

TEXAS HERITAGE PARKWAY ROADWAY LOCAL AGREEMENT

BY AND BETWEEN

WALLER COUNTY, FORT BEND COUNTY, CITY OF KATY, TEXAS,

TEXAS HERITAGE PARKWAY IMPROVEMENT DISTRICT

AND

LANDMARK INDUSTRIES HOLDINGS, LTD., LANDMARK INDUSTRIES, LLC,

AND

PEDERSON ROAD TOWN CENTER - 139, LLC

TEXAS HERITAGE PARKWAY ROADWAY LOCAL AGREEMENT

THIS TEXAS HERITAGE PARKWAY ROADWAY LOCAL AGREEMENT ("Agreement") is made as of May 26, 2020, ("Effective Date") between **FORT BEND COUNTY, TEXAS**, a body corporate and politic under the laws of the State of Texas ("Fort Bend County"); **WALLER COUNTY, TEXAS**, a body corporate and politic under the laws of the State of Texas ("Waller County"); **THE CITY OF KATY, TEXAS**, a Texas municipal corporation ("Katy"); **THE TEXAS HERITAGE PARKWAY IMPROVEMENT DISTRICT**, a political subdivision of the State of Texas created under Article 16, Section 59, of the Texas Constitution, operating pursuant to Chapter 3921 Special District Local Laws Code, as amended (the "THPID"); **LANDMARK INDUSTRIES HOLDINGS, LTD.**, a Texas limited partnership, and **LANDMARK INDUSTRIES, LLC**, a Texas limited liability company (together, "Landmark"); and **PEDERSON ROAD TOWN CENTER - 139, LLC**, a Texas limited liability company ("NewQuest"). Landmark and NewQuest are collectively referred to herein as "Landowners." Fort Bend County, Waller County, Katy, and THPID are collectively referred to herein as the "Governmental Entities." Landowners and the Governmental Entities are sometimes individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

The Parties are entering into this Agreement to provide for the funding, design, acquisition, permitting, construction, ownership, operation and maintenance of that portion of the Texas Heritage Parkway (defined below) running north of Kingsland Boulevard to Interstate 10 (I-10), known colloquially as Section 3C, as shown in part in **Exhibits A and B**.

Section 3C is currently in the extraterritorial jurisdiction of Katy and subject to Waller County's jurisdiction, but ultimately will be in Katy's corporate limit and subject to the jurisdiction of Katy. This Agreement is intended to be applicable to the configuration of Section 3C regardless of who exercises jurisdiction over it.

The Texas Heritage Parkway is a proposed 6-mile long major thoroughfare that is designed to allow free flowing traffic movement from FM 1093 in Fulshear to Interstate 10 (I-10) in Katy. The Texas Heritage Parkway feature includes roundabouts rather than signalized intersections or overpasses, limited access points, and divided roadway that prevents left-turn movements across traffic, all of which enhance travel times and safety along the corridor. The Texas Heritage Parkway will cost in excess of \$55 million dollars. The costs are being funded from a combination of public and private sources that have committed funds for the Texas Heritage Parkway based on its innovative design and its superior traffic volume capacity compared to a typical 4-lane major thoroughfare. In order to secure funding for the Texas Heritage Parkway, all parties need assurances that the Texas Heritage Parkway will continue to exist as currently designed.

The Parties have each independently found and determined and hereby declare and represent that each is authorized to enter into this Agreement; that the terms, conditions and provisions of this Agreement are mutually agreeable, fair, and advantageous; and that each of the Parties desires to enter this Agreement for the purposes stated herein and to provide specific

terms and conditions for the funding, design, acquisition, permitting, construction, ownership, operation and maintenance of Section 3C and improvements described in this Agreement.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

AGREEMENT

Article I

Recitals, Definitions, and Exhibits

Section 1.1. Recitals Confirmed. The matters set out above are declared true and correct and are hereby incorporated as part of this Agreement.

Section 1.2. Definitions. In addition to the terms defined elsewhere in this Agreement, and unless the context requires otherwise, the following terms and phrases used in this Agreement shall have meanings as follows:

Backage Road means the future public roadway to be constructed on the Landowners' Land running through future commercial development east of Texas Heritage Parkway and connecting Texas Heritage Parkway to the south I-10 frontage road, as shown on **Exhibits A and B**.

Cameron means Cameron, a Schlumberger Company or the then-current owner of the Cameron Site.

Cameron Site means the approximately 66.82 acres of land located south of I-10 and west of Driveway B and owned by Cameron, known as 29501 Katy Freeway, Katy, Texas 77494 as more particularly described in those certain deeds filed in the Official Records of Waller County Vol 509, page 919 and Vol 908, page 380, and does not include any other property owned by Cameron.

Driveway B means the driveways and intersection so designated on **Exhibits A and B**.

Fort Bend County means Fort Bend County, Texas

Interim Design means that portion of the Section 3C design and configuration shown on **Exhibit A** prior to the widening of Interstate 10 (I-10) by TxDOT.

Jug Handle Road means the current eastbound I-10 exit ramp/frontage road as shown on **Exhibits A and B**.

Katy means the City of Katy, Texas.

Landowners' Land means the approximately 105.923 acres of land located at the southeast corner of I-10 and Pederson Road consisting of approximately 63.923 acres owned by NewQuest (as more particularly described in document recorded in the Official Public Records of Waller County, Texas under Clerk's File No. 1607213), 40.12 acres owned by Landmark Industries, LLC,

and 1.88 acres owned by Landmark Industries Holdings, Ltd., as generally shown in the site plans attached as **Exhibits A and B**.

Section 3C means the project consisting of the design, permitting, acquisition, and construction of that portion of the Texas Heritage Parkway from just north of Kingsland Boulevard north to I-10, a portion of which is shown on **Exhibits A and B**.

Texas Heritage Parkway or **THP** means the future roadway that will connect I-10 in Waller County to the Westpark Tollway/FM 1093 in the City of Fulshear, Texas, as generally shown on **Exhibit C**.

THPID means The Heritage Parkway Improvement District, a political subdivision of the State of Texas created under Article 16, Section 59, of the Texas Constitution, operating pursuant to Chapter 3921 Special District Local Laws Code, as amended.

TxDOT means the Texas Department of Transportation.

Ultimate Design means that portion of the Section 3C design and configuration shown on **Exhibit B** after the widening of Interstate 10 (I-10) by TxDOT and abandonment of the right-of-way area (from the southern edge of Jug Handle Road to the southern edge of the eastbound I-10 frontage road, all to the east of Pederson Road) by TxDOT to NewQuest.

Waller County means Waller County, Texas

Section 1.3. Exhibits. The following exhibits are attached to this Agreement and are fully incorporated herein:

- Exhibit A - Texas Heritage Parkway design of portion of Section 3C - "Interim Design"
- Exhibit B - Texas Heritage Parkway design of portion of Section 3C - "Ultimate Design"
- Exhibit C - Texas Heritage Parkway
- Exhibit D - Allocation of Costs for Texas Heritage Parkway Section 3C
- Exhibit E - Schematic of Improvements Applicable to Cameron Site
- Exhibit F - Costs Applicable to Cameron Site

Article II

Local Agreement

Section 2.1. Design Approval - Parties. All Parties approve the modified THP design to provide for configuration of the portion of Section 3C north of Willow Fork Bayou as shown in **Exhibit A** ("Interim Design" prior to I-10 widening) and **Exhibit B** ("Ultimate Design" after I-10 widening). No other modifications to this roadway design shall be allowed without approval of all Governmental Entities (i.e. Waller County, Katy, THPID, and Fort Bend County). Following and other than the installation of the traffic signals shown in **Exhibit A and B**, all Parties further agree that they will not install or permit the installation of any traffic signals on THP in the future, nor will they permit any roadway or driveway connection to THP that would warrant any other traffic signal on THP other than as shown on **Exhibit A or Exhibit B (except for the traffic signal**

in the TxDOT right of way north of the I-10 mainlanes and the traffic signal at FM 1093). If any other signal is installed on THP (excluding signals in TxDOT right-of-way at I-10 and FM 1093), such installation will be an event of default subject to the default and remedies described in Article IV, included the termination of this restriction described in Section 4.1(a)2a..

