

PROJECT DEVELOPMENT AGREEMENT

BRAZORIA COUNTY EXPRESSWAY

TEXAS DEPARTMENT OF TRANSPORTATION

BRAZORIA COUNTY, TEXAS

AND

BRAZORIA COUNTY TOLL ROAD AUTHORITY

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**288 TOLLWAY
PROJECT DEVELOPMENT AGREEMENT**

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

THIS AGREEMENT, by and among the **TEXAS DEPARTMENT OF TRANSPORTATION** ("TxDOT"), an agency of the State of Texas, as authorized by the Texas Transportation Commission ("Commission"), **BRAZORIA COUNTY, TEXAS** ("Brazoria County"), a political subdivision of the State of Texas, and the **BRAZORIA COUNTY TOLL ROAD AUTHORITY** ("BCTRA"), a local government corporation created pursuant to and authorized by chapter 431, subchapter D of the Texas Transportation Code (hereinafter Brazoria County and BCTRA jointly referred to as "County"), is executed to be effective when fully executed by all parties ("Agreement").

RECITALS

The following recitals are a part of this Agreement:

1. State Highway 288 currently exists in Harris and Brazoria Counties, Texas as a non-tolled segment of the state highway system;
2. Chapter 284 of the Texas Transportation Code (the "Code") authorizes certain counties, including Brazoria County, to construct, acquire, improve, operate, and maintain certain transportation projects;
3. Brazoria County created the Brazoria County Toll Road Authority on or about December 16, 2003 for the purpose of assisting Brazoria County with the financing, construction, and operation of toll roads in Brazoria County. For purposes of this Agreement, each entity (TxDOT on the one hand and Brazoria County and BCTRA on the other hand) shall act as one party and will have one appointed person responsible for the project;
4. On September 12, 2012, Harris County, Texas waived its option to develop, finance, construct, and operate a toll project in the State Highway 288 right-of-way between US 59 in Harris County, Texas and the Brazoria County line (the "TxDOT SH 288 Toll Lanes Project in Harris County," or the "Harris Project," the limits of which are described in more detail below);
5. On April 26, 2012, the Commission approved Minute Order No. 113075 authorizing the Harris Project from US 59 to the Brazoria County line with construct authority allowing TxDOT to develop, finance, construct, and operate the project;

6. As required by Section 228.013 of the Code, on April 19, 2013, a committee, commonly referred to as a 1420 Committee, met to determine the distribution of the financial risk, the method of financing, and the tolling structure and methodology to be used with respect to the Harris Project. The committee determined that, with respect to the Harris Project, the revenue risk would be retained by a private entity, private funds would be used to finance the project (although public funds may be contributed, particularly with respect to an expansion of or change in scope of the Harris Project), and the tolling structure and methodology would be as set forth in the committee's final report dated April 19, 2013;
7. On May 23, 2013, environmental approval was obtained for the Harris Project and the Brazoria Project;
8. In Minute Order No. 114205, approved by the Commission on February 26, 2015, the Commission conditionally awarded the comprehensive development agreement ("CDA") for the development of the Harris Project to Blueridge Transportation Group ("BTG");
9. The proposal submitted by BTG includes in the scope of the Harris Project the four northern and four southern direct connectors at the SH 288/Beltway 8 interchange;
10. Under Section 228.011 of the Code, the County has the option to design, construct, finance, operate and maintain improvements to SH 288 within Brazoria County (the "Brazoria Project," the details of which are described below);
11. Pursuant to Section 228.011(f) of the Code, TxDOT or the commission may provide written notice to the County meeting the requirements of Section 228.011(e) and describing in reasonable detail the location of a toll project on or along SH 288, a projected cost estimate, sources and uses of funds, and a construction schedule;
12. If after receipt of the notice described immediately above, the County exercises the first option with respect to the toll project described in the notice, and then fails to enter into one or more contracts as described in Section 228.011(f) of the Code by the deadlines described in that provision, then the commission or TxDOT may enter into a contract for the financing, construction, or operation of the toll project with a different entity;
13. Though the southern terminus of the current Brazoria Project is CR 58, the parties acknowledge that, pursuant to Section 228.011 of the Code, the County may, and in fact currently intends to, develop, construct, and operate a toll project in the SH 288 corridor southward to CR 60 (the future Grand Parkway South State Highway 99) (the "Brazoria Extension") subsequent to the financing of the current scope of the Brazoria Project, regardless of whether it receives a first option notice from the Commission or TxDOT under Section 228.011(e) of the Code, and the County will install toll facilities on the right-of-way south of the current southern terminus, upon the entry of an agreement between the County and TxDOT that includes reasonable terms to accommodate the use of the right-of-way by the County and to protect the interests of the commission and TxDOT in the use of the right-of-way for operations of TxDOT, including public safety and congestion mitigation on the right-of-way;

