

**ECONOMIC DEVELOPMENT AGREEMENT
KATY GASTON-FALCON LANDING PROJECT
FORT BEND COUNTY, TEXAS**

THIS AGREEMENT by and between FORT BEND COUNTY ("County"), FORT BEND COUNTY ASSISTANCE DISTRICT NO. 1 (the "CAD") and A-S 134 Katy Gaston-Falcon Landing, L.P., a Texas limited partnership ("Developer"), (collectively referred to as the "Parties") is entered into on this _____ day of _____, 2016 (the "Effective Date").

WHEREAS, Developer is the majority owner of certain tracts of land totaling approximately 34 acres within the unincorporated jurisdiction of the County and within the boundaries of the CAD, as depicted on the metes and bounds attached as **Exhibit "A"** attached hereto and incorporated herein for all purposes ("Property"), for the purpose of developing a multi-tenant commercial/retail development; and

WHEREAS, in accordance with Article III, Section 52-a, Texas Constitution, and Chapter 381, Texas Local Government Code, the County may develop and administer a program for making loans and grants of public money to stimulate, encourage, and develop business location and commercial activity in the County;

WHEREAS, in accordance with Chapter 387, Texas Local Government Code, the Commissioners Court of the County created the CAD, which in accordance with Section 387.003(a-1)(5), Texas Local Government Code, may perform the function of promotion of economic development and tourism;

WHEREAS, the Commissioners Court properly held an election to authorize the creation of the CAD and the imposition of a sales and use tax by the CAD within its boundaries for CAD purposes;

WHEREAS, the CAD, County and City of Houston have entered into the Agreement for the Duration, Rate and Allocation of Sales and Use Tax and have agreed that the CAD may impose the sales and use tax in a rate not to exceed one percent for lawful purposes within the boundaries of the CAD and may perform certain functions including the promotion of economic development and tourism;

WHEREAS, the County and the CAD have agreed to provide incentives and financial assistance to the Developer to encourage and promote the development of the Property, and will bring additional tax revenue to the County, thereby enhancing and stimulating business and commercial activity in the County and promoting economic development in the CAD; and

WHEREAS, the Developer has agreed, in exchange and as consideration for funding by the CAD and County to satisfy and comply with certain terms and conditions, including the commitment to finance and develop the Project Improvements (defined below) and make certain contributions to County road improvements; and

WHEREAS, the County and CAD have concluded and hereby find that this Agreement promotes economic development in the County and, as such, meets the requirements under Chapters 381 and 387, Texas Local Government Code and the County's economic development program, and, further, is in the best interests of the County and the CAD.

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the Parties hereby agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct and are hereby incorporated as part of this Agreement.

ARTICLE II THE PROJECT

1. The Project. The Developer intends to construct (or cause to be constructed) a primarily retail development on the Property (the "Project"). The Project is to be constructed in substantial accordance with the Conceptual Site Plan attached as Exhibit "B", or such plan as revised from time to time (the "Conceptual Site Plan").

2. Project Improvements. The Developer shall design and construct the public improvements necessary to serve the Project together with such other improvements as may be related thereto, including a traffic light at the intersection of Gaston Road and Greenbusch Road, along with associated median breaks, turn lanes and landscaping (such improvements referred to herein as "Project Improvements"). The Project Improvements shall be designed and constructed in accordance with the applicable regulations of the County and other regulatory agencies with jurisdiction. The County and the CAD find that the Project Improvements are expenditures required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises and economic

development in accordance with Sections 381.004(b)(3), and 387.003(a-1)(5), Texas Local Government Code.

3. Cost of Project Improvements to be Funded by the Developer. The Developer shall promptly pay (or cause to be paid) all costs of constructing the Project Improvements as development proceeds and as such costs become due, including, without limitation: (i) all costs of design, engineering; materials, labor, construction; testing and inspection, arising in connection with the construction of the Project Improvements (except for those items which are being contested in good faith by Developer); (ii) all payments arising under any contracts entered into for the construction of the Project Improvements (except for those items which are being contested in good faith by Developer); and (iii) all costs incurred in connection with obtaining governmental approvals, certificates, and permits required in connection with the construction of the Project Improvements.

