

**INTERLOCAL AGREEMENT BETWEEN
FORT BEND COUNTY TOLL ROAD AUTHORITY AND
FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 50**

This Interlocal Agreement (this "Agreement") is made and entered into to be effective on January 21, 2015, by and between **FORT BEND COUNTY TOLL ROAD AUTHORITY**, a Texas Local Government Corporation (the "Authority") and **FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 50**, a political subdivision of the State of Texas (the "District"). The Authority and the District may be referred to herein collectively as "Parties" and individually as a "Party."

BACKGROUND

WHEREAS, the Authority is a local government corporation created by Fort Bend County and established and operating under Chapters 284 and 431 of the Texas Transportation Code to construct, maintain, and operate certain toll road projects in Fort Bend County, including the Fort Bend Westpark Tollway (the "Tollway"); and

WHEREAS, the District was legally created and operates pursuant to the general laws of the State of Texas applicable to conservation and reclamation districts for the purpose, among others, to provide for the construction, acquisition, maintenance, and operation of water, sewer, and drainage facilities to serve the District; and

WHEREAS, the Authority owns fee title to that certain 19.5326 acre tract of land adjacent to the Tollway within the boundaries of the District, as more fully described on **Exhibit A** attached hereto (the "Property"); and

WHEREAS, the Authority acquired the Property from Sun Coast Financial, Inc. ("Sun Coast") by virtue of that certain Special Warranty Deed recorded in the Fort Bend County Real Property Records under Clerk's File No. 2004018711 (the "Deed"); and

WHEREAS, the Authority has constructed and maintains a detention basin on the Property (the "Facilities"), as generally shown on **Exhibit B** attached hereto; and

WHEREAS, pursuant to the terms of the Deed, Sun Coast reserved for itself, its successors and assigns a non-exclusive easement to utilize the Property for detention purposes (the "Easement Rights") and acquired 8 acre-feet of detention capacity in the Facilities (the "Detention Capacity");

WHEREAS, Sun Coast has assigned the District the Easement Rights and the Detention Capacity;

WHEREAS, the District desires to expand and make certain improvements to the Facilities in order to provide additional 40.7 acre feet of detention capacity for certain surrounding property located within the boundaries of the District (the "Improvements"); and

WHEREAS, the Authority is willing to sell the District additional easement rights necessary to construct the Improvements (the "Additional Easement Rights"); and

WHEREAS, the District is willing to fund the cost of constructing the Improvements; and

WHEREAS, the Parties wish to set forth certain terms and conditions by which the District will construct the Improvements; and

WHEREAS, the Parties are authorized to make and enter into this Agreement under Chapters 228, 284, and 431 of the Texas Transportation Code, Chapter 791 of the Texas Government Code, and as otherwise authorized and permitted by the laws of the State of Texas, as applicable; and

NOW, THEREFORE, for and in consideration of the mutual agreements contained herein the Parties agree as follows:

AGREEMENT

Section 1. Facility Capacity. The Authority agrees to grant the District easement rights for an additional 40.7 acre feet of detention capacity (the "Additional Detention Capacity") in the Facilities once the Improvements are completed, subject to the terms and conditions set forth in this Agreement. In consideration for the Additional Easement Rights, the District agrees to make payment to the Authority in an amount equal to the market value of such easement rights as determined by an independent appraiser mutually agreed upon by the Parties. The District shall pay for the costs of the appraisal report and shall make a payment to the Authority for the value of the Additional Easement Rights within thirty (30) days of the issuance of the final appraisal report. In exchange for and contemporaneous with the payment, the Authority shall execute an easement instrument in a form mutually agreeable to the Parties granting the Additional Easement Rights to the District.

Section 2. Scope and Cost of Improvements. The District will cause its engineer to design and construct the Improvements as generally shown on **Exhibit B**. The Improvements will consist of the expansion and modification of the Facilities necessary to provide the Additional Detention Capacity. The District shall be responsible for all costs associated with the construction of the Improvements, including but not limited to, costs associated with design and construction phase engineering services, as well as actual construction costs. The Authority shall not be obligated to reimburse the District for any portion of the Improvements.

