



MEMO

June 20, 2019

To: Kyle Madsen
Division Director
Right of Way Division, TxDOT

DocuSigned by:
Darby Venza, *Darby F. Venza*
Managing Attorney
Right of Way Division, TxDOT

From: Tory Vonder Haar, Attorney *Victoria VonderHaar*
Right of Way Division – Houston District

Subject: MOA FM 359 - CS-19-MOA-35730
County: Fort Bend
Highway: FM 359
ROW CSJ: 0543-02-078

Attached is a Letter of Understanding with all referenced exhibits concerning the above-designated road. I am submitting this letter for your signature. This agreement was negotiated with the Houston District and the new alignment will be in the best interest of the traveling public. The agreement is either revenue positive or neutral, but under no circumstances outlined in the agreement will the agreement be revenue negative.

Please let me know if you have questions or require further documentation.



P.O. BOX 1386, HOUSTON, TEXAS 77251-1386 | 713.802.5000 | WWW.TXDOT.GOV

June 20, 2019

County: Fort Bend
District: Houston
Highway No.: FM 359
CSJ 0543-02-078

Honorable KP George
Fort Bend County
301 Jackson Street
Richmond, TX 77469

Dear Judge KP George,

Our negotiations for an exchange of highway right of way, easements, and the future transfer of abandoned highway right of way and easement has progressed to the point that it is thought to be in the best interest of both Fort Bend County (“County”) and the Texas Department of Transportation (“TxDOT”) that we commit to writing our mutual understanding.

It is hereby agreed and understood that:

Phase 1: Transfer of Easements: Fort Bend County and TxDOT agree to exchange TxDOT’s easements as show in Ex. A (Vol 243 Page 139) for Fort Bend County Drainage District’s easement as shown in Ex. B (Vol.897 Page 235). Both easements are depicted in the attached Ex. C. TxDOT makes no warranty as to the state or quality of the title of the easement in Ex. A.

Phase 2: Building the Alternate Alignment and Acquiring the ROW for the Ultimate Alignment: Fort Bend County will build, at its own expense, an alternate alignment of FM 359 consisting of an interim two-lane, asphalt roadway as shown in Exhibit D and provide adequate drainage for the ultimate design of FM 359 within project limits (approximately 3000 feet south of FM 1093 to 4000 feet south of Fulshear Gaston Road). The County further agrees to acquire right of way in fee for the ultimate and final alignment of FM 359 as shown in Exhibit D. Fort Bend County will facilitate the Technical Reports for a Categorical Exclusion for the roadway realignment for review and approval by TxDOT. Fort Bend County agrees to facilitate a Drainage Study for FM 359 from 3000 feet south of FM 1093 to 4000 feet south of Fulshear Gaston Road to determine conveyance for areas

OUR VALUES: *People • Accountability • Trust • Honesty*

OUR MISSION: *Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.*

An Equal Opportunity Employer

MOA FM 359 - CS-19-MOA-35730

June 20, 2019

north of the project and detention needs within the project limits. The project will also provide outfall locations for the FM 359 drainage and existing conveyance needs. The CSJ 0543-02-078 has been established for this segment of FM 359. Before construction of the new interim alignment, completed plans, including the drainage plan for the ultimate design, will be submitted to TxDOT for review and approval. TxDOT's approval shall not be unreasonably withheld and when approved the plans will be made a part hereof in all respects. TxDOT shall approve or disapprove the completed plans within 90 days of submission of the completed plans or execution of this agreement, whichever is latest. Construction shall not commence until plans have been approved by TxDOT. Please note all right of way acquired needs to be acquired in fee simple with title sufficient to comply with TxDOT's standards and in accordance with the Uniform Act. Fort Bend County shall meet the set back requirements for all development along the ultimate alignment when acquiring the right of way. After punch list items have been completed, the interim roadway can be opened to traffic and the existing FM 359 roadway permanently closed to traffic and the old FM 359 pavement may be obliterated.

Phase 3 – Exchange New FM 359 for the Old FM 359 with Drainage Easement:

TxDOT will take the new interim alignment of FM 359 onto the State's system and then TxDOT will convey the old alignment and drainage easement previously acquired in Phase 1 as shown in Ex. B and Ex. D approximately 10.92 acres to the County in exchange for the new interim alignment of approximately 11.61 acres being conveyed to TxDOT. TxDOT makes no warranty as to the state or quality of the title it owns in the "old" alignment of FM 359 or the drainage easement. The interests in each tract of land owned by the County and TxDOT will be appraised after construction is complete.

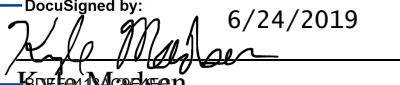
General Provisions:

If the value of any of the County's land or easement is of greater value than TxDOT's interest in the land or easement, the County will donate the difference. If the value of the TxDOT's land/easement is of greater value than the County's land, then the County agrees to acquire the TxDOT's land/easement through its statutory disposal procedures. It is acknowledged that these transactions will be revenue positive or neutral for TxDOT and under no circumstances will these transactions be revenue negative for TxDOT. Finally, please note the above referenced transactions are subject to the statutory constraints and approvals from the Texas Transportation Commission, Office of Attorney General, and the Governor.

MOA FM 359 - CS-19-MOA-35730

June 20, 2019

Sincerely,

DocuSigned by:  6/24/2019
Kyle Madsen
Right of Way Division Director
Texas Department of Transportation

Agreed as to Form and Substance:

Honorable KP George
Fort Bend County Judge

It is specifically understood that the State and its assigns shall be vested with the title to and the right to take and use, without additional compensation, any stone, earth, gravel, caliche or any other materials or minerals upon, in and under said land, except oil, gas and sulphur, for the construction and maintenance of the Highway System of Texas.

And it is further agreed that in consideration of the benefits above set out, will remove from the property above described such fences, buildings and other obstructions as may be found upon said premises.