4. Contribution to Greenbusch Road Project. The County is currently designing and plans to enter into a construction contract for the widening of Greenbusch Road from a two-lane to a four-lane road adjacent to the Project. Developer agrees to contribute a sum of \$211,000 to the County's expansion of Greenbusch Road (the "Contribution"). The Developer will pay such Contribution after the Commissioners Court awards the construction contract for the Greensbusch Road expansion and within 45 days upon invoicing by the County. The County and the CAD find that the Contribution is an expenditure necessary to promote or develop new or expanded business enterprises and economic development in accordance with Sections 381.004(b)(3), and 387.003(a-1)(5), Texas Local Government Code.

ARTICLE III ECONOMIC INCENTIVES

1. Developer Reimbursement and Economic Development Grant. The CAD shall pay to the Developer an economic development grant to reimburse the Developer for the Contribution and the cost of the Project Improvements on the Property in a total amount of \$1,583,333.00, plus Developer interest at a rate defined in Section 4 herein (the "Reimbursement Amount"). The Reimbursement Amount shall be comprised exclusively of sales tax revenues received by the CAD, subject to the limitation provided in Section 2 below, and not from any other funds of the County. The Reimbursement Amount shall be paid in monthly installments with the first installment paid within 30 days after the month in which sales taxes are first paid to the CAD and continuing monthly thereafter, until such time as the Reimbursement Amount is paid in full. Interest accrues from the date payment is made by the Developer for the Project Improvements or the Contribution until the Developer is reimbursed in full pursuant to

this Agreement. The County and the CAD agree to pay the entirety of the Reimbursement Amount (\$1,583,330.00) including all appropriate and properly calculated interest payments, all as defined above.

2. Reimbursement Amount Limitation. The CAD currently collects a 1% sales tax on taxable sales within the CAD. The CAD's obligation to pay the Reimbursement Amount to the Developer shall be restricted to its CAD sales taxes collected from sales within the Project. Neither the County nor the CAD shall be obligated to pay the Reimbursement Amount from any other County taxes or CAD revenues or until such sales taxes are collected and paid to the CAD.

3. Developer Interest. The CAD will pay the Developer interest on the Reimbursement Amount at a rate of 7.5% per annum. Such rate will be readjusted downward if the Developer's actual borrowing rate is less than 7.5% per annum. The Developer shall provide its actual borrowing rate on the permanent financing for the Project to the County or CAD upon request.

4. Comparable Developments. The County and CAD recognize that the Developer's construction of the Project benefits the surrounding area and entering into a competing economic development agreement or incentive package would undermine the success of the Project. The County and CAD agree that until the Developer has been reimbursed the entire Reimbursement Amount, the County and CAD will not enter into an economic development agreement similar to this Agreement for any comparable grocery-anchored retail/commercial project within a one-mile radius of the Project.

ARTICLE IV MISCELLANEOUS PROVISIONS

1. Default; Remedies. Any party to this Agreement that believes that the other party to this Agreement has defaulted in the performance of any condition, term, or obligation owed to that party under this Agreement shall within ten (10) business days after discovery of said default, give written notice of the default to the defaulting party, specifying in detail the provision or provisions of this Agreement that have allegedly been breached, what specific action must be taken to cure or correct the default, and requesting that the Commissioners Court provide the parties an opportunity to be heard in public session to discuss the default at the next scheduled meeting of the Commissioners Court. The Commissioners Court, after review of such request, shall determine whether to provide the parties the opportunity to be heard in public session to discuss the default at the next scheduled meeting of the Commissioners Court. Should the party receiving the notice fail to commence action to

correct the default within thirty (30) days after receipt of the written notice, or such longer period of time agreed to be the parties or approved by the County, and/or thereafter fail to diligently pursue the completion of the action to correct the default, or should the Commissioners Court determine not to hear the matter, the party giving the notice of default may exercise other available remedies at law and in equity. Notwithstanding the foregoing, the parties hereto shall have all remedies provided at law and in equity with respect to this Agreement.

