

THE STATE OF TEXAS §
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 §
COUNTY OF FORT BEND §

**DEVELOPMENT AGREEMENT
(FALCON LANDING BLVD)**

THIS DEVELOPMENT AGREEMENT (the “Agreement”) is entered into by and between Fort Bend County, Texas (hereinafter referred to as “the County”), a body politic acting herein by and through its Commissioners’ Court, and Taylor Morrison of Texas, Inc., a Texas corporation (hereinafter referred to as “Owner”).

WHEREAS, Owner owns a 54.598 acre tract of land, more or less, as more particularly described on Exhibit A, attached hereto and incorporated herein for all purposes (the “Owner Property”); and

WHEREAS, the County and Katy Independent School District (hereinafter referred to as “District”) have plans to reconstruct Falcon Landing Blvd, (describe the improvements), (hereinafter referred to as the “Project”); and

WHEREAS, Owner has, in conjunction with the construction of the Project, requested the construction of the two (2) westbound lanes of Falcon Landing Boulevard along the frontage along the proposed Avalon at Pine Mill project, and the storm sewers to drain the north half of the 100 feet wide right-of-way at the locations hereinafter described (hereinafter defined as the “Boulevard Improvements”); and

WHEREAS, County has agreed to construct, as part of the Project, the Boulevard Improvements at the locations hereinafter set forth provided: (a) Owner pays the cost to incorporate the Boulevard Improvements into plans for Project; and (b) Owner pays for the construction costs of the Boulevard Improvements; and

WHEREAS, as a condition of County’s construction of the Boulevard Improvements made the subject of this Agreement, County requires that Owner tender the construction costs therefore; and

WHEREAS, in consideration for the construction of the Boulevard Improvements at the locations desired by Owner, County requires Owner to deposit the costs related to the construction of the Boulevard Improvements in with County as hereinafter set forth; and

WHEREAS, County has investigated and determined that it would be advantageous and beneficial to County and its citizens to participate in the construction of the Project as provided herein.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, County and Owner agree as follows:

1. Description of Project. The Project consists of the construction of certain improvements related to the expansion of Falcon Landing Blvd., including without limitation the

two (2) westbound lanes of Falcon Landing Boulevard along the frontage along the proposed Avalon at Pine Mill project, and the storm sewers to drain the north half of the 100 feet wide right-of-way, as more particularly depicted on Exhibit A.

2. Land Subject to Agreement. The land that is the subject of this Agreement is composed of the Project site and Owner Property. Owner represents it is the sole owner of the Owner Property.

3. Location of Boulevard Improvements. In exchange for the payment of the design and construction costs, County has agreed to construct the Boulevard Improvements: (a) at the locations shown on Exhibit A; and (b) in accordance with County design and construction standards. If the ultimate location(s) of the Boulevard Improvements is/are changed, in whole or in part as described herein, resulting in the complete removal of any portion of the Boulevard Improvements from the Project, County will return the associated Owner Funds (hereinafter defined), plus interest earned, if any, to the Owner within thirty (30) days of County's final decision with regard to the complete removal of the portion of the Boulevard Improvements from the Project.

4. Completion of Construction of Access Improvements. Owner agrees that County shall in no way be liable for any damages, if any, which may be sustained by the Owner and/or Owner Property, resulting, in whole or in part, directly or indirectly, from County's failure to complete the construction of the Boulevard Improvements by any certain date and/or as set forth in this Agreement.

5. Construction of Project. County will construct the Project including the Boulevard Improvements. Owner has estimated the costs to construct the Boulevard Improvements, which amount is anticipated to be \$434,718.20, as more particularly described in Exhibit B, attached hereto and incorporated herein for all purposes (the "Boulevard Improvements Estimated Construction Costs"). The phrase "construction costs" as used herein shall mean the actual construction costs, County engineering and contingency fee, surveying costs, landscape design, geotechnical materials testing and inspection fees associated with the Boulevard Improvements. The phrase "cost overruns" as used herein shall mean reasonable and necessary costs, which may be incurred by County in the construction of the Boulevard Improvements and which are over and above the Boulevard Improvements Estimated Construction Costs.