To HAVE AND TO HOLD unto the said State of Texas as aforesaid for the purposes aforesaid the premises above described.

Witness my hand this the 27 day of February, A. D. 1947.

Mason Briscoe

THE STATE OF TEXAS)
COUNTY OF FORT BEND)

Before me, Alvin E. Foerster, a Notary Public in and for said County and State, on this day personally appeared Mason Briscoe, known to me (or proved to me on the oath of __, a credible witness) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this the 27 day of February, 1947.

Alvin E. Foerster, Notary Public in and for
Fort Bend County, Texas

(L.S.)

Filed for record March 6, 1947, at 2:00 o'clock P.M.

Recorded March 24, 1947, at 9:15 o'clock A.M.

Ella Macek, Clerk County Court
Fort Bend County, Texas

BY Paul Platte DEPUTY

Mason Briscoe, et al

To # 54279 Right-of-Way Easement Dated - February 27, 1947

The State of Texas

STATE OF TEXAS)

COUNTY OF FORT BEND)

KNOW ALL MEN BY THESE PRESENTS: THAT Mason Briscoe and A. C. Briscoe of Richmond, Texas, Route 2, in consideration of the sum of One Hundred Thirteen and 60/100 (\$113.60) Dollars and other good and valuable consideration in hand paid by the State of Texas, acting through the State Highway Commission, receipt of which is hereby acknowledged, do by these presents grant, bargain, sell and convey unto the State of Texas, the free and uninterrupted use, liberty and privilege of the passage in, along, upon and across the following lands in Fort Bend County, Texas, owned by __, and being subject to:

(IMPORTANT NOTE: If no liens, easements or leases exist, insert the word, "None.")

lien(s) held by _____ easement(s) held by _____
(Name) (Address) (Name) (Address)

lease(s) held by _____
(Name) (Address)

and being particularly described as follows, to-wit:

For the purpose of excavating, opening and maintaining drainage channels and being particularly described as follows:

Tract No. 1:- A part of a tract of land containing 2½ leagues and originally granted to John Foster (Abstract No.26), being a strip of land 36 feet wide and 1115 feet long out of tract No. 3 of the original subdivision of said John Foster survey and out of a 500 acre tract belonging to Mason Eriscoe and A. C. Eriscoe, being a strip of land 36 feet wide, 18 feet on each side of the survey line described as follows:

Beginning at a point which is opposite to and perpendicularly distant 40 feet from the center-line of the new location of the highway from Fulshear to Richmond at Survey Station 211 / 13, said point being westerly 1447 feet, and southerly 40 feet from the N.E. corner of above mentioned 500 acre tract of land;

Thence S18°30' W a distance of 1115 feet to a point.

The above described tract of land contains 0.92 acres.

Tract No. 2:- A part of a tract of land containing 2½ leagues and originally granted to John Foster (Abstract No. 26), being a strip of land 35 feet wide and approximately 2046 feet long out of Tract No. 3 of the original subdivision of said John Foster survey and out of a 500 acre tract belonging to Mason Eriscoe and A. C. Eriscoe, being a strip of land 35 feet wide, 17½ feet on each side of the center-line described as follows:

Beginning at a point which is opposite to and perpendicularly distant 40 feet from the center-line of the new location of the highway from Fulshear to Richmond at survey Station 228 / 80, said point being southerly 540.7 feet and westerly 40.0 feet from the N.E. corner of the above mentioned 500 acre tract of land;

Thence S89°05' W a distance of 5.0 feet;

Thence S65°00' W a distance of 618.0 feet;

Thence S34°30' W a distance of 281.5 feet;

Thence S3°30' W a distance of 228.5 feet;

Thence S20°45' W a distance of 631.5 feet;

Thence S82°15' W a distance of 281.5 feet to a point.

The above described tract of land contains 1.64 acres.

Tract No. 3:- A part of a tract of land containing 2½ leagues and originally granted to John Foster (Abstract No. 26), being a strip of land 34 feet wide and approximately 354 feet long out of Tract No. 3 of the original subdivision of said John Foster Survey and out of a 500 acre tract belonging to Mason Eriscoe and A. C. Eriscoe, being a strip of land 34 feet wide, 17 feet on each side of the survey line described as follows:

Beginning at a point which is opposite to and perpendicularly distant 40 feet from the center-line of the new location of the highway from Fulshear to Richmond at Survey Station 259 / 70.5, said point being southerly 3631.2 feet and westerly 40.0 feet from the N. E. corner of above mentioned 500 acre tract of land;

Thence S89°05' W a distance of 45.0 feet;

Thence N74°45' W a distance of 309.0 feet to a point.

The above described tract of land contains 0.28 acres.

For the purpose of opening, constructing and maintaining a permanent in, along, upon and across said premises, with the right and privilege at all times of the grantee herein, his or its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises for the purpose of making additions to, improvements on and repairs to the said highway, or any part thereof.

It is specifically understood that the State and its assigns shall be vested with the title to and the right to take and use, without additional compensation, any stone, earth, gravel, caliche or any other materials or minerals upon, in and under

said land, except oil, gas and sulphur, for the construction and maintenance of the Highway System of Texas.

And it is further agreed that in consideration of the benefits above set out, will remove from the property above described such fences, buildings and other obstructions as may be found upon said premises.

TO HAVE AND TO HOLD unto the said State of Texas as aforesaid for the purposes aforesaid the premises above described.

Witness our hands this the 27 day of February, A. D. 1947.

Mason Briscoe

Andrew Briscoe

THE STATE OF TEXAS)

COUNTY OF FORT BEND)

Before me, Alvin E. Foerster, a Notary Public in and for said County and State, on this day personally appeared Mason Briscoe and Andrew Briscoe, known to me (or proved to me on the oath of [redacted], a credible witness) to be the persons whose names subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this the 27 day of February, 1947.

Alvin E. Foerster, Notary Public in and for Fort Bend County, Texas

(L.S.)