Section 3. Design, Competitive Bid, and Award of Improvements.

(a) The District shall oversee the design and construction of the Improvements. The District shall cause its engineer to design the Improvements to meet the requirements of the District, the Authority, and all other applicable jurisdictions. The plans and specifications shall be subject to review and approval by the Authority, or their respective authorized agents, which review and approval will not be unreasonably withheld, conditioned or delayed. Once the plans and specifications for the Improvements have been approved by the Authority and all other applicable jurisdictions, the District shall cause its engineer to advertise for bids for the construction of the Improvements in accordance with the rules applicable to the District.

(b) The District, in its sole discretion, will award and enter into a contract for the construction of the Improvements (the "Construction Contract") with a qualified bidder determined in accordance with the rules applicable to the District, which Construction Contract may be subject to change orders that increase, decrease, or otherwise alter the cost of constructing the Improvements

under such contract. The District will notify the Authority in writing of the award of the Construction Contract.

Section 4. Construction.

(a) The District shall administer the Construction Contract in its sole discretion. Such construction shall meet all Authority and District construction standards and requirements. The District, through its engineer or authorized representative, shall provide on-site inspection of the construction of the Improvements in accordance with the Construction Contract. The District shall approve or deny all pay applications and requests for extensions of time' and shall pay all valid pay applications issued under the Construction Contract within forty-five (45) days of receipt. The Authority, at its sole cost, shall at all times have the right have its engineer or other authorized agent access and inspect the construction of the Improvements.

(b) The Parties agree that the District does not warrant the quality of any engineering or construction work done by any third party in connection with, or materials provided for, the Improvements, nor for compliance of same with District standards and other governmental codes and regulations applicable thereto, nor shall the District be deemed to be responsible for any such compliance.

(c) The District, in its sole discretion, shall have the right to terminate the Construction Contract and to enforce its remedies thereunder. In the event of any such termination, the District shall have the right to complete and/ or cause the completion of the Improvements itself and/or through such other contractor(s) as the District determines to be appropriate; provided that all work done in connection with such completion shall be in compliance with the plans and specifications approved therefore. The cost of any necessary and approved work necessary for the completion of the Improvements shall be borne by the District.

(d) The District shall cause the District's engineer to notify the Authority or its designated representative in writing of the time and date of the final inspection of the Improvements at least 5 business days in advance of such inspection. Prior to granting final acceptance of the Improvements, the District shall cause the construction contractor to address all of the Authority's inspection comments necessary for the Improvements to comply with the approved plans and specifications.

Section 5. Grant of Access. The Authority hereby authorizes the District the right to enter onto, over, upon, along, across, and under the Property to carry out any inspections, testing, surveying, construction work, or other related activities necessary to construct the Improvements in order to exercise the District's rights under the Easement Rights and the Additional Easement Rights. The District's right of access shall continue until this Agreement is terminated as set forth in Section 7 hereof.

Section 6. Ownership and Maintenance of the Improvements. Upon completion of the Improvements, the Authority shall retain ownership of the Property and the Facilities, subject to the Easement Rights, the Detention Capacity, the Additional Easement Rights, and the Additional Detention Capacity. During the construction of the Improvements, the District shall be responsible for maintenance of the Facilities. After final acceptance of the Improvements by the District, the Authority shall be responsible for maintaining the Facilities, including the Improvements, to a the

standard to which the Authority generally maintains its detention facilities; provided however, that the District shall retain the right, but not the obligation, to maintain the Facilities to a higher standard. Should the District choose to carry out additional maintenance of the Facilities, the District shall notify the Authority's general manager of the District's intent to complete such maintenance activities. The District will warrant the Improvements will be free from defects for a period of one (1) year from the date of final acceptance and will include and enforce such warranty within the Construction Contract and/or assign such warranty to the Authority. The District will reimburse the Authority for its pro-rata share of the costs of maintaining the Facilities based on the ratio of the Detention Capacity and the Additional Detention Capacity relative to the overall capacity of the Facilities, which for purposes of this agreement is 52.4%. The Authority will provide the District with an estimated maintenance cost allocation annually and will invoice the District annually based on the actual maintenance costs incurred. The Authority estimates for calendar year 2015, the total cost to maintain the Facilities is \$9,000, which results in a projected District payment amount of \$4,716.

