

INTERLOCAL CONTRIBUTION AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

This Interlocal Agreement (“Agreement”) is made and entered into by and between FORT BEND COUNTY, TEXAS (the “County”), a political subdivision of the state of Texas, and FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. _____ (the “District”), a home-rule municipality. County and District may be collectively referred to as the “Parties” and each individually a “Party.”

WHEREAS, this Agreement is entered into pursuant to Chapter 791 of the Texas Government Code, the Interlocal Cooperation Act (the “Act”), which authorizes local governments to contract with one another to provide governmental functions, mutual aid, and services under the terms of the Act; and

WHEREAS, the Parties are each a local governmental entity and are authorized under the Act to provide certain governmental functions, including, but not limited to the provision of road and drainage improvements; and

WHEREAS, in order to improve mobility, County and District desire to improve a portion of Madden Road utilizing funds from the Fort Bend County Mobility Bond Project No. 17416, which funds may only be expended on streets that are an integral part of or connecting link with county roads or state highways pursuant to Article III, Section 52 (b) and (c) of the Texas Constitution and Section 251.012 of the Texas Transportation Code; and

WHEREAS, the Parties assert that the portion of the roadway(s) to be improved under this Agreement is a part of a street that is an integral part of or a connecting link with a County road or state highway; and

WHEREAS, District has entered into a contract with TPHTM 1464, LLC (the “Developer”) for the design and construction of Madden Road adjacent to the Trillium development; and

WHEREAS, County and District have determined it would be in the best interest of County and District, and to the inhabitants thereof, that provisions be made for the improvement of Madden Road in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, and mutual benefits, the Parties hereto agree as follows:

1. **Purpose.** The purpose of this Agreement is to outline the funding and project management obligations for the Project.

2. **Recitals.** The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

3. **Definitions.**

- (a) “Effective Date” means the date this Agreement is executed by the last signing Party hereto.
- (b) “Eligible Project Costs” means the costs, as determined by County in its sole discretion, for construction of the Project including: engineering design and services related to the completion of any Plans, Specifications, and Estimates (“PS&E”) for the Project; Project related drainage facilities; utility and pipeline conflicts; approved traffic control devices; sidewalks up to five feet (5’) wide consistent with current District Infrastructure Standards; and construction related services for such roadway improvements. Eligible Project Costs shall further include resolution of utility conflicts created by construction of Project elements and similar facilities proposed to be part of the Project.
- (c) “Non-Eligible Project Costs” shall mean any design and construction costs related to Project enhancements, all upgrades to the Project requested by District, and all other items that do not fall within the definition of Eligible Project Costs (as determined by County) including, but not limited to: landscaping; irrigation; lighting; hike and bike trails; reconstruction of utilities (except utility conflicts created by the construction of Project elements); and oversizing of water, sewer, and drainage facilities.
- (d) “Project” means the improvements that are the subject of this Agreement including the roadway improvements provided in Section 4 below.

4. **Project/ Scope of Work.**

- (a) The Parties acknowledge and agree that this Scope of Work represents the general requirements for the Project to facilitate the completion of the design and construction of a portion of Madden Road as provided on “Exhibit A” attached hereto and incorporated by reference herein.
- (b) The Project shall be facilitated, managed, and administered by District. District shall take all reasonable actions to ensure that the Project is constructed in a good and workmanlike manner with all reasonable diligence.

5. **Allocation of Project Costs.**

- (a) County Project Costs: County shall contribute funds for the Eligible Project Costs in an amount not to exceed six hundred ninety-one thousand and 00/100 dollars (\$691,000.00). Within thirty (30) days of Completion of the Project, District shall furnish County with an invoice showing a full accounting of the funds expended on the Project. Within thirty (30) days of County's approval and acceptance of the invoice and full accounting provided by District, County shall remit payment to District for the Eligible Project Costs due for the work performed and completed on the Project.
- (b) District understands and agrees that any funds expended by County for the Project shall be limited to \$691,000.00 of the Eligible Project Costs.
- (c) District further understands and agrees that it shall be responsible for the funding of any and all Non-Eligible Project Costs, including the incremental cost of extending or upsizing any water, wastewater, and drainage facilities, if any. County shall notify District in writing as to which enhancements and improvements for the Project constitute Non-Eligible Project Costs. Upon receipt of County's notification, District shall provide written confirmation to County as to the scope of enhancements and improvements determined to be Non-Eligible Project Costs, and shall be responsible for the funding of the same upon receipt of invoice by County.