Section 2.2. Construction of the Interim Design. Construction of the Interim Design will be let by THPID and 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 Section 3C construction contract. Conduit, pole bases, pull boxes, 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.

Section 2.3. Timing of Construction of Interim Design. The THPID will construct Section 3C as shown, in part, on **Exhibit A** after (i) this Agreement is executed, (ii) plans have been approved by Waller County, TxDOT, and Katy (if applicable), and (iii) Landmark and NewQuest, as applicable, have delivered the necessary right-of-way deeds, drainage easements, and funding.

Section 2.4. Signal Connectivity. Landowners shall pay for connectivity of the traffic signal at Driveway B to the traffic signal at the Jug Handle Road south of I-10. Connectivity of the traffic signals in the Jug Handle road and the current westbound I-10 exit ramp/frontage road at Pederson Road in the I-10 right-of-way (i.e. the signal north of I-10 to the signal south of I-10) shall be paid for by TxDOT or will be a THP cost.

Section 2.5. Signal Timing. Waller County (or Katy, as applicable) will allow THPID to operate and maintain the signal timing of the traffic signal at Driveway B, in coordination with TxDOT; provided, however, in the event of traffic control issues in the future at Driveway B which negatively affect the operations of the businesses located in the commercial development(s) on Landowners' Land, NewQuest and/or Waller County shall have the right to request reasonable adjustments to such signal timing of the traffic signal at Driveway B in order to address such issues.

Section 2.6. Signal Design. The design of the traffic signals at Driveway B and the I-10 frontage road will use best available technology for traffic management (adaptive signal control or other allowable TxDOT design specifications), which plans must be approved by THPID, TxDOT, and Waller County. Signal timing will be determined by THPID and TxDOT, with the approval of Waller County, in accordance with the Traffic Signal Agreement (defined below). 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.

Section 2.7. Construction of Signal at Driveway B. The signal equipment at Driveway B cannot be installed, or such signal made active, until all the following has occurred:

- a. Construction of the Backage Road has been completed and is open to the public, meeting all requirements of Waller County (or Katy, as applicable); and,

- b. The signal meets all other standard traffic signal warrant requirements of Waller County, (or Katy, if Katy has annexed the ROW before the signal is installed) and the Texas Manual on Uniform Traffic Control Devices (MUTCD); and,
- c. If the signal at Driveway B is warranted or installed to serve the Cameron Site, NewQuest may not connect to or utilize the intersection at Driveway B until the Backage Road is complete and open for public use.

Section 2.8. Jug Handle Signal Removal. The Parties anticipate that once I-10 is reconstructed TxDOT will transfer the road right-of-way for the THP/Pederson Road from the south Jug Handle Road to the new east bound I-10 frontage road to Waller County (or Katy, as applicable), which transfer will give Waller County (or Katy, as applicable) jurisdiction over the signal at the south Jug Handle Road. If the signal is Waller County's or Katy's signal to remove and such removal is at no cost to Waller County (or Katy, as applicable), Waller County (or Katy, as applicable) agrees that it will remove, allow the removal of, or support TxDOT's removal of that signal as part of the I-10 widening.

Section 2.9. Landowners Costs. In addition to Landmark's obligation to the overall THP costs, Landowners shall pay for the design of the Interim Design and any additional construction cost over and above THP 'base' design (including additional pavement and the signal light at Driveway B), except only for those items allocated to THP on **Exhibit D**. Additional pavement and other items for which Landowners are responsible and for which THPID is responsible, with estimated costs for the same, are shown on **Exhibit D**. These additional costs, estimated to be \$1,290,000, or such other amount as may be approved by the THPID engineer, shall be deposited by Landowners with Fort Bend County within 60 days after the Effective Date. THPID shall reimburse NewQuest for all reasonable and necessary engineering costs, environmental assessment costs, and traffic impact analysis costs incurred by NewQuest relating to the foregoing, all of which costs were required by TxDOT to be incurred as a condition for tie-in to the TxDOT facilities, which costs may be offset against other costs due from NewQuest, and excluding all engineering costs associated with the traffic signal at Driveway B.

Section 2.10. Cameron Site. Waller County and NewQuest will be solely responsible for interfacing with Cameron on the designs shown in **Exhibits A , B & E**. NewQuest shall attempt to cause Cameron to agree to reimburse THPID for the costs of the paving shown, cross-hatched and delineated on **Exhibit E**, and estimated on **Exhibit F**. If Cameron is unwilling to agree to reimburse THPID those project costs that are allocable to the Cameron Site, then those items will, at THPID's election, either be eliminated from the project scope or completed by THPID and the costs for which will be included in the overall costs for the THP project.

Section 2.11. Right-of-Way. Required right-of-way is to be granted by Landowners to Katy at no cost to Katy, however, such right-of-way grants shall expressly provide for, and be limited to, the permissible curb cuts shown on **Exhibit A**.

Section 2.12. HOA/Other Restrictions. Landowners shall not be subject to, or bear any cost or expense relating to, nor otherwise affected by the requirements of any homeowner's

association documents, architectural control, signage control or any other encumbrances to title established by THP, THPID, or their related entities.

Section 2.13. TxDOT Memorandum of Understanding. Landowners and Waller County will use their commercially reasonable efforts to cause TxDOT to enter into a MOU and the Traffic Signal Agreement described below. The THPID consultants and NewQuest will use their respective commercially reasonable efforts to secure the full execution of the MOU within 30 days after the Effective Date and the Traffic Signal Agreement within 6 months after the Effective Date.

Section 2.14. Construction Plans. Landowners will use commercially reasonable efforts to secure approval of TxDOT and Waller County, and Katy (if necessary) for the construction plans for the design shown in **Exhibits A and B**.

Section 2.15. Application to Landowners. The rights and obligations of Landowners set forth in this Agreement shall apply to the land currently owned by them or any of them and any land they (or any of their respective principals or related entities) acquire adjacent to the Texas Heritage Parkway in the future. It is further agreed that should Landowners or any of them (or any of their principals or related entities, including trusts created by any of them) acquire all or any portion of the Cameron property, the southwest corner of the TxDOT right-of-way and Pederson Road, or the land between those two tracts, they may only develop the land to the west of THP in a manner that does not alter the configuration of the road shown in **Exhibits A and B**, it being understood and agreed, however, the existing access points from such tracts at the southwest corner of the TxDOT right-of-way and Pederson Road may be adjusted to accommodate any future development of such tracts, provided such access points are right in, right out only and do not require any additional traffic signals.

Section 2.16. Right of Way Deed for Section 3C. Prior to the start of construction of Section 3C, Landowners will dedicate the right of way necessary for Section 3C to Katy by special warranty deed. Waller County will transfer its right, title, and interest in and to the Pederson Road right of way, if any, to Katy. Such transfers will not affect transferors' rights or obligations under this Agreement.

Section 2.17. Jurisdiction Not Affected. Upon the transfer of the ROW to Katy, Katy and Waller County acknowledge that the tracts of land at both the southwest corner and the southeast corner of Pederson Road and I-10 will be located in the ETJ of Katy and subject to jurisdiction by both Waller County and Katy as provided by law.

