

**INTERLOCAL AGREEMENT FOR COUNTY-MANAGED MOBILITY PROJECT
TEXAS HERITAGE PARKWAY**

This Agreement is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the TEXAS GOVERNMENT CODE and Section 251.012 of the TEXAS TRANSPORTATION CODE, by and between the City of Fulshear, a municipal corporation and home-rule city of the State of Texas, principally situated in Fort Bend County, acting by and through its City Council, ("City"), and Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court, ("County").

RECITALS

WHEREAS, the County will enter into that certain *Agreement for Regional Road Improvements for a Parkway between the cities of Fulshear and Katy* (the "Participant Agreement") with certain private landowners to promote the development of a major north-south thoroughfare from Interstate 10 at Pederson Road to approximately 2100 feet south of the intersection with FM 1093 (the "Project", as generally shown on Exhibit A and as defined more fully below) contemporaneously with the approval of this Agreement; and

WHEREAS, the County has or will enter into an Interlocal Agreement for the Project with the City of Katy (the "Katy Agreement") to pay for a portion of the Project; and

WHEREAS, the Project is the construction of roadway improvements that will enhance the traffic flow/circulation and drainage in the service area, and such Project is desired by the City and the County; and

WHEREAS, the County may not expend proceeds of bond issues or taxes levied pursuant to Article III, Section 52 (b) or (c) of the Texas Constitution on city streets that are not integral parts of or connecting links with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the parties assert that the Project is part of a city street that is an integral part of or a connecting link with county roads or state highways in accordance with Section 251.012 of the TEXAS TRANSPORTATION CODE; and

WHEREAS, the Commissioners Court of Fort Bend County finds that the Project contemplated in this Agreement serves a County purpose; and

WHEREAS, the City and the County agree to participate in this Project according to the terms of this Agreement; and

WHEREAS, the governing bodies of the City and County have authorized this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to both parties, it is agreed as follows:

AGREEMENT

Section 1. Definitions

- A. **City** means the City of Fulshear, Texas.
- B. **County** means Fort Bend County, Texas.
- C. **Project** means the proposed a Parkway from I-10 to approximately 2100 feet south of FM1093 as generally shown on **Exhibit A** and all improvements necessary or convenient to the functioning of the roadway (e.g. drainage, detention, required lighting, etc.) including a 12-foot wide concrete trail and grade separations.
- D. **Eligible Project Costs** means costs, as determined by the County, for engineering design and services related to the completion of Plans, Specifications and Estimates ("PS&E") and construction of roadway improvements, project related drainage facilities, utility and pipeline conflicts, approved traffic control devices, and; development of standards for improvements within the property subject to the ROW Deeds; design, development, utility relocation, right-of-way acquisition, and construction; all payments arising under any contracts entered into for the design or construction of the Project; all costs incurred in connection with obtaining governmental approvals, certificates and permits required in connection with the construction of the Project, including the engineering and other fees and expenses related to the design and construction of the Project.
- E. **County/Fulshear Segment** means that portion of the Project located within the City's corporate limits and extraterritorial jurisdiction as shown in **Exhibit A**.
- F. **County Contribution** means seventy percent (70%) of fifty percent (50%) of the Eligible Project Costs for the County/Fulshear Segment. At the time of this agreement, the estimated County Contribution is \$13,285,674.
- G. **City Contribution** means thirty percent (30%) of fifty percent (50%) of the Eligible Project Costs for the County/Fulshear Segment. At the time of this agreement, the estimated City Contribution is \$5,693,860.

Section 2. Incorporation of Recitals

The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are incorporated into this Agreement.

Section 3. City's Rights and Obligations

A. During the work on the Project, the City shall have the right to review all documents, maps, plats, records, photographs, reports and drawings affecting the construction and to inspect the work in progress; provided however, that in conducting such inspections, the City shall not interfere with the work in progress. Any deficiencies noted by the City shall be

brought to the attention of the County, and the deficiencies shall be promptly addressed by the County.