2. Separate Status. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint ventures or members of any joint enterprise.

3. Construction and Interpretation.

- a. Whenever required by the context of this Agreement, (i) the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa, and (ii) use of the words "including", "such as", or words of similar import, when following any general term, statement or matter, shall not be construed to limit such statement, term or matter to specific terms, whether or not language of non-limitation, such as "without limitation", or "but not limited to", are used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest scope of such statement, term or matter.
- b. The captions preceding the text of each article and section of this Agreement are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of this Agreement. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Agreement.
- c. Agreement may be executed in several counterparts; each of which shall be deemed an original. The signatures to this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one (1) complete document.

4. Actions Performable. The Parties agree that all actions to be performed under this Agreement are performable solely in Fort Bend County, Texas.

5. Assignability. This Agreement is assignable by Developer (1) in the event of a sale of the entirety or any portion of the Property to a person intending to develop the Property or such portion thereof or (2) to a related entity, affiliate or joint venture partner of Developer upon written notice to the County and CAD. Upon such assignment, the Developer shall provide the County and CAD a written assignment and assumption agreement signed by the Developer and assignee. Except for the preceding sentences, this Agreement may not be assigned by the Developer to another party without the consent of the County, which consent shall not be unreasonably withheld, conditioned or delayed.

6. Severability. If any provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void; but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.

7. Complete Agreement. This Agreement represents the complete agreement of the parties with respect to the subject matter hereof and supersedes all prior written and oral matters related to this Agreement. Any amendment to this Agreement must be in writing and signed by all parties hereto or permitted or approved assignees.

8. Exhibits. All exhibits attached to this Agreement are incorporated herein reference and expressly made part of this Agreement as if copied verbatim.

9. Notice. Any notice or demand, which any Party is required to or may desire to serve upon the other, must be in writing, and shall be sufficiently served if (i) personally delivered, (ii) sent by facsimile, (iii) sent by certified mail, postage prepaid, return receipt requested or (iv) sent by commercial overnight carrier, and addressed to:

If to the County:

Fort Bend County
Attn: County Judge
401 Jackson Street, First Floor
Richmond, Texas 77469
Tel: (281)341-8608
Fax: (281) 341-8609

With a copy to
Fort Bend County, Precinct 3
22333 Grand Corner Drive
Katy, Texas 77494
Attn: The Honorable Andy Meyers
Tel: (281)238-1400
Fax: (281)238-1401

If to the CAD:

Fort Bend County Assistance District No. 1
Attn: County Judge
401 Jackson Street, First Floor
Richmond, Texas 77469
Tel: (281)341-8608
Fax: (281) 341-8609

If to the Developer:

A-S 134 Katy Gaston-Falcon Landing, L.P.
c/o NewQuest Properties
8827 W. Sam Houston Pkwy. N., Ste. 200
Houston, TX 77040
Attention: Austin Alvis
Telephone: (713) 478-7705
Fax: (281) 447-4390

and

c/o NewQuest Properties
8827 W. Sam Houston Pkwy N., Suite 200
Houston, Texas 77040
Telephone: (281) 477-4300
Fax: (281) 477-4399
Attention: Legal Department

or such other address or addresses which any Party may be notified in writing by any other Party to this Agreement.

Such notice shall be deemed to have been served (a) three (3) business days after the date such notice is deposited in the mail in the manner hereinabove described, except when lost, destroyed, improperly addressed

or delayed by the U.S. Postal Service, or (b) upon receipt in the event of personal service, or (c) the first business day after the date of deposit with an overnight courier, except when lost, destroyed, improperly addressed or delayed by the courier, or (d) the date of receipt by facsimile (as reflected by electronic confirmation); provided, however, that should such notice pertain to the change of address to either of the Parties hereto, such notice shall be deemed to have been served upon receipt thereof by the Party to whom such notice is given.