6. Owner's Payment of the Boulevard Improvements Estimated Construction Costs. Within fifteen (15) days after the opening of the bids for the Project, Owner will pay to County, funds equal to the Boulevard Improvements Estimated Construction Costs. Such funds, plus any interest earned thereon, are hereafter referred to as the "Owner Funds." The Owner Funds will be available to County for the construction costs associated with the Boulevard Improvements, and County shall, in its sole discretion, be entitled to use, at any time, all or a portion of the Owner Funds in connection with the construction of the Boulevard Improvements. At such time as the County issues a final letter of acceptance for the construction of the Project, the County shall provide to the Owner an accounting of the use of the Owner Funds, providing reasonable detail. In addition, if any amount of the Owner Funds remains in the account after County has issued a final letter of acceptance for the construction of Project, including but not limited to, the Boulevard Improvements, and paid all of the construction costs associated with the Boulevard Improvements ("Remaining Escrow Funds"), Owner shall be entitled to, as its sole property, the Remaining Escrow Funds. Further, Owner shall, within thirty (30) days of receiving written

notice from County, tender to County any and all reasonable and necessary construction cost overruns associated with the construction of the Boulevard Improvements. Notwithstanding anything to the contrary herein, County and Owner agree that County shall, under no circumstance, be responsible for any part or portion of the construction costs associated, directly or indirectly, with the Boulevard Improvements.

7. Disclaimer/Waiver of Damages/Liability. (a) Owner acknowledges and agrees that County is not providing any guarantee, representation and/or warranty, and County hereby disclaims any guarantee, representation and/or warranty, of any work performed by County, or their agents, employees, representatives, contractors, subcontractors and/or designees, in connection with the construction of the Boulevard Improvements, in whole or in part.

(b) OWNER HEREBY RELEASES COUNTY, ITS OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FROM AND AGAINST, AND WAIVES ANY AND ALL RIGHTS TO, ANY AND ALL CLAIMS AND/OR DEMANDS FOR DAMAGES (PERSONAL OR PROPERTY), INJURY (INCLUDING DEATH), OR OTHERWISE, IT/THEY MAY HAVE WITH REGARD TO THE CONSTRUCTION AND/OR COMPLETION OF THE BOULEVARD IMPROVEMENTS AND/OR OR ANY OTHER ACT AND/OR OMISSION RELATING, DIRECTLY OR INDIRECTLY, TO THE BOULEVARD IMPROVEMENTS, IN WHOLE OR IN PART, AS PROVIDED IN THIS AGREEMENT, EXCEPT TO THE EXTENT ANY SUCH CLAIMS ARISE DUE TO, OR DAMAGES ARE CAUSED BY, SOLELY AND DIRECTLY, THE NEGLIGENCE OR WILLFUL MISCONDUCT OF COUNTY OR ITS AUTHORIZED OFFICERS, AGENTS, REPRESENTATIVES OR EMPLOYEES.

8. INDEMNIFICATION. OWNER HEREBY AGREES TO FULLY DEFEND, INDEMNIFY, AND HOLD HARMLESS, COUNTY, ITS OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENCE, GROSSLY NEGLIGENCE, AND/OR INTENTIONAL ACT AND/OR OMISSION OF OWNER, THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, INVITEES AND/OR ANY OTHER THIRD PARTIES FOR WHOM OWNER IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT AND/OR ARISING OUT OF THE CONSTRUCTION OF THE BOULEVARD IMPROVEMENTS PURSUANT TO THIS AGREEMENT, (HEREINAFTER "CLAIMS"). IN ITS SOLE DISCRETION, COUNTY SHALL HAVE THE RIGHT TO REASONABLY APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY OWNER IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY COUNTY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY COUNTY IN WRITING. COUNTY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, COUNTY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY COUNTY IS NOT TO BE CONSTRUED AS A WAIVER OF OWNER'S OBLIGATION TO DEFEND COUNTY OR AS A WAIVER OF OWNER'S