Filed for record March 6, 1947, at 2:00 o'clock P.M.

Recorded March 24, 1947, at 10:10 o'clock A.M.

Ella Macek, Clerk County Court

Fort Bend County, Texas

BY Paul Platte DEPUTY

Jennie V. Caldwell, et vir

To # 54280

The State of Texas

STATE OF TEXAS)

COUNTY OF FORT BEND)

COMPARED

Right-of-Way Easement

Dated - December 30, 1946

KNOW ALL MEN BY THESE PRESENTS: THAT Jennie V. & Wilbur Caldwell of Fort Bend County, Texas, in consideration of the sum of Eleven Dollars and other good and valuable consideration in hand paid by the State of Texas, acting through the State Highway Commission, receipt of which is hereby acknowledged, do by these presents grant, bargain, sell and convey unto the State of Texas, the free and uninterrupted use, liberty and privilege of the passage in, along, upon and across the following lands in Fort Bend County, Texas, owned by us, and being subject to:

(IMPORTANT NOTE: If no liens, easements or leases exist, insert the word, "None.")

lien(s) held by None Easement(s) held by (Name) (Address)

lease(s) held by (Name) (Address)

and being particularly described as follows, to-wit:

A part of a league of land originally granted to John Foster, Abstract No. 26, and being a part of Jennie V. & Wilbur Caldwell 51 acre tract, and lying along the Easterly side of and adjacent to the center of the Fulshear-Richmond Road, and being described more particularly as follows:

KWIK-KOPY PRINTING - ROSENBERG, TEXAS

N/c COMPARED DEED
14064 897 PAGE 255

**FORT BEND COUNTY DRAINAGE DISTRICT
RIGHT OF WAY EASEMENT**

THE STATE OF TEXAS,
COUNTY OF FORT BEND,

KNOW ALL MEN BY THESE PRESENTS: That the undersigned:

CECIL H. SHIRAR

whose address is as shown above (hereinafter called GRANTOR, whether one or more) for and in consideration of the benefits to be derived on account of and from the construction, operation and maintenance by Fort Bend County Drainage District, of the drainage canal and system upon and through the land hereafter described, the sufficiency of which is hereby acknowledged and confessed, has granted, bargained, sold and conveyed, and by these presents hereby grants, bargains, sells and conveys unto said Fort Bend County Drainage District, a corporation (hereinafter called the DISTRICT), of Fort Bend County, Texas, a right of way and easement for the purpose of constructing, maintaining, operating, repairing and re-constructing a drainage canal, including drains, ditches, laterals and levees, upon, over, through and across the land of GRANTOR along the route herein-after designated, and said land being situated in Fort Bend County, Texas, to-wit:

The DISTRICT shall have an easement of an aggregate width of 40 feet, ~~being xxxxxxxxxxxx feet, extending at right angles, on each side of the following line and course across said land to-wit:~~ across the Hines Wholesale Nurseries, Inc. 200-acre tract in the John Foster 2 1/2 League Grant, Abstract 26 in Fort Bend County.

For Connection begin at the Southeast corner of said Hines Wholesale Nurseries, Inc. 200 Acre Tract; THENCE, South 89° 46' 10" West, 20 feet to the Southeast corner of and Place of Beginning for this Tract;

THENCE, South 89° 46' 10" West, 1133.75 feet to the center line of Flewellen Ditch for the Southwest corner of this Tract;

THENCE, North 0° 13' 50" West, 40.0 feet to corner;

THENCE, North 89° 46' 10" East, 1093.75 feet to corner;

THENCE, North 0° 13' 50" West, 2823.5 feet to corner;

THENCE, North 89° 46' 10" East, 60.0 feet to corner;

THENCE, South 0° 13' 50" East, 40.0 feet to corner;

THENCE, South 89° 46' 10" West, 20 feet to corner;

THENCE, South 0° 13' 50" East, 2823.5 feet along the West line of a 20 foot telephone easement to the Place of Beginning and containing a 40 foot wide drainage easement, as shown on the attached plat.

DEED
897 PAGE 236

The DISTRICT shall have all rights and benefits necessary or convenient for the full enjoyment or use of the rights herein granted, with the right of ingress and egress to and from said drainage canal right of way, provided, however, that after construction of said drainage canal, said right of ingress and egress of the DISTRICT shall be limited to the said right of way and to existing roads and passageways. The DISTRICT is given the right from time to time to cut and remove all trees, undergrowth, and abate other obstruction, upon said canal right of way, that may injure, endanger, or interfere with the construction, operation, maintenance and repair of said drainage canal.

The DISTRICT agrees during the life of this easement to repair all damage to roads, passageways and fences resulting from the DISTRICT'S use in going to and from said easement and right of way, and to restore the same to the previously existing condition as near as possible.

GRANTOR reserves the right to use the facilities offered by the drainage canal for the disposal of surface waters, rain, or any excess waters collecting upon his land, and in such connection GRANTOR has the right in the manner provided by law and at his own expense to construct and provide ditches, drains and laterals connecting his said land or portions thereof with the drainage canal.

GRANTOR reserves the oil, gas and sulphur in and under the land covered by this easement, provided however, that during the life of this easement no mining or drilling operations shall be conducted upon the surface of the area included in the easement right of way above described.

It is agreed that if at a future time the DISTRICT, its successors or assigns, shall permanently cease to use said drainage canal right of way for the purposes herein contained, and shall permanently abandon the same, then and in such event the said right of way above described, together with all rights and interests held by the DISTRICT by reason of this instrument, shall revert, pass to and vest in the said GRANTOR, his heirs or assigns.

Grantor also expressly reserves the right to use the land described herein for road and passageway purposes and for growing plant materials, provided those uses do not unreasonably interfere with the rights herein granted to the District.

TO HAVE AND TO HOLD said right of way and easement herein granted, unto the said DISTRICT, its successors or assigns.