14. Pursuant to Section 228.011(b-1) of the Code, TxDOT shall assist Brazoria County in the financing, construction, and operation of a toll project in Brazoria County, including any extension of the 288 Tollway, by allowing Brazoria County to use state highway right-of-way owned by TxDOT and to access the state highway system. The same provision of the Code requires Brazoria County to reimburse TxDOT for its use of the right-of-way. Section 228.011(c) of the Code requires TxDOT and Brazoria County enter into an agreement that includes reasonable terms to accommodate the use of the right-of-way by Brazoria County and to protect the interests of the commission and TxDOT in the use of the right-of-way for operations of TxDOT, including public safety and congestion mitigation on the right-of-way.
15. The Brazoria Project will be constructed by the County on a portion of the State-Owned ROW, as more particularly described in Exhibit "A" to this Agreement, and, in accordance with Section 284.008(c), Transportation Code, the Brazoria Project will become a part of the state highway system when: (1) all of the bonds and interest on the bonds that are payable from or secured by revenues of the project have been paid by the County (or another person with the consent or approval of the County); or (2) a sufficient amount for the payment of all bonds and the interest on the bonds to maturity has been set aside by the County (or another person with the consent or approval of the County) in a trust fund held for the benefit of the bondholders. TxDOT will remain responsible for the maintenance of the non-toll lanes of SH 288 in the SH 288 corridor;
16. Chapter 284, Transportation Code, applies to a pooled project in the same manner that it applies to any other project. Brazoria County may issue bonds that are payable either in whole or in part from the revenues of the pooled project and currently intends to system finance the Brazoria Extension and to pool it with the Brazoria Project in accordance with Chapter 284, Transportation Code, and the County currently intends to pledge revenues of the pooled project for some or all of the purposes specified in Section 284.065(e), Transportation Code, including specifically, to pay bonds issued to finance capital improvements to the Brazoria Project;;
17. In developing and constructing the Brazoria Project, the County expects to use the design-bid-build delivery methodology, and expects to finance the development and construction, and to own and operate the project, through the BCTRA;
18. TxDOT has determined that the State will receive substantial benefits from toll road projects to be constructed, operated and maintained by the County, and as provided in this Agreement, through the authorization to use State-Owned ROW by the County for such purposes;
19. In Minute Order 114742 dated October 27, 2016, and Minute Order 114767 dated November 17, 2016, the Commission approved a request for financial assistance under Title 43, Part 1, Chapter 27, Subchapter E of the Texas Administrative Code (the "Financial Assistance Rules") in the form of a grant in the amount of \$10,000,000, to pay for costs of developing and designing the Brazoria Project (the "Grant");

20. The parties intend that this Agreement will be executed and delivered simultaneously with the execution of the Financial Assistance Agreement;
21. In Minute Order 114768 dated November 17, 2016, the Commission approved the Brazoria Project as a toll project, and approved the connection of the Brazoria Project to the state highway system;
22. The County's construction, maintenance, and operation of the Brazoria Project shall comply with the requirements of applicable state and federal law;
23. One purpose of this Agreement is to protect the interests of the Commission and TxDOT in the use of right-of-way for operations of the department, including public safety and congestion mitigation on the right-of-way;
24. Sections 201.209, 222.103, 228.002, 228.011, 284.003, 284.006, and 284.063 of the Code, along with chapter 791 of the Texas Government Code, authorize agreements between TxDOT and certain governmental entities, including counties, pertaining to the design, construction, financing, operation, ownership, and maintenance of highways;
25. TxDOT and the County, while intending to develop, operate, and maintain the Harris Project and the Brazoria Project as separate projects, understand and recognize that these two projects will connect at the Interface, and that the design, construction, operation, and maintenance of one segment will affect the design, construction, operation, and maintenance of the other segment; and
26. TxDOT wishes to transfer to the County, pursuant to Section 228.011 of the Code, rights to use a portion of the State-Owned ROW, as that term is defined below; however, TxDOT will remain responsible for maintenance of the non-toll lanes of SH 288 in the SH 288 corridor;

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of these premises and of the mutual covenants and promises of the parties as described in this Agreement, TxDOT, Brazoria County, and BCTRA agree as follows:

1. Definitions

Agreement means this Project Development Agreement.

Authorized Representative means an individual designated by a party to this Agreement who shall be authorized to make decisions and bind the party on matters relating to this Agreement, and to perform such other functions as described herein. The initial designations of the Authorized Representatives are provided below. Such designations may be changed by written notice provided to the other party. A party's Authorized Representative may, by written notice provided to the other party, also delegate all or part of his/her duties to another individual.

Brazoria Extension shall have the meaning as provided in Section 6.a.(4) below.

Brazoria Project means the development, design, construction, financing, operation, and maintenance of improvements in the median of SH 288 from the Interface to County Road (“CR”) 58, all in Brazoria County, to include two northbound toll lanes and two southbound toll lanes, separated from the general purpose lanes by a hard barrier such as a concrete traffic barrier. The northern terminus of the Brazoria Project is located two hundred feet south of the south abutment of the Clear Creek Bridge on SH 288. CR 58 represents the southern terminus for the initial phase of the Brazoria Project. The Brazoria Project does not include any portion of the ultimate schematic from CR 58 to CR 60 (future SH 99). The term includes the structures and pavement for all access points permitted under this Agreement. The term also includes the right of the County to use a portion of the State-Owned ROW, as described in more detail herein, but does not include title to any of the State-Owned ROW, which shall remain with TxDOT. The Brazoria Project extends from one hard barrier between the toll lanes and the general purpose lanes to the other hard barrier between the toll lanes and the general purpose lanes, inclusive of the hard barriers themselves, but excludes the general purpose lanes and the frontage roads within the SH 288 Corridor.

