

AGREEMENT

Section 1. Purpose

The purpose of this Agreement is to outline the funding obligations related to the Utility Relocations.

Section 2. Incorporation of Recitals

The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are incorporated into this Agreement.

Section 3. Funding

A. The County agrees to advance funding to the State to facilitate completion of the Utility Relocations, with a total cost currently estimated at \$908,593.00.00. However, the City will be responsible for reimbursing the County for the actual costs of the Utility Relocations items reflecting the City as the Responsible Party in Exhibit A, currently estimated at \$856,736.00. The County shall be responsible for the actual costs of the remaining Utility Relocations items reflecting the County as the Responsible Party in Exhibit A, currently estimated at \$51,857.00.

B. Upon completion of the Utility Relocations, but no later than ninety (90) calendar days after final payment the State, the County will furnish the City with a full accounting of the funds expended on the Utility Relocations.

C. Within sixty (60) days of the beginning of the fiscal year (October 1st) following the County's issuance of the full accounting, the City shall initiate annual payments to the County to reimburse the County for a portion of the actual funds advanced in accordance with Section 3.A., plus interest calculated at a 3.51% annual interest rate. The City agrees to reimburse the County its obligated amount for such advanced funding with interest within seven (7) years of its initial payment to the County.

D. The Parties understand and acknowledge that the funding of this Agreement is contained in each Party's annual budget and is subject to the approval of each Party in each fiscal year. The Parties further agree that should the governing body of any Party fail to approve a budget that includes sufficient funds for the continuation of this Agreement, or should the governing body of any Party fail to certify funds for any reason, then and upon the occurrence of such event, this Agreement shall automatically terminate as to that Party and that Party shall then have no further obligation to the other Party. When the funds budgeted or certified during any fiscal year by a Party to discharge its obligations under this Agreement are expended, the other Party's sole and exclusive remedy shall be to terminate this Agreement.

Section 4. Fair Compensation

The Parties acknowledge and agree that each of the payments contemplated by this Agreement fairly compensate the performing Party.

Section 5. Maintenance

Upon completion of the Utility Relocations, each party shall maintain that portion of the Project within its own jurisdiction.

Section 6. No Joint Enterprise

The Agreement is not intended to, and shall not be construed to, create any joint enterprise between the Parties.

Section 7. Alternative Dispute Resolution

Pursuant to Texas Government Code § 791.015 and Texas Government Code Chapter 2009, in the event of a dispute over the terms and conditions of this Agreement or the Parties' rights, duties, and performance under this Agreement, the Parties agree to submit such dispute to alternative dispute resolution procedures set forth in Texas Civil Practice and Remedies Code Chapter 154.

Section 8. Public Information

This Agreement is public information. To the extent, if any, that any provision of this Agreement is in conflict with Texas Government Code Chapter 552 et seq., as amended (the "Texas Public Information Act"), such provision shall be void and have no force or effect.

Section 9. No Personal Liability

Nothing in this Agreement shall be construed as creating any personal liability on the part of any employee, officer, or agent of any Party to this Agreement.

Section 10. No Indemnification by City or County

The Parties expressly acknowledge that the City's and the County's authority to indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification by the City or the County is invalid. Nothing in this Agreement requires that either the City or County incur debt, assess or collect funds, or create a sinking fund.

Section 11. Sovereign Immunity Acknowledged and Retained.

THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY ANY PARTY OF ANY IMMUNITY FROM SUIT OR LIABILITY THAT A PARTY MAY HAVE BY OPERATION OF LAW. THE CITY AND THE COUNTY RETAIN ALL GOVERNMENTAL IMMUNITIES.

Section 12. Insurance

The City and the County are both governed by the Texas Tort Claims Act, Chapter 101/001 et seq., as amended, of the Texas Civil Practice and Remedies Code which sets limits of liability for certain causes of action. Each Party to this Agreement warrants and represents

that it is insured under a commercial insurance policy or is self-insured for all claims falling with the Texas Tort Claims Act.