Article III

TxDOT MOU and Traffic Signal Agreement

Section 3.01. TxDOT MOU. Landowners and Waller County will use their respective commercially reasonable efforts to cause TxDOT to enter into a Memorandum of Understanding ("MOU") with Waller County (and/or Katy, as applicable) and THPID described below:

1. Pursuant to which the roadway design for THP and the site plans for the Landowners' Land at the southeast corner of I-10 and Pederson Road attached hereto as **Exhibit A** and **Exhibit B** are preliminarily approved (**Exhibit A** being the development plan prior to removal of the Jug Handle Road shown on **Exhibit A** and **Exhibit B** being the development plan after the removal of such Jug Handle Road);
2. Pursuant to which the storm water relating to both of the development plans shown on **Exhibit A** and **Exhibit B**, as well as the southern half of the I-10 widening project, is diverted pursuant to a shared storm water drainage pipe to Willow Fork Bayou to the south of the proposed NewQuest development;
3. Pursuant to which, after completion of construction of the I-10 widening and the other improvements contemplated on **Exhibit B**, the Jug Handle Road will be abandoned, the traffic signal at the Jug Handle Road will be relocated to the new frontage road, and all land east of Pederson Road between the Jug Handle Road and the eastbound frontage road along I-10 will be acquired by NewQuest;
4. Pursuant to which the I-10 entrance ramp east of the NewQuest development is relocated (per the current preliminary plans of TxDOT) so that drivers have the option to access the I-10 entrance ramp from the Backage Road prior to the Cane Island interchange as described on **Exhibit B**;
5. Pursuant to which TxDOT will enter into an agreement that will allow Waller County (and/or Katy, as applicable) or Fort Bend County or THPID to assume maintenance and operation of the traffic signals at the I-10 frontage road (as more particularly described in Section 2.6. above) (the "Traffic Signal Agreement") the form of which shall be attached to the MOU;
6. Pursuant to which TxDOT's obligations may be conditioned on meeting then existing established traffic safety limitations/requirements. However, TxDOT may not fail to comply with the MOU for any decisions that are based on TxDOT's exercise of its discretion; and,
7. Which addresses all other components of the roadway design shown on **Exhibit B**.

Article IV

Default and Remedies

Section 4.1. Material Breach of Agreement/Specific Remedies. It is the intention of the Parties to this Agreement that the THP (including both Interim Design and Ultimate Design of Section 3C) be developed in accordance with the terms of this Agreement. Below is a list of general and specific instances of default, including, in some cases, specific remedies for such defaults; however, the general remedies for default in Section 4.4. apply to all instances of default:

Parties Generally

(a) The Parties acknowledge and agree that any material deviation from the Interim Design or Ultimate Design and the concepts of development contained therein and any material deviation by a Party from the material terms of this Agreement would frustrate the intent of this Agreement, and therefore, would be a material breach of this Agreement. A material breach of

this Agreement by a Party shall be deemed to have occurred in any of the following instances, and to include without limitation any of the following instances:

1. A Party's failure to approve the design and/or construction plans for Section 3C (provided that such plans substantially conform to the designs on **Exhibits A and B**) if the Party's approval is required to bid and construct Section 3C.
 - a. In such case of default, the non-defaulting Party shall be entitled to specific performance and/or a writ of mandamus to compel the defaulting Party to approve the plans.
2. A Party's construction or permitting of any traffic signals on the Texas Heritage Parkway or any driveway or roadway connections to Section 3C other than those specifically allowed pursuant to the terms of this Agreement, including without limitation Section 2.1.
 - a. In such case of default, any non-defaulting Party shall have the right to enjoin construction of the additional signal(s) and shall further have the right to remove the signals and any signalization installed in violation of this Agreement. The costs of removal shall be borne by the Party or Parties that installed the signals in violation of this Agreement. If, for any reason, including without limitation the conclusion of litigation on the matter, the signals are not removed or able to be removed, the restriction in Section 2.1. prohibiting construction of traffic signals on the Texas Heritage Parkway shall be null and void as to all Parties.
3. A Party's failure to substantially comply with a provision of this Agreement.

THPID

(b) In addition to those instances of default described in Section 4.1(a) above, a material breach of this Agreement by THPID shall be deemed to have occurred in any of the following instances:

1. THPID's construction of the Interim Design in a manner that deviates in any material respect from the design as herein approved by all Parties and as shown on **Exhibit A**, subject to Section 2.2.
2. THPID's imposition or attempt to impose upon Landowners any requirements prohibited by Section 2.12.
3. THPID's programming of the traffic signal at Driveway B in a manner that unreasonably restricts traffic to and from the commercial center in a manner which violates Section 2.6.
4. THPID's failure to offset the costs described in Section 2.10. from any amounts otherwise due under this Agreement.
5. THPID's failure to use commercially reasonable efforts to secure the full execution of the Traffic Signal Agreement within 6 months after the Effective Date.

Landowners

(c) In addition to those instances of default described in Section 4.1(a) above, a material breach of this Agreement by Landowners shall be deemed to have occurred in any of the following instances:

1. Any Landowners' failure to timely convey (or cause to be conveyed) the rights-of-way to the City of Katy necessary for Section 3C.
2. Any Landowners' failure to timely pay 1) the costs of design of the Interim Design, and 2) the costs of constructing the Interim Design to the extent such construction costs are over and above the costs of constructing the 'base' design, except only for those items allocated to THP on **Exhibit D**, as set forth in Section 2.9. above.
 - a. In such case of default, THPID shall have the right to proceed with construction of the base design of the Texas Heritage Parkway Section 3C.
3. Landowners' failure to pay for the connectivity of the traffic signals at Driveway B and the Jug Handle Road;
4. Any Landowners' attempt to connect to or use, or to allow other persons or entities to use Driveway B prior to the conditions in Section 2.7 being met;
 - a. In such case of default, any other Party shall be entitled to obtain an injunction prohibiting such connection to or use of Driveway B by Landowners and all such other person or entities.
5. Any Landowners' failure to use commercially reasonable efforts to cause TxDOT to enter into the MOU and Traffic Signal Agreement; or
6. Any Landowners' failure to use commercially reasonable efforts to secure TxDOT approval of the construction plans for Section 3C designs shown, in part, on **Exhibits A and B**.

Waller County

(d) In addition to those instances of default described in Section 4.1(a) above, a material breach of this Agreement by Waller County shall be deemed to have occurred in any of the following instances:

1. Waller County's failure to allow THPID to operate and maintain the signal timing of the traffic signal at Driveway B.
2. Waller County's failure to comply with Section 2.8 regarding removal of the traffic signal at the Jug Handle Road.
3. Waller County's failure to use commercially reasonable efforts to cause TxDOT to enter into the MOU and Traffic Signal Agreement.

4. Waller County's allowing construction of any traffic signal on the Texas Heritage Parkway or allowing any connection to the Texas Heritage Parkway other than those specifically allowed under this Agreement.
5. Waller County's allowing construction of the traffic signal at Driveway B or any Landowners' or third party's connection to Driveway B prior to the conditions in Section 2.7. being met.

City of Katy

(e) In addition to those instances of default described in Section 4.1.(a) above, a material breach of this Agreement by Katy shall be deemed to have occurred in any of the following instances:

1. Katy's failure to allow THPID to operate and maintain the signal timing of the traffic signal at Driveway B.
2. Katy's failure to remove the traffic signal at the Jug Handle Road, subject to the terms of this Agreement.
3. Katy's allowing construction of any permanent traffic signal on the Texas Heritage Parkway or allowing any permanent connection to the Texas Heritage Parkway other than those specifically allowed under this Agreement.
4. Katy's allowing construction of the traffic signal at Driveway B or Landowners' connection to Driveway B prior to the conditions in Section 2.7 being met.

Section 4.3. Notice/Cure Period. Before exercising any remedies of default as described herein, the Party or Parties believing that a default has occurred shall send written notification to the Party or Parties alleged to be in default specifying the acts or omissions giving rise to the default. The Party or Parties alleged to be in default shall have 10 days from receipt of such written notice to cure the default, or, if it is not reasonably practicable to cure the default in 10 days, then such Party or Parties must commence curing the default within such time period and thereafter diligently proceed to cure the default as quickly as reasonably practicable and to the reasonable satisfaction of the Party or Parties alleging the default.