EXECUTED this the 1ST day of May, A. D. 1980

Cecil H. Shivar

DEED
897 PAGE 237

THE STATE OF TEXAS

COUNTY OF East Bend

BEFORE ME Helen Adams

East Bend, in and for
County, Texas, on this day personally appeared
Cecil H. Shivers

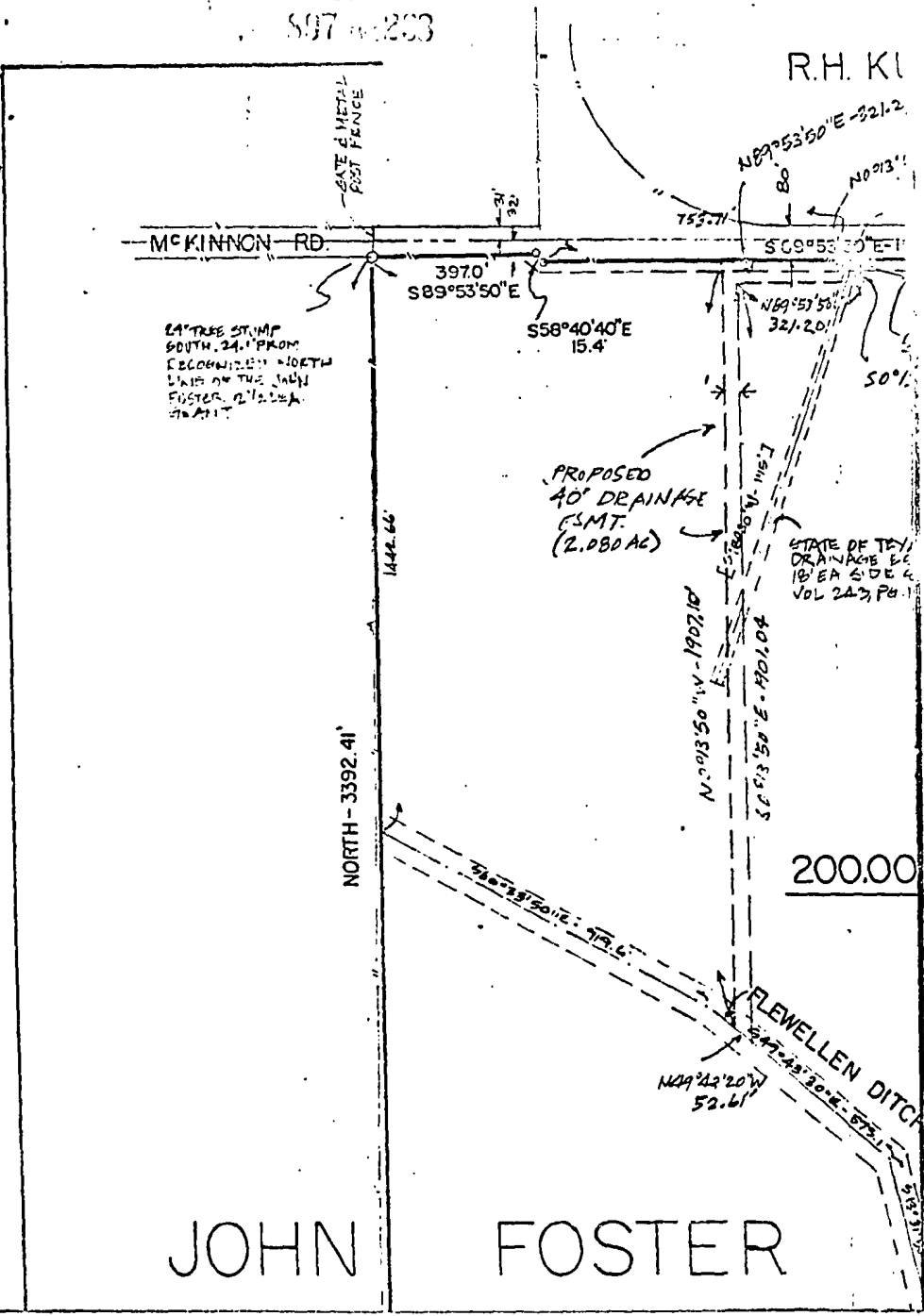
known to me to be the person whose name subscribed to the foregoing instrument, and
acknowledged to me that he executed the same for the purposes and consideration therein
expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 1st day of May
A. D. 1980
Helen Adams
(L. S.)

JB C. D. D
P.O. Box 1048
Kleenberg, TX 77471

DEED
S97-203

R.H. KI



DEED
907 P.M.E. 239

F. KUYKENDALL SUR.
AB. 274

10°13'50"W-20'

10°E-1003.4'-STATE FARM MKT RD. NO. 359 GASTON RD.

906.69'
UNDERGROUND TELEPHONE
CABLE W, DU & ALONG R.O.W
SOUTHWESTERN BELL
TELE. CO. 20' EASEMT.
50°13'50"E-60.0'
A = 89°40'
B = 480.916
C = 480.916
D = 478.11
T = 478.11

OF TEXAS
VAC. EASEMT.
SIDE E - TRACT 1
43, PG. 139, DC

3.00 ACRES

N DITCH

2-1/2

LEAGUE GF

15°13'50"W-201.5'

15°13'50"W-201.5'

Fort Bend Co. Drainage Dist.
50' Easement - 40' Ea Side E
Vol. 333, Pg. 255, DC

STATE OF TEXAS
DRAINAGE EASEMT.
17 1/2' LA SIDE W
35' WIDE
TRACT -
VOL. 243, PG. 139, DC

SOUTHWESTERN BELL TELEPHONE CO.
20' EASEMENT - OCT. 13, 1964 11°03'50"W-2823.5'
2823.5'

STATE FARM MKT. NO. 359

10°13'50"E-2891.25'