10. Force Majeure. In the event a party is rendered unable, wholly or in part, by force majeure, to carry out any of its obligations under this Agreement, it is agreed that on such party's giving notice and full particulars of such force majeure in writing to the other parties as soon as possible after the occurrence of the cause relied upon, then the obligations of the party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided, but for no longer period. Such cause shall as far as possible be remedied with all reasonable dispatch. The term "force majeure" as used herein shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy or of terrorism, war, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, explosions, breakage or damage to machinery or pipelines and any other incapacities of any party, whether similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which by the exercise of due diligence and care such party could not have avoided.

11. Forum Selection. This Agreement and the relationship between the Parties shall be governed and interpreted under the laws of Texas without regard to any conflict of laws provision. Venue for any suit arising out of any relationship between the Parties shall exclusively be the appropriate court in Fort Bend County, Texas. Developer specifically consents to and waives any objections to, in personam jurisdiction in Fort Bend County, Texas.

12. Effective Date. This Agreement shall be binding and take effect only upon all Parties signatures hereto, attachment of all required exhibits, and receipt by the Parties of a fully executed copy hereof. For the purposes of timetables provided in this Agreement, the Effective Date shall be the date first above written.

13. Representation of Authority. The County represents and warrants to the Developer that it is duly authorized and empowered to enter into this Agreement, subject to the terms and conditions contained herein, and has the legal authority to reimburse the Developer as provided in this Agreement. The CAD

represents and warrants to the Developer that it is duly authorized and empowered to enter into this Agreement, subject to the terms and conditions contained herein, and has the legal authority to reimburse the Developer as provided in this Agreement. The Developer represents and warrants to the County that it has the requisite authority to enter into this Agreement and is a proper party to this Agreement.

14. Signature Warranty Clause. The signatories to this Agreement represent and warrant that they have the authority to execute this Agreement on behalf of the Parties, respectively.

15. Legal Contest. This Agreement is entered into in accordance with applicable law as understood by the Parties. In the event any part, provision or paragraph thereof shall become unenforceable by reason of judicial decree or determination the parties hereto mutually agree to the extent possible to ensure that all other provisions of the agreement including the intent of the Agreement be honored and performed

16. Limited Waiver of Sovereign Immunity. To the extent allowed by law, the County and CAD waive their respective rights to sovereign immunity as to an action in equity by the Developer for a writ of mandamus or specific performance to enforce all the terms of this Agreement. The County and CAD do not waive their respective rights to sovereign immunity for any other actions permitted by law or for any amount of money beyond the amounts provided in Article III herein.

17. Economic Incentives Constitute a Program. This Agreement constitutes an economic development program to promote state or local economic development and to stimulate business and commercial activity in the County pursuant to Article III, Sec. 52-a, Texas Constitution, Chapter 381, Texas Local Government Code, and Chapter 387, Texas Local Government Code.

18. Current Revenue. The CAD will make an annual appropriation from lawfully available current revenues to fund the Reimbursement Amount to be paid to the Developer.

19. Term. This Agreement will remain in force and effect until the Reimbursement Amount is paid in full to the Developer pursuant to the terms of this Agreement.