Brazoria Project Opening Date means the date on which the Brazoria Project is scheduled to be open to the public, subject to Section 4 of this Agreement, which shall be on or about the same date as the Harris Project Opening Date.

Effective Date means the date this Agreement is fully executed by all parties.

Environmental Documents means, as applicable, an environmental assessment, an environmental impact statement, a categorical exclusion, a Finding of No Significant Impact, a Record of Decision, any re-evaluation of an environmental assessment, any decision in connection therewith, any environmental permit or related authorization or decision, and/or any other environmental commitments or obligations, as they may relate to the Harris Project or the Brazoria Project.

Financial Assistance Agreement or FAA shall mean the agreement between TxDOT and the County providing for the Grant to Brazoria County.

Grant means the \$10,000,000 in financial assistance provided pursuant to the FAA to develop the Brazoria Project.

Harris Project means the development, design, construction, financing, operation, and maintenance of a minimum of two northbound toll lanes and two southbound toll lanes, along an approximately 10.3 mile segment of SH 288 from Highway 59 to the Interface, and including a facility to connect SH 288 to the Texas Medical Center in Houston, Texas. Subject to final award of the CDA to BTG, the Harris Project will also include the four northern and four southern direct connectors at the SH 288/Beltway 8 interchange. The Harris Project may include, at TxDOT’s discretion, the I-610 interchange reconstruction.

Harris Project Opening Date means the date on which the Harris Project is scheduled to be open to the public, subject to Section 4 of this Agreement. By no later than the date on which TxDOT issues NTP2 to BTG pursuant to the CDA, TxDOT will notify the County and BCTRA of the date it expects the Harris Project to open.

Interface means the point 200 feet south of the south abutment of the Clear Creek Bridge on SH 288, where the Harris Project and the Brazoria Project will meet. This point serves as the southern limit of the Harris Project and the northern limit of the Brazoria Project.

Oversight Committee means the committee formed and operated under Section 4 of this Agreement.

Project-Related Information means traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, environmental studies, and other work product developed by or for either party, including consultants and developers, for the Harris Project or the Brazoria Project.

SH 288 Corridor means the corridor containing all of the SH 288 transportation facilities, as they now exist or may exist hereafter, including the SH 288 Mainlanes and Frontage Roads, the Harris Project, and the Brazoria Project.

SH 288 Mainlanes and Frontage Roads means the general purpose lanes and frontage roads along the SH 288 Corridor, both in Harris County and in Brazoria County, as they exist currently and as they may exist in the future.

State-Owned ROW means all right of way owned by the State in the existing footprint of SH 288.

2. Brazoria Project Description and Overview

- a. The County will provide and be responsible for the design, construction, financing, operation and maintenance of the Brazoria Project, in accordance with and subject to the terms of this Agreement. The County will construct the Brazoria Project to the Interface.
- b. The County is hereby authorized to use and will be allowed to utilize a portion of the State-Owned ROW for the construction, operation and maintenance of the Brazoria Project, all as described in attached Exhibit "A," provided that such uses will comply with the requirements of applicable state and federal law and will not impair the interests of TxDOT and the Commission in the use of the State-Owned ROW for operations of the department, including public safety and congestion mitigation on the State-Owned ROW. The County agrees that its use of the State-Owned ROW will not damage, impair safety, impede maintenance, or otherwise restrict operation of the Harris Project or the SH 288 Mainlanes and Frontage Roads, all as determined from engineering and traffic investigations conducted by TxDOT in accordance with terms or procedures mutually agreed to by TxDOT and the County.
- c. Upon completion, the Brazoria Project and the facilities and structures comprising the Brazoria Project will be owned by the County, and the County will be responsible for the operation and maintenance of the project and such facilities, provided, however, in planning and making policies, the Commission shall consider for incorporation into the State highway system the Brazoria Project as a

turnpike that another governmental entity is authorized to construct. TxDOT will retain title to all of the State-Owned ROW, subject to the rights to use the State-Owned ROW transferred to the County herein.

- d. The initial phase of the Brazoria Project will be developed to include two northbound toll lanes and two southbound toll lanes including the barrier separation, and will be located between the existing northbound and southbound general purpose mainlanes.
- e. Subject to applicable environmental approvals, access to the Brazoria Project will be provided at the following locations:
 - (1) Hughes Ranch Road via bridge structure(s) over the general purpose lanes;
 - (2) To and from FM 518 intersections with the SH 288 frontage roads via entrance and exit ramp bridges located north of FM 518; and
 - (3) The south terminus of the toll lanes near the SH 288 crossing of CR 58 via ramps to and from the SH 288 general purpose lanes.
 - (4) Access ramps from the SH 288 northbound general purpose lanes to the toll lanes and southbound to the SH 288 general purpose lanes from the toll lanes at approximately the vicinity of FM 518.
 - (5) Access may be provided at such additional locations as may be agreed to by the County and TxDOT.

All such access points shall be part of the Brazoria Project, owned by the County, and shall be developed, constructed, operated and maintained at the County's cost.