OBLIGATION TO INDEMNIFY COUNTY PURSUANT TO THIS AGREEMENT. OWNER SHALL RETAIN COUNTY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF COUNTY'S WRITTEN NOTICE THAT COUNTY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF OWNER FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, COUNTY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND OWNER SHALL BE LIABLE FOR THE REASONABLE AND NECESSARY LEGAL COSTS INCURRED BY COUNTY. THE RIGHTS AND OBLIGATIONS CREATED BY THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

9. PARTIES' ACKNOWLEDGEMENT OF COUNTY'S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/OWNER'S WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.

- (A) OWNER ACKNOWLEDGES AND AGREES THAT:**
 - (I) THE FEES TO BE IMPOSED BY COUNTY REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:**
 - (A) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;**
 - (B) VIOLATION OF THE TEXAS TRANSPORTATION CODE, AS IT EXISTS OR MAY BE AMENDED;**
 - (C) NUISANCE; AND/OR**
 - (D) CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST COUNTY FOR A VIOLATION OF ANY FEDERAL AND/OR STATE CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION.**
 - (II) THE AMOUNT OF OWNER'S FINANCIAL OR INFRASTRUCTURE CONTRIBUTION (AFTER RECEIVING ALL CONTRACTUAL OFFSETS, CREDITS AND REIMBURSEMENTS, IF ANY) AGREED TO IN THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT OWNER'S DEVELOPMENT PLACES ON COUNTY'S INFRASTRUCTURE.**
 - (III) OWNER HEREBY AGREES THAT ANY PROPERTY WHICH IT CONVEYS TO COUNTY, IF ANY, PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY OWNER FOR SUCH LAND, AND OWNER HEREBY WAIVES ANY CLAIM THEREFOR THAT IT MAY HAVE. OWNER FURTHER ACKNOWLEDGES AND AGREES THAT ALL PREREQUISITES TO**

SUCH A DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND THAT ANY VALUE RECEIVED BY COUNTY RELATIVE TO SAID CONVEYANCE ARE RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF OWNER'S ADJACENT PROPERTY ON COUNTY'S INFRASTRUCTURE. OWNER AND COUNTY FURTHER AGREE TO WAIVE AND RELEASE ALL CLAIMS ONE MAY HAVE AGAINST THE OTHER RELATED TO ANY AND ALL ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN *DOLAN V. CITY OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.

- (IV) OWNER SHALL INDEMNIFY AND HOLD HARMLESS COUNTY FROM ANY CLAIMS AND SUITS OF THIRD PARTIES ARISING FROM THE NEGLIGENT, KNOWING OR INTENTIONAL ACTS OF OWNER, INCLUDING BUT NOT LIMITED TO OWNER'S PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES AND/OR TRUSTEES BROUGHT PURSUANT TO THIS PARAGRAPH.**
- (B) OWNER RELEASES COUNTY FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED ON EXCESSIVE OR ILLEGAL EXACTIONS ARISING OUT OF OR RELATED TO THIS AGREEMENT.**
- (C) OWNER WAIVES ANY CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST COUNTY FOR A VIOLATION OF ANY FEDERAL AND/OR STATE CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION ARISING OUT OF OR RELATED TO THIS AGREEMENT.**
- (D) THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

10. Limitations of Agreement. The parties hereto acknowledge this Agreement is limited to the Boulevard Improvements only. Further, this Agreement does not waive or limit any of the obligations of Owner to County under any other order whether now existing or in the future arising.