Section 7. Termination of Agreement. This Agreement is to remain in full force and effect unless terminated by mutual agreement of the Parties hereto, or upon the transfer of maintenance responsibility pursuant to Section 6 above.

Section 8. Notices. Any notice, demand, request, or other instrument authorized or required to be given under this Agreement shall be deemed to have been given only upon receipt. Notices may be given by (i) first class mail, postage prepaid or (ii) overnight delivery service to the addresses set forth herein or such other address as may be designated by a Party. Notice shall be made as follows:

If to the District: Fort Bend County Municipal Utility District No. 50
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: David Oliver
doliver@abhr.com
Tel: (713) 860-6465

If to the Authority: Fort Bend County Toll Road Authority
c/o The Muller Law Group, PLLC
16555 Southwest Freeway, Suite 200
Sugar Land, Texas 77479
Attn: Richard L. Muller, Jr.
rmuller@mullerlawgroup.com
Tel: (281) 500-6022

With a copy to:
Mr. Michael E. Stone, General Manager
Mike Stone Associates, Inc.
PO Box 546
Richmond, TX 77406

Section 9. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the Parties concerning the Improvements. There have been and are no agreements,

covenants, representations, or warranties between the parties other than those expressly stated or provided for herein. No modification hereof or subsequent agreement relative to the subject matter hereof shall be binding on any party unless reduced to writing and signed by the parties.

Section 10. Parties in Interest. This Agreement shall be for the sole and exclusive benefit of the Authority and the District shall not be construed to confer any benefit or right upon any other party, including particularly any resident of the District.

Section 11. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any other person or circumstance shall ever be held by any court of competent jurisdiction to contravene or be invalid under the constitution or laws of the State of Texas for any reason, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as if it did not contain the particular provision or provisions held to be invalid, the rights and obligations of the parties shall be enforced accordingly, and this Agreement shall remain in full force and effect, as construed. The remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to the other parties or circumstances shall not be affected thereby.

Section 12. Successors and Assigns. This Agreement shall apply to and be binding upon the parties hereto and their respective officers, directors, successors, and assigns. This Agreement and any of the rights obtained hereunder are not assignable by any party hereto without the express written consent of the other parties, which consent shall not be unreasonably withheld.

Section 13. Authorization. Each party represents that (i) execution and delivery of this Agreement by it has been duly authorized by its governing body or other persons from whom such party is legally bound to obtain authorization; (ii) that the consummation of the contemplated transactions will not result in a breach or violation of, or a default under, any agreement by which it or any of its properties is bound, or by any statute, rule, regulation, order, or other law to which it is subject; and (iii) this Agreement is a binding and enforceable agreement on its part.

Section 14. Assignment. This Agreement is not assignable by either Party except with the prior written consent of the other Party.

Section 15. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas. Venue shall be in Fort Bend County.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement in multiple counterparts, each of which shall be deemed to be an original, as of the date and year first written above.

FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. 50


By: 
President, Board of Directors

By: 
Secretary, Board of Directors


(SEAL)



FORT BEND COUNTY TOLL ROAD
AUTHORITY


Name: James D. Condrey, DSS
Title: Chair man

ATTEST:


Name: Charles Rencher
Title: Secretary

(SEAL)



EXHIBIT A

Property Description

EXHIBIT "A"

County: Fort Bend
Highway: Fort Bend Tollway Alternate Lanes
Project Limits: SH99 to FM 1464
Fort Bend County Project _____

