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

AGENDA OF: 3/17/2020 **ITEMS:** IX.I.

DATE 3/2/2020 **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 2020-459 CONSENTING TO THE FORMATION OF THE THPID AND APPROVING THE AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR THE TEXAS HERITAGE PARKWAY CONSTRUCTION

Expenditure Required: NA

Amount Budgeted:

Funding Account: NA

Additional Appropriation Required: NA

Funding Account:

EXECUTIVE SUMMARY

On January 22, 2018, City Council approved an Interlocal Agreement (ILA), with Fort Bend County (County) for a County-Managed Mobility Project - Texas Heritage Parkway (Project). Exhibit A of the Project ILA depicts the schematic and general construction of the Project. The schematic depicts roundabouts throughout the Project for roadway improvements that will enhance the traffic flow/circulation in the service area.

Since the execution of the ILA, the Texas Heritage Parkway Improvement District (THPID) has been formed and at the request of NewQuest/Landmark, the portion of the Project that is within the Waller County service area, is proposed to be modified to include construction of a Traffic Signalized intersection in lieu of a roundabout.

The formation of the THPID triggers a consent by the City to be created and the proposed change requires the existing ILA between the City of Fulshear and the County to be amended and restated.

Resolution 2020-459 outlines the consent and the amendments. The term sheet, Exhibit A, will allow the construction of the Texas Heritage Parkway to proceed in a manner consistent with the design proposed by NewQuest/Landmark/Waller County.

Terms outlined are necessary to ensure all parties that the design proposed is the actual design that gets constructed on the ground in both the interim and ultimate configurations. In short, to incorporate that design, all parties contractually commit to that design. City Council will need to approve Resolution 2020-459 to provide consent to the creation of the THPID and amend and restate the ILA to effect the proposed changes requested.

RECOMMENDATION

Approve Resolution 2020-459 to provide consent to the creation of the THPID and amend and restate the ILA to effect the proposed changes requested.

ATTACHMENTS:

Description Upload Date Type

Resolution 2020-459 3/11/2020 Resolution Letter

| Amended and Restated ILA 2020.Exhibit A | 3/11/2020 | Exhibit |
|---|-----------|-----------------|
| Exhibit A Fulshear ILA.2020 | 3/11/2020 | Exhibit |
| Exhibit B-1 Fulshear ILA.2020 | 3/11/2020 | Exhibit |
| Exhibt B-2 Fulshear ILA.2020 | 3/11/2020 | Exhibit |
| Exhibit C Fulshear ILA.2020 | 3/11/2020 | Exhibit |
| NewQuest THP Term Sheet | 3/10/2020 | Backup Material |
| Iterlocal Agreement County-Managed Mobility Project Texas Heritage Parkway.2018 | 3/10/2020 | Backup Material |

RESOLUTION NO. 2020-459

A RESOLUTION OF THE CITY OF FULSHEAR, TEXAS, APPROVING THE AMENDED & RESTATED INTERLOCAL AGREEMENT FOR COUNTY-MANAGED MOBILITY PROJECT, TEXAS HERITAGE PARKWAY, AND CONSENTING TO THE CREATION OF THE TEXAS HERITAGE PARKWAY IMPROVEMENT DISTRICT.

* * * * * * * * * * * *

WHEREAS, the City of Fulshear, Texas ("City"), and Fort Bend County ("County") previously entered into that certain Interlocal Agreement for County-Managed Mobility Project, Texas Heritage Parkway, dated March 6, 2018; and

WHEREAS, since entering into said agreement, certain conditions related thereto have changed, including the creation of the Texas Heritage Parkway Improvement District ("THPID"); and

WHEREAS, in response to such changed conditions, the City desires to enter into an Amended & Restated Interlocal Agreement for County-Managed Mobility Project, Texas Heritage Parkway, between the City, the County, and THPID;

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 found to be true and correct and are incorporated herein for all purposes.
- **Section 2**. The Amended & Restated Interlocal Agreement for County-Managed Mobility Project, Texas Heritage Parkway is hereby approved in the form attached hereto as Exhibit A.
- **Section 3**. The City of Fulshear, Texas, hereby consents to the creation of the Texas Heritage Parkway Improvement District, previously created by an act of the legislature.

PASSED, APPROVED, and ADOPTED on the 17th day of March 2020.

| ATTEST: | Aaron Groff, Mayor | |
|----------------------------------|--------------------|--|
| Kimberly Kopecky, City Secretary | | |

EXHIBIT A

AMENDED & RESTATED INTERLOCAL AGREEMENT FOR COUNTY-MANAGED MOBILITY PROJECT TEXAS HERITAGE PARKWAY

This Agreement is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the TEXAS GOVERNMENT CODE and Section 251.012 of the TEXAS TRANSPORTATION CODE, by and between the City of Fulshear, a municipal corporation and home-rule city of the State of Texas, principally situated in Fort Bend County, acting by and through its City Council, ("City"), Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court ("County"), and the Texas Heritage Parkway Improvement District, a political subdivision of the State of Texas ("THPID").

RECITALS

WHEREAS, the County has entered into that certain *Agreement for Regional Road Improvements for a Parkway between the cities of Fulshear and Katy* (the "Participant Agreement") with certain private landowners to promote the development of a major north-south thoroughfare from Interstate 10 at Pederson Road to approximately 2100 feet south of the intersection with FM 1093 (the "Project", as generally shown on **Exhibit A** and as defined more fully below) contemporaneously with the approval of this Agreement; and

WHEREAS, the County and Waller County have or will enter into an agreement to provide for the development of the Project near I-10, as shown in <u>Exhibit B-1</u> and <u>Exhibit B-2</u> attached hereto; and

WHEREAS, the County has entered into an Interlocal Agreement for the Project with the City of Katy (the "Katy Agreement") to pay for a portion of the Project; and

WHEREAS, the Project is the construction of roadway improvements that will enhance the traffic flow/circulation and drainage in the service area, and such Project is desired by the City and the County; and

WHEREAS, the County may not expend proceeds of bond issues or taxes levied pursuant to Article III, Section 52 (b) or (c) of the Texas Constitution on city streets that are not integral parts of or connecting links with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the parties assert that the Project is part of a city street that is an integral part of or a connecting link with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the Commissioners Court of Fort Bend County finds that the Project contemplated in this Agreement serves a County purpose; and

WHEREAS, the THPID has been created by the legislature; and

WHEREAS, the City and the County agreed to participate in this Project according to the terms of this Agreement in its original form dated March 6, 2018 ("Original Agreement"); and

WHEREAS, the City and County desire to amend the Original Agreement to (1) confirm the design shown in **Exhibit A**, **Exhibit B-1**, and **Exhibit B-2** attached hereto, and (2) allow the THPID to manage the construction of the Project; and

WHEREAS, the governing bodies of the City and County have authorized this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to both parties, it is agreed as follows:

AGREEMENT

Section 1. <u>Definitions</u>

- A. *City* means the City of Fulshear, Texas.
- B. **County** means Fort Bend County, Texas.
- C. **Project** means the proposed a Parkway from I-10 to approximately 2100 feet south of FM1093 as generally shown on **Exhibit A**, **Exhibit B-1**, and **Exhibit B-2**, and all improvements necessary or convenient to the functioning of the roadway (e.g. drainage, detention, required lighting, etc.) including a 12-foot wide concrete trail and grade separations.
- D. Eligible Project Costs means costs, as determined by the County, for engineering design and services related to the completion of Plans, Specifications and Estimates ("PS&E") and construction of roadway improvements, project related drainage facilities, utility and pipeline conflicts, approved traffic control devices, and; development of standards for improvements within the property subject to the ROW Deeds; design, development, utility relocation, right-of-way acquisition, and construction; all payments arising under any contracts entered into for the design or construction of the Project; all costs incurred in connection with obtaining governmental approvals, certificates and permits required in connection with the construction of the Project, including the engineering and other fees and expenses related to the design and construction of the Project.
- **E.** County/Fulshear Segment means that portion of the Project located within the City's corporate limits and extraterritorial jurisdiction as shown in **Exhibit A**.
- **F.** *County Contribution* means seventy percent (70%) of fifty percent (50%) of the Eligible Project Costs for the County/Fulshear Segment. At the time of this agreement, the estimated County Contribution is \$13,285,674.
- **G.** *City Contribution* means thirty percent (30%) of fifty percent (50%) of the Eligible Project Costs for the County/Fulshear Segment. At the time of this agreement, the estimated City Contribution is \$5,693,860.