3. Harris Project Description and Overview

- a. TxDOT will provide and be responsible for the design, construction, financing, operation and maintenance of the Harris Project.
- b. TxDOT will construct the Harris Project to the Interface. The initial phase of the Harris Project will be developed to include two northbound toll lanes and two southbound toll lanes, and will be located between the existing northbound and southbound general purpose main lanes except at the I-610 interchange. At the I-610 Interchange, the tolled facility will be carried through the interchange but, in TxDOT's discretion, may be located other than between existing northbound and southbound general purpose lanes.
- c. At a minimum, access to the Harris Project will be provided at the following locations:
 - (1) southbound entrances to the Harris Project will be from: the general purpose lanes near US 59/SH 288/I-45 Interchange (2 lanes); at Holcombe (Texas Medical Center connector); from I-610 direct connectors

(eastbound (EB) and westbound (WB)); near Almeda-Genoa from the SH 288 general purpose lanes; and from Beltway 8 direct connectors (EB & WB);

- (2) southbound exits from the Harris Project will be to: I-610 direct connectors (EB & WB); general purpose lanes near Almeda-Genoa; Beltway 8 direct connectors (EB & WB); and the connection to the Brazoria Project;
- (3) northbound entrances to the Harris Project will be from: the connection to the Brazoria Project; Beltway 8 direct connectors (EB & WB); general purpose lanes near Almeda-Genoa; and I-610 direct connectors (EB & WB);
- (4) northbound exits from the Harris Project will be to: Beltway 8 (EB & WB); the I-610 direct connectors (EB & WB); Holcombe (Texas Medical Center connector); and general purpose lanes near US 59/SH 288/I-45 Interchange;

All of the above access points shall be part of the Harris Project and will be owned by TxDOT. TxDOT may, in its discretion, add additional access points, ramp and lanes which will also be part of the Harris Project.

The Harris Project will include the reconstruction of the interchange at SH 288 and I-610, along with a fully directional interchange at SH 288 and Beltway 8 with direct connectors in all directions between the SH 288 toll lanes and the existing Beltway 8 toll lanes.

d. Upon completion, the Harris Project will be part of the State Highway System and will be owned by TxDOT. TxDOT will retain title to the Harris Project, the SH 288 Mainlanes and Frontage Roads, and all of the State-Owned ROW.

4. Project Coordination

a. Authorized Representatives

- (1) The parties' initial Authorized Representatives are:

For TxDOT:

James M. Bass
Executive Director
125 E. 11th Street
Austin, TX 78701
(512) 305-9516
Fax (512) 463-0281
james.bass@txdot.gov

For the County:

L.M. "Matt" Sebesta, Jr.
Brazoria County Judge
111 East Locust
Angleton, TX 77515
(979) 864-1200
Fax (979) 849-4655
matts@brazoria-county.com

- (2) In order to facilitate cooperation and coordination in the performance of this Agreement, the Authorized Representatives will confer quarterly, or more often as needed, and will discuss and coordinate, as necessary, issues of mutual concern regarding the development of the Harris Project and the Brazoria Project, and regarding any other matters pertaining to this Agreement.

b. Oversight Committee

- (1) The County and TxDOT shall establish an advisory committee comprised of County and TxDOT employees and/or governing body members (the "Oversight Committee") that will work together in an advisory capacity only on issues relating to the parties' responsibilities under this Agreement. An employee designated by the County may include a contract employee of BCTRA with responsibility for the management and/or administration of BCTRA. The Oversight Committee will meet as required to discuss project status and issues. Each party (with Brazoria County and BCTRA together being one party for this purpose) shall designate two (2) employees and/or governing body members to serve as members of the Oversight Committee. Each party's initial designation of employees and/or governing body members to serve as members of the Oversight Committee shall be made by notice to the other party within ten (10) days of the effective date of this Agreement. After the opening of both the Harris Project and the Brazoria Project, this Committee will continue to meet on a quarterly or as otherwise determined by the Committee.
- (2) Either party, by written notice to the other party, may, from time to time, replace one or more of its designated employees and/or governing body members that serve on the Oversight Committee with other designated employees and/or governing body members. The parties may mutually agree, from time to time, to invite staff members from other relevant entities, advisors, and/or consultants to advise the Oversight Committee.

c. Technical Committee

The County and TxDOT shall establish a Technical Committee which will have advisory responsibilities with regard to technical issues pertaining to the Interface. The Technical

Committee will consist of eight members, four representatives each from TxDOT and the County (with Brazoria County and BCTRA together being one party for this purpose). Technical Committee members may be employees or non-employee representatives. This committee will terminate upon the connection and opening of the two projects.

d. Connection of Projects

- (1) The County and TxDOT agree to use their best efforts to have their respective Projects open to the public on or before the respective Project Opening Dates. The parties may, by mutual agreement, change either or both of the Project Opening Dates.
- (2) If the Harris Project opens before the Brazoria Project (notwithstanding that the Harris Project may open before the Harris Project Opening Date), then TxDOT at its election and expense may construct temporary ramps between the Harris Project toll lanes and the existing general purpose lanes near the Interface. The County agrees to permit these ramps and to allow access as needed to construct, operate, and maintain them. The County, at its expense, shall remove these ramps within forty eight hours of opening the Brazoria Project, such that there will be continuous access to and from the Brazoria Project and the Harris Project. TxDOT will reimburse Brazoria County for the reasonable removal costs exceeding \$100,000.
- (3) It is the responsibility of each party to design and construct its respective Project so that it will connect with the other Project at the Interface in a safe, efficient, and effective manner. Except as provided in subsections (4) and (5), both parties understand and agree that neither party, nor any of such party's developers, consultants, designers, constructors, or other contractors on such party's Project shall be responsible or liable in any respect for any claims, damages, judgments, awards or losses of any kind whatsoever suffered by the other party or by any contractor of the party or by any subcontractor at any level, by reason of the connection of the respective Projects or by any delay in the completion of the respective Projects. Each party agrees to include such release of liability in favor of the other party in all contracts with its contractors on its respective Project, and also shall require those contractors to include such release of liability in favor of the other party in all contracts with all subcontractors at whatever level.
- (4) Any claims by TxDOT for damage done to the Harris Project resulting from or caused by the efforts of the County to connect the Brazoria Project to the Harris Project shall be limited to an aggregate amount of \$1,000,000. Any such claims may be paid in one or more installments over a twelve month period.
- (5) Any claims by the County for damage done to the Brazoria Project