Section 4.4. Remedies. In addition to and cumulatively with any specific remedies for default described above, a Party or Parties may file suit in a State District Court or other court of competent jurisdiction in Waller County, Texas, and seek any relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance to the extent allowed by law and or termination of this Agreement as to the breaching Party or Parties. The Parties further agree that the remedies at law for any breach or threatened breach, including monetary damages, would be inadequate compensation for any loss.

Article V

General Provisions

Section 5.1. Force Majeure. If any Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations other than the payment of money under this Agreement, then the obligations of such Party, to the extent affected by such 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, as far as possible, shall be remedied with reasonable diligence. The term “force majeure,” as used in this Agreement, shall include, but not be limited to, acts of God, pandemics, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or any agency, department or branch thereof, or the State of Texas or any agency, department, branch or political subdivision thereof, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, and any other incapacities of any Party to this Agreement similar to those enumerated, which are not within the control of the Party claiming such inability, and which such Party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of any Party to this Agreement, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties when such settlement is unfavorable to it in the judgment of the affected Party. In regards to the COVID-19 pandemic, which was known at the time of this Agreement, if a Party could have reasonably complied with their obligations under this Agreement at the time it was entered, force majeure shall not apply unless the pandemic or corollary circumstances worsen to an extent that a Party’s compliance with the Agreement becomes impossible, illegal, or commercially impractical. The COVID-19 pandemic shall not excuse performance of the obligations contained in Sections 2.09, 2.11, or 2.16 unless the pandemic or corollary circumstances worsen to an extent that federal, state, or local orders limit commercial activity in manner more restrictive than those issued prior to this Agreement.

Section 5.2. Beneficiaries. This Agreement shall bind and inure to the benefit of the Parties, their permitted successors and assigns. The terms of this Agreement shall constitute covenants running with the land comprising Section 3C and any other land of any of the Landowners which is affected hereby and shall be binding on all future developers, owners, or occupants of any portion of such land. Landowners will execute and THPID will record a memorandum of this Agreement in the real property records of Waller County, and THPID will record a memorandum of this Agreement in Fort Bend County.

Section 5.3. Assignability. This Agreement shall not be assignable by a Party, in whole or in part, without first obtaining the written consent of the other Parties.

Section 5.4. Successors and Assigns. This Agreement shall apply to all permitted successors and assigns of the Parties. The rights and obligations of Landowners set forth in this Agreement shall apply to the land currently owned by them or any of them and any land they or any of them (or any of their principals or related entities, including trusts created by any of them)

acquire adjacent to the Texas Heritage Parkway in the future. It is understood specifically that should Landowners or any of them (or any of their principals or related entities, including trusts created by any of them) acquire all or a portion of the Cameron Property, the southwest corner of the TxDOT right-of-way, or any portion of the land between those two tracts, they may only develop the land to the west of THP in a manner that does not alter the configuration of the road shown in **Exhibits A and B**.

Section 5.5. Regulatory Agencies. This Agreement shall be subject to all present and future valid laws, orders, rules and regulations of the United States of America and its agencies, the State of Texas and its agencies, and any regulatory body having jurisdiction.

Section 5.6. No Additional Waiver Implied. The failure of a Party to insist, in any one or more instances, upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition by any other Party, but the obligation of the other Party with respect to such future performance shall continue in full force and effect.

Section 5.7. Modification. Except as otherwise expressly provided in this Agreement, the Agreement shall be subject to change or modification only with the written mutual consent of the Parties.

Section 5.8. Severability. If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the provision found to be invalid, illegal or unenforceable shall be deemed to be reformed in accordance with its apparent intent so as to be valid, legal and enforceable to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement remain in full force and effect.

Section 5.9. Construction of Agreement. This Agreement shall not be construed in favor of or against any Party on the basis that the Party did or did not author this Agreement.

Section 5.10. Consultation. The Parties each hereby acknowledge, represent, and warrant to each other: (i) each has had the opportunity to consult with legal counsel of its own choice and has been afforded an opportunity to review and negotiate this Agreement with assistance of its legal counsel, (ii) each has reviewed this Agreement, and fully understands its effects and all terms and provisions contained in the Agreement, and (iii) each has executed this Agreement of its own free will and volition.

Section 5.11. Applicable Law. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

Section 5.12. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one instrument and agreement. Scanned or digitally signed signatures to this Agreement shall be given the same effect as originals.

Section 5.13. Notices. The Parties contemplate that they will engage in informal communications with respect to the subject matter of this Agreement. However, any formal

notices or other communications ("Notice") required to be given by one party to another by this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party, (a) by delivering the same in person, (b) by depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to the Party to be notified; (c) by depositing the same with Federal Express or another nationally recognized courier service guaranteeing "next business day delivery," in a manner consistent with its policies for such delivery, addressed to the party to be notified, or (d) by sending the same by telefax with confirming copy sent by mail. Notice deposited in the United States mail in the manner herein above described shall be deemed effective from and after three (3) days after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed as provided below, shall be as follows:

THPID: Texas Heritage Parkway Improvement District
c/o The Muller Law Group
202 Century Square Blvd.
Sugar land, Texas 77478

Fort Bend County: Fort Bend County, Texas
301 Jackson Street
Richmond, Tx77469
Attention: County Judge

Waller County: Waller County, Texas
836 Austin Street
Hempstead, Texas 77445
Attention: County Judge

Katy: The City of Katy, Texas
901 Avenue C
Katy, Texas 77493

NewQuest: Pederson Road Town Center - 139, LLC
8827 W. Sam Houston Parkway North, Suite 200
Houston, Texas 77040
Attn: Steven D. Alvis

Landmark: Landmark Industries, LLC
Landmark Industries Holdings, LTD.
11111 Wilcrest Green #100
Houston, Texas 77042
Attn: Kent Brotherton

Section 5.14. Headings. The headings of each section of this Agreement are inserted solely for convenience and shall never be given effect in construing the duties, obligations, or liabilities of the Parties or any provision hereof, or in ascertaining the intent of any Party with respect to the provisions hereof.

Section 5.15. Authority for Execution. The Parties hereby certify, represent, and warrant that the execution of this Agreement is duly authorized and adopted in conformity with their Charters, ordinances, governing documents and the laws of the State of Texas, as applicable.

Section 5.16. Representation and Warranty. Each of the Landowners represents and warrants, for itself, but not for any other Landowner that: i) it owns fee title to its portion of the Landowners' Land, ii) there are no lienholders on its portion of the Landowner's Land, iii) that it is the proper party to this Agreement and that no other entity or person is a necessary party to this Agreement to perform its respective obligations contain herein.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Authorities have executed this Agreement in multiple copies, each of which shall be deemed to be an original, effective as of the Effective Date.

WALLER COUNTY, TEXAS

Carbett "Trey" J. Duhon III, County Judge

Date: _____

ATTEST:

Debbie Hollan, County Clerk

(SEAL)

FORT BEND COUNTY, TEXAS

KP George, County Judge

Date: _____

ATTEST:

Laura Richard, County Clerk

(SEAL)

CITY OF KATY, TEXAS

ATTEST:

APPROVED: _____

CITY SECRETARY

**TEXAS HERITAGE PARKWAY
IMPROVEMENT DISTRICT**

By: _____
James L. Fatheree, Jr.,
President, Board of Directors

EXECUTED on _____, 2020.

PEDERSON ROAD TOWN CENTER - 139, LLC,
a Texas limited liability company

By: A-L-L 139 Pederson Road/I-10, L.P., a Texas
limited partnership, Managing Member

By: A-L-L 139, L.C., a Texas limited liability
company, General Partner

By: _____

Name: Steven D. Alvis

Title: Manager

EXECUTED on _____, 2020.