H. THPID means the Texas Heritage Parkway Improvement District.

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. City's Rights and Obligations

- A. During the work on the Project, the City shall have the right to review all documents, maps, plats, records, photographs, reports and drawings affecting the construction and to inspect the work in progress; provided however, that in conducting such inspections, the City shall not interfere with the work in progress. Any deficiencies noted by the City shall be brought to the attention of the THPID, and the deficiencies shall be promptly addressed by the THPID.
- B. The City shall have the right to participate in the final inspection of the Project. At that time, any deficiencies noted by the City shall be promptly addressed by the THPID.
- C. Pursuant to Local Government Code Section 42.042, the City consents to the creation of the THPID.

Section 4. THPID and County Obligations

- A. The THPID is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and federal laws.
- B. In the event the County determines the Project lacks feasibility or for any other reason elects to forego its construction, the County shall provide written notice to the City of its decision to forego construction and refund all amounts provided by the City upon thirty (30) days of said notice to the City.
- C. The THPID shall submit reports to the City describing in sufficient detail the progress of the Project. These reports shall be submitted to the City at increments agreed to between the parties as appropriate for the various phases of the Project. Reports received by the City from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the THPID has reviewed such reports and confirmed accuracy of the contractor's report.
- D. The THPID will submit the plans for the Project to the City Engineer for review and comment. During the work on the Project, the City may review the documents, maps, plats, records, photographs, reports, and drawings pertaining to the Project and may inspect the work in progress, provided that it does not interfere with the work.
- E. Upon completion of the Project, but no later than 60 days after, the THPID will furnish the City with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed. The City Auditor may review

the THPID's records regarding this Project.

Section 5. Liability

The City, County, and THPID are entitled to the immunities and defenses of the Texas Tort Claims Act.

Section 6. Maintenance

Upon completion of the Project, the County and City shall maintain that portion of the Project within its own jurisdiction, and THPID shall maintain the landscaping and beautification related to the Project.

Section 7. Plan of Finance

The City and the County will finance their share of the Project in accordance with this section.

- A. <u>Plan of Finance</u>. Fort Bend County will issue County debt or otherwise finance an amount necessary to pay for the County Contribution and the City Contribution as those costs become due and payable pursuant to the Participant Agreement.
- В. Annual City Payments. The City shall make the Annual City Payment to the County to reimburse for the City Contribution. The Annual City Payment is an annual payment of principal and interest in an amount equal to the City Contribution amortized for a period of not more than 25 years and at an interest rate not less than the County's interest costs and issuance costs, which the County would have issued at the time of execution of the agreement including agreed upon cost of issuance, and with such other terms and payment structure as may be approved by the County Auditor and the City's Finance Director. The Annual City Payment will also include any Eligible Project Costs incurred by the County prior to this issuance with 2% interest compounded monthly (until the proceeds of the issuance reimburse these preliminary expenditures). An example of the Annual City Payment is shown on **Exhibit C** reflects a hypothetical issue based on current costs estimates and financial conditions for the Eligible Project Costs. The actual Annual City Payment schedule will be fixed when the County first makes payments pursuant to the Participation Agreement. The City will pay the County by April 15 of each year. Late payments will accrue interest at the net effective interest rate of the County Debt. Fort Bend County will attempt to provide the City with a clear distinction of the County Debt from the County's other outstanding obligations. After any refunding of the obligations, County will provide a new total debt service to the City.

C. <u>Prepayment Option</u>. The City may prepay the remaining City Contribution to the County at any time without penalty, provided however, if the County has issued debt that is not callable at the time of the prepayment, the City will be responsible for any additional costs necessary to advanced refund the debt and any interest through the call date.

Section 8. Insurance Requirements

The THPID agrees that it will require the contractor's insurance policies to name the County, THPID, and the City as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

- A. Workers' Compensation in the amount required by law. The policy shall include the All States Endorsement.
- B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).
- C. Comprehensive Automatic Liability Insurance, including owned, non-owned and hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.
- D. The THPID may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases the City shall remain an additional insured. The THPID will provide the City with proof of insurance within 30 days of the THPID's award of the contract for the Project construction.

Section 9. 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 10. 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 11. 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: KP George, County Judge 401 Jackson Street, 1st Floor Richmond, Texas 77469

With a copy to: Fort Bend County Engineering Department

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

301 Jackson Street Richmond, Texas 77469

City: City of Fulshear, Texas

Attn: City Manager

P.O. Box 279

Fulshear, Texas 77441

THPID: Texas Heritage Parkway Improvement District

C/O The Muller Law Group, PLLC

Attn: Richard Muller 202 Century Square Blvd. Sugar Land, Texas 77478

Section 12. Entire Agreement

This Agreement shall supersede and replace the Original Agreement in its entirety. 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 13. Execution and Condition Precedent

This Agreement has been executed by the City, the County, and THPID upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party. However, this Agreement shall not become effective unless and until the Participation Agreement described on page 1 has been fully executed.

Section 14. Revenue

Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

| FORT BEND COUNTY, TEXAS | CITY OF FULSHEAR, TEXAS | | | |
|---|----------------------------------|--|--|--|
| KP George, County Judge | Aaron Groff, Mayor | | | |
| Date | Date: | | | |
| ATTEST: | ATTEST: | | | |
| Laura Richard, County Clerk | Kimberly Kopecky, City Secretary | | | |
| APPROVED AS TO FORM: | | | | |
| County Attorney | | | | |
| TEXAS HERITAGE PARKWAY IMPROVEMENT DISTRICT | | | | |
| President | | | | |





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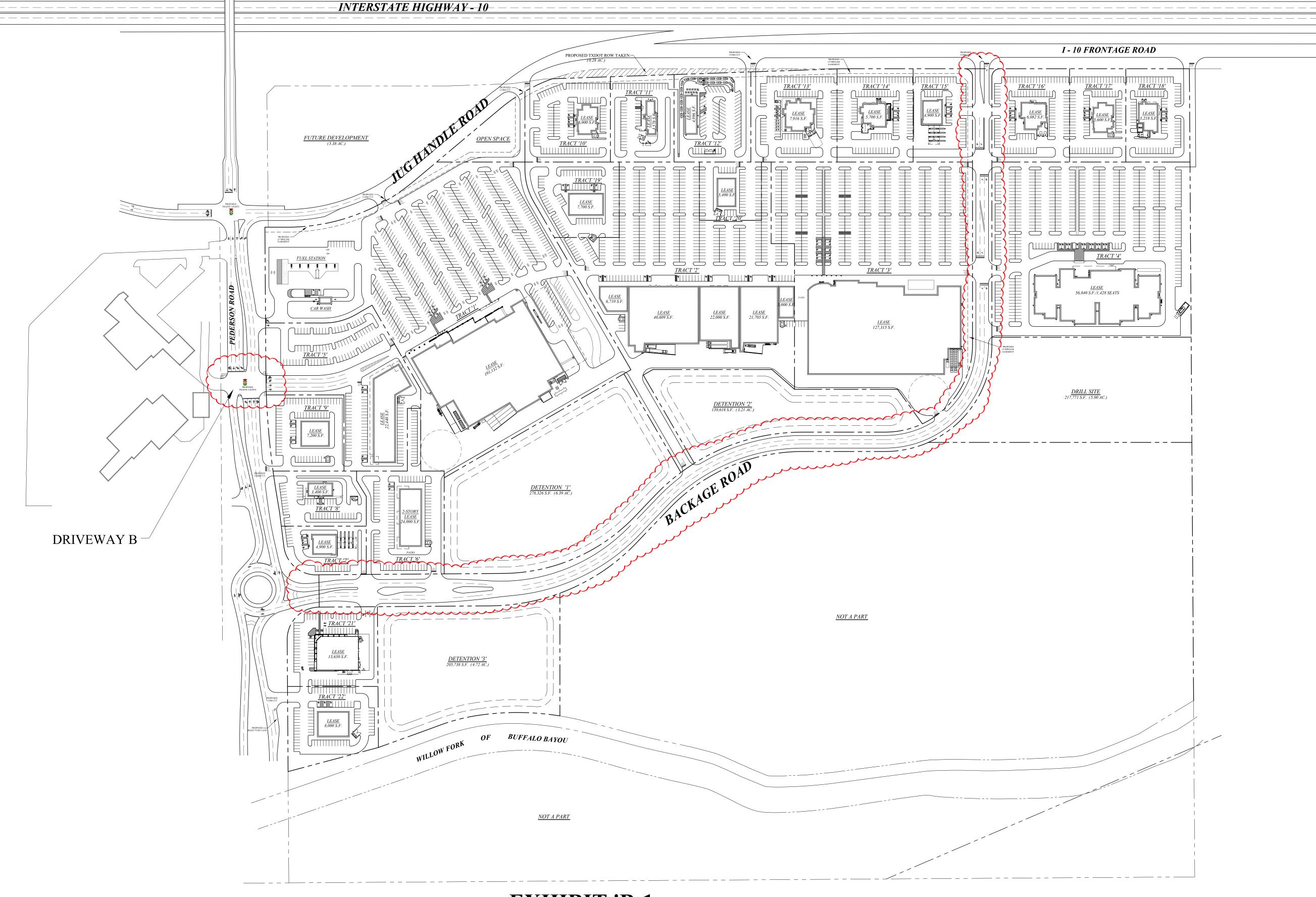
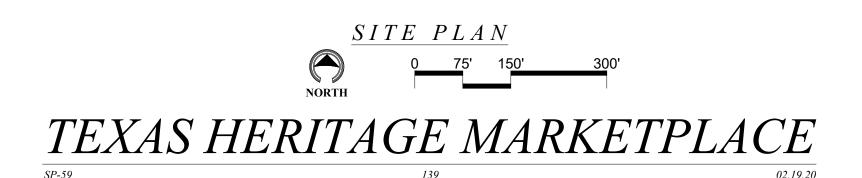