B. The City shall have the right to participate in the final inspection of the Project. At that time, any deficiencies noted by the City shall be promptly addressed by the County.

Section 4. County Obligations

A. The County is responsible for managing the design and overseeing the construction and completion of the Project and complying with the applicable state and federal laws.

B. In the event the County determines the Project lacks feasibility or for any other reason elects to forego its construction, the County shall provide written notice to the City of its decision to forego construction and refund all amounts provided by the City upon thirty (30) days of said notice to the City.

C. The County shall submit reports to the City describing in sufficient detail the progress of the Project. These reports shall be submitted to the City at increments agreed to between the parties as appropriate for the various phases of the Project. Reports received by the City from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as the County has reviewed such reports and confirmed accuracy of the contractor's report.

D. The County will submit the plans for the Project to the City Engineer for review and comment. During the work on the Project, the City may review the documents, maps, plats, records, photographs, reports, and drawings pertaining to the Project and may inspect the work in progress, provided that it does not interfere with the work.

E. Upon completion of the Project, but no later than 60 days after, the County will furnish the City with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed. The City Auditor may review the County's records regarding this Project.

Section 5. Liability

The City and County are entitled to the immunities and defenses of the Texas Tort Claims Act.

Section 6. Maintenance

Upon completion of the Project, each party shall maintain that portion of the Project within its own jurisdiction.

Section 7. Plan of Finance

The City and the County will finance their share of the Project in accordance with this section.

A. **Plan of Finance.** Fort Bend County will issue County debt or otherwise finance an amount necessary to pay for the County Contribution and the City Contribution as those costs become due and payable pursuant to the Participant Agreement.

B. **Annual City Payments.** The City shall make the Annual City Payment to the County to reimburse for the City Contribution. The Annual City Payment is an annual payment of principal and interest in an amount equal to the City Contribution amortized for a period of not more than 25 years and at an interest rate not less than the County's interest costs and issuance costs, which the County would have issued at the time of execution of the agreement including agreed upon cost of issuance, and with such other terms and payment structure as may be approved by the County Auditor and the City's Finance Director. The Annual City Payment will also include any Eligible Project Costs incurred by the County prior to this issuance with 2% interest compounded monthly (until the proceeds of the issuance reimburse these preliminary expenditures). An example of the Annual City Payment is shown on **Exhibit B** reflects a hypothetical issue based on current costs estimates and financial conditions for the Eligible Project Costs. The actual Annual City Payment schedule will be fixed when the County first makes payments pursuant to the Participation Agreement, which is estimated to be March 2018. The City will pay the County by April 15 of each year. Late payments will accrue interest at the net effective interest rate of the County Debt. Fort Bend County will attempt to provide the City with a clear distinction of the County Debt from the County's other outstanding obligations. After any refunding of the obligations, County will provide a new total debt service to the City.

C. **Prepayment Option.** The City may prepay the remaining City Contribution to the County at any time without penalty, provided however, if the County has issued debt that is not callable at the time of the prepayment, the City will be responsible for any additional costs necessary to advanced refund the debt and any interest thru the call date.

Section 8. Insurance Requirements

The County agrees that it will require the contractor's insurance policies to name the County as well as the City as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

A. Workers' Compensation in the amount required by law. The policy shall include the All States Endorsement.

B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).

C. Comprehensive Automatic Liability Insurance, including owned, non-owned and hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.

D. The County may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases the City shall remain an additional insured. The County will provide the City with proof of insurance within 30 days of the County's award of the contract for the Project construction.

