance from the Board was made in a public meeting held in accordance with the Open Meetings Act (Texas Government Code, §551.001, et seq.) and after providing all such notice as required by such Act as is applicable to the City.
3. The information submitted in the Application is true and correct according to my best knowledge and belief.
4. The City has no pending, threatened, or outstanding judgments, orders, fines, penalties, taxes, assessments or other enforcement or compliance issue of any kind or nature by the Environmental Protection Agency, the Texas Commission on Environmental Quality, the Texas Comptroller, the Texas Secretary of State, or any other federal, state, or local government, except for the following:

5. The City warrants compliance with the representations made in the Application in the event the Board provides the financial assistance.
6. The City will comply with all applicable federal laws, rules, and regulations as well as the laws of the State of Texas and the rules and regulations of the Board.

Jack Harper
City Manager
City of Fulshear, Texas

SWORN TO AND SUBSCRIBED BEFORE ME by Jack Harper this ____ day of May, 2022.

Notary Public

Typed Name _____

My commission expires: _____, 20____.

April 11, 2022

Ms. Sharon Valiante
Public Works Director
City of Fulshear
29255 FM1093 Rd #12A
Fulshear, TX 77441
svaliante@fulsheartexas.gov

Re: City of Fulshear
SWIFT PIF #14199 – Water Plant No. 2 Expansion
State Water Implementation Fund for Texas – Invitation to Apply

Dear Ms. Valiante:

Thank you for submitting an abridged application for financial assistance through the State Water Implementation Fund for Texas (SWIFT) program on behalf of the City of Fulshear. The abridged applications received for the current funding cycle have been prioritized according to the criteria outlined in 31 TAC §363.1304, and the Texas Water Development Board approved the prioritization on April 11, 2022.

We are pleased to extend the City of Fulshear an invitation to submit a complete application for financial assistance through the SWIFT program. All applicants have 30 days to submit their applications. **The deadline for receipt of the complete application is 5:00pm, Central Daylight Time, on Wednesday, May 11, 2022.** The invited amount and type of SWIFT funding eligible to be included in the application is summarized below. This prioritization approval does not constitute a funding commitment, but indicates that the SWIFT program is estimated to have sufficient capacity for the project, contingent on the financial and technical review of the complete application.

Invitation Amount and Type of Funding:

- Total: \$13,255,000 Low-Interest Loan
- 2022: \$13,255,000

Applications may be submitted through our online loan application system or as traditional hard copies. To download application documents or access the online system, please visit our [Financial Assistance Application web page](#).

[Our Mission](#)

Leading the state's efforts in ensuring a secure water future for Texas and its citizens

[Board Members](#)

Brooke T. Paup, Chairwoman | Kathleen Jackson, Board Member

Jeff Walker, Executive Administrator

SWIFT Application Invitation Letter

April 11, 2022

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In accordance with Texas Water Code §16.0121, water systems are required to provide regular water loss audits to the TWDB, which are used to calculate a Water Loss Threshold for each system. The next annual water loss audits are due to the TWDB on May 1, 2022 and these will be used as part of the SWIFT application evaluation. Please visit our [Water Loss Audit Resources](#) web page for more information.

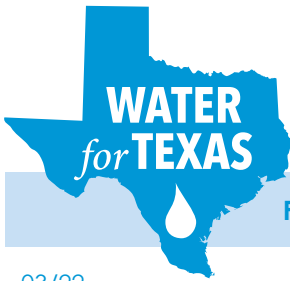
Please direct any questions or concerns regarding the application, commitment process, and closing processes to Nancy Richards, Manager, Regional Project Team 4. Please contact Nancy to discuss your project in greater detail and to schedule a pre-application meeting if you have not already done so. If approved, Nancy's team will work with you throughout the life of your project and may be reached at nancy.richards@twdb.texas.gov or (512) 463-0250.

We look forward to working with the City of Fulshear on the next steps toward implementing this important project. Thank you again for your interest in the SWIFT program.

Sincerely,

Jessica Peña
Deputy Executive Administrator
Texas Water Development Board

Cc: Nancy Richards, Manager, Regional Project Team 4



State Water Implementation Fund for Texas (SWIFT)*

The State Water Implementation Fund for Texas (SWIFT) was created by the Texas Legislature to provide affordable, ongoing state financial assistance for projects in the state water plan. The program helps communities develop cost-effective water

supplies by providing low-interest loans, extended repayment terms, deferral of loan repayments, and incremental repurchase terms. Through fiscal year 2021, SWIFT has committed approximately \$9.2 billion for projects across Texas.

Eligible Applicants

- Any political subdivision or nonprofit water supply corporation with a project included in the most recently adopted state water plan

Eligible Projects

- Recommended water management strategy projects with an associated capital cost in the most recently adopted state water plan at the time abridged applications are due to the TWDB for consideration
- Projects include conservation and reuse, desalinating groundwater and seawater, building new pipelines, developing reservoirs and well fields, and purchasing water rights, as well as numerous other strategies

Benefits and Terms

- Base interest rates reflect the TWDB's low cost of funds (additional subsidies may apply and are set by the Board for each funding cycle)
- Up to 30-year repayment period
- Flexible financing structures:
 - **Low-interest Loans**
 - **Deferred Loans** - Principal and interest deferred up to eight years or until end of construction (for planning and design phase costs), whichever is sooner
 - **Board Participation** - A temporary TWDB ownership interest in the excess capacity of a state water plan project, providing an entity the opportunity to reasonably finance an optimally sized regional facility. The TWDB may participate in up to 80% of the total project costs.
- Additional interest rate subsidies for rural or agricultural water conservation/irrigation projects
- No maximum funding limit
- Multi-year commitments

Program Requirements

- Projects must be recommended water management strategies in the adopted regional water plans that are included in the most recently adopted state water plan at the time abridged applications are due to the TWDB for consideration and have an associated capital cost
- State-level environmental review
- Completion of an Infrastructure Financing Survey
- Adoption of a water conservation and drought contingency plan (for entities receiving assistance greater than \$500,000)
- Financing agreement and private placement memorandum
- Historically Underutilized Business (HUB) reporting
- U.S. Iron and Steel requirements (except for projects that received a SWIFT program funding commitment before May 1, 2019, for any portion of the project)
- Reservoir funding must be segmented or phased; permitting is required prior to a construction commitment
- Board Participation is limited to funding of excess capacity portion and up to 80% of total project costs
- Review of legislative requirements regarding water loss threshold limits

For specific questions on the program, please contact SWIFT@twdb.texas.gov. Detailed information on the program is also available at www.twdb.texas.gov/financial/programs/SWIFT.

* The SWIFT program includes two funds, the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas (SWIRFT). Bonds for the program are issued through SWIRFT.