[SIGNATURE PAGES TO FOLLOW]

COUNTY:

FORT BEND COUNTY, TEXAS

By: _____

Robert E. Hebert, County Judge

ATTEST:

By: _____

Laura Richard, County Clerk

(SEAL)

CAD

**FORT BEND COUNTY ASSISTANCE
DISTRICT NO. 1**

By: _____

Robert E. Hebert, County Judge

ATTEST:

By: _____
Laura Richard, County Clerk

(SEAL)

DEVELOPER:

A-S 134 Katy Gaston-Falcon Landing, L.P.,
a Texas limited partnership

By: A-S 134, L.C.,
a Texas limited liability company,
its General Partner

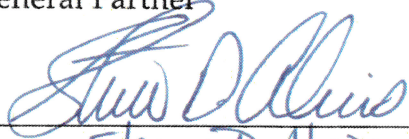
By: 
Name: Steven D Alois
Title: manager

Exhibit A

March 5, 2015

***34.4289 acre of land in the Stephen Hobermaker Survey, Abstract No. 189,
Fort Bend County, Texas***

A FIELD NOTE DESCRIPTION of 34.4289 acres (1,499,723 square feet) of land in the Stephen Hobermaker Survey, Abstract No. 189, Fort Bend County, Texas; said 34.4289 acre tract of land being all of a 1.4499 acre tract of land conveyed to W.K. King Family Limited Partnership, as recorded in Fort Bend County Clerk's File No. 2012021203 and being all of the remainder of a 64.891 acre tract of land conveyed to W.K. King Family Limited Partnership, as recorded in Fort Bend County Clerk's File No. 9818121; said tract being more particularly described by metes-and-bounds as follows with the bearings being based on Texas State Plane Coordinate System, South Central Zone (NAD83) per GPS Observations using National Geodetic Survey Continuously Operating Reference Stations:

BEGINNING at a 3/4-inch iron pipe with cap stamped "Brown & Gay" found in the southeast right-of-way line of Greenbusch Road (called 100 feet wide), as recorded in Fort Bend County Clerk's File Nos. 2012069375 and 2012081906 for the west corner of Reserve "C", Marshall Oaks Sec 1, according to the map or plat recorded in Plat No. 20130324 of the Fort Bend County Plat Records and for the north corner of this tract;

THENCE, South 47° 20' 44" East - 1,472.29 feet with the southwest line of said Marshall Oaks Sec 1 to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an east corner of this tract;

THENCE, South 43° 11' 16" West - 200.02 feet with the northwest line of Restricted Reserve "A", Fort Bend County M.U.D. 185 Water Plant No. 1, according to the map or plat recorded in Plat No. 20080040 of the Fort Bend County Plat Records to a 5/8-inch iron rod with cap stamped "Brown & Gay" found for an interior corner of this tract;

THENCE, South 47° 20' 44" East - 326.00 feet with the southwest line of said Restricted Reserve "A" to a 5/8-inch iron rod with cap stamped "JNS" found in the northwest right-of-way line of Falcon Landing Boulevard (100 feet wide), according to the map or plat recorded in Plat No. 20120251 of the Fort Bend County Plat Records for an east corner of this tract;

THENCE, in a southwesterly direction with the northwest right-of-way line of said Falcon Landing Boulevard and with a curve to the left having a radius of 950.00 feet, a central angle of 48° 52' 50", a length of 810.47 feet and a chord bearing South 69° 43' 14" West - 786.11 feet to a 5/8-inch iron rod stamped "JNS" found for the east end of a radial cutback at the intersection of the northwest right-of-way line of said Falcon Landing Boulevard with the northeast right-of-way line of Katy-Gaston Road (width varies), as recorded in Fort Bend County Clerk's File No. 2012081906 and Plat No. 20110175 of the Fort Bend County Plat Records for a south corner of this tract;

THENCE, in a westerly direction with said radial cutback being a curve to the right having a radius of 25.00 feet, a central angle of 87° 56' 11", a length of 38.36 feet and a chord bearing South 89° 15' 23" West - 34.71 feet to a 5/8-inch iron rod stamped "JNS" found for the west end of said radial cutback and for a south corner of this tract;

THENCE, North 46° 46' 28" West - 75.40 feet with the northeast right-of-way of said Katy-Gaston Road to a 5/8-inch iron rod stamped "JNS" found for a point-of-curvature of a curve to the left;