Section 9. Assignment

No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

Section 10. No Third Party Beneficiaries

The parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

Section 11. Notices

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the following addresses:

County:	Fort Bend County Attn: Robert E. Hebert, County Judge 401 Jackson Street, 1 st Floor Richmond, Texas 77469
With a copy to:	Fort Bend County Engineering Department Attn: Richard Stolleis, P.E., County Engineer 301 Jackson Street Richmond, Texas 77469
City:	City of Fulshear, Texas Attn: C.J. Snipes, City Administrator P.O. Box 279 Fulshear, Texas 77441

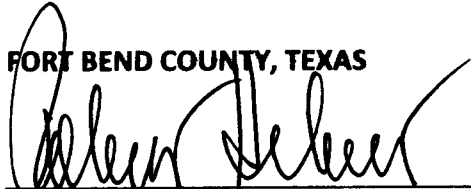
Section 12. Entire Agreement

This Agreement contains the entire agreement between the parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all parties hereto.

Section 13. Execution and Condition Precedent

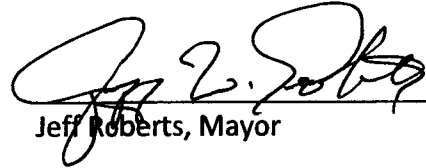
This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party. However, this Agreement shall not become effective unless and until the Participation Agreement described on page 1 has been fully executed.

FORT BEND COUNTY, TEXAS



Robert E. Hebert, County Judge

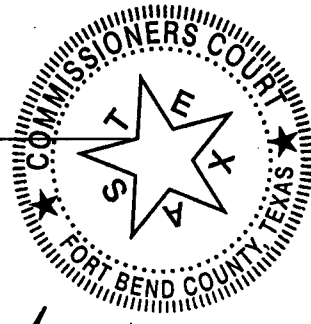
CITY OF FULSHEAR, TEXAS



Jeff Roberts, Mayor

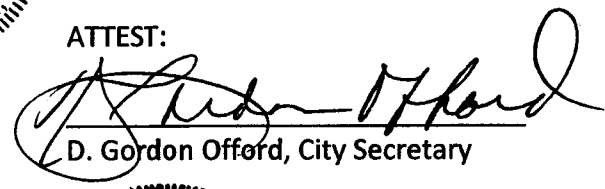
Date 3-6-2018

Date: 1-22-2018



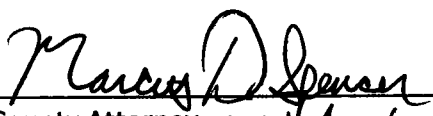
ATTEST:


Laura Richard, County Clerk

ATTEST:


D. Gordon Offord, City Secretary

APPROVED AS TO FORM:



County Attorney - First Assistant



4831-3833-8373, v. 1



SCALE: 1"=40'



LEGEND

- PROPOSED ROW
- PROPOSED TRAIL

BGE Brown & Gay Engineers, Inc.
10777 Westheimer, Suite 400, Houston, TX 77042
Tel: 281-558-8700 • www.browngay.com
TBPE Registration No. F-1046

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EXHIBIT A
10/18/2017 SHEET 1 OF 7