11. Default. In the event Owner fails to comply with any of the provisions of this Agreement within ten (10) business days after written notice thereof from County, County shall have the following remedies in addition to County's other rights and remedies, at law or in equity:

- (a) to file this instrument in the Real Property Records of Fort Bend County as a lien and/or encumbrance against the Owner and/or the Property; and/or

(b) to refuse to accept any portion of any public improvements on the Owner Property and/or associated with the development of the Owner Property; and/or

(c) to refuse to finally accept the Owner Property and/or any portion thereof; and/or;

(d) to immediately, without further notice to Owner, cease any and all design and/or construction of the Boulevard Improvements; and/or

(e) to seek specific enforcement of this Agreement.

In the event of County's default under this Agreement, Owner will be entitled to seek specific performance and/or any other remedy available to them at law or in equity.

12. Continuity. This Agreement shall be a covenant running with the land and shall be binding upon Owner, its officers, directors, agents, representatives, employees, heirs, representatives, legatees, successors, assigns, grantees and/or trustees. In addition, the parties shall cause this Agreement to be filed in the Real Property Records of Fort Bend County.

13. Miscellaneous.

(a) Notice. Any notice required to be sent under this Agreement must be in writing and may be served by depositing same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to County, to:

Fort Bend County
ATTN: Richard W. Stolleis, County Engineer
301 Jackson
Richmond, Texas 77469

If to Owner, to:

Taylor Morrison of Texas, Inc.
Attn: Mr. Jonathan White
5353 West Sam Houston Parkway North
Suite 190
Houston, Texas 77041
Telephone: (281) 598-3096
Facsimile: (281) 598-3100

With a copy to:

Taylor Morrison of Texas, Inc.
Attn: Mr. Grant Grimes
5353 West Sam Houston Parkway North
Suite 190
Houston, Texas 77041
Telephone: (281) 598-3096
Facsimile: (281) 598-3100

and to:

Taylor Morrison
Attn: Mr. Todd Merrill, Associate General Counsel
1211 N. Westshore Boulevard, Suite 512
Tampa, FL 33607
Telephone: (813) 227-4242
Facsimile: (888) 296-6822

and to:

Morris, Lendais, Hollrah & Snowden
Attn: Mr. Barry Snowden
1980 Post Oak Boulevard
Suite 700
Houston, Texas 77056
Telephone: (713) 966-7214
Facsimile: 713-966-7229

(b) Assignment. This Agreement is not assignable without the prior written consent of County, which consent shall not be unreasonably withheld.

(c) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, as allowed.

(d) Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties hereto.

(e) Venue. This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Fort Bend County, Texas.

(f) Consideration. This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

(g) Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

(h) Authority to Execute. The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

(i) Savings/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 thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(j) Representations. Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.

(k) Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

(l) Sovereign Immunity. The parties agree that County has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

(m) No Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

(n) Attorneys' Fees. In any legal proceeding brought to enforce the terms of this Agreement, the prevailing party may recover its reasonable and necessary attorneys' fees from the non-prevailing party as permitted by Section 271.159 of the Texas Local Government Code, as it exists or may be amended.

(o) Incorporation of Recitals. The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of County and the Owner and/or its authorized representatives.

(p) Owner's Warranties/Representations. All warranties, representations and covenants made by Owner in this Agreement or in any certificate or other instrument delivered

by Owner to County under this Agreement shall be considered to have been relied upon by County and will survive the satisfaction of any fees and/or payments made under this Agreement, regardless of any investigation made by County or on County's behalf.

(q) References to Owner. "Owner" as used herein shall mean Owner, its officers, directors, agents, representatives, employees, heirs, representatives, legatees, successors, assigns, grantees, contractors, subcontractors, invitees, licensees, trustees and/or any other third party for whom Owner is legally responsible.

(r) Indemnification. The parties agree that the Indemnity provisions set forth in Paragraphs 8 and 9 herein are conspicuous, and the parties have read and understood the same.

(s) Waiver. Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

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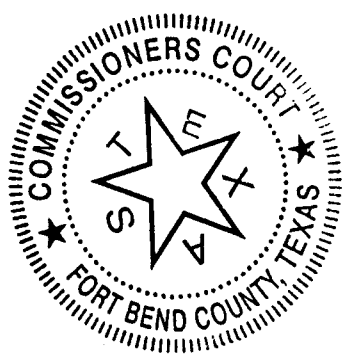
IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the date executed by County.