THENCE, in a northwesterly direction with the northeast right-of-way of said Katy-Gaston Road and with said curve to the left having a radius of 2,050.00 feet, a central angle of $12^{\circ} 06' 55''$, a length of 433.48 feet and a chord bearing North $52^{\circ} 50' 49''$ W - 432.67 feet to a 5/8-inch iron rod stamped "JNS" found for a point-of-tangency;

THENCE, North $58^{\circ} 55' 10''$ West - 75.22 feet with the northeast right-of-way of said Katy-Gaston Road to a 5/8-inch iron rod stamped "T.E.A.M." set for a point-of-curvature of a curve to the right;

THENCE, in a northwesterly direction with the northeast right-of-way of said Katy-Gaston Road and with said curve to the right having a radius of 1,950.00 feet, a central angle of $11^{\circ} 24' 22''$, a length of 388.19 feet and a chord bearing North $53^{\circ} 12' 59''$ W - 387.55 feet to a 5/8-inch iron rod found for a point-of-tangency;

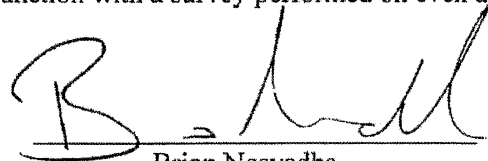
THENCE, North $47^{\circ} 30' 49''$ West - 424.14 feet with the northeast right-of-way of said Katy-Gaston Road to a 5/8-inch iron rod stamped "JNS" found for the south end of a radial cutback corner at the intersection of the northeast right-of-way of said Katy-Gaston Road with the southeast right-of-way line of said Greenbusch Road and for a west corner of this tract;

THENCE, in a northerly direction with said radial cutback being a curve to the right having a radius of 25.00 feet, a central angle of $90^{\circ} 13' 28''$, a length of 39.37 feet and a chord bearing North $02^{\circ} 24' 05''$ West - 35.42 feet to a 5/8-inch iron rod stamped "JNS" found for the north end of said radial cutback and for a west corner of this tract;

THENCE, North $42^{\circ} 42' 39''$ East - 995.56 feet with the southeast line of said Greenbusch Road to the point of beginning and containing 34.4289 acres (1,499,723 square feet) of land.

Note: This metes-and-bounds description was written in conjunction with a survey performed on even date.

COMPILED BY:
Texas Engineering And Mapping Company Co.
Civil Engineers - Land Surveyors
Stafford, Texas
Firm Registration No.: 10119000
Job No. 356-194
W:\356-194_Tract.doc