LANDMARK INDUSTRIES, LLC,
a Texas limited liability company

By: _____
Name: J. Kent Brotherton
Title: President

LANDMARK INDUSTRIES HOLDINGS, LTD.,
a Texas limited partnership

By: Landmark Industries Venture Partners, LLC,
a Texas limited liability company, General Partner

By: _____
Name: J. Kent Brotherton
Title: President

EXHIBIT A

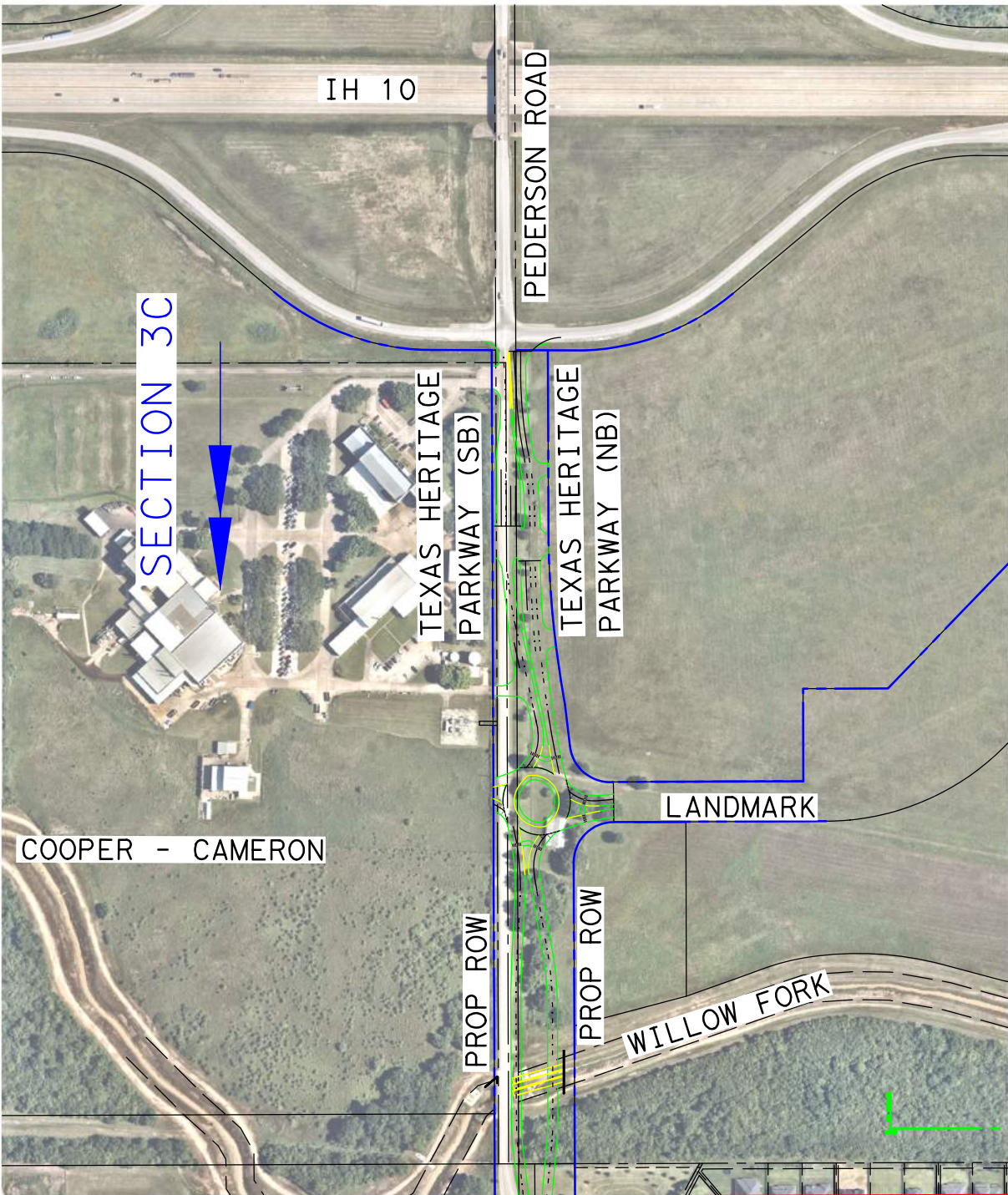
Texas Heritage Parkway design of portion of Section 3C – “Interim Design”

EXHIBIT B

Texas Heritage Parkway design of portion of Section 3C – “Ultimate Design”

EXHIBIT C

Texas Heritage Parkway



MATCH LINE A-A

SCALE: 1" = 400'

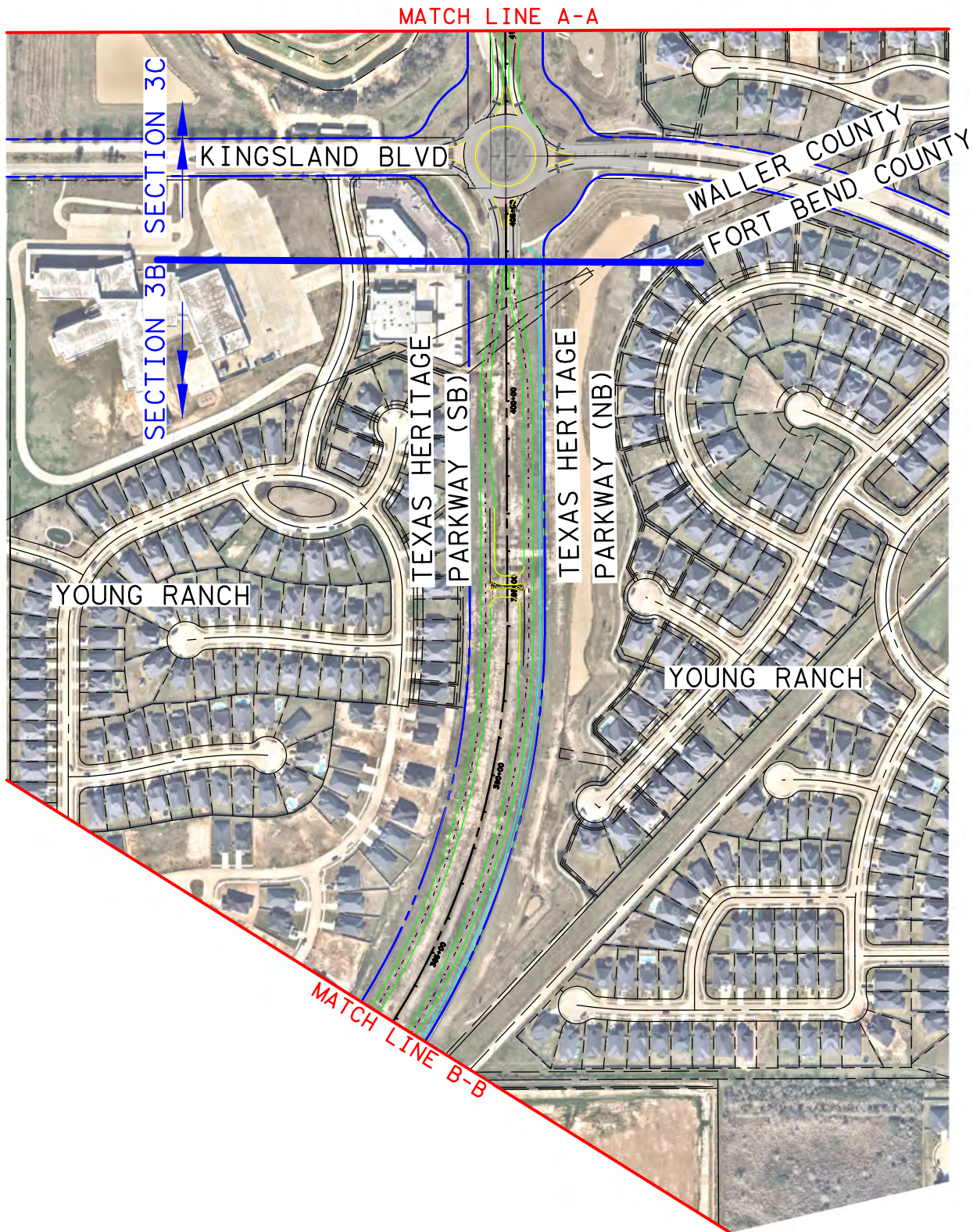


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SCALE: 1" = 400'



