



6611 W. Cross Creek Bend Lane, PO Box 279  
Fulshear, Texas 77441  
Phone: 281-346-1796 ~ Fax: 281-346-2556  
[www.FulshearTexas.gov](http://www.FulshearTexas.gov)

**CITY COUNCIL:**

**MAYOR:** Aaron Groff      **MAYOR PRO-TEM:** Joel Patterson      **COUNCIL MEMBER:** Kent Pool  
**COUNCIL MEMBER:** Jason Knape      **COUNCIL MEMBER:** Abhijeet Utturkar      **COUNCIL MEMBER:** Debra Cates  
**COUNCIL MEMBER:** Sarah B. Johnson

**STAFF:**

**CITY MANAGER:** Jack Harper      **CITY SECRETARY:** Mariela Rodriguez      **CITY ATTORNEY:** Byron Brown

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**SPECIAL CITY COUNCIL MEETING**

**November 28, 2023**

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NOTICE IS HEREBY GIVEN OF A SPECIAL CITY COUNCIL MEETING OF THE CITY OF FULSHEAR TO BE HELD ON **Tuesday, November 28, 2023 AT 5:30 PM** IN THE CITY OF FULSHEAR MUNICIPAL COMPLEX, 6611 W. CROSS CREEK BEND LANE, FULSHEAR, TX 77441 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 A STREET DEDICATION, UTILITY CONVEYANCE AND SECURITY AGREEMENT FOR PECAN RIDGE, SECTION 7 AND PECAN KNOLL DRIVE ,STREET DEDICATION, SECTION 1- PHASE 2 FROM FBMUD NO.175**

**B. CONSIDERATION AND POSSIBLE ACTION TO APPROVE OFFER #2024-009 CONSTRUCTION OF WATER PLANT NO. 2**

**V. EXECUTIVE SESSION**

**A. EXECUTIVE SESSION – CLOSED SESSION IN ACCORDANCE WITH SECTION 551.071 OF THE TEXAS OPEN MEETINGS ACT (CHAPTER 551, GOVERNMENT CODE), CONSULTATION WITH ATTORNEY. A GOVERNMENTAL BODY MAY NOT CONDUCT A PRIVATE CONSULTATION WITH ITS ATTORNEY EXCEPT: (1) WHEN THE GOVERNMENTAL BODY SEEKS THE ADVICE OF ITS ATTORNEY ABOUT: (A) PENDING OR CONTEMPLATED LITIGATION; OR (B) A SETTLEMENT OFFER; OR (2) ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH CHAPTER 551, GOVERNMENT CODE**

- **EEOC CHARGE**

**VI. ACTION FROM EXECUTIVE SESSION**

**VII. 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, MARIELA RODRIGUEZ, 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 IN PLACE CONVENIENT AND READILY ACCESSIBLE AT ALL TIMES TO THE GENERAL PUBLIC, IN COMPLIANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

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MARIELA RODRIGUEZ, CITY SECRETARY



The City Engineer has reviewed the project for completion and compliance. The City Engineer has no objections to the acceptance and conveyance as presented. The infrastructure will have a two-year maintenance period upon acceptance by City Council.

**RECOMMENDATION**

Staff recommends council accept the infrastructure constructed and completed for the District and authorize the Mayor to execute the following:

1. Street Acceptance for Pecan Ridge, Section 7, and Pecan Knoll Drive-Section 1-Phase 2.
2. Utility Conveyance and Security Agreement for Pecan Ridge, Section 7.

**ATTACHMENTS:**

Description	Upload Date	Type
Utility Conveyance and Security Agreement	11/21/2023	Backup Material
Street Acceptance	11/21/2023	Backup Material

UTILITY CONVEYANCE AND SECURITY AGREEMENT

STATE OF TEXAS                           §  
  §     KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF FORT BEND               §

Fort Bend County Municipal Utility District No. 175 (the “District”) has constructed certain improvements, structures, and facilities designed to provide water, wastewater, and/or drainage to serve areas within or near the District’s boundaries and the boundaries of the City of Fulshear, Texas (the “City”). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District does hereby convey, transfer, and deliver to the City, its successors and assigns, those certain facilities described as follows:

Those certain water, sanitary sewer, and storm sewer facilities, and all related appurtenances, to serve Pecan Ridge, Section 7 and Pecan Knoll Drive Street Dedication Section 1 (except any detention ponds, any drainage channels, and any non-potable water facilities) constructed to date on behalf of the District pursuant to the construction contract (“Construction Contract”) between the District and Hurtado Construction Company (“Contractor”), dated July 20, 2023, which facilities are located within or near the boundaries of the District, and together with any improvements, structures, storm sewer mains, plants, service pumps, storage reservoirs, electrical equipment, plant equipment, distribution lines, collection lines, water mains, lift stations, meters, valves, pipes, fittings, connections, meter boxes, laterals, easements, rights-of-way, licenses, operating rights and all other property therein whether real, personal or mixed, owned by the District in connection with the facilities being conveyed hereby (the “Facilities”). Some or all of the Facilities are located within or near the land shown on the plat for Pecan Ridge, Section 7 and Pecan Knoll Drive Street Dedication Section 1 that is recorded under Plat No. 20230159 and Plat No. 20230161, respectively, in the Plat Records of Fort Bend County, Texas.

The District constructed the Facilities and is conveying the Facilities to the City pursuant to the Utility Agreement, as amended, by and between the City and the District (the “Utility Agreement”), dated June 9, 2020. Sections 2.09 and 2.10 of the Utility Agreement require that the System (as defined therein) be conveyed to the City for ownership, operation and maintenance, subject to a security interest retained by the District.

The District hereby reserves a security interest in the Facilities, more particularly described in Section 2.09 of the Utility Agreement, to secure the performance of the City's obligations under the Utility Agreement. The District reserves said security interest under Texas law and the Utility Agreement.

The District hereby reserves the full capacity of the Facilities.

The District hereby assigns to the City all rights (including, without limitation, all rights under the Construction Contract, to the extent the Construction Contract allows assignment of such rights), maintenance bonds, warranties and manufacturer's warranties, if any, owned or acquired by the District for the Facilities. Notwithstanding any provision hereof, this Utility Conveyance and Security Agreement shall not be construed to limit or modify any indemnity obligations, or any other obligations, that Contractor, or its surety, may otherwise have to the District or to any other party under the Construction Contract.

The City hereby agrees by its acceptance of this conveyance to operate and maintain the Facilities in accordance with the terms of the Utility Agreement.

This Utility Conveyance and Security Agreement is effective as of the later of: (i) the date that the District executes this instrument; or (ii) the date that the City executes this instrument.

*[Signature Pages Follow]*

FORT BEND COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 175

By: Alexa Russ  
Name: Alexa Russ  
Title: President  
Date: October 5, 2023

ATTEST:

Glen H. Freeland  
Secretary, Board of Directors

THE STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS           §

This instrument was acknowledged before me on the 5<sup>th</sup> day of October, 2023, by Alexa Russ, as President, and Glen H. Freeland, as Secretary of the Board of Directors of Fort Bend County Municipal Utility District No. 175, a political subdivision of the State of Texas, on behalf of said political subdivision.

  
(NOTARY SEAL)

Kathryn Renee Easey  
Notary Public, State of Texas



In accordance with the Utility Agreement, as defined above, the City hereby accepts this Utility Conveyance and Security Agreement. Such City acceptance is effective as of the later of: (i) the date that the District executes this instrument; or (ii) the date that the City executes this instrument.

CITY OF FULSHEAR, TEXAS

By: \_\_\_\_\_  
Name: Aaron Groff  
Title: Mayor  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Secretary

THE STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Aaron Groff as Mayor of the City of Fulshear, Texas, on behalf of said City.

\_\_\_\_\_  
Notary Public, State of Texas

(NOTARY SEAL)

AFTER RECORDING RETURN TO: Kathryn Easey, Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, TX 77027

**STREET ACCEPTANCE**

THE STATE OF TEXAS           §  
  §     KNOW ALL BY THESE PRESENTS:  
COUNTY OF FORT BEND       §

WHEREAS, a plat for Pecan Ridge Section 7 and Pecan Knoll Drive Street Dedication Section 1 has been recorded under Plat No. 20230159 and Plat No. 20230161, respectively, in the Plat Records of Fort Bend County, Texas, and street(s) (and culvert facilities, if any) have been constructed within the land shown on such plat (collectively, the "Streets"); and

WHEREAS, the City of Fulshear, Texas (the "City"), desires to accept the Streets for operation and maintenance.

Now, Therefore, the City hereby accepts the Streets for operation and maintenance by the City.