resulting from or caused by the efforts of TxDOT to connect the Harris Project to the Brazoria Project shall be limited to an aggregate amount of \$1,000,000. Any such claims may be paid in one or more installments over a twelve month period.

- (6) **TO THE EXTENT PERMITTED BY LAW, THE COUNTY SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS TXDOT AND ALL OF ITS DEVELOPERS, DESIGNERS, CONSULTANTS, CONSTRUCTORS, OR OTHER CONTRACTORS ON THE HARRIS PROJECT FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, SUITS, JUDGMENTS, INVESTIGATIONS, LEGAL OR ADMINISTRATIVE PROCEEDINGS, DEMANDS AND LOSSES, IN EACH CASE ASSERTED OR INCURRED BY OR AWARDED TO ANY THIRD PARTY, ARISING OUT OF, RELATING TO OR RESULTING FROM THE CONNECTION OF THE BRAZORIA PROJECT TO THE HARRIS PROJECT.**
- (7) **TO THE EXTENT PERMITTED BY LAW, TXDOT SHALL RELEASE, PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS THE COUNTY AND ALL OF ITS DEVELOPERS, DESIGNERS, CONSULTANTS, CONSTRUCTORS, OR OTHER CONTRACTORS ON THE BRAZORIA PROJECT FROM AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, SUITS, JUDGMENTS, INVESTIGATIONS, LEGAL OR ADMINISTRATIVE PROCEEDINGS, DEMANDS AND LOSSES, IN EACH CASE ASSERTED OR INCURRED BY OR AWARDED TO ANY THIRD PARTY, ARISING OUT OF, RELATING TO OR RESULTING FROM THE CONNECTION OF THE HARRIS PROJECT TO THE BRAZORIA PROJECT.**

e. **Confidentiality**

- (1) The parties understand and agree that each of them is subject to the requirements of the Public Information Act ("PIA"), and that all statements and agreements contained herein, and all future agreements entered into in furtherance of this Agreement, respecting the confidentiality of documents and other information, are subject to and

limited by the requirements of the PIA. In the event that a request is made under the PIA for documents in the possession of one party which came from the other party, and the party from which the documents came contends they contain confidential and/or proprietary information, then the party possessing those documents agrees to take such steps as are reasonable and necessary, and allowed under the PIA, to protect those documents from public disclosure. The party from whom the documents originated agrees to bear the expenses incurred by the party resisting the disclosure of the documents.

- (2) Neither party shall be liable to the other for any disclosure of documents required under the PIA, notwithstanding that such disclosure may be contrary to the terms of this Agreement or the terms of any future agreement entered into in furtherance of this Agreement.

f. Cooperation and Sharing of Information

- (1) Subject to the requirements of law, the terms of any other agreement relating to the confidentiality of information, and further subject to any applicable court or agency decision, each party agrees to provide to the other party Project-Related Information upon request. If necessary, and to the extent permitted by applicable law, the parties will enter into confidentiality agreements to allow for the sharing of such information under this provision while protecting its confidentiality. Each party's use of the Project-Related Information supplied by the other party is at its sole risk, and neither party makes any warranty or representation whatsoever as to the completeness or the accuracy of the Project-Related Information it supplies.
- (2) As reasonably soon as the information becomes available, the parties shall provide to each other schedules showing significant events in the development, procurement, design, and construction of the Harris Project and the Brazoria Project. The parties shall update and supplement those schedules on a monthly basis during design and construction, and on a semi-annual basis during operations and maintenance.

- g. TxDOT and County agree to take all reasonable actions and to cooperate and coordinate with each other and to cause their contractors to cooperate and coordinate with each other to ensure the timely construction and completion of the Harris Project and the Brazoria Project.

h. Authority to Finance, Construct, and Operate the Brazoria Project

Pursuant to Section 228.011 of the Code, the County has the primary responsibility for the financing, construction, and operation and maintenance of the Brazoria Project. This provision shall survive the termination of this Agreement, subject to the transfer and handback requirements in Section 10.