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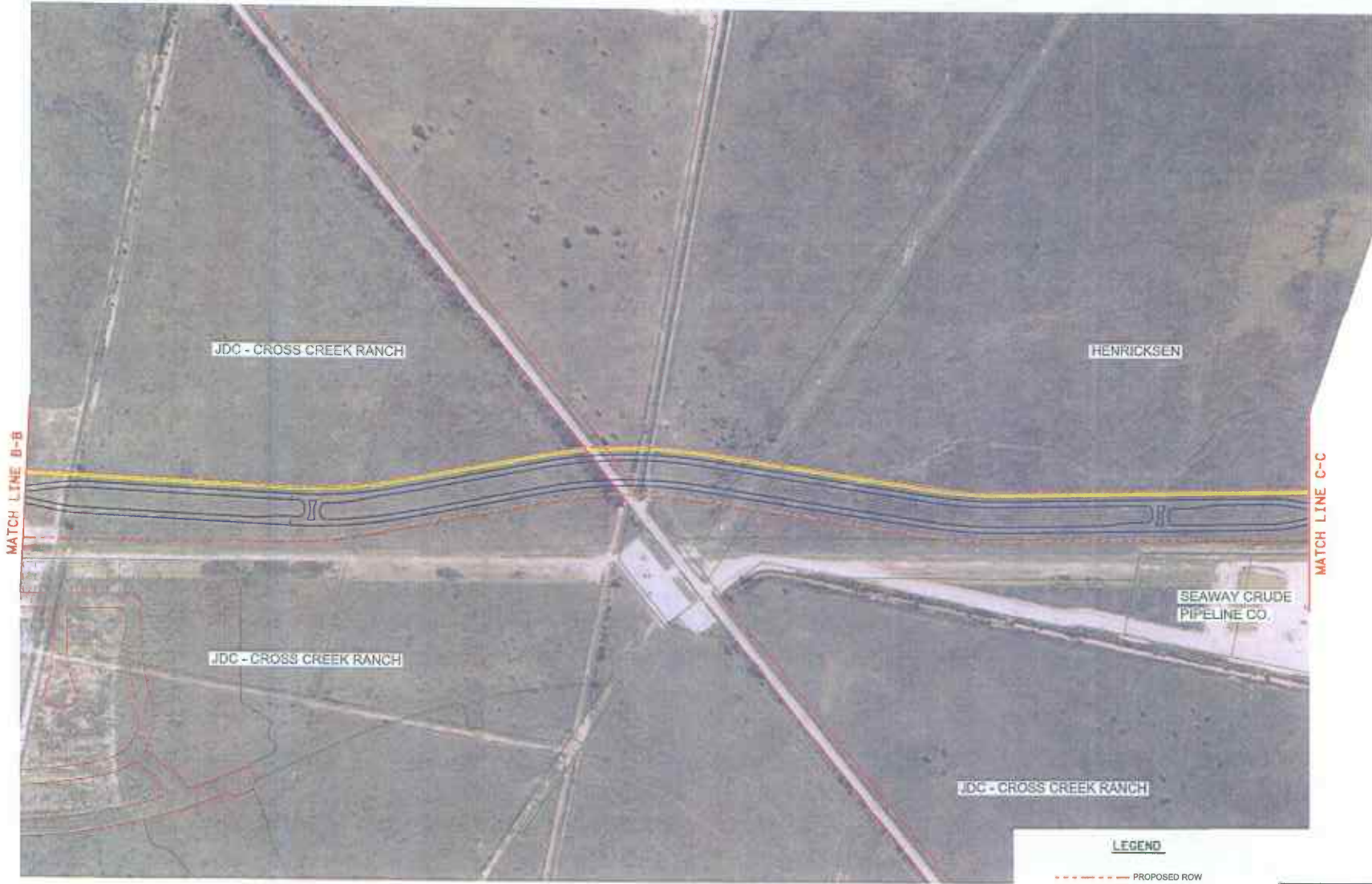


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 TSPC Registration No. P-1045

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EXHIBIT A
 10/18/2017 SHEET 2 OF 7