10' WIDE

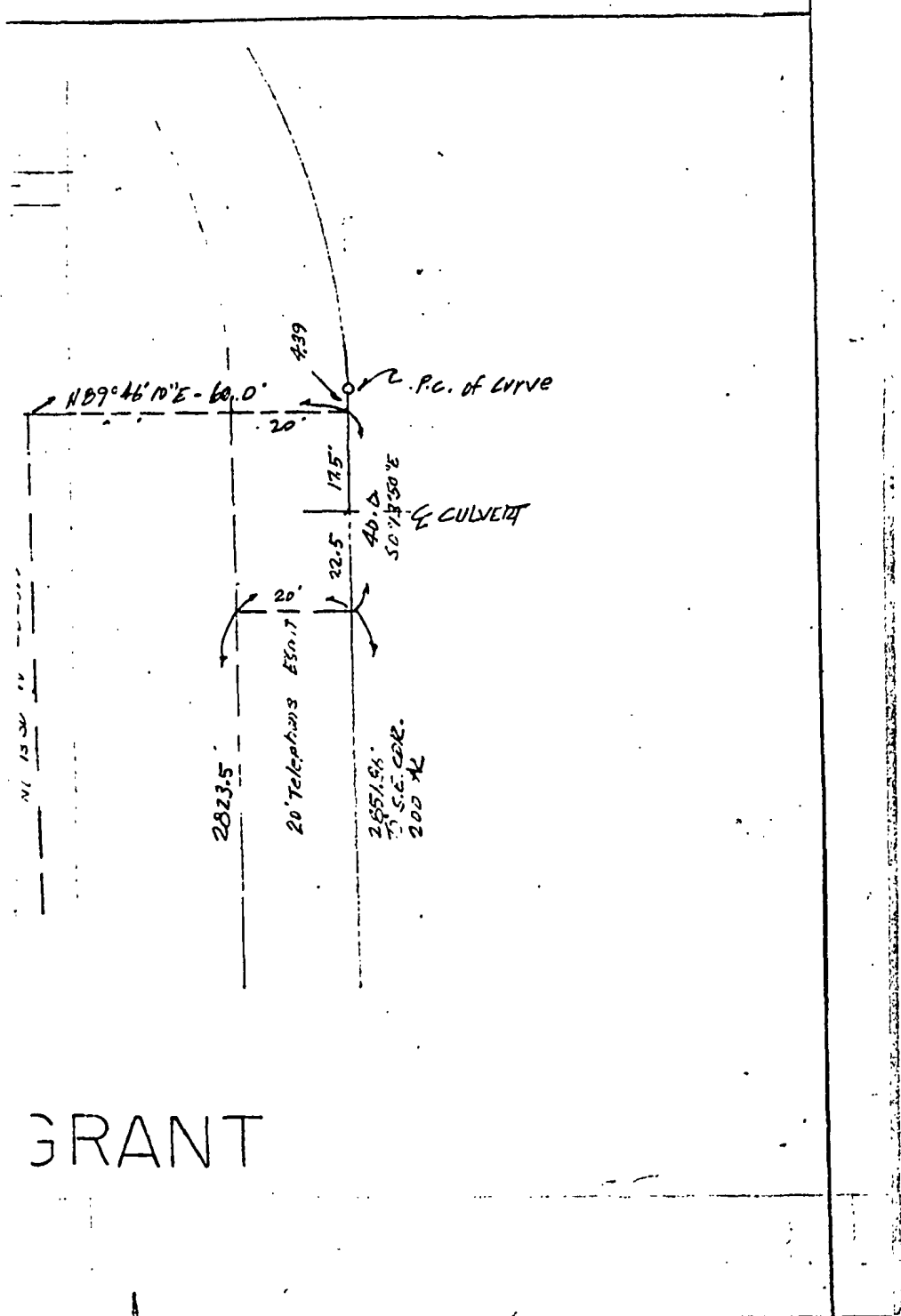
20'

SET 1/2" I.P.

DETAIL

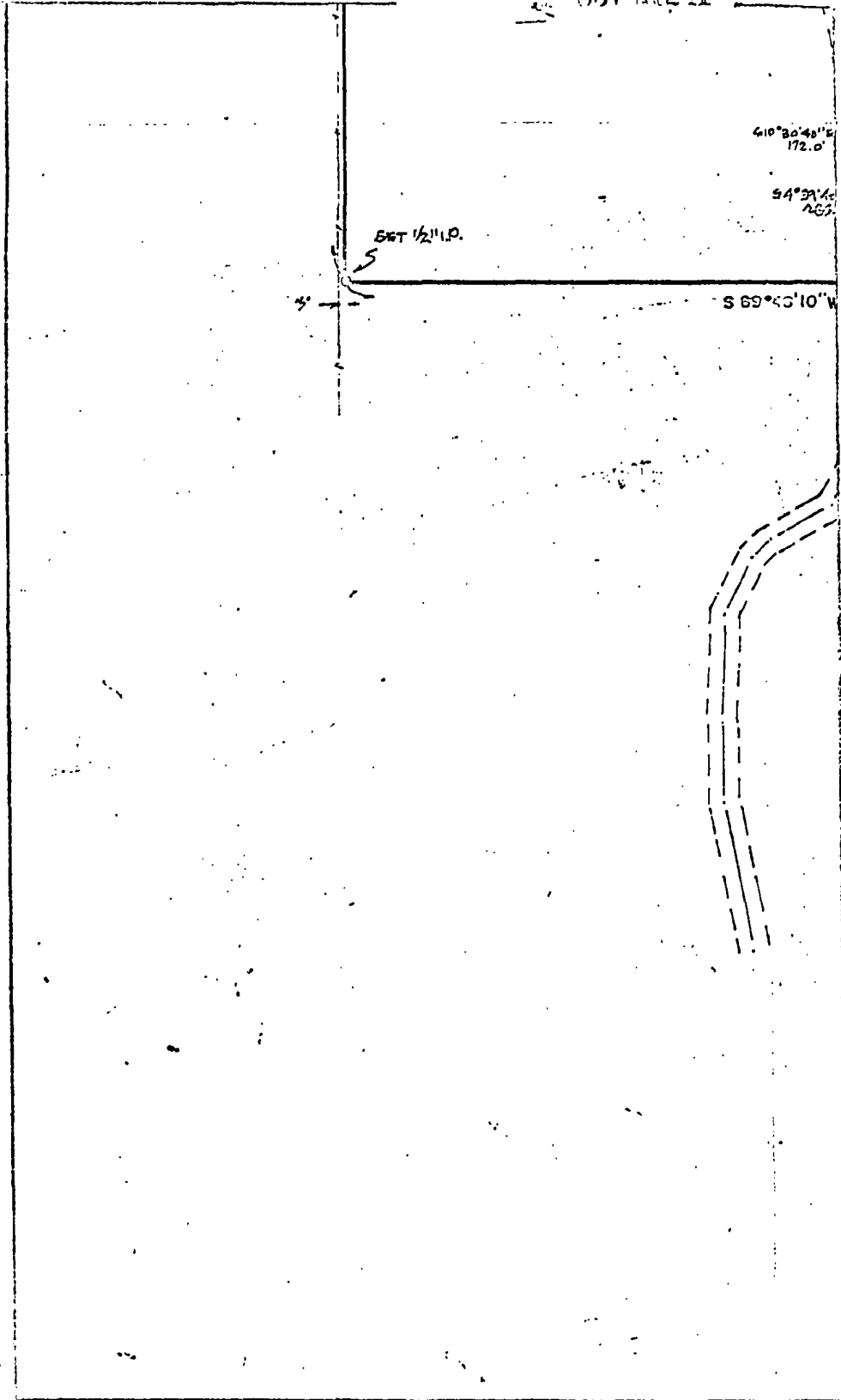
11°13'50"W-2823.5'