Section 13. Assignment

No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

Section 14. No Third Party Beneficiaries

The parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

Section 15. Notices

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the following addresses:

- County: Fort Bend County
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469
- With a copy to: Fort Bend County Engineering Department
Attn: County Engineer
301 Jackson Street
Richmond, Texas 77469
- City: City of Fulshear, Texas
Attn: City Manager
P.O. Box 279
Fulshear, Texas 77441
- With a copy to: Grady Randle, Fulshear City Attorney
820 Gessner, Suite 1570
Houston, Texas 77024

Section 16. Entire Agreement

This Agreement contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all parties hereto.

Section 17. Execution

This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party, remain in effect until September 30, 2029 or until the obligations under Section 3 of this Agreement are fulfilled, whichever is later.

FORT BEND COUNTY, TEXAS

CITY OF FULSHEAR, TEXAS





Grady Prestage, Commissioner, Precinct 2
Presiding Officer, Commissioners Court, November 26, 2019

Aaron Groff, Mayor

Date: 11.26.2019

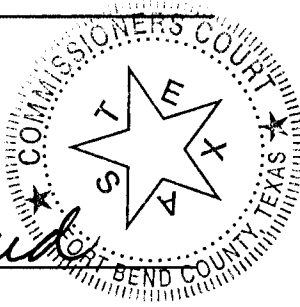
Date: 10-15-2019


ATTEST:

ATTEST:

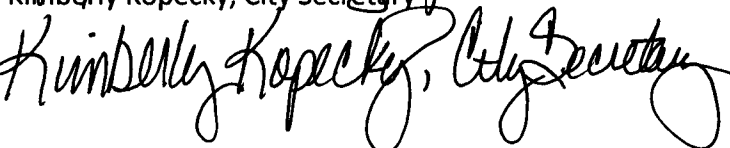


Laura Richard, County Clerk



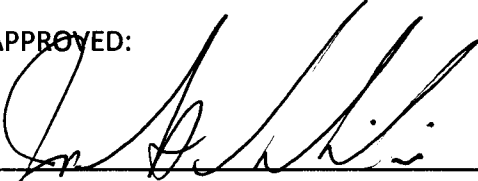


Kimberly Kopecky, City Secretary



Kimberly Kopecky, City Secretary

APPROVED:



J. Stacy Slawinski, P.E., County Engineer

APPROVED AS TO LEGAL FORM:



Marcus D. Spencer, First Assistant County Attorney

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ 0 to
accomplish and pay the obligation of Fort Bend County under this contract.



Robert Ed Sturdivant, County Auditor

EXHIBIT A

FM 1093 Westpark Extension
Phase II-B
City of Fulshear Utility Relocations

Item	Location	Engineering Cost ¹	Estimated Construction Cost	Estimated Total Cost	Responsible Party
1	Adjust Sanitary Sewer Manholes in TxDOT ROW	\$274	\$2,362	\$2,637	City of Fulshear
2	Extend Sanitary Sewer Steel Casing at FM 359	\$1,097	\$11,600	\$12,697	City of Fulshear
3	Extend 10" Sanitary Sewer south through new ROW at Sta 162+00 and 172+50	\$4,593	\$62,266	\$66,859	City of Fulshear
4	Relocate 12" Sanitary Sewer at Texas Heritage Parkway	\$7,129	\$67,081	\$74,210	City of Fulshear
5	Relocate 8" Waterline from Sta 120+00 to Sta 123+00 in City of Fulshear ROW	\$3,469	\$40,544	\$44,013	Fort Bend County
6	Relocate 8" Waterline from Sta 134+00 to Sta 151+00 in TxDOT ROW	\$16,810	\$200,374	\$217,184	City of Fulshear
7	Relocate 8" Waterline at Bois D' Arc Lane in TxDOT ROW	\$2,277	\$43,878	\$46,155	City of Fulshear
8	Relocate 12" Waterline at Texas Heritage Parkway	\$7,791	\$91,878	\$99,669	City of Fulshear
9	Adjust Existing Water Valves and Meters in City of Fulshear Easement	\$326	\$3,959	\$4,284	Fort Bend County
10	Sleeves for future electric and irrigation feeds	\$4,369	\$73,753	\$78,122	City of Fulshear
11	Sleeves for future Waterline and Sanitary Sewer	\$11,654	\$119,476	\$131,130	City of Fulshear
12	Additional 8" WL from Bois D' Arc to Parcel 410 **Added after Letting**	\$2,152	\$32,158	\$34,310	City of Fulshear
13	Additional 12" WL West of Texas Heritage Parkway **Added after Letting**	\$2,152	\$32,616	\$34,768	City of Fulshear