EXHIBIT 'B-1





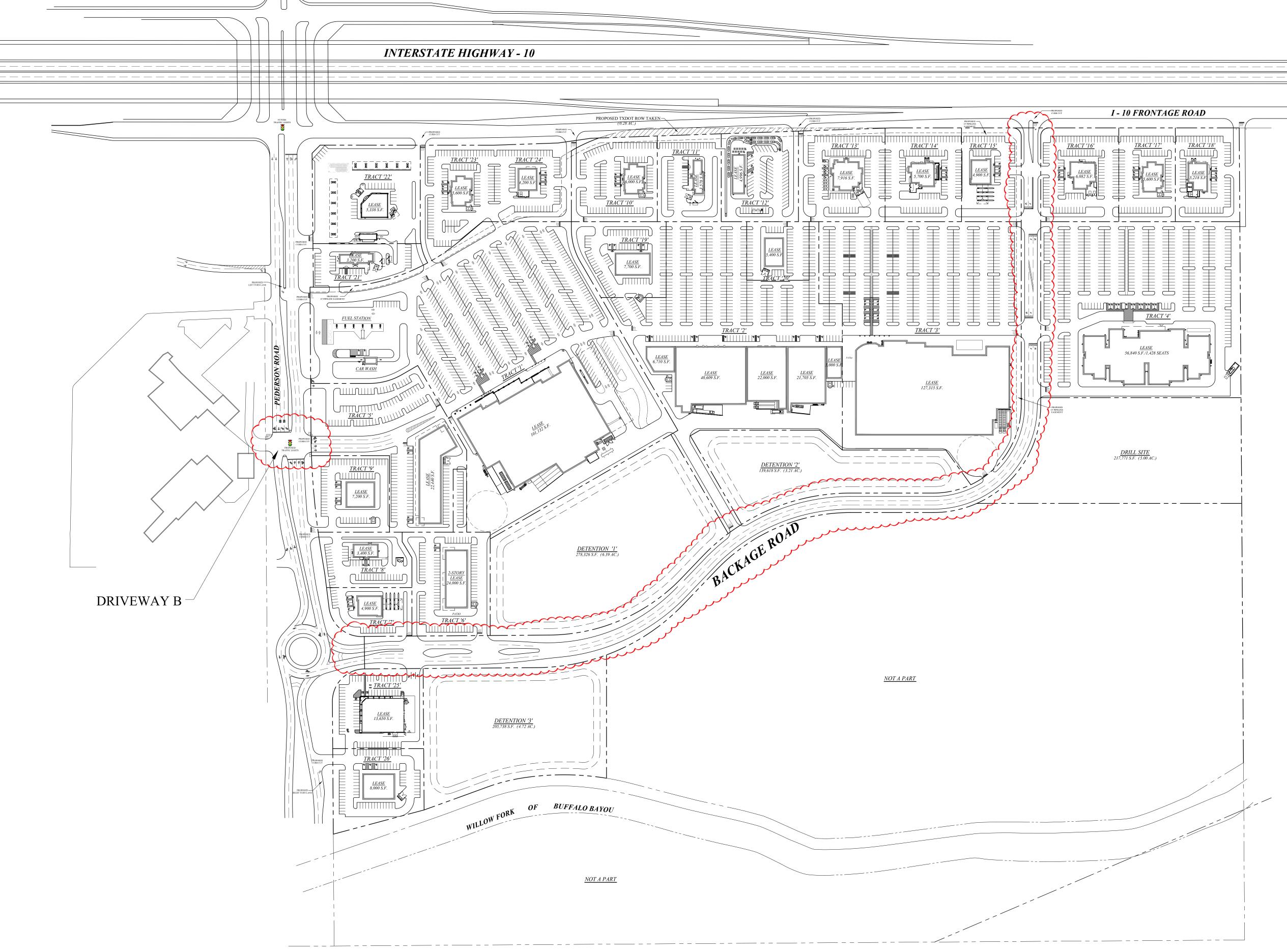


EXHIBIT 'B-2'