DEED
897-2013



GRANT

DEED
897 ~~141~~ 241



DEED

597 MAR 2002

Fort Bend Co. Drainage Dist.
FD Easement - 40' EA Side
Vol: 353, Pg. 255, DR

DIVIDED WIDE
FENCES

20'

20'

PROPOSED 40' WIDE
DRAINAGE ESMT.
(3.652AC)

SET 1/2" I.P.

N 07° 24' 10" E - 1073.75

6.0° 30' 40" E
172.0'

S 4° 21' 10" E
231.3'

S 89° 45' 10" W - 2000.24'

DRAINAGE ESMT.
No. 3

PLAT
OF L
512.3
2-1/2

TO ALL PARTIES

THE UNDERSIGNED
made on this day
correct and complete
shortages
encumbrances
has accepted

Dated this

DRAINAGE
REVISED D



DEED
557 PAGE 243

SCALE 1"=300'

PLAT SHOWING SURVEY OF 200.00 ACRES
OF LAND OFF OF THE NORTH END OF A
512.39 ACRE TRACT, IN THE JOHN FOSTER
2-1/2 LEAGUE GRANT, AB. 26, FORT BEND COUNTY,
TEXAS.

ALL PARTIES INTERESTED IN TITLE TO THE PREMISES SURVEYED:

THE UNDERSIGNED does hereby certify that this survey was this day
on the ground of the property legally described hereon and is
correct and that there are no encroachment, discrepancies, conflicts
of titles in area, boundary line conflicts, overlapping of improvements,
easements or rights-of-way, except as shown hereon and that said property
has access to and from a dedicated roadway, except as shown hereon.

Witness my hand and seal this the 12th of July, 1977.

Signed *Frank R. Schott*
OFFICE OF HENRY SCHOTT, JR. INC.
Consulting Engineer
1117 Toboia Street
Rosenberg, Texas 77471

WATER EASEMENTS JUNE 22, 1979
SEWER DRAINAGE EASEMENTS - MARCH 20, 1980

FILED FOR RECORD
TIME 8 AM.
P.M.