CITY OF FULSHEAR, TEXAS

\_\_\_\_\_  
Aaron Groff  
Mayor

ATTEST:

\_\_\_\_\_  
Mariela Rodriguez  
City Secretary

THE STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND       §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Aaron Groff as Mayor of the City of Fulshear, Texas, on behalf of said City.

\_\_\_\_\_  
Notary Public, State of Texas

(NOTARY SEAL)

**STREET ACCEPTANCE**

THE STATE OF TEXAS           §  
  §     KNOW ALL BY THESE PRESENTS:  
COUNTY OF FORT BEND       §

WHEREAS, a plat for Pecan Ridge Section 7 and Pecan Knoll Drive Street Dedication Section 1 has been recorded under Plat No. 20230159 and Plat No. 20230161, respectively, in the Plat Records of Fort Bend County, Texas, and street(s) (and culvert facilities, if any) have been constructed within the land shown on such plat (collectively, the "Streets"); and

WHEREAS, the City of Fulshear, Texas (the "City"), desires to accept the Streets for operation and maintenance.

Now, Therefore, the City hereby accepts the Streets for operation and maintenance by the City.

CITY OF FULSHEAR, TEXAS

\_\_\_\_\_  
Aaron Groff  
Mayor

ATTEST:

\_\_\_\_\_  
Mariela Rodriguez  
City Secretary

THE STATE OF TEXAS       §  
  §  
COUNTY OF FORT BEND     §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Aaron Groff as Mayor of the City of Fulshear, Texas, on behalf of said City.

\_\_\_\_\_  
Notary Public, State of Texas

(NOTARY SEAL)

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

**AGENDA OF:** 11/28/2023

**ITEMS:** IV.B.

**DATE  
SUBMITTED:** 11/15/2023

**DEPARTMENT:** Public Works

**PREPARED BY:** Cliff Brouhard - City Engineer

**PRESENTER:** Cliff Brouhard - City Engineer

**SUBJECT:** CONSIDERATION AND POSSIBLE ACTION TO APPROVE OFFER #2024-009  
CONSTRUCTION OF WATER PLANT NO. 2

**Expenditure Required:** \$14,434,000.00

**Amount Budgeted:** \$14,434,000.00

**Funding Account:** 501-000-5701-01

**Additional Appropriation Required:**

**Funding Account:**

**EXECUTIVE SUMMARY**

The City contracted with Freese and Nichols, Inc. for design services related to Water Plant No. 2, Project # W21B. Water Plant No. 2 consist of constructing a new 1.5-million-gallon ground storage tank and a 5.75-million-gallons per day pump station. Staff requested offers beginning on October 24, 2023, and received three offers on November 16, 2023, ranging from \$16,197,450.00 to \$17,900,000.00. Wharton-Smith Inc. was the lowest offeror in the amount of \$16,197,450.00. City staff negotiated with Wharton-Smith, Inc. to bring the offer into the project budget of \$14,434,000.00.

The project is expected to be substantially complete in up to 577 days.