Subtotal	\$64,093	\$781,945	\$846,038
8% Construction Management	\$0	\$62,556	\$62,556
Total	\$64,093	\$844,500	\$908,593

Cost by Participant

Fort Bend County	\$3,794	\$48,063	\$51,857
City of Fulshear	\$60,299	\$796,437	\$856,736

NOTES

1. Engineering Cost includes water and sanitary sewer relocation design, and incorporation of relocation plans into bid documents. Engineering Cost is added to Estimated Construction Cost to obtain Total Cost.

FM 1093 Westpark Extension - Phase II-B
Preliminary Cost Estimate - City of Fulshear Utility Relocations

BID ITEM LIST

Item / Description Code	DESCRIPTION	UNIT	QUANTITY	UNIT BID	COST	QUANTITY COMPLETED TO DATE	QUANTITY REMAINING	% COMPLETE
479 6004	ADJUSTING MANHOLES (SANITARY)	EA	6	\$590.60	\$3,543.60	3	3	50%
496 6003	REMOV STR (MANHOLE)	EA	3	\$409.50	\$1,228.50	2	1	67%
618 6058	CONDT (PVC) (SCH 80) (4")	LF	2,199	\$16.80	\$36,943.20	1,113	1,086	51%
624 6010	GROUND BOX TY D (162922) W/APRON	EA	41	\$897.80	\$36,809.80	21	20	51%
7017 6018	SANITARY SEWER (10 IN) (PVC) (SDR 26)	LF	523	\$40.00	\$20,920.00	523	0	100%
7017 6019	SANITARY SEWER (12 IN) (PVC) (SDR 26)	LF	335	\$45.10	\$15,108.50	243	92	73%
7017 6051	MANHOLE (SAN SEWER) (4' DIA)	EA	5	\$4,551.80	\$22,759.00	4	1	80%
7049 6005	WATER MAIN PIPE (PVC) (8IN)	LF	515	\$67.70	\$34,865.50	515	0	100%
7049 6007	WATER MAIN PIPE (PVC) (12IN)	LF	780	\$72.70	\$56,706.00	584	196	75%
7049 6008	WATER MAIN PIPE (PVC) (16N)	LF	2,413	\$100.40	\$242,265.20	200	2,213	8%
7049 6045	CASING STEEL (18IN)	LF	550	\$145.00	\$79,750.00	260	290	47%
7049 6048	CASING STEEL (24IN)	LF	970	\$175.70	\$170,429.00	260	710	27%
7049 6064	ADJUST WATER VALVE BOX	EA	11	\$304.50	\$3,349.50	0	11	0%
7049 6083	TAPPING SLEEVE AND VALVE (8IN X 8IN)	EA	1	\$3,823.60	\$3,823.60	1	0	100%
7049 6093	TAPPING SLEEVE AND VALVE (16IN X 12IN)	EA	1	\$6,000.00	\$6,000.00	0	1	0%
7049 6104	FIRE HYDRANT ASSEMBLY	EA	6	\$4,989.80	\$29,938.80	3	3	50%
7049 6114	REMOVING FIRE HYDRANT	EA	5	\$357.00	\$1,785.00	2	3	40%
7049 6115	REMOVING WATER VALVE AND BOX	EA	6	\$254.60	\$1,527.60	0	6	0%
7049 6122	ADJUSTING METER BOX	EA	6	\$304.50	\$1,827.00	0	6	0%
7049 6127	CUT AND PLUG WATER MAIN (8IN)	EA	5	\$392.20	\$1,961.00	2	3	40%
7049 6131	CUT AND PLUG WATER MAIN (16IN)	EA	1	\$811.80	\$811.80	0	1	0%
7049 6140	WET CONNECTION (8IN)	EA	2	\$2,052.80	\$4,105.60	1	1	50%
7049 6142	WET CONNECTION (12IN)	EA	1	\$2,500.00	\$2,500.00	1	0	100%
7049 6144	WET CONNECTION (16IN)	EA	1	\$2,986.60	\$2,986.60	0	1	0%
					\$781,945			
8% Construction Management					\$62,556			
Total					\$844,500			