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SECTION 3B

SECTION 3A

MATCH LINE B-B

TEXAS HERITAGE
PARKWAY (SB)

TEXAS HERITAGE
PARKWAY (NB)

JDC - JORDAN RANCH

JORDAN CROSSING BLVD

JDC - JORDAN RANCH

SCALE: 1" = 400'

MATCH LINE C-C



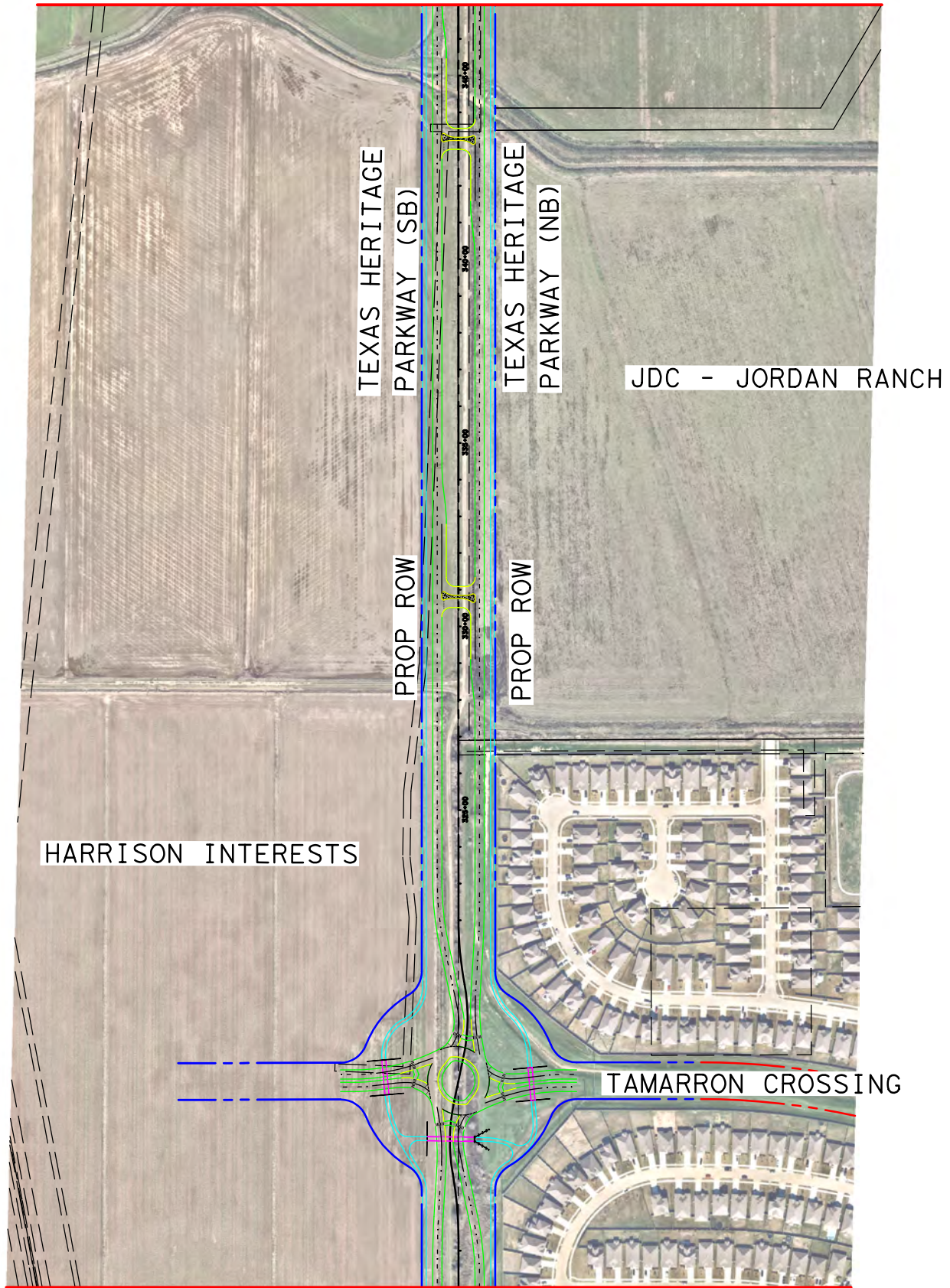
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MATCH LINE C-C



SCALE: 1" = 400'

MATCH LINE D-D

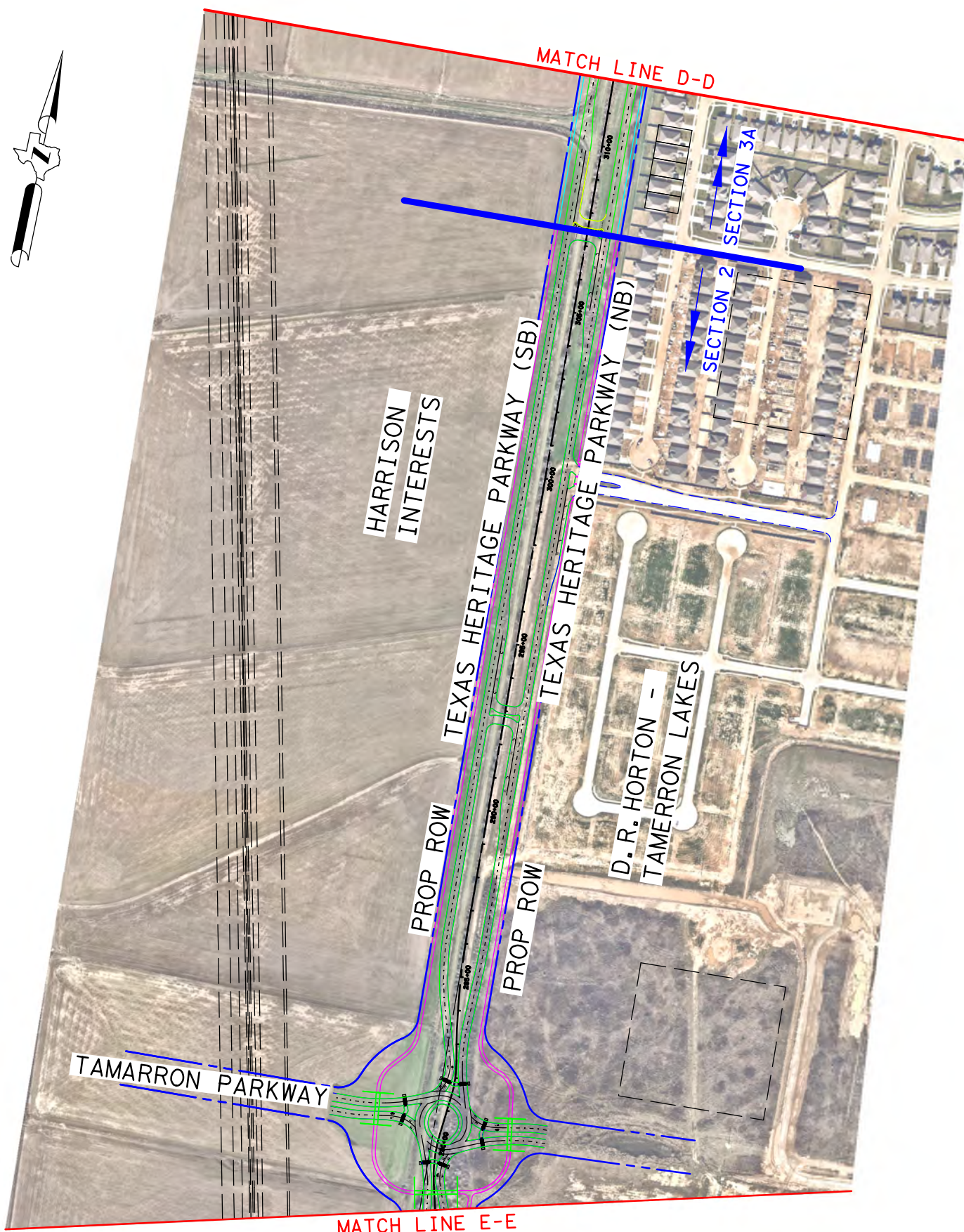


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SCALE: 1" = 400'