Brian Nesvadba
Registered Professional Land Surveyor
State of Texas No. 5776

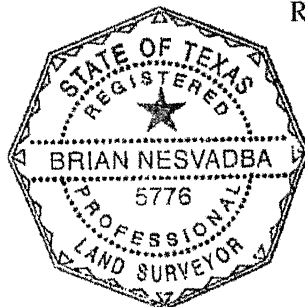
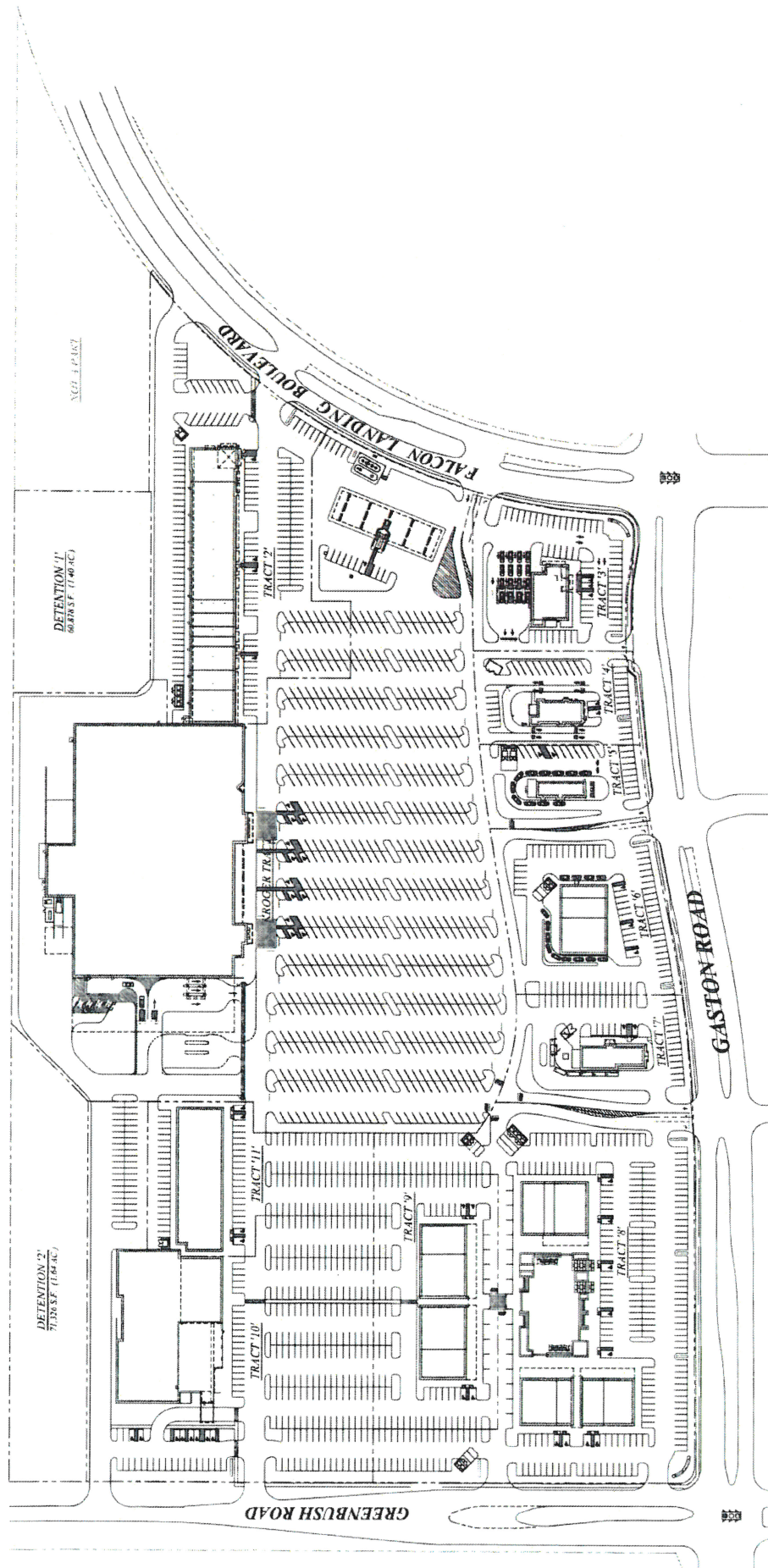


EXHIBIT B



SITE PLAN

STABLESIDE AT FALCON LANDING

PRELIMINARY STUDY

NG OF GASTON ROAD & FALCON LANDING BOULEVARD
FORT BEND, TEXAS

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

A-S 134 Katy Gaston-Falcon Landing, L.P.
Houston, TX United States

Certificate Number:

2016-42505

Date Filed:

04/20/2016

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.

NEW001

Economic Development Agreement

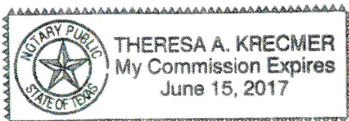
4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Stephens, Annette	Houston, TX United States		X
	Sears, Jay	Houston, TX United States	X	
	Alvis, Steven	Houston, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



Steven D. Alvis
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Steven D. Alvis, this the 20th day of April, 2016, to certify which, witness my hand and seal of office.

Theresa A. Krecmer
Signature of officer administering oath

Theresa A. Krecmer
Printed name of officer administering oath

Title of officer administering oath