PROPERTY DESCRIPTION FOR PARCEL 30

Being a 19.5326 acre (850,838 square foot) tract of land, situated in the George Fields Survey, A-591, Fort Bend County, Texas, and being out of the residue of that certain called 77.218 acre tract described in a Special Warranty Deed from Harold N. May, Trustee to Sun Coast Financial, Inc. filed under County Clerk's File No. 9875983 of the Official Public Records of Fort Bend County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of said Sun Coast Financial, Inc. residue tract, the northwest corner of that certain called 39.309 acre tract described in a Special Warranty Deed from Realty Alliance of Texas, Ltd. to EFW Real Estate Corp., Inc., recorded in Volume 2526, Page 1771 of the Official Records of Fort Bend County, Texas, being on the south line of that certain 100 foot wide strip of land described in a Special Warranty Deed from the Southern Pacific Transportation Company to the Metropolitan Transit Authority of Harris County, Texas (METRO) recorded in Volume 2478, Page 1664 of said Official Records, having surface coordinates of X = 2,995,576.72, Y = 13,818,387.56, and from which a found 3/4-inch iron pipe bears North 83 degrees 02 minutes 25 seconds East, 0.20 feet;

- 1) THENCE South 02 degrees 32 minutes 54 seconds East, with the east line of said Sun Coast Financial, Inc. residue tract, the west line of said EFW Real Estate Corp. tract, and the east line of a proposed drainage facility, a distance of 1253.94 feet to a set 5/8-inch iron rod with cap (stamped "Weisser Eng., Houston, TX") marking the southernmost corner of said Sun Coast Financial, Inc. residue tract and the northeast corner of that certain called 28.807 acre tract (Tract 1, Parcel B) described in a Special Warranty Deed from Sun Coast Financial, Inc. to Parkway Lakes Development, Inc. filed under County Clerk's File No. 2003039898 of said Official Public Records;
- 2) THENCE North 45 degrees 54 minutes 44 seconds West, with the southwest line of said Sun Coast Financial, Inc. residue tract, the northeast line of said Parkway Lakes Development, Inc. tract, and the southwest line of a 30-foot wide Lone Star Gas pipeline easement recorded in Volume 588, Pages 833 and 840 of the Fort Bend County Deed Records, a distance of 95.29 feet to a set 5/8-inch iron rod with cap (stamped "Weisser Eng., Houston, TX") for corner on a southeast line of said proposed drainage facility;
- 3) THENCE North 53 degrees 29 minutes 07 seconds West, with the southwest line of said Sun Coast Financial, Inc. residue tract, the northeast line of said Parkway Lakes Development, Inc. tract, and the southwest line of said 30-foot wide Lone Star Gas pipeline easement, and the southeast line of the proposed drainage facility, a distance of 1,529.96 feet to a set 5/8-inch iron rod with cap (stamped "Weisser Eng., Houston, TX") for corner of said proposed drainage facility;

EXHIBIT "A"

- 4) THENCE North 31 degrees 55 minutes 07 seconds West, with the said southwest lines of the Sun Coast Financial, Inc. residue tract and proposed drainage facility, the said northeast line of the Parkway Lakes Development, Inc. tract, and the southwest line of said 30-foot wide Lone Star Gas pipeline easement, a distance of 30.95 feet to a set 5/8-inch iron rod with cap (stamped "Weisser Eng., Houston, TX") marking the most westerly corner of said Sun Coast Financial, Inc. residue tract, the most westerly northwest corner of said proposed drainage facility, and the northerly corner of said Parkway Lakes Development, Inc. tract;
- 5) THENCE North 41 degrees 21 minutes 33 seconds East, over and across said Sun Coast Financial, Inc. residue tract, and with the northwest line of said proposed drainage facility, a distance of 28.16 feet to a point for corner of said proposed drainage facility;
- 6) THENCE North 41 degrees 20 minutes 23 seconds East, over and across said Sun Coast Financial, Inc. residue tract, and with the northwest line of said proposed drainage facility, the southeast line of that certain called 0.1098 acre tract conveyed to Houston Pipeline Company described by instrument recorded in Volume 972, Page 85 of the Fort Bend County Deed Records, a distance of 115.54 feet to a point being the most northerly northwest corner of said proposed drainage facility, a northwest corner of said Sun Coast Financial, Inc. residue tract, the easternmost corner of said Houston Pipeline Company tract, and being on the said south line of the METRO tract;
- 7) THENCE North 83 degrees 02 minutes 58 seconds East, with the north lines of said proposed drainage facility and said Sun Coast Financial, Inc. residue tract, and the said south line of the METRO tract, a distance of 1,172.38 feet to the POINT OF BEGINNING and containing 19.5326 acres (850,838 square feet) of land.