6. **Insurance Requirements.** District shall require, in its contract with the Developer for the Project, Contractor's insurance policies to name County, in addition to District, as additional insured on all policies except for Worker's Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

- (a) Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
- (b) Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
- (c) Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.

- (d) District may require insurance in excess of the amount of coverage set out above, as it deems necessary. In such cases, County shall remain an additional insured.
 - (e) District shall provide County with proof of insurance required under this section upon request from County.
- 7. **Performance Bond.** Prior to the commencement of any construction of the Project, District shall require Developer to procure or cause to be procured a performance bond in accordance with Chapter 2253 of the Texas Government Code.
- 8. **Administration of County Funds and Limit of Appropriation.**
 - (a) The County's sole financial obligation under this Agreement is to provide the funding for the Eligible Project Costs as specified in Section 5 above. The funds provided by the County are from a Mobility Road Bond initiative and no other funds will be available, regardless and irrespective of any cost overruns or unanticipated expenditures.
 - (b) District has been advised by County, and by execution of this Agreement, District understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available for the Project the total maximum sum of \$691,000.00 for Eligible Project Costs only. District does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum funding that County shall contribute to the Project and the total maximum amount that District and the maximum amount that County will reimburse District hereunder, will not under any condition, circumstance, or interpretation hereof exceed \$691,000.00 of the Eligible Project Costs.
- 9. **Appropriation of Funds.** Each Party represents and warrants to the other that, as of the Effective Date of this Agreement, the governing body of each Party hereto has identified, appropriated, and set aside sufficient monies to fund the costs of the Project pursuant to the terms of this Agreement.
- 10. **Completion of the Project and Ownership/Maintenance of Project Improvements.** Completion of the Project shall occur upon the Parties' final inspection of the Project and certified as complete by the County Engineer in accordance with County's standard practice and regulations. District and County anticipate that the Project will be accepted into the County Road Maintenance System upon the Developer's compliance with the County standards, procedures, and regulations.
- 11. **Inspection and Deficiencies.** County shall have the right to enter the Project Site at any time and inspect the work performed by the Developer for the Project, including any work

in progress or during the final inspection. Within ten (10) business days of inspection, County shall notify District in writing of any complaints regarding any deficiencies and the quality of workmanship by District for the Project. District, in accordance with its contract with the Developer, shall address and correct such deficiencies within a reasonable time.

12. **Inspection of Books and Records.** District shall permit County, or any duly authorized agent of County, to inspect and examine the books and records of District for the purpose of verifying the work performed for the Project. County's right to inspect such books and records shall survive the termination of this Agreement for a period of four years. Notwithstanding the foregoing, District shall bear no liability or responsibility for deliverables that have been modified post-delivery or used for a purpose other than that for which they were prepared under this Agreement.
13. **Force Majeure.** In the event either Party is rendered unable, wholly or in part, by Force Majeure to carry out any of its obligations under this Agreement, then, within a reasonable time after the occurrence of such event, but no later than ten (10) days after, the Party whose obligations are so affected (the "Affected Party") thereby shall notify the other in writing stating the nature of the event and the anticipated duration. The Affected Party's obligations under this Agreement shall be suspended during the continuance of any delay or inability caused by the event, but for no longer period. The Affected Party shall further endeavor to remove or overcome such delay or inability as soon as is reasonably possible.

For purposes of this Agreement, Force Majeure includes, but is not limited to: acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States of America or the State of Texas or any civil or military authority other than a Party to this Agreement, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, severe storms, floods, washouts, drought, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, and any other incapacities of any Party, similar to those enumerated, which are not within the control of the Party claiming such inability, which such Party could not have avoided by the reasonable exercise of due diligence and care.