TEXAS HERITAGE MARKETPLACE



EXHIBIT C

Allocation of Debt Service

| | | | | | Fuishear's | Tax C | Collections in Mi | llions | | | | Fulshear's | Fulshear's | Fulshear's |
|------|-----------------------|--------|---------------|---------------|--------------|--------|-------------------|------------------|--------------|--------------|-------------|--------------------|------------------------|--------------|
| Year | Principal | Coupon | Interest | Total | Call Price | County | City AV | City Sales | County | City AV | City Sales | DS Payment | Total Collections | Net Receipts |
| 2018 | | | 856,800.00 | 856,800.00 | | 3.830 | 0.742 | 0.535 | 75% | 15% | 10% | 214,212 | 1,276,700 | 1,062,488 |
| 2019 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 5.956 | 0.996 | 0.715 | 78% | 13% | 9% | 191,203 | 1,710,900 | 1,519,697 |
| 2020 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 7.388 | 1.239 | 0.880 | 78% | 13% | 9% | 190,945 | 2,118,700 | 1,927,755 |
| 2021 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 8.670 | 1.324 | 0.980 | 79% | 12% | 9% | 179,876 | 2,303,800 | 2,123,924 |
| 2022 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 9.951 | 1.430 | 1.080 | 80% | 11% | 9% | 172,599 | 2,510,400 | 2,337,801 |
| 2023 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 11.158 | 1.540 | 1.175 | 80% | 11% | 8% | 167,662 | 2,714,600 | 2,546,938 |
| 2024 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 12.439 | 1.632 | 1.440 | 80% | 11% | 9% | 169,679 | 3,071,800 | 2,902,121 |
| 2025 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 13.796 | 1.723 | 1.735 | 80% | 10% | 10% | 171,706 | 3,457,800 | 3,286,094 |
| 2026 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 14.626 | | 2.000 | 79% | 10% | 11% | 175,781 | 3,775,100 | 3,599,319 |
| 2027 | | | 856,800.00 | 856,800.00 | 6,171,000.00 | 15.530 | | 2.265 | 79% | 9% | 12% | 178,924 | 4,099,200 | 3,920,276 |
| 2028 | 2,491,303.27 | 3.00% | 856,800.00 | 3,348,103.27 | 5,632,700.54 | 16.510 | | 2.525 | 79% | 9% | 12% | 708,968 | 4,435,300 | 3,726,332 |
| 2029 | 2,566,042.37 | 3.00% | 782,060.90 | 3,348,103.27 | 5,078,252.10 | 17.491 | 1.971 | 2.790 | 79% | 9% | 13% | 716,382 | 4,761,100 | 4,044,718 |
| 2030 | 2,643,023.64 | 3.00% | 705,079.63 | 3,348,103.27 | 4,507,170.21 | 18.772 | 2.026 | 3.060 | 79% | 8% | 13% | 713,771 | 5,086,300 | 4,372,529 |
| 2031 | 2,722,314.35 | 3.00% | 625,788.92 | 3,348,103.27 | 3,918,955.86 | 19.300 | | 3.185 | 79% | 8% | 13% | 712,451 | 5,217,000 | 4,504,549 |
| 2032 | 2,803,983.78 | 3.00% | 544,119.49 | 3,348,103.27 | 3,313,095.08 | 19.978 | | 3.305 | 79% | 8% | 13% | 706,485 | 5,343,100 | 4,636,615 |
| 2033 | 2,888,103.29 | 3.00% | 459,999.98 | 3,348,103.27 | 2,689,058.48 | 20.506 | | 3.315 | 79% | 8% | 13% | 693,982 | 5,361,800 | 4,667,818 |
| 2034 | 2,974,746.39 | 3.00% | 373,356.88 | 3,348,103.27 | 2,046,300.77 | 21.034 | | 3.435 | 79% | 8% | 13% | 693,363 | 5,493,600 | 4,800,237 |
| 2035 | 3,063,988.78 | 3.00% | 284,114.49 | 3,348,103.27 | 1,384,260.34 | 21.939 | | 3.545 | 80% | 7% | 13% | 681,820 | 5,610,100 | 4,928,280 |
| 2036 | 3,155,908.44 | 3.00% | 192,194.82 | 3,348,103.27 | 702,358.70 | 22.315 | | 3.600 | 80% | 7% | 13% | 678,305 | 5,669,600 | 4,991,295 |
| 2037 | 3,250,585.70 | 3.00% | 97,517.57 | 3,348,103.27 | | 22.919 | 2.074 | 3.660 | 80% | 7% | 13% | 670,065 | 5,734,400 | 5,064,335 |
| | 28,560,000.00 | | 13,489,032.69 | 42,049,032.69 | | 140 | | | | | | 8,788,178 | 79,751,300 | 70,963,122 |
| | Construction Cost | | | 28,000,000 | | | County's Tax F | ate | 0.49476 | | | | | |
| | Cost of Issuance | | | 560,000 | | | M&O Portion | า | 0.37300 | | | | | |
| | COSE OF ISSUARICE | | | 28,560,000 | | | | | | | 1.0 | | | |
| | | | | 20,000,000 | | | City's M&O Po | rtion | 0.10000 | | | | | |
| | Deferral Years | | | 10 | | | | | | | | | | |
| | | | | | | | AV Values and | Sales Taxes fro | m the CDS Re | port, June 2 | 015 and mul | tiplied by the M&0 | O percentage of the Co | ounty |
| | Fulshear's Cost Alloc | ation | | 6,050,000 | | | | . Sales Taxes di | | | | | | |
| | Percentage of Total | | | 21.61% | | | | | | | | | | |
| | Maximum Payments | | | 9,085,595 | | | | | | | | | | |
| | , | | | | | | | | | | | | | |

EXHIBIT A

NewQuest/Landmark Proposed Design Modification to the Texas Heritage Parkway

SUBSTANTIVE TERMS:

- 1. Modify THP design to provide for configuration of roadway north of Willow Fork Bayou (Section 3C) as shown in Exhibit A (interim condition prior to I-10 widening) and Exhibit B (ultimate configuration after I-10 widening). No other modifications to this roadway design allowed without approval of all governmental parties.
- 2. Signal at Driveway B subject to the following conditions:
 - a. Pavement construction will include all pavement shown on Exhibit A, but signal equipment (poles, control boxes, signal lights) for the signal at Driveway B will not be constructed as part of the THP Section 3C construction contract. Conduit and other items that can easily be incorporated in the Section 3C contract to reduce costs of the signal equipment installation in the future can be included in the Section 3C contract.
 - b. The signal equipment cannot be installed, or the signal made active, until all the following has occurred:
 - i. Waller County/THPID/Katy have entered into Advanced Funding Agreement with TxDOT for:
 - 1. removal of existing frontage road and signal at that location after I-10 reconstruction;
 - relocation of entrance ramp east of NewQuest development so that drivers access I-10 entrance ramp from the Backage Road as shown in Exhibit A; and
 - 3. all other components of the roadway design shown on the NewQuest ultimate configuration proposal.¹
 - ii. Construction of Backage Road completed and open to the public.
 - iii. The signal meets all other standard traffic signal warrant requirements.
 - iv. THPID to operate and maintain signal timing.
- 3. Landmark/NewQuest will secure approval of TxDOT, Waller County, and Katy (if necessary) i) for the construction plans for the design shown in Exhibits A & B; and ii) to allow THPID to manage the signal timing of the lights at I-10 frontage road and driveway B.

¹ While it is anticipated that TxDOT will abandon the SE corner right-of-way and that property will be incorporated into the commercial center as shown in Exhibit B, that land transfer is not a necessary term to the AFA, provided the other conditions described are met. Principally, and most critically, is the removal of the traffic light at the current "jug handle" frontage road.

- 4. The design of the signals at Driveway B and I-10 will use best available technology for traffic management (adaptive signal control), which plans must be approved by THPID. Signal timing will be determined by THPID (or Katy with Katy's consent) with the approval of NewQuest/Waller County. The signal timing will be designed to maximize total traffic throughput at the intersection, including into and out of the commercial center. It is the intent of the parties that the signal may not be programmed in a way that effectively minimizes or blocks traffic going into and out of the commercial center, nor should it favor traffic going into the commercial center over THP traffic.
- 5. In addition to Landmark's obligation to the overall THP costs Landmark/NewQuest pays for the design of the interim option and any additional construction cost over and above THP 'base' design (including additional pavement, storm sewer, signal light at Driveway B.) Additional pavement for which Landmark/NewQuest is responsible is shown on Exhibit D.
- 6. Kimley-Horn to provide other minor comments to the proposed configuration relative to turn lanes and deceleration lanes.

PROCEDURAL TERMS:

- 1. The modifications to the design of the THP as described above requires the following contract modifications:
 - a. The Fort Bend County Agreement with the existing participants will be amended to include Waller County and Pederson Road Town Center-139, LLC (and/or any other private landowner owning land adjacent to and east of Pederson Road, south of I-10 and north of Willow Fork Bayou). The amendment will also modify that agreement to effectuate the substantive terms described above. The FBC Agreement must also be amended to allow for construction in segments as contemplated herein.
 - b. The Fort Bend County agreements with Katy and Fulshear must be amended by formal action of those governing bodies.
 - c. Negotiations for the AFA with TxDOT should begin immediately. The THPID consultants and NewQuest will use their best efforts to secure the AFA within 6 months.
- 2. Waller County/NewQuest will be solely responsible for interfacing with Cameron on the designs shown in Exhibit A & B. To the extent the design facilitates future development on the Cameron property, Cameron should be required to dedicate additional right-of-way and participate financially in the improvements.
- 3. Exhibit C shows the schedule for Commissioners Court and City Council meetings for the next 60 days. All the amendments/agreements contemplated above (except the AFA) must be approved by March 31, so that THPID can award the contracts for Segments 1-3 which were previously bid.