**RECOMMENDATION**

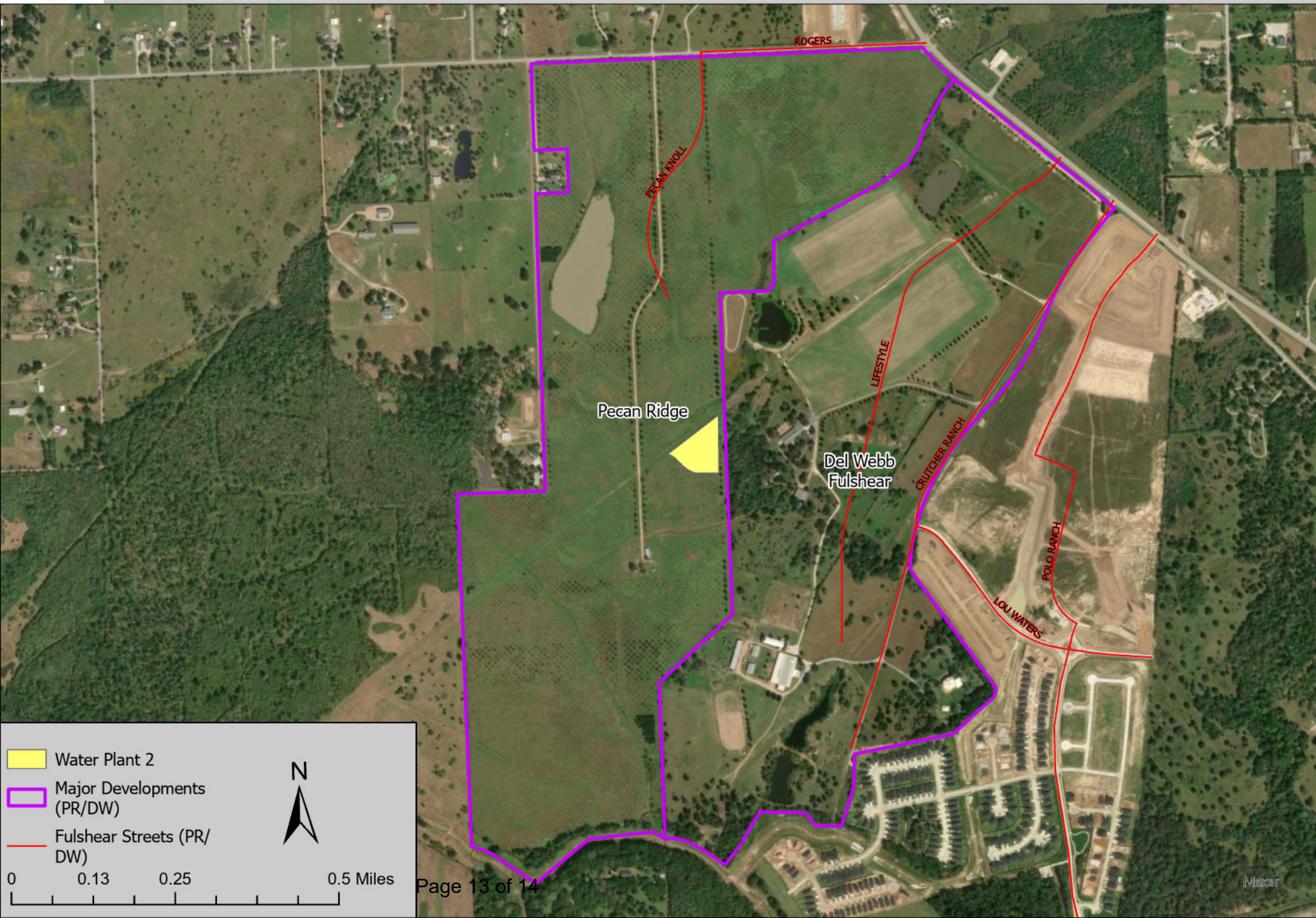
Staff recommends Council approve and authorize the City Manager to execute the construction contract for Water Plant No. 2 RFO #2024-009 with Wharton-Smith Inc. not-to-exceed \$14,434,000.00.

**ATTACHMENTS:**

Description	Upload Date	Type
Project Map	11/15/2023	Exhibit



# Water Plant 2 Location



**Water Plant 2**

**Major Developments (PR/DW)**

**Fulshear Streets (PR/DW)**

0 0.13 0.25 0.5 Miles

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

**AGENDA OF:** 11/28/2023

**ITEMS:** V.A.

**DATE  
SUBMITTED:** 11/26/2023

**DEPARTMENT:** Administration

**PREPARED BY:** Mariela Rodriguez

**PRESENTER:** Byron Brown

**SUBJECT:** EXECUTIVE SESSION – CLOSED SESSION IN ACCORDANCE WITH SECTION 551.071 OF THE TEXAS OPEN MEETINGS ACT (CHAPTER 551, GOVERNMENT CODE), CONSULTATION WITH ATTORNEY. A GOVERNMENTAL BODY MAY NOT CONDUCT A PRIVATE CONSULTATION WITH ITS ATTORNEY EXCEPT: (1) WHEN THE GOVERNMENTAL BODY SEEKS THE ADVICE OF ITS ATTORNEY ABOUT: (A) PENDING OR CONTEMPLATED LITIGATION; OR (B) A SETTLEMENT OFFER; OR (2) ON A MATTER IN WHICH THE DUTY OF THE ATTORNEY TO THE GOVERNMENTAL BODY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH CHAPTER 551, GOVERNMENT CODE

**Expenditure Required:**

**Amount Budgeted:**

**Funding Account:**

**Additional Appropriation Required:**

**Funding Account:**

**EXECUTIVE SUMMARY**

**RECOMMENDATION**