5. Project Funding and Financing

a. The County intends to secure financial assistance for the Brazoria Project through the Grant from TxDOT for the Brazoria Project as provided in the FAA. Terms relating to the financial assistance and the distribution of that funding shall be governed by the terms of the Financial Assistance Agreement. Except as specifically provided for in the Financial Assistance Agreement, the County will be responsible for funding the Brazoria Project. The County agrees to develop the Brazoria Project such as to maintain the eligibility of the project to receive federal funding. TxDOT will provide to the County reasonable and necessary documentation to facilitate environmental review, design, construction, traffic and revenue analysis, and financial analysis, and will cooperate with and provide reasonable assistance to the County, all in connection with the County's efforts to obtain TIFIA, state infrastructure bank, and/or other related financing for the Brazoria Project.

b. The County will have sole authority and responsibility for the selection of underwriters, investment bankers, financial advisors, legal counsel and other consultants retained in connection with the financing and procurement of the Brazoria Project. The County's consultants acting as advisors to the County may not participate on a proposer team or on a developer team for the Harris Project, nor shall they act as consultants to TxDOT in connection with the Harris Project, without the express consent of the County. The foregoing restrictions shall not apply to the County's design consultants for the Brazoria Project or to already existing consultant relationships with TxDOT.

The County will provide to TxDOT, within ten days after execution and prior to County's issuance of bonds for the financing of the Brazoria Project, the executed construction contract which will be made effective as of the date of the County's financial close.

6. Environmental, Right of Way, Right of Access, and Procurement

a. Responsibilities of the County

(1) Environmental

(a) The development of the Brazoria Project shall comply with the Environmental Documents, and with all applicable federal and state environmental laws, including the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, the Clean Water Act, the Endangered Species Act, 43 TAC §2.50, and the Natural Resources Code, Chapter 191. The County is responsible for all environmental mitigation, remediation, permits, and compliance identified in the Environmental Documents with respect to the Brazoria Project.

(b) To the extent permitted by law, TxDOT agrees, at its expense, to take the lead role in obtaining environmental clearance for the Brazoria Project. TxDOT will also lead all public hearing and public outreach and coordination efforts. The County agrees to provide all support reasonably requested by TxDOT in those efforts. Notwithstanding that TxDOT agrees to pay for this work, TxDOT estimates the cost of this work to be \$2,000,000. However, TxDOT makes no representation or warranty whatsoever regarding the success of

those efforts. Further, the County understands and agrees that neither TxDOT nor any of its developers, designers, constructors, or other contractors or consultants shall be responsible or liable in any respect for any claims, damages, judgments, awards or losses of any kind whatsoever suffered by the County or by any contractor of the County or by any subcontractor at any level, arising from TxDOT's efforts to obtain such environmental clearance. The County will be responsible for all other permits, approvals, and agreements necessary for the Brazoria Project, except as otherwise required by law or by agreement between the County and a state or federal agency, and TxDOT agrees to provide reasonable assistance to the County in those efforts.

(c) The County will provide support reasonably requested by TxDOT in connection with TxDOT's efforts to obtain the environmental clearance, permits, approvals, and agreements necessary for the Harris Project.

(d) The County will promptly advise TxDOT of any proposed design, construction, or operational changes or issues that may impact commitments in the Environmental Documents or that may require additional environmental documents or approvals.

(e) The County will pay for, and take the lead on, any environmental re-evaluation that pertains only to the Brazoria Project or to any environmental approval needed for any reconfiguration including ramp additions or deletions, extension of or addition to the Brazoria Project. To the extent that an environmental re-evaluation is necessary and such re-evaluation affects or includes both the Harris Project and the Brazoria Project, the County and TxDOT agree to cooperate in, and to share in the cost of, obtaining such re-evaluation. Each party shall be responsible for the cost attributable to its respective project.

(f) The County will be responsible for managing, treating, handling, storing, remediating, removing, transporting (where applicable) and disposing of all hazardous materials, including contaminated groundwater, encountered or discovered in connection with the development, design, construction, operation, and/or maintenance of the Brazoria Project, including where such hazardous materials might be found in or on that part of the State-Owned ROW used for the Brazoria Project, in accordance with applicable law and governmental approvals.

(2) **Procurement**

(a) Except as provided otherwise in this Agreement, the County is responsible for all procurement activities for the Brazoria Project. Nonetheless, the County shall coordinate and consult with TxDOT concerning the delivery method for the Brazoria Project. In selecting the delivery method and in procuring the Brazoria Project, the County shall use its best efforts to maintain eligibility for federal funding, and shall comply with Federal Highway Administration (FHWA) rules, policies, and guidelines concerning environmental permits and approvals.

(b) To the extent permitted by applicable law, representatives of the County assisting in the TxDOT procurement process, or otherwise having access to confidential and/or proprietary project information, will sign appropriate confidentiality agreements and

conflicts disclosure statements. In the event a County representative is unable or unwilling to sign a requested confidentiality agreement, or has conflicts to his/her participation in the TxDOT procurement process, then the County will withdraw that representative.

(3) Right of Way

(a) Within ten (10) business days of the Effective Date of this Agreement, the County shall make payment in the amount of \$66,715.38 to TxDOT as reimbursement under Section 228.011 of the Code, for the use by the County of portions of the State-Owned ROW, inclusive of air space, for the development, construction, operation and maintenance of the Brazoria Project. This amount equals (a) TxDOT's actual costs to acquire right-of-way transferred to the County for use in the Brazoria Project, or (b) an amount equal to the average actual historical right-of-way acquisition values for comparable right-of-way located in proximity to the Brazoria Project on the date of original acquisition of the right-of-way.