This description was prepared in conjunction with Parcel Plat of the same date.

Ground Surveying was completed in March, 2003.

Bearings are based on the Texas State plane Coordinate System, South Central Zone, North American Datum of 1983, 1993 adjustment. All distances and coordinates (feet) herein are surface values and may be converted to grid by multiplying by a combined scale factor of 0.999884341.

By: Weisser Engineering Co.

Don T. Maler
Registered Professional Land Surveyor
Texas Registration No. 4342
Revised October 30, 2003

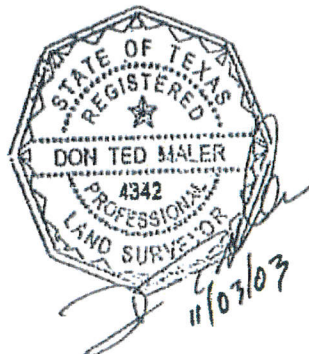
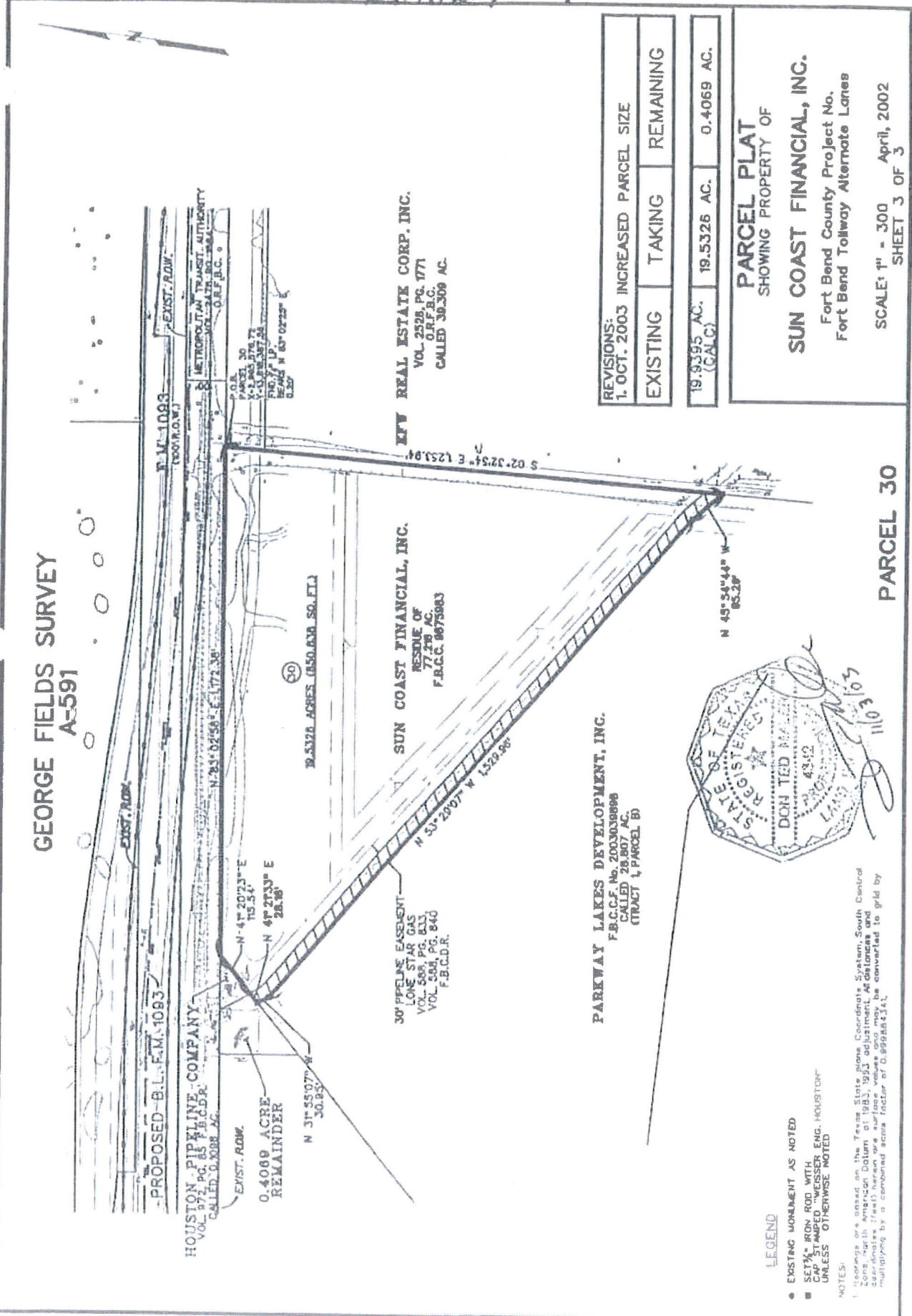