FORT BEND COUNTY:
Robert E. Hebert
Robert E. Hebert, County Judge

August 7, 2012
Date

Attest:
Dianne Wilson
Dianne Wilson, County Clerk

Approved: COUNTY PROJECT MANAGER
Richard W. Stolleis
Richard W. Stolleis, P.E., Fort Bend County Engineer



OWNER:
TAYLOR MORRISON OF TEXAS, INC.
By: *[Signature]*

Name: GRANT GRIMES

Title: Vice President

Date: 7/18/2012

By: *[Signature]*
Name: Jonathan White

Title: Vice President

Date: 7/24/12

Exhibit A
Exhibit B

Exhibit A

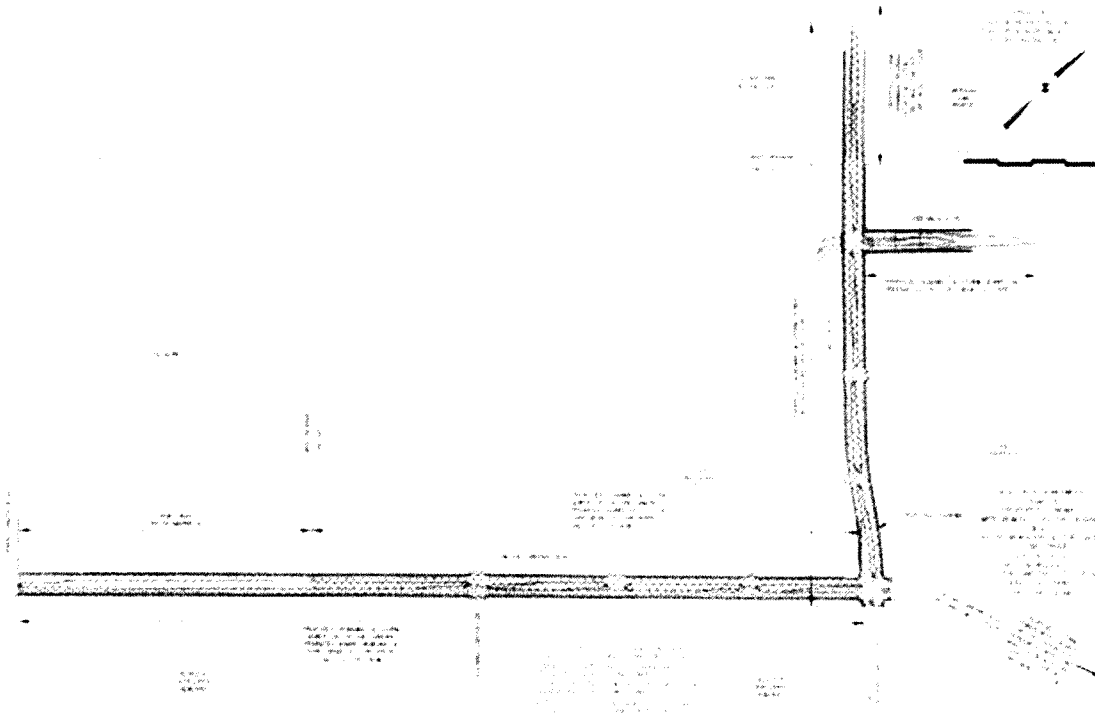


Exhibit B

Roadway Improvements For Falcon Landing From Gaston Road to Spring Green Blvd

	Katy ISD	Taylor Morrison	Newland	Total
Falcon Landing Blvd	\$ 776,739.51	\$ 378,015.83	\$ 830,138.87	\$ 1,984,894.20
Contingency (15%)	\$ 116,510.93	\$ 56,702.37	\$ 124,520.83	\$ 297,734.13
TOTAL	\$ 893,250.43	\$ 434,718.20	\$ 954,659.70	\$ 2,282,628.33