(b) Notwithstanding the foregoing, TxDOT and its developer shall have the right to use and have access over, across, and on the Brazoria Project and the State-Owned ROW as may be necessary or desirable to enable TxDOT to cause the Harris Project and the SH 288 Mainlanes and Frontage Roads to be constructed, maintained, and operated without paying any additional compensation therefore, except that TxDOT and its developer will be required to pay normal tolls in connection with their use of the Brazoria Project. In exercising such right, TxDOT and its developer shall cooperate with the County to lessen the impact of such uses on the County's construction, operation, and maintenance of the Brazoria Project. For any maintenance, construction or other repairs, other than emergency repairs, TxDOT shall provide at least 48 hours written notice to the County prior to exercising its rights under this paragraph.

(4) Right of Access

The County shall have access to State owned right-of-way for the portion of SH 288 south of the current southern terminus of the Brazoria Project and extending to CR 60 (future SH 99) (the "Brazoria Extension") for the purposes of pre-development activities such as surveying, geotechnical investigations, environmental investigations, and preliminary engineering. Access to the Brazoria Extension shall be provided by TxDOT upon reasonable notice and upon other reasonable terms and conditions as typically imposed by TxDOT.

b. Responsibilities of TxDOT

(1) Environmental

(a) The development of the Harris Project shall comply with the Environmental Documents, and with all applicable federal and state environmental laws, including the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, the Clean Water Act, the Endangered Species Act, 43 TAC §2.50, and Natural Resources Code, Chapter 191. TxDOT is responsible for all environmental mitigation, remediation, and compliance identified in the Environmental Documents with respect to the Harris Project.

(b) In addition to the responsibilities detailed above, TxDOT will be responsible for the environmental clearance and for all permits, approvals, and agreements necessary for the Harris Project, and for compliance with the commitments in the Environmental Documents concerning the Harris Project, except as otherwise required by law or by agreement between TxDOT and a state or federal agency.

(c) TxDOT and the County understand that the City of Pearland has agreed to make capacity available in its regional water detention facilities for use by TxDOT as needed for the Harris Project. The County agrees that it will not use or seek to use capacity in those same facilities such that the County's use would interfere with, or constrain, the use by TxDOT of such capacity, or otherwise diminish the capacity in such facilities available for and needed by TxDOT. In other words, TxDOT and the County agree that TxDOT shall have priority in the use of such facilities.

(2) **Procurement**

(a) TxDOT will provide to the County technical specifications and qualifications that TxDOT would like to be considered in the procurement documents prepared by the County for the Brazoria Project. Inclusion of that information is at the discretion of the County.

(b) Subject to conflicts rules, TxDOT personnel may review (1) the procurement documents prepared by the County, including drafts thereof, and (2) all responses to those procurement documents from actual or potential bidders, proposers, constructors, contractors, developers, designers, architects, and engineers. The participating TxDOT personnel will execute the appropriate confidentiality agreements, and will provide sufficient information as to enable the County to determine if any conflicts exist.

(c) TxDOT agrees to provide procurement support services as may be reasonably requested by the County, consistent with confidentiality and conflicts rules and requirements. The costs of such services shall be treated as Brazoria Project costs and subject to reimbursement to TxDOT.

(3) **Right of Way**

(a) As provided in Section 228.011 of the Code, and subject to Section 6.a.(3) of this Agreement, TxDOT will transfer to the County the rights, inclusive of air space, to use a portion of the State-Owned ROW for the construction, operation and maintenance of the Brazoria Project, all as described in attached Exhibit "A," provided that such uses will comply with the requirements of applicable state and federal law and will not impair the interests of TxDOT and the Commission in the use of the State-Owned ROW for operations of the department, including public safety and congestion mitigation on the State-Owned ROW. Such right shall include, but not be limited to, the right to use a portion of the State-Owned ROW for the storage of equipment and materials used by the County in the maintenance of the Brazoria Project. The location of any such storage site shall be by agreement between TxDOT and the County.

(b) Subject to the rights of use transferred to the County (which shall

include air rights), TxDOT will retain ownership of all of the State-Owned ROW, including those portions which the County has the right to use, and will further retain ownership of the SH 288 Mainlanes and Frontage Roads.

(c) Notwithstanding the foregoing, the County and its contractor shall have the right to use and have access over, across, and on (i) the Harris Project in the vicinity of the Interface, and (ii) the State-Owned ROW and the SH 288 Mainlanes and Frontage Roads in Brazoria County, as may be necessary or desirable to enable the County to cause the Brazoria Project to be constructed, maintained, and operated without paying any additional compensation therefore, except that the County and its contractor will be required to pay normal tolls in connection with their use of the Harris Project. In exercising such right, the County and its developer shall cooperate with TxDOT to lessen the impact of such uses on the TxDOT's development, operation, and maintenance of the Harris Project. For any maintenance, construction or other repairs, other than emergency repairs, the County shall provide at least 48 hours written notice to the TxDOT prior to exercising its rights under this paragraph.