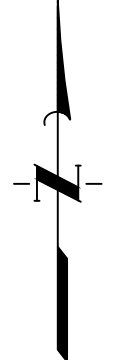
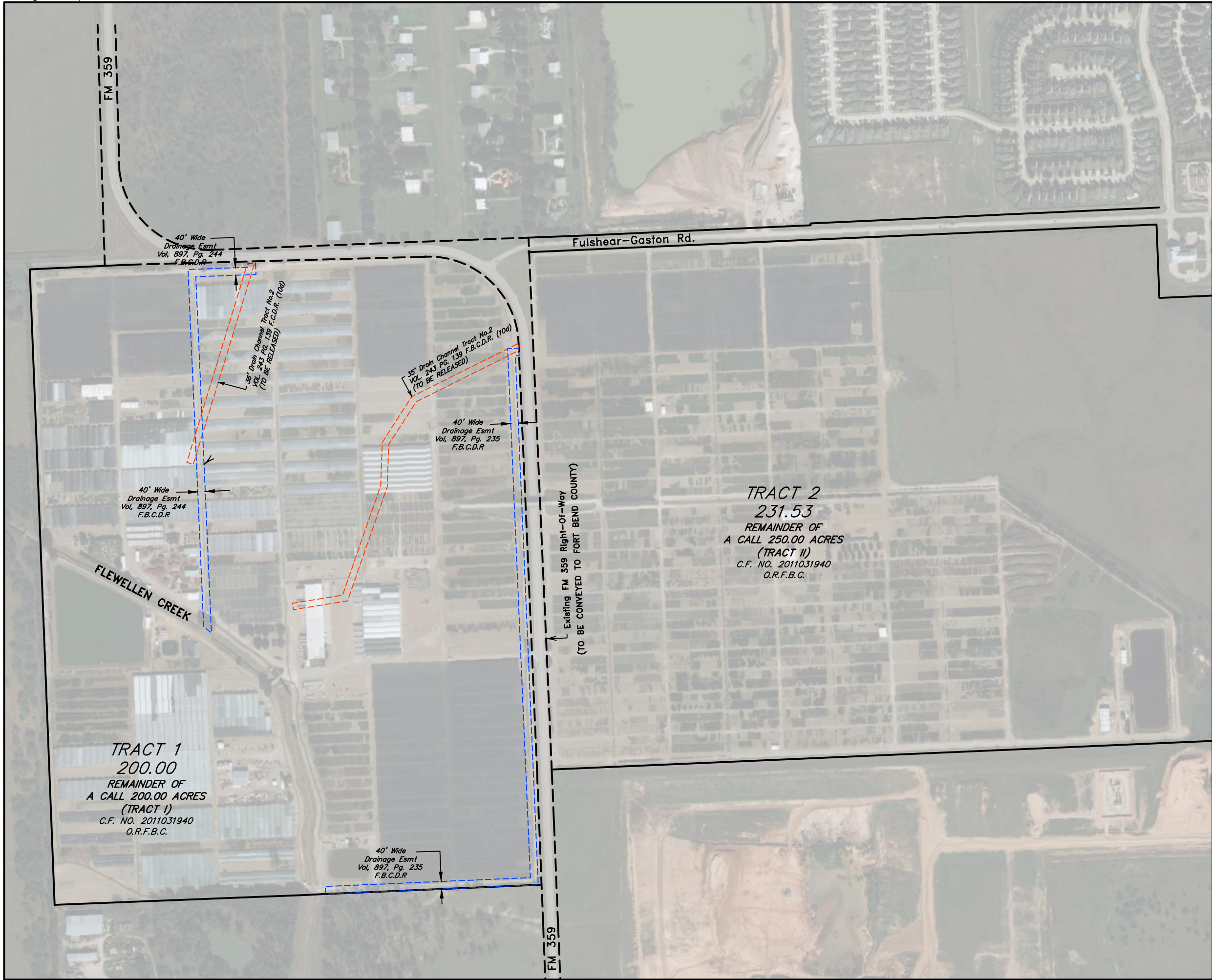
MAY 6 1980

Pearl Ellett
COUNTY CLERK, FORT BEND COUNTY, TEX.

6708

Duly recorded this the 7th day of May 1980 A.D. at 4:30 O'Clock P.M.
By *Dora Messine* deputy Pearl Ellett, County Clerk
Fort Bend County, Texas