PRELIMINARY STUDY

This Site Plan is presented solely for the purpose of identifying the approximate location and size of the buildings presently contemplated within the Shopping Center. Subject to the limitations, conditions and any other restrictions expressly provided for in the Lease, building sizes, site dimensions, access, parking and landscaping areas are subject to change at Landlord's discretion. Except as otherwise expressly provided in the Lease, the identities of any other existing or proposed tenants or occupants, as well as the designation of any building space to be occupied by the same, are for information purposes only, shall not constitute any agreement or covenant on the part of Landlord as to the future use or occupancy of any such building space, and shall remain subject to change at Landlord's discretion. DETENTION '2' DETENTION '3' DETENTION '1' OPEN SPACE SUBTOTAL DRILL SITE TRACT '13' TRACT '17' TRACT '11' TRACT '10' TRACT '18' TRACT '16' TRACT# TRACT '20' TRACT '9' TRACT '19' TRACT '12' TRACT'6' TRACT '3' TRACT '2' TRACT '1' TRACT '5' TRACT '4' TOTAL R.O.W. DEVELOPMENT SYNOPSIS LAST UPDATED: SP55 MAJOR LEASE SHOPPING CENTER TRACTS 1,110,012 2,710,186 217,771 225,393 205,738 139,618 333,108 415,411 278,326 348,771 590,503 50,217 65,290 52,615 67,149 146,076 (S.F.) 12,129 60,703 57,036 69,252 67,938 75,584 54,621 36,484 86,542 LAND AREA HERITAGE (ACRES) 87.70 25.48 5.00 0.28 0.71 3.21 0.80 1.50 5.17 4.72 6.39 1.39 1.31 1.15 1.59 1.74 1.21 1.54 0.84 1.99 3.35 7.65 9.54 8.01 1.25 1.04 1.21 BUILDING AREA 127,315 101,132 NORTH 24,000 22,440 53,700 96,024 6,000 5,600 4,996 3,578 4,900 6,082 4,900 5,700 7,916 7,200 3,400 PARKING PROVIDED E524 109 140 479 111 110 103 107 429 77 8 59 44 23 66 45 PLAN50' 100' MARKETPLACEPARKING RATIO/ 1000 18.25 13.77 11.81 14.46 19.30 12.30 17.17 9.18 13.24 6.24 4.12 DATE: 01.27.20 9.17 4.69 4.46 8.92 4.47 5.61 200' DENSITY % 27.73 30.65 27.53 12.68 11.15 10.47 13.18 13.43 15.36 16.12 9.15 6.80 8.94 17.13 8.78 9.26 7.65 8.39 7.50 **DRIVEWAY** 1/4 PEDERSON ROAD PROP **CCC** TRACT'9 WILLIAM 15' AND A STATE OF THE FUTURE DEVELOPMI 234,179 S.F. (5.38 AC.) BANK 4,900 S.F. INT ERSTATE HIGHWAY-2.STORY LEASE 24,000 S.F. шшшшш WILLOW FORK 10 BUFFALO BAYOU Backage Road I - 10 FRONTAGE ROAD DRILL SITE 217,771 S.F. (5.00 AC.)

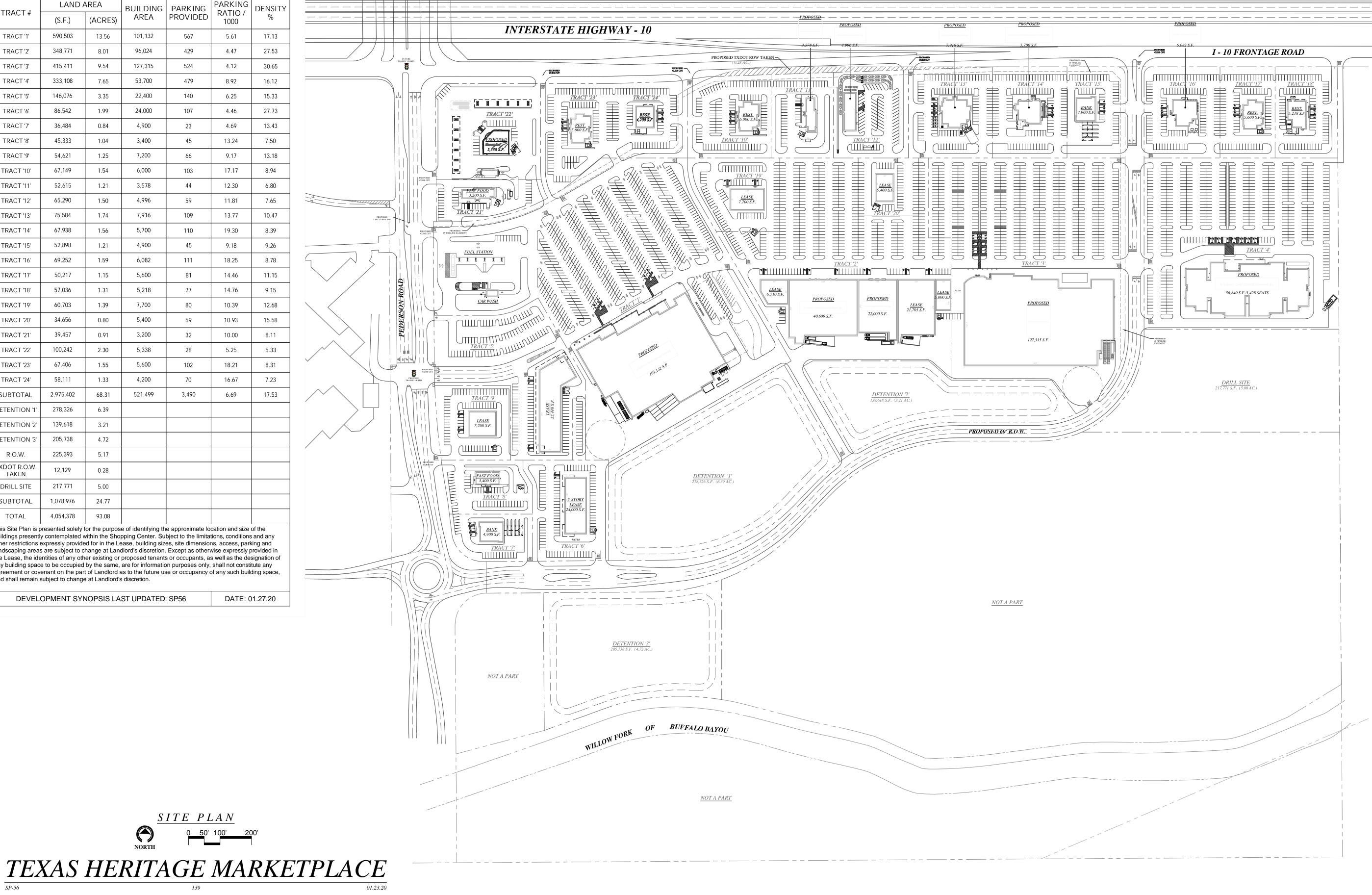
DEVELOPMENT SYNOPSIS



| | MAJOR L | EASE SH | IOPPING C | ENTER TR | RACTS | |
|--|--|---|--|--|---|------------------------------------|
| TRACT# | LAND | AREA | BUILDING | PARKING | PARKING | DENSITY |
| | (S.F.) | (ACRES) | AREA | PROVIDED | RATIO / 1000 | % |
| TRACT '1' | 590,503 | 13.56 | 101,132 | 567 | 5.61 | 17.13 |
| TRACT '2' | 348,771 | 8.01 | 96,024 | 429 | 4.47 | 27.53 |
| TRACT '3' | 415,411 | 9.54 | 127,315 | 524 | 4.12 | 30.65 |
| TRACT '4' | 333,108 | 7.65 | 53,700 | 479 | 8.92 | 16.12 |
| TRACT '5' | 146,076 | 3.35 | 22,400 | 140 | 6.25 | 15.33 |
| TRACT '6' | 86,542 | 1.99 | 24,000 | 107 | 4.46 | 27.73 |
| TRACT '7' | 36,484 | 0.84 | 4,900 | 23 | 4.69 | 13.43 |
| TRACT '8' | 45,333 | 1.04 | 3,400 | 45 | 13.24 | 7.50 |
| TRACT '9' | 54,621 | 1.25 | 7,200 | 66 | 9.17 | 13.18 |
| TRACT '10' | 67,149 | 1.54 | 6,000 | 103 | 17.17 | 8.94 |
| TRACT '11' | 52,615 | 1.21 | 3,578 | 44 | 12.30 | 6.80 |
| TRACT '12' | 65,290 | 1.50 | 4,996 | 59 | 11.81 | 7.65 |
| TRACT '13' | 75,584 | 1.74 | 7,916 | 109 | 13.77 | 10.47 |
| TRACT '14' | 67,938 | 1.56 | 5,700 | 110 | 19.30 | 8.39 |
| TRACT '15' | 52,898 | 1.21 | 4,900 | 45 | 9.18 | 9.26 |
| TRACT '16' | 69,252 | 1.59 | 6,082 | 111 | 18.25 | 8.78 |
| TRACT '17' | 50,217 | 1.15 | 5,600 | 81 | 14.46 | 11.15 |
| TRACT '18' | 57,036 | 1.31 | 5,218 | 77 | 14.76 | 9.15 |
| TRACT '19' | 60,703 | 1.39 | 7,700 | 80 | 10.39 | 12.68 |
| TRACT '20' | 34,656 | 0.80 | 5,400 | 59 | 10.93 | 15.58 |
| TRACT '21' | 39,457 | 0.91 | 3,200 | 32 | 10.00 | 8.11 |
| TRACT '22' | 100,242 | 2.30 | 5,338 | 28 | 5.25 | 5.33 |
| TRACT '23' | 67,406 | 1.55 | 5,600 | 102 | 18.21 | 8.31 |
| TRACT '24' | 58,111 | 1.33 | 4,200 | 70 | 16.67 | 7.23 |
| SUBTOTAL | 2,975,402 | 68.31 | 521,499 | 3,490 | 6.69 | 17.53 |
| DETENTION '1' | 278,326 | 6.39 | | | | |
| DETENTION '2' | 139,618 | 3.21 | | | | |
| DETENTION '3' | 205,738 | 4.72 | | | | |
| R.O.W. | 225,393 | 5.17 | | | | |
| TXDOT R.O.W. TAKEN | 12,129 | 0.28 | | | | |
| DRILL SITE | 217,771 | 5.00 | | | | |
| SUBTOTAL | 1,078,976 | 24.77 | | | | |
| TOTAL | 4,054,378 | 93.08 | | | | |
| uildings presently ther restrictions of andscaping areasone Lease, the ide | y contemplated expressly provides are subject to descriptions. | within the Sho ed for in the Le change at Land ner existing or | e of identifying th pping Center. Su ease, building siz dlord's discretion. proposed tenants | bject to the limita es, site dimension Except as others s or occupants, a | tions, conditions ns, access, park wise expressly p s well as the de | and any king and provided in |