14. **Notice.** Any and all notices required or permitted under this Agreement shall be in writing and shall be properly addressed and sent via personal delivery, US first class postage prepaid, registered or certified mail, return receipt requested, Federal Express, Express Mail, or other overnight delivery service as follows:

If to County:

Fort Bend County Engineering Department
Attn: County Engineer
301 Jackson St., 4th Floor
Richmond, Texas 77469

And

Fort Bend County, Texas
Attn: County Judge
401 Jackson St, 1st Floor
Richmond, Texas 77469

If to District:

Fort Bend County Municipal Utility District No. _____
Attn: _____

15. **Entire Agreement and Modification.** This Agreement constitutes the entire Agreement between the Parties and supersedes any and all previous agreements, written or oral, pertaining to the subject matter of this Agreement. This Agreement may only be amended or modified by written agreement executed by both Parties.
16. **No Waiver of Immunity.** Neither the execution of this Agreement nor any other conduct of either Party to this Agreement shall be considered a waiver or surrender of its governmental powers or immunity under the Texas Constitution or the laws of the State of Texas.
17. **Benefit.** This Agreement shall be for the sole and exclusive benefit of County and District and shall not be construed to confer any benefit or right upon any other party.
18. **Applicable Law and Venue.** This Agreement shall be construed according to the laws of the state of Texas. Venue for any claim arising out of or relating to the subject matter of this Agreement shall lie in a court of competent jurisdiction of Fort Bend County, Texas.
19. **Assignment.** Neither Party may assign its rights, duties, or obligations hereunder, without the prior written consent of the other, which consent shall not be unreasonably withheld.
20. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
21. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of the Agreement.
22. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to

authenticate this writing and shall have the same force and effect as the use of manual signatures.

23. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each having equal force and effect of an original.
24. **Human Trafficking.** BY ACCEPTANCE OF THIS AGREEMENT, DISTRICT ACKNOWLEDGES THAT FORT BEND COUNTY, TEXAS IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
25. **Authorization.** This Agreement shall become binding and effective only after it has been authorized and approved by the governing bodies of each Party, as evidenced by the signature of the appropriate authority. Each Party further represents that, by execution of this Agreement, it has been duly authorized by its governing body or other appropriate authority from whom such Party is legally bound to obtain authorization.

{Execution Page Follows}

FORT BEND COUNTY, TEXAS

KP George, County Judge

Date

ATTEST:

Laura Richard, County Clerk

APPROVED:

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

**FORT BEND COUNTY MUNICIPAL UTILITY
DISTRICT NO. _____**

Name – Signature

Name - Printed Name

Title

ATTEST:

Name – Signature

Name – Printed

Title

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to
accomplish and pay the obligation of Fort Bend County, Texas under this Agreement.

Robert E. Sturdivant,
County Auditor

EXHIBIT A

(Follows Behind)

NO.		REVISIONS		DATE	NAME
1	CHANGE ORDER 1: PROJECT CONSTRUCTION LIMITS ADJUSTMENT	6/14/2022	IS		

FOR
BEND
COUNTY

ENGINEERING DEPARTMENT





O
THON

CONSULTING ENGINEERS

F-1471 HOUSTON • AUSTIN • DALLAS



06/14/2022

DRAWN BY:

CK'D BY:

SCALE:

DATE:

6/15/2022

SHEET NO:

13 / 140

PROJECT TITLE:

MADDEN ROAD

SHEET DESCRIPTION:

PROJECT LAYOUT

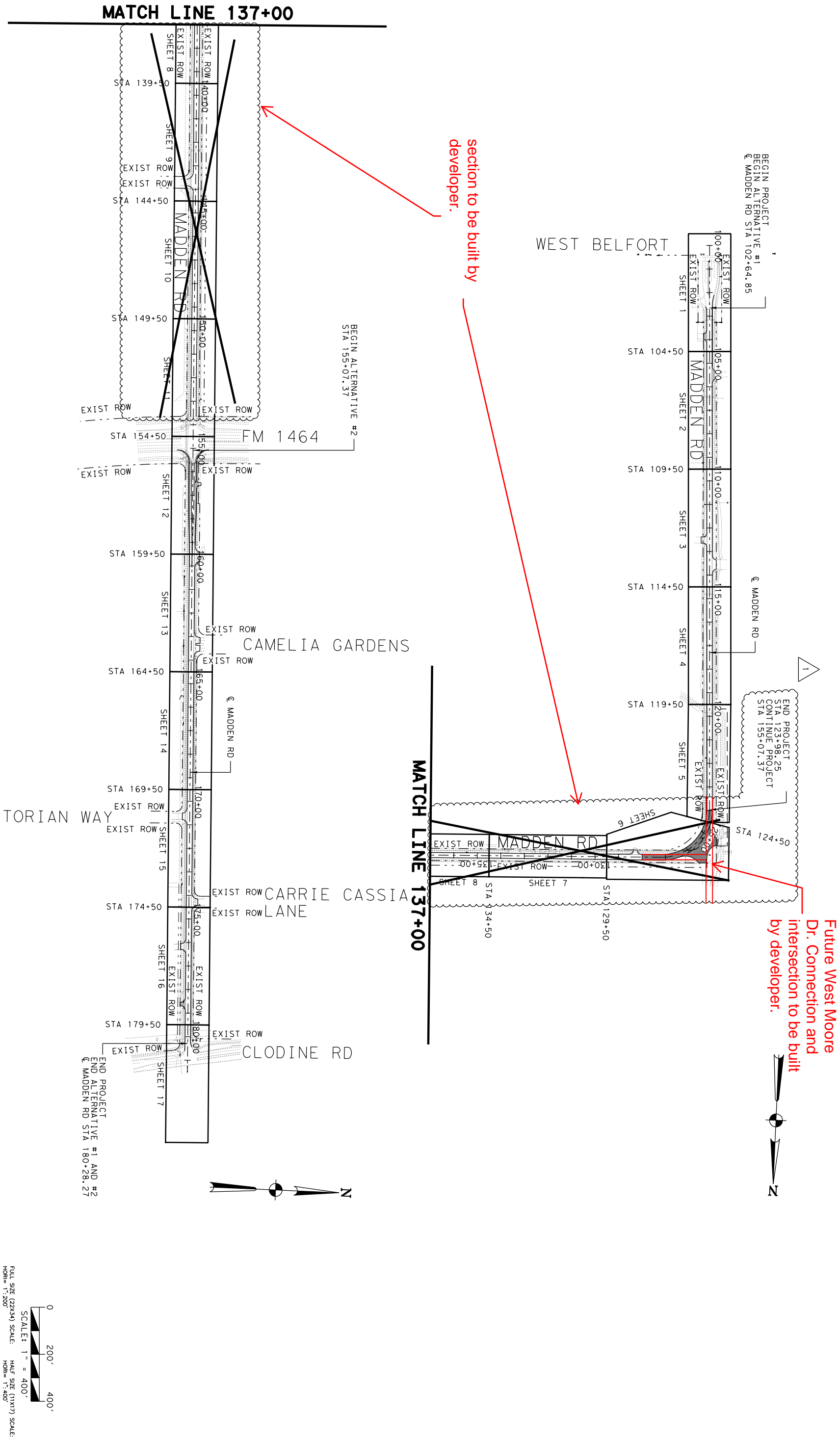


EXHIBIT B

(Follows Behind)