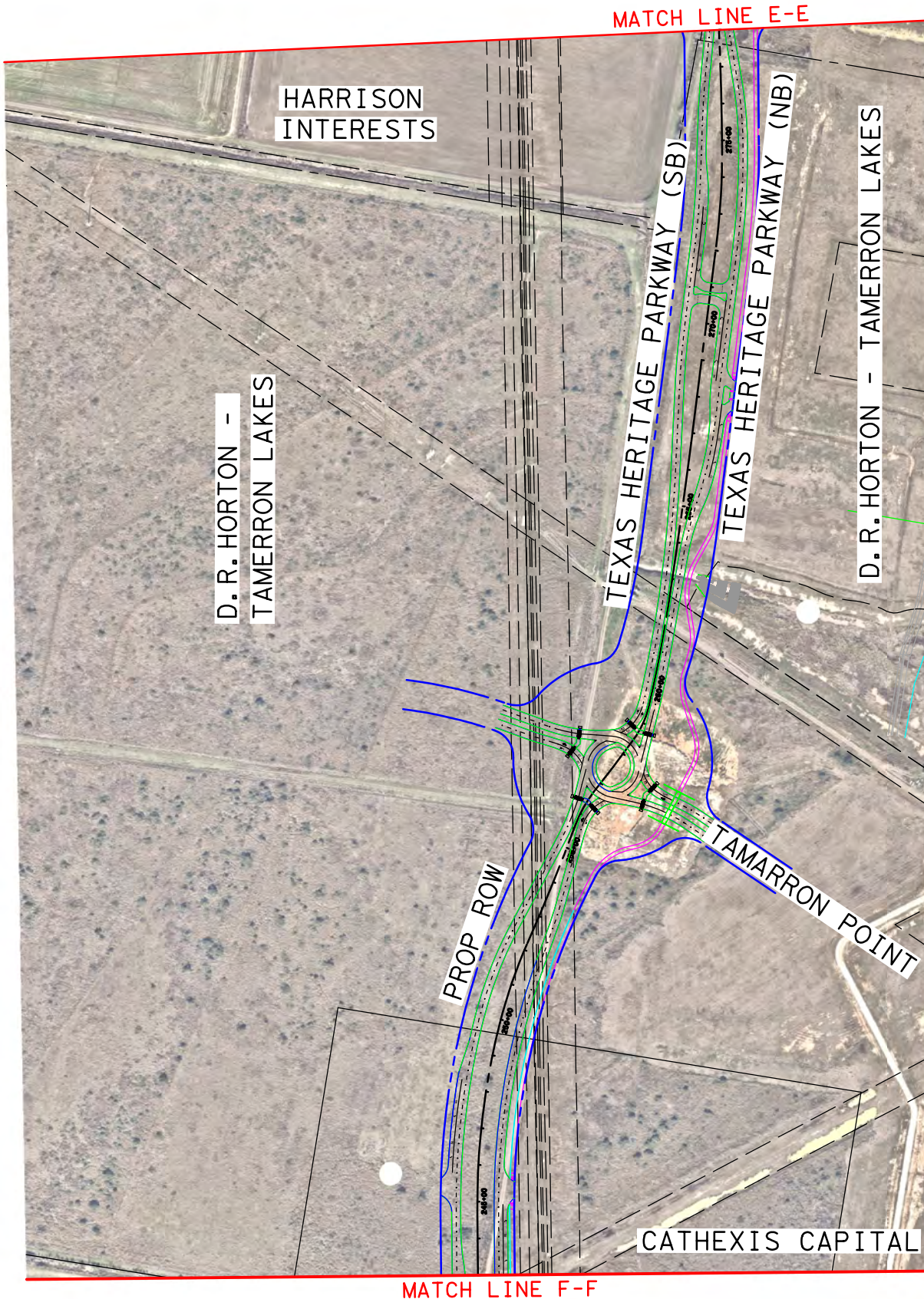


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MATCH LINE F-F

CATHEXIS CAPITAL

HENRIKSEN

HENRIKSEN

PROP ROW

MORGAN SPUR

TEXAS HERITAGE PARKWAY (SB)

TEXAS HERITAGE PARKWAY (NB)

JDC - CROSS CREEK RANCH



MATCH LINE G-G

SCALE: 1" = 400'



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MATCH LINE G-G

HENRIKSEN

SECTION 2

SECTION 1

JDC - CROSS CREEK RANCH

JDC - CROSS CREEK RANCH

JDC - CROSS CREEK RANCH

TEXAS HERITAGE PARKWAY (SB)

TEXAS HERITAGE PARKWAY (NB)

SCALE: 1" = 400'

MATCH LINE H-H



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MATCH LINE H-H



JDC - CROSS CREEK RANCH

JDC - CROSS CREEK RANCH

FULSHEAR BEND

GINTER - G.M. EQUITY GROUP

TEXAS HERITAGE PARKWAY (SB)

TEXAS HERITAGE PARKWAY (NB)

GINTER - G.M. EQUITY GROUP

GINTER

MATCH LINE I-I

SCALE: 1" = 400'