DEVELOPMENT SYNOPSIS LAST UPDATED: SP56 DATE: 01.27.20

EXHIBIT B





SITE PLAN

SEC OF INTERSTATE HIGHWAY 10 & PEDERSON ROAD KATY, TEXAS

Exhibit C

Fulshear City Council (third Tuesday of each month)

Tuesday, Feb. 18th at 7PM (special city council meeting at 5:30PM)

Tuesday, Mar 17th at 7PM (special city council meeting at 5:30PM)

Katy City Council (second and fourth Tuesday of each month)

Tuesday, February 11th at 6:30PM

Tuesday, February 25th at 6:30PM

Tuesday, March 11th at 6:30PM

Tuesday, March 25th at 6:30PM

Fort Bend County Commissioners Court (first Tuesday of the month)

Tuesday, February 4th at 1PM

Tuesday, February 11th at 1PM

Tuesday, February 25th at 1PM

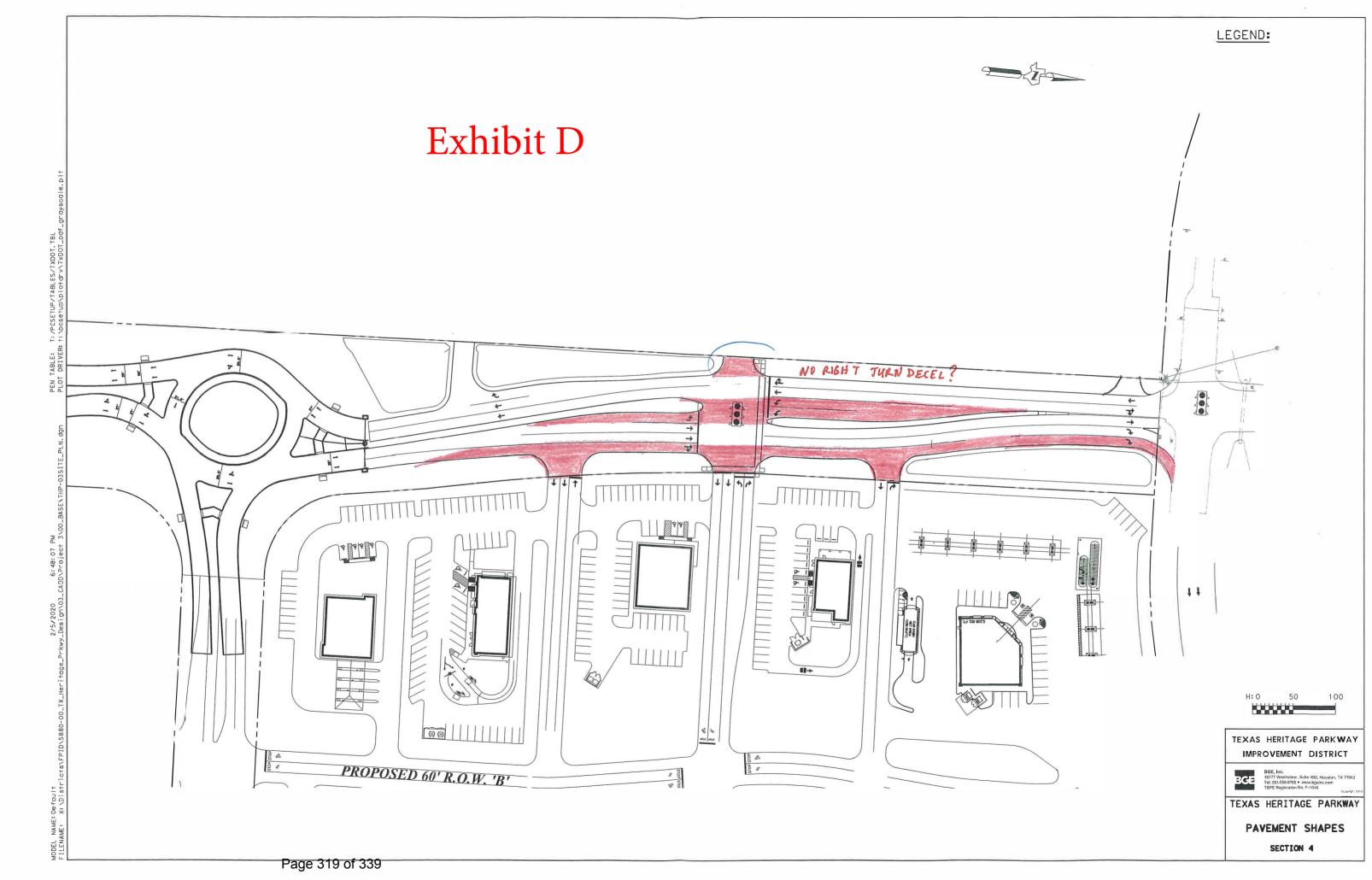
Tuesday, March 3rd at 1PM

Tuesday, March $10^{\rm h}$ at 1PM

Tuesday, March 24th at 1PM

Waller County Commissioners Court

Each Wednesday at 9AM.



INTERLOCAL AGREEMENT FOR COUNTY-MANAGED MOBILITY PROJECT TEXAS HERITAGE PARKWAY

This Agreement is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the TEXAS GOVERNMENT CODE and Section 251.012 of the TEXAS TRANSPORTATION CODE, by and between the City of Fulshear, a municipal corporation and home-rule city of the State of Texas, principally situated in Fort Bend County, acting by and through its City Council, ("City"), and Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, ("County").