100% Submittal Cost Estimate Madden Road Fort Bend County							
100% ESTIMATE OF CONSTRUCTION COST							
ITEM NO.	ENTITY	SPEC NO.	DESCRIPTION	UNIT	QUANTITY ESTIMATED	UNIT PRICE	COST
A			Site Preparation and Earthwork				
1	HC	671	Fort Bend Project Sign	EA	2	\$1,175.00	\$2,350.00
2	TxDOT	100	Preparing Right of Way	STA	76.00	\$2,000.00	\$152,000.00
3	HC	102	Clearing and Grubbing	STA	2.50	\$3,000.00	\$7,500.00
4	HC	110	Roadway Excavation Including 3" Topsoil	CY	11,060	\$15.00	\$165,900.00
5	HC	465	Remove And Dispose Of Existing Concrete Or Metal Pipe (All Sizes)	LF	275	\$15.00	\$4,125.00
6	HC	500	Remove Existing Roadway Sign	EA	12	\$220.00	\$2,640.00
7	HC	540	Removing and Disposing of Existing Asphaltic Surface and base Material	SY	1,472	\$7.00	\$10,304.00
Subtotal of Item A							\$344,819.00
B			Paving				
8	HC	220	Lime Treatment (6" Depth)	SY	2,226	\$5.00	\$11,130.00
9	HC	221	Hydrated Lime (Slurry) or Commercial Lime Slurry	TON	31	\$205.00	\$6,355.00
10	HC	230	Crushed Aggregate Base Course (3" Depth)	TON	3,279	\$42.00	\$137,718.00
11	HC	250	Hot Mix Asphaltic Concrete Base Course (Black Base)	TON	901	\$110.00	\$99,110.00
12	TXDOT	275	Cement	TON	750	\$180.00	\$135,000.00
13	TXDOT	275	Cement Trt (Mx Exst Mtl & NW BS) (10")	SY	19,869	\$4.00	\$79,476.00
14	HC	310	Prime Coat/ Sealer (0.3 GAL/SY)	GAL	6,560	\$5.00	\$32,800.00
15	HC	340	Hot Mix - Hot Laid Asphaltic Concrete (2in) (Overlay Surface Course)(Includes Driveways)	TON	2,406	\$160.00	\$384,960.00
16	TXDOT	360	Conc Pav (Joint Reinf)(Fast Trk) (13")	SY	57	\$150.00	\$8,550.00
17	HC	530	ADA Ramp - Type 7	EA	4	\$2,000.00	\$8,000.00
Subtotal of Item B							\$903,099.00
C			Drainage				
18	HC	222	Cement Stabilize backfill for RCP and Box Culvert Installation	CY	89	\$125.00	\$11,125.00
19	HC	460	Reinforced Concrete Pipe, C76, Class IV, Rubber Gasket (24")	LF	73	\$130.00	\$9,490.00
20	HC	460	Reinforced Concrete Pipe, C76, Class III, Rubber Gasket (24")	LF	489	\$120.00	\$58,680.00
21	HC	460	Reinforced Concrete Pipe, C76, Class III, Rubber Gasket (48")	LF	4	\$280.00	\$1,120.00
22	HC	460	Reinforced Concrete Pipe, C76, Class III, Rubber Gasket (54")	LF	4	\$350.00	\$1,400.00
23	HC	460	Connect To Existing Storm Sewer With Concrete Collar	EA	4	\$1,200.00	\$4,800.00
24	TXDOT	462	Concrete Box Culvert (6' x 3')	LF	27	\$306.00	\$8,262.00
25	HC	463	Parallel Headwall	EA	4	\$6,000.00	\$24,000.00
26	HC	463	SET (Type II) (24") (RCP) (3:1) (C)	EA	2	\$1,300.00	\$2,600.00
27	HC	463	SET (Type II) (24") (RCP) (4:1) (C)	EA	8	\$1,300.00	\$10,400.00
28	HC	463	SET (Type II) (48") (RCP) (3:1) (C)	EA	1	\$4,335.00	\$4,335.00
29	HC	463	SET (Type II) (54") (RCP) (3:1) (C)	EA	1	\$4,500.00	\$4,500.00
30	HC	472	Type A Inlet (MOD)	EA	3	\$4,600.00	\$13,800.00
31	HC	472	Type A Inlet	EA	3	\$4,600.00	\$13,800.00
32	HC	491	Reinforced Concrete Slope Paving (5 in)	SY	1,497	\$90.00	\$134,730.00
33	TXDOT	460	Flowable Fill	CY	6	\$250.00	\$1,500.00
Subtotal of Item C							\$304,542.00

ADJUSTED FOR LIMITS FROM CURVE TO FM 1464 (INCLUDES CURVE RECONSTRUCTION)		
100% ESTIMATE		
QUANTITY	UNIT	COST
Site Preparation and Earthwork		
2	EA	\$2,350.00
30	STA	\$60,000.00
2.5	STA	\$7,500.00
5424	CY	\$81,360.00
48	LF	\$720.00
4	EA	\$880.00
1472	SY	\$10,304.00
Subtotal of Item A		\$163,114.00
PAVING		
2176	SY	\$10,880.00
29	TON	\$5,945.00
1038	TON	\$43,596.00
901	TON	\$99,110.00
240	TON	\$43,200.00
6289	SY	\$25,156.00
2486	GAL	\$12,430.00
912	TON	\$145,920.00
0	SY	\$0.00
0	EA	\$0.00
Subtotal of Item B		\$386,237.00
DRAINAGE		
6	CY	\$750.00
33	LF	\$4,290.00
0	LF	\$0.00
4	LF	\$1,120.00
4	LF	\$1,400.00
2	EA	\$2,400.00
0	LF	\$0.00
2	EA	\$12,000.00
0	EA	\$0.00
0	EA	\$0.00
1	EA	\$4,335.00
1	EA	\$4,500.00
0	EA	\$0.00
0	EA	\$0.00
755	SY	\$67,950.00
0	CY	\$0.00
Subtotal of Item C		\$98,745.00