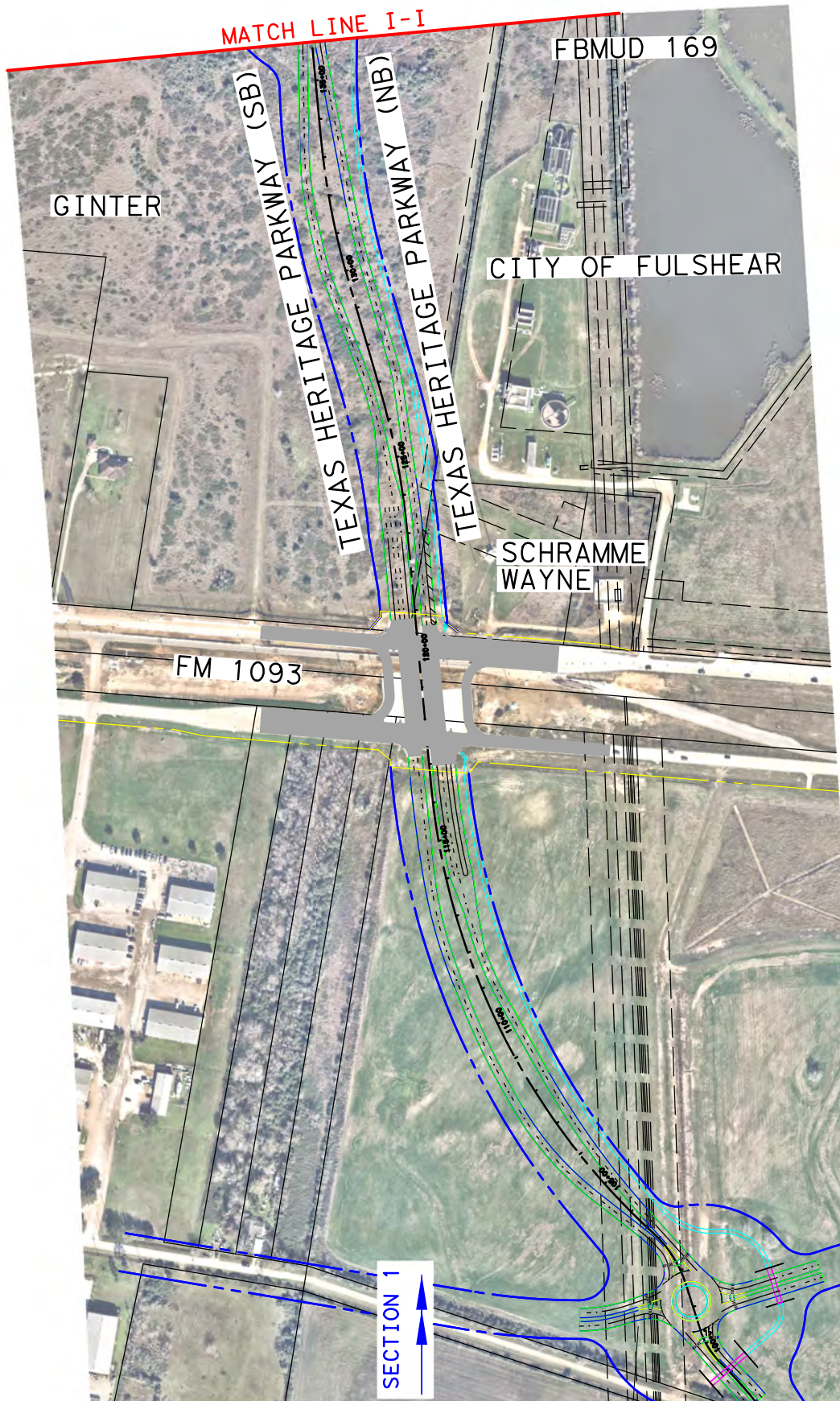


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EXHIBIT D

Allocation of Costs for Texas Heritage Parkway Section 3C

Exhibit D

Texas Heritage Parkway

Preliminary Construction Cost Estimate - Additional Road Costs

G:\TXH\Projects\Newquest\5824-00_Pederson_Rd\04_Engr\01_Calcs\2020-02-17 Exhibit D Cost Estimate

Landmark/NewQuest		
	Item	Cost
1	Southbound Left Turn Lane	\$ 120,000.00
2	Additional lane to serve 3 driveways	\$ 120,000.00
3	Storm Sewer Upsizing to serve TxDOT	\$ 500,000.00
4	Traffic Signal at Driveway B	\$ 300,000.00
5	Engineering, Environmental, TIA Costs	\$ 250,000.00
	TOTAL	\$ 1,290,000.00
Texas Heritage Parkway		
	Item	Cost
5	Signal Interconnection	\$ 250,000.00
6	Traffic Signals at IH-10 (North and South side)	\$ 600,000.00
7	Northbound Left Turn Lane	\$ 120,000.00
8	Southbound Left-Turn Lane	\$ 120,000.00
9	Right Turn lane at IH-10	\$ 150,000.00
	TOTAL	\$ 1,240,000.00

EXHIBIT E

Schematic of Improvements Applicable to Cameron Site

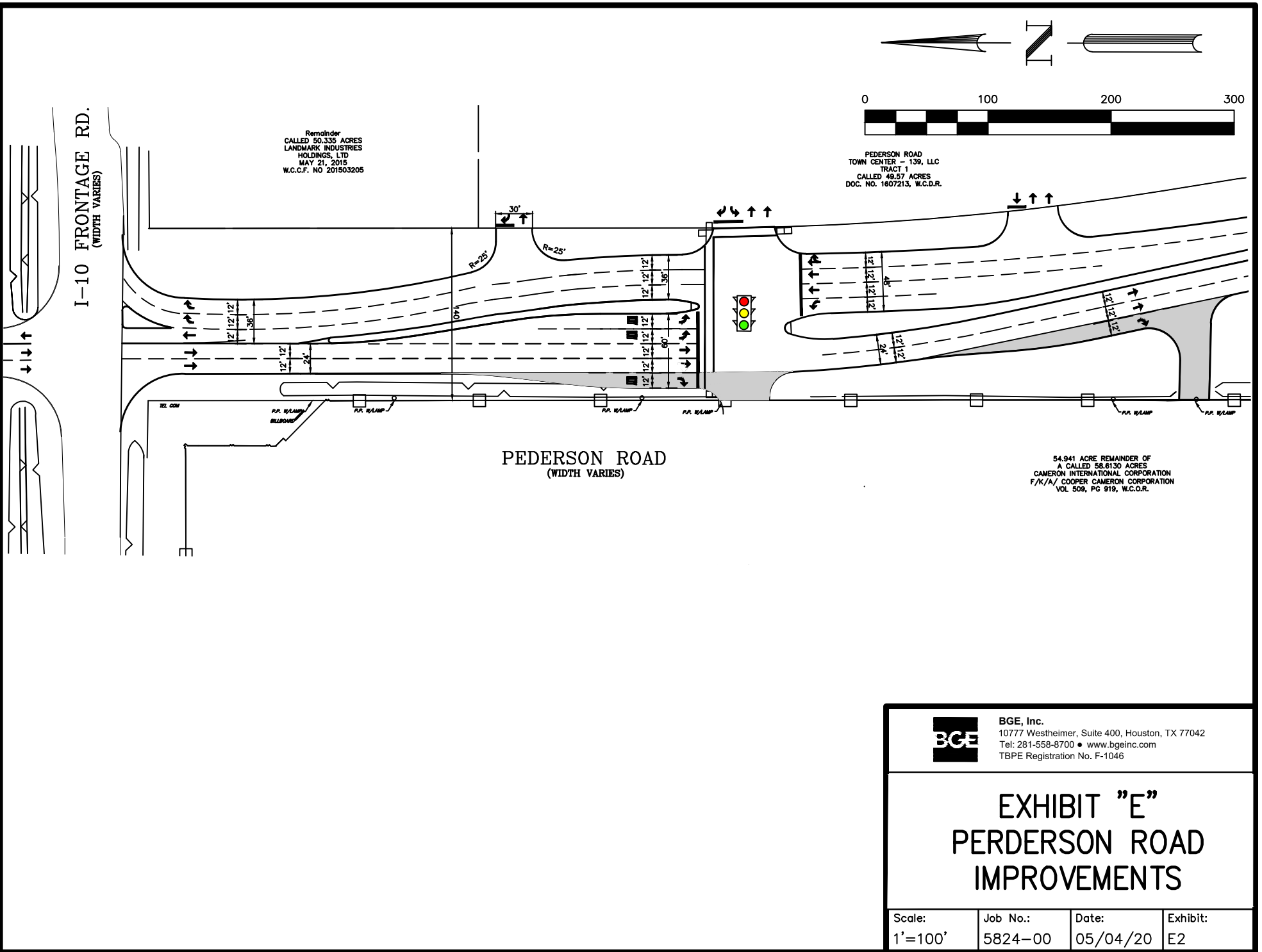


EXHIBIT F

Costs Applicable to Cameron Site

Exhibit E

Texas Heritage Parkway

Preliminary Construction Cost Estimate - Additional Road Costs

G:\TXH\Projects\Newquest\5824-00_Pederson_Rd\04_Engr\01_Calcs\2020-02-17 Exhibit E Cost Estimate

Cameron

Item		Cost
1	Driveway Apron	\$ 50,000.00
2	Right Turn Lane	\$ 120,000.00
TOTAL		\$ 170,000.00