FM 1093 Westpark Extension - Phase II-B
Preliminary Cost Estimate - City of Fulshear Utility Relocations

DETAILED BID ITEM BREAKDOWN

Item	Location	Item / Description Code	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	COST	RESPONSIBLE ENTITY
1	Adjust Sanitary Sewer Manholes in TxDOT ROW	479 6004	ADJUSTING MANHOLES (SANITARY)	EA	4	\$590.60	\$2,362.40	City of Fulshear
2	Extend Sanitary Sewer Steel Casing at FM 359	7049 6045	CASING STEEL (18IN)	LF	80	\$145.00	\$11,600.00	City of Fulshear
3	10" Sanitary Sewer Extensions south through new ROW at Sta 162+00 and 172+50	479 6004	ADJUSTING MANHOLES (SANITARY)	EA	2	\$590.60	\$1,181.20	City of Fulshear
		496 6003	REMOV STR (MANHOLE)	EA	1	\$409.50	\$409.50	City of Fulshear
		7017 6018	SANITARY SEWER (10 IN) (PVC) (SDR 26)	LF	523	\$40.00	\$20,920.00	City of Fulshear
		7017 6051	MANHOLE (SAN SEWER) (4' DIA)	EA	3	\$4,551.80	\$13,655.40	City of Fulshear
		7049 6045	CASING STEEL (18IN)	LF	180	\$145.00	\$26,100.00	City of Fulshear
4	12" Sanitary Sewer Relocation at Texas Heritage Parkway	496 6003	REMOV STR (MANHOLE)	EA	2	\$409.50	\$819.00	City of Fulshear
		7017 6019	SANITARY SEWER (12 IN) (PVC) (SDR 26)	LF	335	\$45.10	\$15,108.50	City of Fulshear
		7017 6051	MANHOLE (SAN SEWER) (4' DIA)	EA	2	\$4,551.80	\$9,103.60	City of Fulshear
		7049 6045	CASING STEEL (18IN)	LF	290	\$145.00	\$42,050.00	City of Fulshear
5	8" Waterline from Sta 120+00 to Sta 123+00 in City of Fulshear ROW	7049 6005	WATER MAIN PIPE (PVC) (8IN)	LF	20	\$67.70	\$1,354.00	Fort Bend County
		7049 6008	WATER MAIN PIPE (PVC) (16N)	LF	324	\$100.40	\$32,529.60	Fort Bend County
		7049 6083	TAPPING SLEEVE AND VALVE (8IN X 8IN)	EA	1	\$3,823.60	\$3,823.60	Fort Bend County
		7049 6127	CUT AND PLUG WATER MAIN (8IN)	EA	2	\$392.20	\$784.40	Fort Bend County
		7049 6140	WET CONNECTION (8IN)	EA	1	\$2,052.80	\$2,052.80	Fort Bend County
6	8" Waterline from Sta 134+00 to Sta 151+00 in TxDOT ROW	7049 6005	WATER MAIN PIPE (PVC) (8IN)	LF	20	\$67.70	\$1,354.00	City of Fulshear
		7049 6008	WATER MAIN PIPE (PVC) (16N)	LF	1775	\$100.40	\$178,210.00	City of Fulshear
		7049 6064	ADJUST WATER VALVE BOX	EA	3	\$304.50	\$913.50	City of Fulshear
		7049 6104	FIRE HYDRANT ASSEMBLY	EA	3	\$4,989.80	\$14,969.40	City of Fulshear
		7049 6114	REMOVING FIRE HYDRANT	EA	3	\$357.00	\$1,071.00	City of Fulshear
		7049 6115	REMOVING WATER VALVE AND BOX	EA	4	\$254.60	\$1,018.40	City of Fulshear
		7049 6127	CUT AND PLUG WATER MAIN (8IN)	EA	2	\$392.20	\$784.40	City of Fulshear