D			Traffic Control				
34	HC	671	Traffic Control - Barricades, Barriers, Barrels, Cones, and Signing	MO	8	\$4,000.00	\$32,000.00
						Subtotal of Item D	\$32,000.00
E			Signing and Pavement Marking				
35	HC	624	Aluminum Signs (Ground Mounted)- Furnish & Install	EA	14	\$500.00	\$7,000.00
36	HC	660	ReflectORIZED Pavement Markings Type I (Thermoplastic) 4" White/Solid - Furnish & Applied	LF	14,554	\$1.00	\$14,554.00
37	HC	660	ReflectORIZED Pavement Markings Type I (Thermoplastic) 4" Yellow/Solid - Furnish & Applied	LF	15,622	\$1.00	\$15,622.00
38	HC	660	ReflectORIZED Pavement Markings Type I (Thermoplastic) 8" White/Solid - Furnish & Applied	LF	148	\$1.85	\$273.80
39	HC	660	ReflectORIZED Pavement Markings Type I (Thermoplastic) 12" White/Solid - Furnish & Applied	LF	240	\$3.00	\$720.00
40	HC	660	ReflectORIZED Pavement Markings Type I (Thermoplastic) 24" White/Solid - Furnish & Applied	LF	116	\$6.00	\$696.00
41	HC	660	ReflectORIZED Pavement Markings Type I 24" Yellow/Solid - Furnished & Applied	LF	71	\$6.00	\$426.00
42	HC	660	ReflectORIZED Pavement Markings Type I (Thermoplastic) Word "ONLY" - Furnish & Applied	EA	1	\$160.00	\$160.00
43	HC	660	ReflectORIZED Pavement Markings Type I (Thermoplastic) Single Arrow-LEFT - Furnish & Applied	EA	1	\$140.00	\$140.00
44	HC	661	ReflectORIZED Pavement Markers Type II-C-R - Furnish & Install	EA	442	\$4.50	\$1,989.00
						Subtotal of Item E	\$41,580.80
F			Storm Water Pollution Prevention Plan Items				
45	HC	165	Hydro-Mulch Seeding	AC	5.10	\$1,700.00	\$8,670.00
46	HC	713	Reinforced filter fabric Barrier	LF	451	\$2.00	\$902.00
47	HC	751	SWPPP Inspection and Maintenance (Min. bid of \$6,000)	MO	8	\$3,000.00	\$24,000.00
						Subtotal of Item F	\$33,572.00
G			Extra Work Items				
48	HC	672	Off Duty Uniformed Officer as Directed by Engineer (Min Bid \$40.00/HR)	HR	16.00	\$50.00	\$800.00
49	HC	561	Video Recording Construction	LS	1	\$2,000.00	\$2,000.00
						Subtotal of Item G	\$2,800.00
						TOTAL COST ESTIMATE (Items A-G)	\$1,662,412.80

TRAFFIC CONTROL		
3	MO	\$12,000.00
Subtotal of Item D		\$12,000.00
5	EA	\$2,500.00
5805	LF	\$5,805.00
5932	LF	\$5,932.00
0	LF	\$0.00
0	LF	\$0.00
0	LF	\$0.00
0	LF	\$0.00
0	EA	\$0.00
0	EA	\$0.00
148	EA	\$666.00
Subtotal of Item E		\$14,903.00
2.1	AC	\$3,570.00
280	LF	\$560.00
3	MO	\$9,000.00
Subtotal of Item F		\$13,130.00
16	HR	\$800.00
1	LS	\$2,000.00
Subtotal of Item G		\$2,800.00
TOTAL COST ESTIMATE(A-F)		\$690,929.00