RECITALS

WHEREAS, the County will enter into that certain *Agreement for Regional Road Improvements for a Parkway between the cities of Fulshear and Katy* (the "Participant Agreement") with certain private landowners to promote the development of a major north-south thoroughfare from Interstate 10 at Pederson Road to approximately 2100 feet south of the intersection with FM 1093 (the "Project", as generally shown on **Exhibit A** and as defined more fully below) contemporaneously with the approval of this Agreement; and

WHEREAS, the County has or will enter into an Interlocal Agreement for the Project with the City of Katy (the "Katy Agreement") to pay for a portion of the Project; and

WHEREAS, the Project is the construction of roadway improvements that will enhance the traffic flow/circulation and drainage in the service area, and such Project is desired by the City and the County; and

WHEREAS, the County may not expend proceeds of bond issues or taxes levied pursuant to Article III, Section 52 (b) or (c) of the Texas Constitution on city streets that are not integral parts of or connecting links with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the parties assert that the Project is part of a city street that is an integral part of or a connecting link with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the Commissioners Court of Fort Bend County finds that the Project contemplated in this Agreement serves a County purpose; and

WHEREAS, the City and the County agree to participate in this Project according to the terms of this Agreement; and

WHEREAS, the governing bodies of the City and County have authorized this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to both parties, it is agreed as follows:

AGREEMENT

Section 1. Definitions

- A. *City* means the City of Fulshear, Texas.
- B. **County** means Fort Bend County, Texas.
- C. **Project** means the proposed a Parkway from I-10 to approximately 2100 feet south of FM1093 as generally shown on **Exhibit A** and all improvements necessary or convenient to the functioning of the roadway (e.g. drainage, detention, required lighting, etc.) including a 12-foot wide concrete trail and grade separations.
- D. Eligible Project Costs means costs, as determined by the County, for engineering design and services related to the completion of Plans, Specifications and Estimates ("PS&E") and construction of roadway improvements, project related drainage facilities, utility and pipeline conflicts, approved traffic control devices, and; development of standards for improvements within the property subject to the ROW Deeds; design, development, utility relocation, right-of-way acquisition, and construction; all payments arising under any contracts entered into for the design or construction of the Project; all costs incurred in connection with obtaining governmental approvals, certificates and permits required in connection with the construction of the Project, including the engineering and other fees and expenses related to the design and construction of the Project.
- **E.** County/Fulshear Segment means that portion of the Project located within the City's corporate limits and extraterritorial jurisdiction as shown in Exhibit A.
- **F.** *County Contribution* means seventy percent (70%) of fifty percent (50%) of the Eligible Project Costs for the County/Fulshear Segment. At the time of this agreement, the estimated County Contribution is \$13,285,674.
- **G.** *City Contribution* means thirty percent (30%) of fifty percent (50%) of the Eligible Project Costs for the County/Fulshear Segment. At the time of this agreement, the estimated City Contribution is \$5,693,860.

Section 2. <u>Incorporation of Recitals</u>

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

Section 3. City's Rights and Obligations

A. During the work on the Project, the City shall have the right to review all documents, maps, plats, records, photographs, reports and drawings affecting the construction and to inspect the work in progress; provided however, that in conducting such inspections, the City shall not interfere with the work in progress. Any deficiencies noted by the City shall be

brought to the attention of the County, and the deficiencies shall be promptly addressed by the County.

B. The City shall have the right to participate in the final inspection of the Project. At that time, any deficiencies noted by the City shall be promptly addressed by the County.

Section 4. County Obligations

- A. The County is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and federal laws.
- B. In the event the County determines the Project lacks feasibility or for any other reason elects to forego its construction, the County shall provide written notice to the City of its decision to forego construction and refund all amounts provided by the City upon thirty (30) days of said notice to the City.
- C. The County shall submit reports to the City describing in sufficient detail the progress of the Project. These reports shall be submitted to the City at increments agreed to between the parties as appropriate for the various phases of the Project. Reports received by the City from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the County has reviewed such reports and confirmed accuracy of the contractor's report.
- D. The County will submit the plans for the Project to the City Engineer for review and comment. During the work on the Project, the City may review the documents, maps, plats, records, photographs, reports, and drawings pertaining to the Project and may inspect the work in progress, provided that it does not interfere with the work.
- E. Upon completion of the Project, but no later than 60 days after, the County will furnish the City with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed. The City Auditor may review the County's records regarding this Project.

Section 5. Liability

The City and County are entitled to the immunities and defenses of the Texas Tort Claims Act.

Section 6. Maintenance

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

Section 7. Plan of Finance

The City and the County will finance their share of the Project in accordance with this section.

- A. <u>Plan of Finance</u>. Fort Bend County will issue County debt or otherwise finance an amount necessary to pay for the County Contribution and the City Contribution as those costs become due and payable pursuant to the Participant Agreement.
- Annual City Payments. The City shall make the Annual City Payment to the County to reimburse for the City Contribution. The Annual City Payment is an annual payment of principal and interest in an amount equal to the City Contribution amortized for a period of not more than 25 years and at an interest rate not less than the County's interest costs and issuance costs, which the County would have issued at the time of execution of the agreement including agreed upon cost of issuance, and with such other terms and payment structure as may be approved by the County Auditor and the City's Finance Director. The Annual City Payment will also include any Eligible Project Costs incurred by the County prior to this issuance with 2% interest compounded monthly (until the proceeds of the issuance reimburse these preliminary expenditures). An example of the Annual City Payment is shown on **Exhibit B** reflects a hypothetical issue based on current costs estimates and financial conditions for the Eligible Project Costs. The actual Annual City Payment schedule will be fixed when the County first makes payments pursuant to the Participation Agreement, which is estimated to be March 2018. The City will pay the County by April 15 of each year. Late payments will accrue interest at the net effective interest rate of the County Debt. Fort Bend County will attempt to provide the City with a clear distinction of the County Debt from the County's other outstanding obligations. After any refunding of the obligations, County will provide a new total debt service to the City.
- C. <u>Prepayment Option</u>. The City may prepay the remaining City Contribution to the County at any time without penalty, provided however, if the County has issued debt that is not callable at the time of the prepayment, the City will be responsible for any additional costs necessary to advanced refund the debt and any interest thru the call date.

Section 8. <u>Insurance Requirements</u>

The County agrees that it will require the contractor's insurance policies to name the County as well as the City as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

- Workers' Compensation in the amount required by law. The policy shall include the All States Endorsement.
- Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).
- Comprehensive Automatic Liability Insurance, including owned, non-owned and C. hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.
- D. The County may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases the City shall remain an additional insured. The County will provide the City with proof of insurance within 30 days of the County's award of the contract for the Project construction.

Section 9. 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 10. 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 11. 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: Robert E. Hebert, County Judge

401 Jackson Street, 1st Floor Richmond, Texas 77469

With a copy to:

Fort Bend County Engineering Department

Attn: Richard Stolleis, P.E., County Engineer

301 Jackson Street Richmond, Texas 77469

City:

City of Fulshear, Texas

Attn: C.J. Snipes, City Administrator

P.O. Box 279

Fulshear, Texas 77441

Section 12. 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 13. Execution and Condition Precedent

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. However, this Agreement shall not become effective unless and until the Participation Agreement described on page 1 has been fully executed.

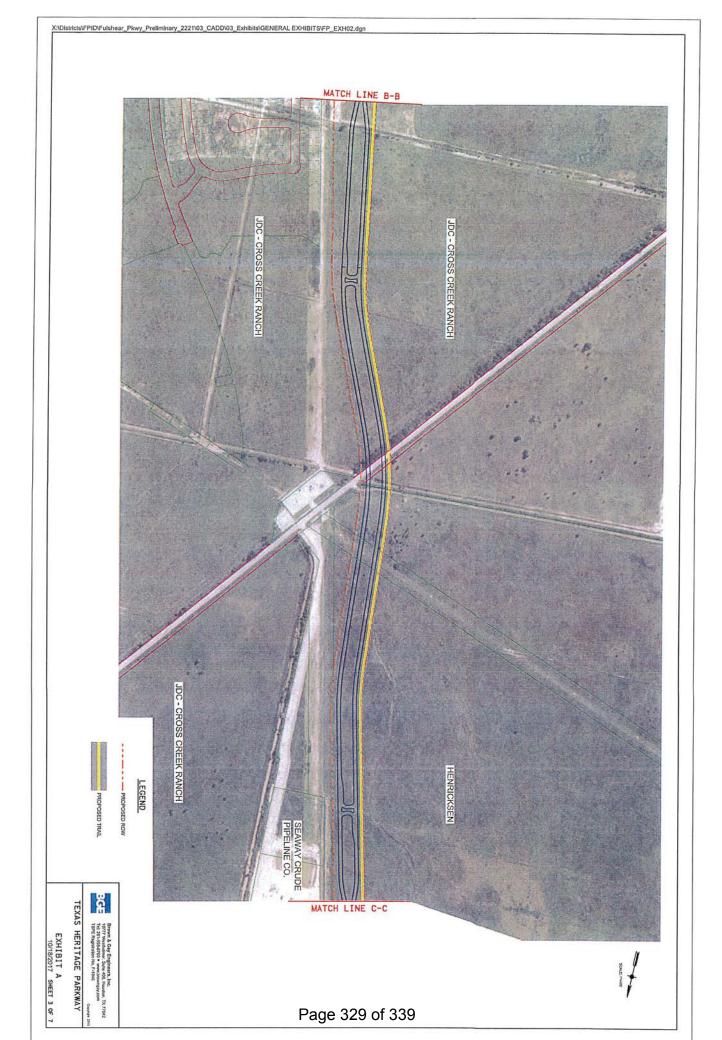
| Robert E. Hebert, County Judge | CITY OF FULSHEAR, TEXAS Jeff Roberts, Mayor |
|---|--|
| Date 3-6-2018 50 | Date: 1-22-2018 |
| ATTEST: June 1 Schard Laura Richard, County Clerk | ATTEST: D. Gordon Offord, City Secretary |
| APPROVED AS TO FORM: Marcy Dencer County Attorney - First Assistant | HAT SHEAR SH |