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LEGEND

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— PROPOSED TRAIL

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 10/18/2017 SHEET 3 OF 7

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10/18/2017 SHEET 5 OF 7

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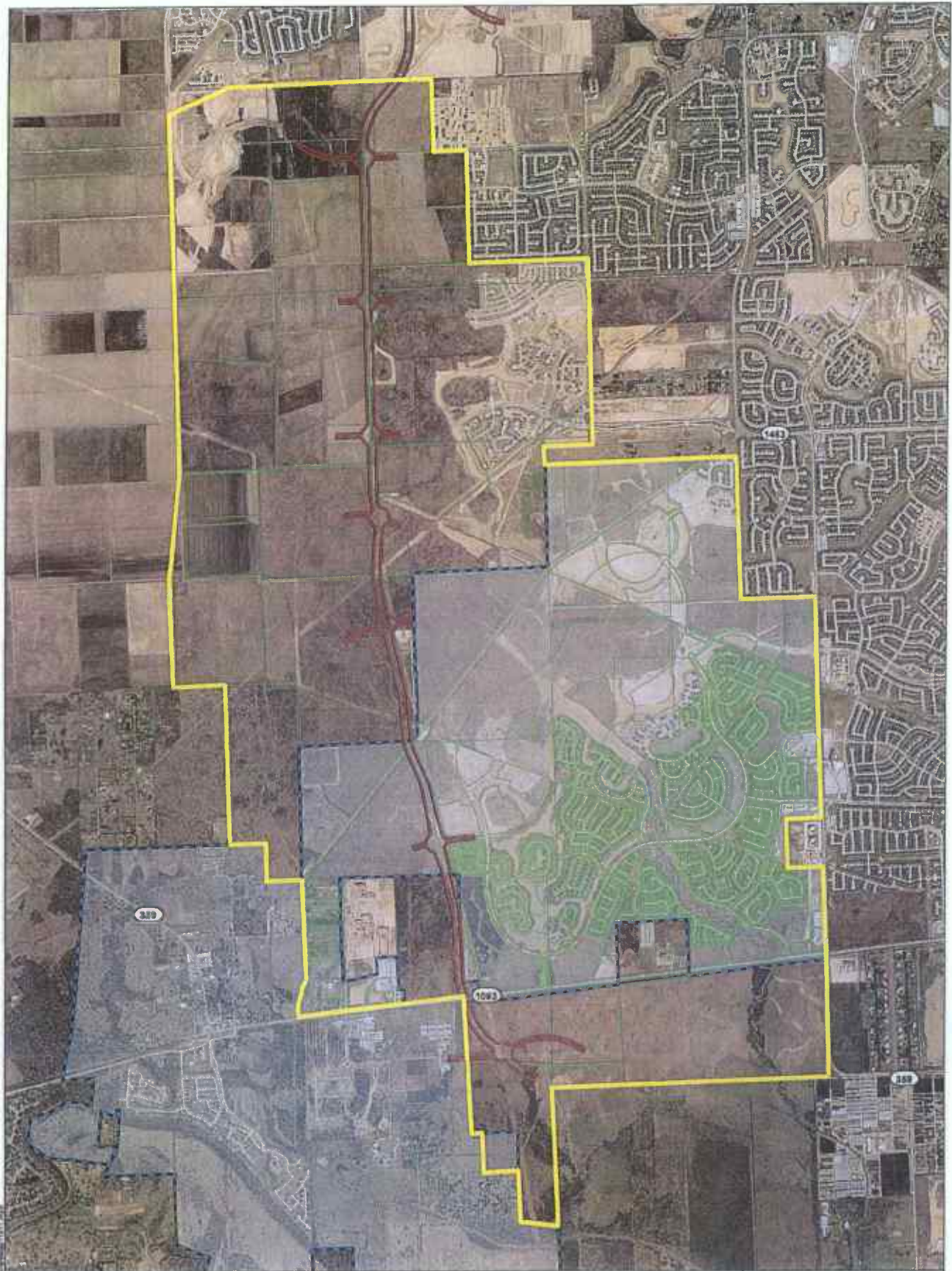
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TEXAS HERITAGE PARKWAY

EXHIBIT A

10/18/2017 SHEET 7 OF 7

EXHIBIT C



-  Texas Heritage Parkway Service Area
-  Texas Heritage Parkway
-  City of Fulshear Corporate Limits
-  Parcel (FBCAD)

Disclaimer:
Every effort has been made to ensure the accuracy of the basemap data. BGE, Inc. assumes no liability or damages due to errors or omissions.



Drawn Nov. 2016 Date 2221-00

Texas Heritage Parkway Service Area

BGE, Inc.
Tel. 281-558-8700
www.bgeinc.com