Ex. B



LEGEND

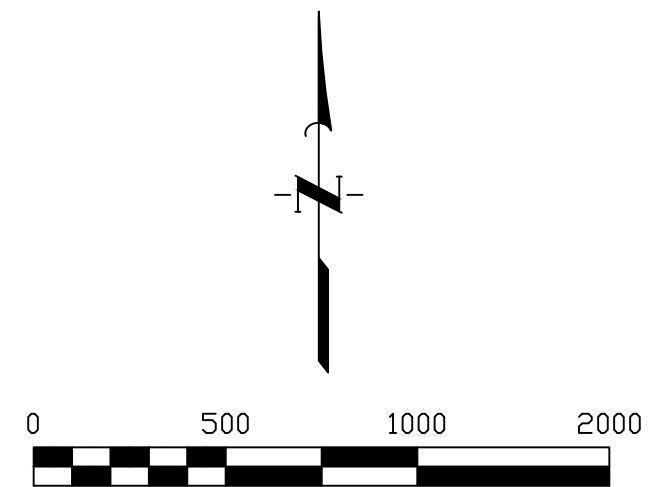
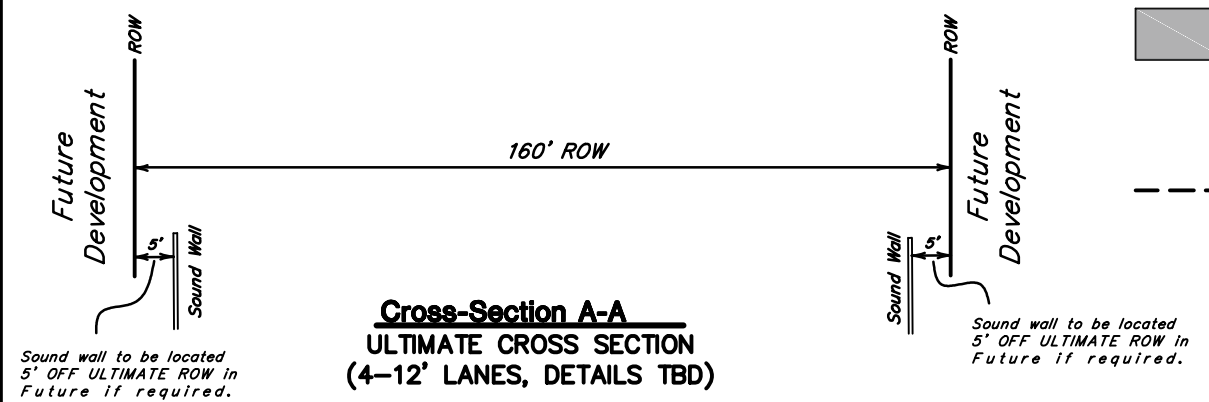
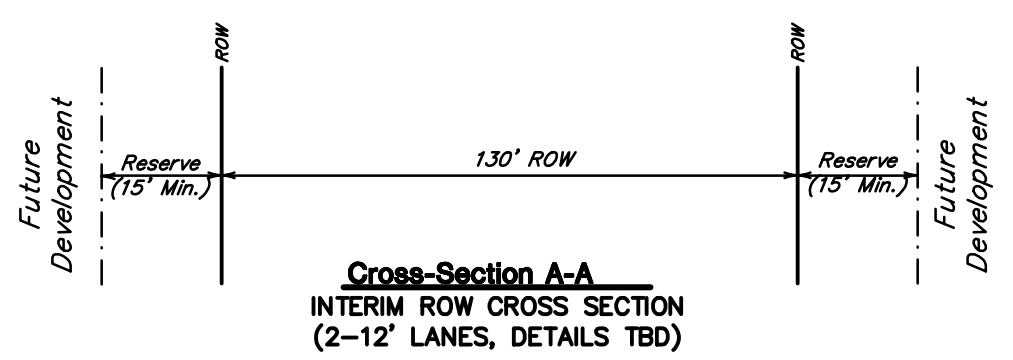
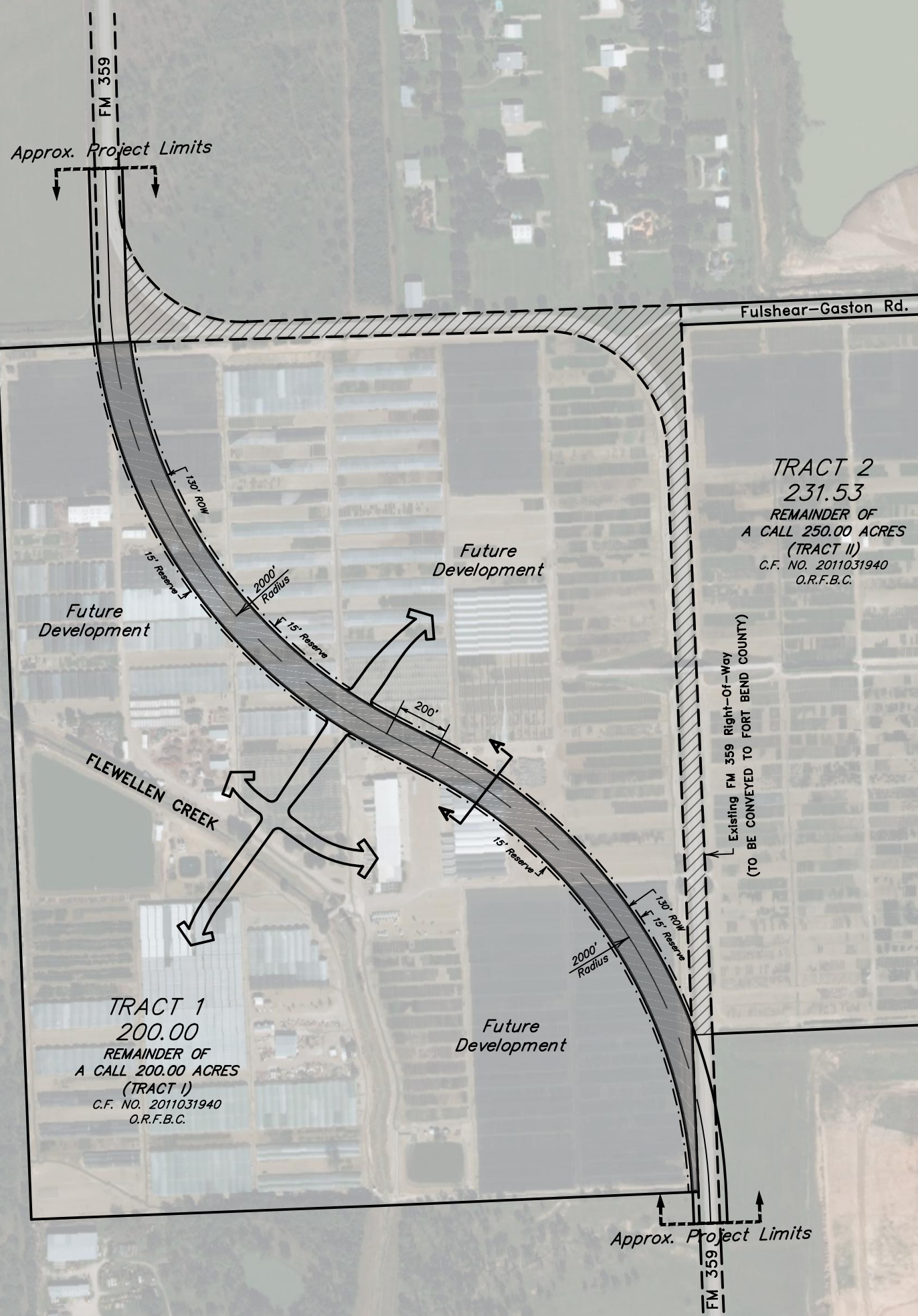
- - - TxDOT Drainage Esmts
- - - Fort Bend County Drainage District Esmts
- - - Existing TxDOT ROW

EASEMENT TRANSACTION SUMMARY

Land/Easement Description	Acres
TxDOT Drainage Easements	2.560
Fort Bend County Drainage District Easements	5.732
Difference	-3.172

Notes:
 1. All acreages are based on recorded deeds.

EXHIBIT C
FM 359
EASEMENT EXHIBIT
 FORT BEND COUNTY, TEXAS
 MAY 2019



LEGEND

- Existing FM 359 Right-Of-Way to be conveyed to Fort Bend County
- Proposed FM 359 Right-Of-Way to be donated to TxDOT
- Existing TxDOT ROW

LAND TRANSACTION SUMMARY

Land/Easement Description	Interim ROW (130')	Additional ROW (30')	TOTAL (160' ROW)
Existing FM 359 ROW to be conveyed to Fort Bend County	10.92 Ac.	0.00 Ac.	10.92 Ac.
Proposed FM 359 ROW to be donated to TxDOT	11.61 Ac.	2.61 Ac.	14.22 Ac.
DIFFERENCE	-0.69 Ac.	-2.61 Ac.	-3.30 Ac.

- Notes:**
- All acreages are approx. and subject to final design and survey.
 - Any ROW required for ultimate FM 359 outside of Tract 1 or 2 shall be acquired by TxDOT.
 - Fort Bend County Drainage District and TxDOT Drainage Easements are to be handled separately.

EXHIBIT D
FM 359
Right-Of-Way Exhibit
FORT BEND COUNTY, TEXAS
MAY 2019