Exhibit "A"

GEORGE FIELDS SURVEY A-591

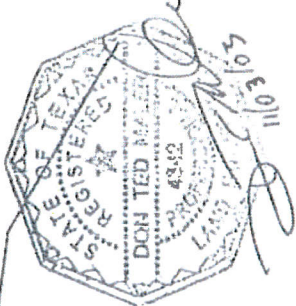


REVISIONS: 1. OCT. 2003 INCREASED PARCEL SIZE		
EXISTING	TAKING	REMAINING
19.9395 AC. (CALC)	19.5326 AC.	0.4069 AC.

PARCEL PLAT
SHOWING PROPERTY OF
SUN COAST FINANCIAL, INC.
Fort Bend County Project No.
Fort Bend Tollway Alternate Lanes

SCALE: 1" = 300' April, 2002
SHEET 3 OF 3

PARCEL 30



LEGEND
● EXISTING MONUMENT AS NOTED
■ SETBACK MON ROD WITH 1/4" DIA. PIN
UNLESS OTHERWISE NOTED

NOTES:
1. Bearings are based on the Texas State Plane Coordinate System, South Central Zone with American Datum of 1983, 1953 adjustment. All distances and bearings were measured in the field and converted to grid by multiplying by a combined scale factor of 0.99994341.

HOUSTON PIPELINE COMPANY
VOL. 972, PG. 85 F.B.C.D.R.
CALLED D. 0088 AC.
EXIST. ROW.
PROPOSED-B.I.L. F.M. 1093
F.M. 1093
(2007 A.D.W.)
METROPOLITAN TRANS. AUTHORITY
VOL. 1-2478, P. 101, 102, 103, 104
O.R.F.B.C. 0

PARCEL 30
X-2, 2003, 374.77
Y-3, 2003, 387.55
FIG. 77, LP
BEARS N 84° 02' 23" E
0.257'

KFV REAL ESTATE CORP. INC.
VOL. 2526, PG. 1771
O.R.F.B.C.
CALLED 30.309 AC.

SUN COAST FINANCIAL, INC.
RESERVE OF
7.220 AC.
F.B.C.C. 9875983

30' PIPELINE EASEMENT
LONE STAR GAS
VOL. 505, PG. 813,
VOL. 506, PG. 840
F.B.C.D.R.

PARKWAY LAKES DEVELOPMENT, INC.
F.B.C.C.F. No. 2003030896
CALLED 28.807 AC.
(TRACT 4 PARCEL 5)

N 45° 54' 44" W
65.28'

2.5326 ACRES (0.50 ACR. SO. FL.)

0.4069 ACRE
REMAINDER
N 31° 55' 07" W
30.85'

N 4° 20' 23" E
15.54'
N 47° 27' 33" E
28.18'

S 02° 32' 54" E 1253.84'

N 50° 20' 07" W
1329.98'

EXHIBIT B

Diagram of the Facilities and the Improvements