		7049 6140	WET CONNECTION (8IN)	EA	1	\$2,052.80	\$2,052.80	City of Fulshear
7	8" Waterline at Bois D' Arc Lane in TxDOT ROW	7049 6007	WATER MAIN PIPE (PVC) (12IN)	LF	400	\$72.70	\$29,080.00	City of Fulshear
		7049 6064	ADJUST WATER VALVE BOX	EA	1	\$304.50	\$304.50	City of Fulshear
		7049 6093	TAPPING SLEEVE AND VALVE (16IN X 12IN)	EA	1	\$6,000.00	\$6,000.00	City of Fulshear
		7049 6104	FIRE HYDRANT ASSEMBLY	EA	1	\$4,989.80	\$4,989.80	City of Fulshear
		7049 6114	REMOVING FIRE HYDRANT	EA	1	\$357.00	\$357.00	City of Fulshear
		7049 6115	REMOVING WATER VALVE AND BOX	EA	1	\$254.60	\$254.60	City of Fulshear
		7049 6127	CUT AND PLUG WATER MAIN (8IN)	EA	1	\$392.20	\$392.20	City of Fulshear
		7049 6142	WET CONNECTION (12IN)	EA	1	\$2,500.00	\$2,500.00	City of Fulshear
8	16" Waterline Relocation at Texas Heritage Parkway	7049 6008	WATER MAIN PIPE (PVC) (16N)	LF	314	\$100.40	\$31,525.60	City of Fulshear
		7049 6048	CASING STEEL (24IN)	LF	290	\$175.70	\$50,953.00	City of Fulshear
		7049 6144	WET CONNECTION (16IN)	EA	1	\$2,986.60	\$2,986.60	City of Fulshear
		7049 6104	FIRE HYDRANT ASSEMBLY	EA	1	\$4,989.80	\$4,989.80	City of Fulshear
		7049 6114	REMOVING FIRE HYDRANT	EA	1	\$357.00	\$357.00	City of Fulshear
		7049 6115	REMOVING WATER VALVE AND BOX	EA	1	\$254.60	\$254.60	City of Fulshear
		7049 6131	CUT AND PLUG WATER MAIN (16IN)	EA	1	\$811.80	\$811.80	City of Fulshear
9	Adjust Existing Water Valves and Meters	7049 6064	ADJUST WATER VALVE BOX	EA	7	\$304.50	\$2,131.50	Fort Bend County
		7049 6122	ADJUSTING METER BOX	EA	6	\$304.50	\$1,827.00	Fort Bend County
10	Sleeves for future electric and irrigation feeds	618 6058	CONDT (PVC) (SCH 80) (4")	LF	2199	\$16.80	\$36,943.20	City of Fulshear
		624 6010	GROUND BOX TY D (162922) W/APRON	EA	41	\$897.80	\$36,809.80	City of Fulshear
11	Sleeves for future Waterline and Sanitary	7049 6048	CASING STEEL (24IN)	LF	680	\$175.70	\$119,476.00	City of Fulshear
12	Additional 8" WL from Bois D' Arc to Parcel 410	7049 6005	WATER MAIN PIPE (PVC) (8IN)	LF	475	\$67.70	\$32,157.50	City of Fulshear
13	Additional 12" WL West of Texas Heritage Parkway **Added after Letting**	7049 6007	WATER MAIN PIPE (PVC) (12IN)	LF	380	\$72.70	\$27,626.00	City of Fulshear
		7049 6104	FIRE HYDRANT ASSEMBLY	EA	1	\$4,989.80	\$4,989.80	City of Fulshear

Subtotal	\$781,945
8% Construction Management	\$62,556
Total	\$844,500

Cost by Participant	
City of Fulshear	\$796,437
Fort Bend County	\$48,063
Total	\$844,500