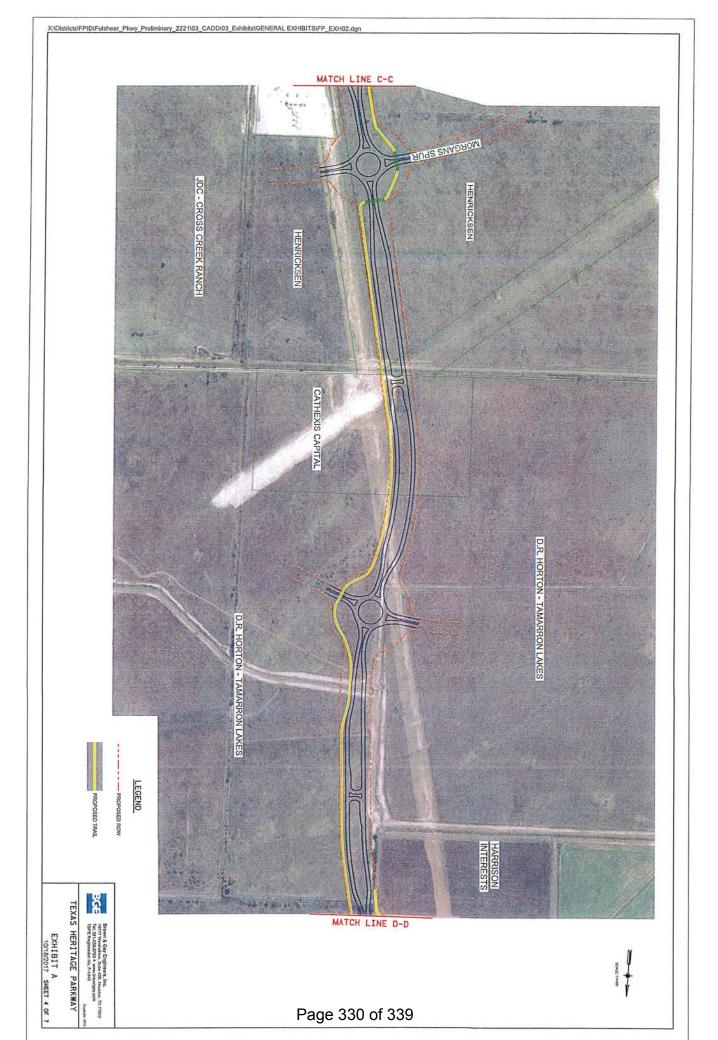
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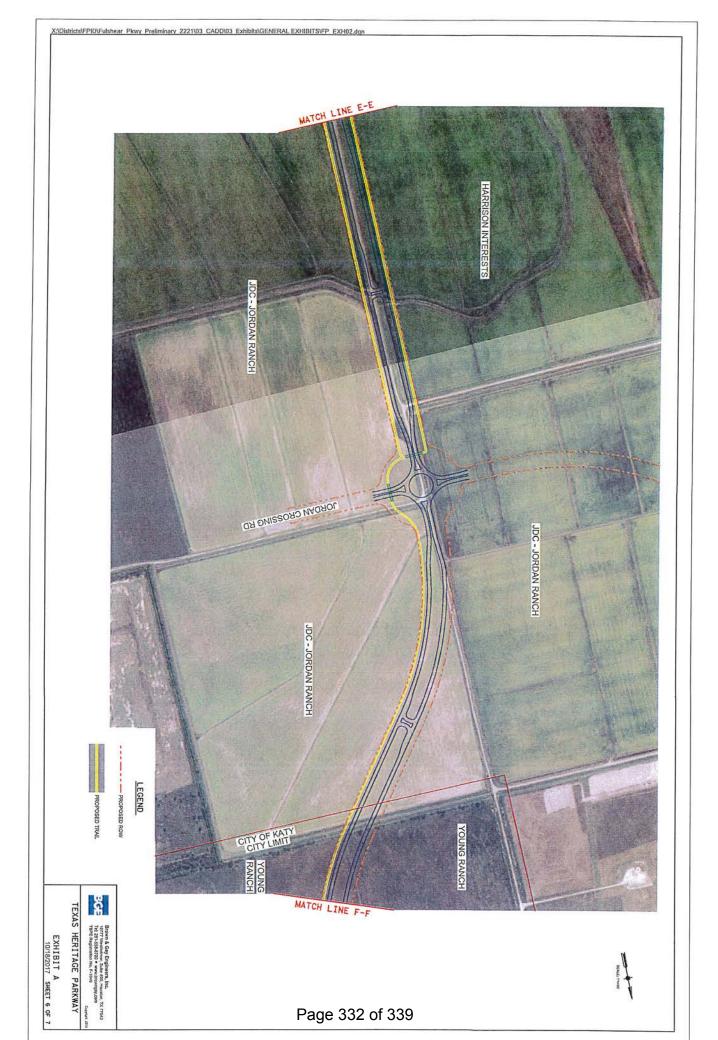


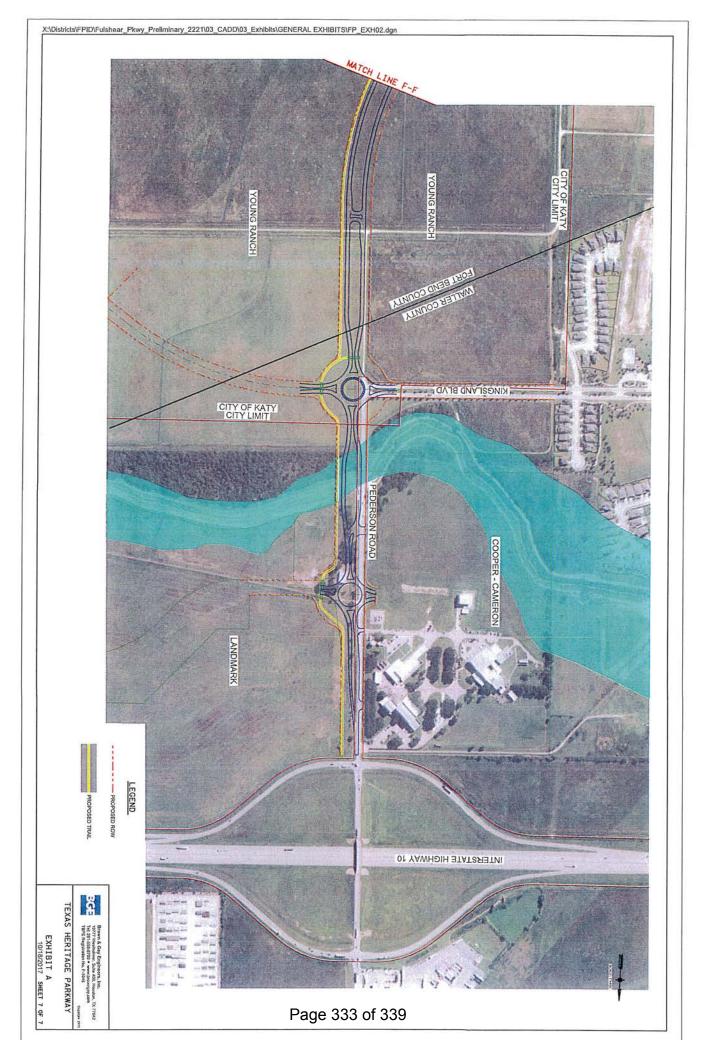


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| Allocation |
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