7. Design and Construction

a. Responsibilities of the County

- (1) Subject only to the terms of this Agreement, the County has responsibility for the design and construction of the Brazoria Project. The County is responsible for the timely development of the plans, specifications and construction of the Project, including all required and remaining utility relocations and/or adjustments, and all costs associated therewith.
- (2) Plans and specifications developed by the County for the Brazoria Project are and shall be in accordance with the standards required by TxDOT as defined in 43 TEX. ADMIN. CODE §27.51. In the absence of applicable standards in the Code or the TxDOT design standards, the plans and specifications must be in compliance with the American Association of State Highway and Transportation Officials ("AASHTO") standards. All plans and specifications have been and shall be developed in accordance with the design criteria for functional classification and design speed as shown on the approved ultimate schematics as prepared with the SH 288 (US 59 to CR 60) Environmental Assessment which obtained a Finding of No Significant Impact on May 23, 2013, unless modified by an environmental reevaluation or approved design deviation. The County may request a design deviation from TxDOT subject to Sections 6 and 7 of this Agreement.
- (3) Plans and specifications for the Brazoria Project conform to the latest version of TxDOT's Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, and to the Texas Manual of Uniform Traffic Control Devices (TMUTCD). However, the Executive Director of TxDOT or designee may approve use of alternative specifications if the alternative is determined to be sufficient to ensure the

quality and durability of the finished product for its intended use and the safety of the traveling public. All signing for the Brazoria Project within the State-Owned ROW shall conform to TMUTCD standards for toll/managed lane facilities.

- (4) The County submitted to TxDOT plans and specifications for the Brazoria Project at the 30% and 90% phases, which have been reviewed and determined to be acceptable by TxDOT.
- (5) Brazoria County will provide to TxDOT the Construction Plans and Specifications in which all comments from previous TxDOT reviews have been addressed by the County. TxDOT will have 14 calendar days to review should they have any issues.
- (6) The County agrees that TxDOT may provide the design package it receives from the County to BTG for use by BTG in designing the portion of the Interface on the Harris Project. After TxDOT has approved the design package submitted by the County, the County will not make any change to the portion of the design package related to the Interface that would increase the cost of designing, constructing, or operating the Harris Project, or reduce the toll revenue from the Harris Project, without the agreement of TxDOT.
- (7) The County shall be responsible for construction of the Brazoria Project in accordance with the latest version of TxDOT's Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges, and the County shall be responsible for oversight and field inspection of construction activities, including the cost for such inspections and associated testing services, to verify conformance with the plans and specifications for the Brazoria Project.
- (8) The County shall construct the Brazoria Project so as to reasonably minimize impacts on the Harris Project and on the ongoing operation and maintenance of the SH 288 Mainlanes and Frontage Roads.
- (9) The County and TxDOT agree to provide to each other schedules for the construction of their respective projects as soon as those schedules are available, and shall provide updates to those schedules promptly. The County and TxDOT will confer on an ongoing basis regarding those schedules, and agree to coordinate those schedules so as to minimize the impacts of the construction activities in one segment on the construction, operation, and maintenance activities in the other segment.
- (10) Field changes to the Brazoria Project which would impact operation or maintenance of the Harris Project, or the SH 288 Mainlanes and Frontage Roads shall be submitted to TxDOT for approval prior to being accomplished. Should the County wish to accept any nonconforming

work, TxDOT shall be advised of the nonconforming work and shall have final approval of the decision to accept such work.

- (11) Upon completion of construction of the Brazoria Project, the County shall issue to TxDOT a Certificate of Final Completion, showing the date of final completion and certifying that the Brazoria Project has been constructed according to approved plans and specifications. At the earliest possible date thereafter, the County will deliver to TxDOT the final sets of plans and specifications (the "As-Builts").
- (12) All work and costs related to relocation, adjustment, or removal of existing utilities necessary to resolve conflicts and allow for construction of the Brazoria Project, other than those costs required to be borne by the utilities, shall be the responsibility of the County, including without limitation the identification of existing utilities and coordination with utility owners to secure relocation, adjustment, or removal of those facilities.
- (13) All utility relocations and/or adjustments shall be in accordance with applicable state and federal laws, regulations, rules, policies, and procedures, including 43 TAC §21.31 et seq. (Utility Accommodation) and 23 CFR Chapter 1, Part 645. TxDOT acknowledges that utility relocation, adjustment, or removal activities may be undertaken on the County's behalf by its contractor, in which case the County shall be responsible for assuring that the contractor carries out all such relocation, adjustment, and removal activities in a manner consistent with applicable laws and administrative regulations.
- (14) The County will be responsible for the management of traffic and design and implementation of traffic control plans during construction in accordance with applicable laws and regulations, and will submit proposed traffic control plans and documents to TxDOT for review and approval. Traffic control plans shall provide for maintaining the same number of operating general purpose lanes as currently exists from the hours of 5:00 am to 9:00 am and from 3:00 pm to 7:00 pm on weekdays. Any proposed reduction in the number of operating general purpose lanes shall be subject to TxDOT's prior written approval. The County and TxDOT will coordinate with each other regarding lane closures during construction so as to minimize the impacts that lane closures in one segment will have on the construction, operation, and maintenance of the other segment.
- (15) TxDOT personnel will be permitted to review all proposed change orders, design and construction deviations, non-conformance reports, and notices of design change to the extent such changes impact operation or maintenance of the Harris Project, or the SH 288 Mainlanes and Frontage Roads. TxDOT will provide comments within fourteen (14) calendar days or receipt of such documents. If no comments are provided within that

time period, it will be deemed that TxDOT has provided no comments to such instruments.

b. Responsibilities of TxDOT

- (1) TxDOT, at any time during construction of the Brazoria Project, after providing reasonable notice to the County, may inspect any work performed as part of the Brazoria Project for compliance with engineering and design plans and specifications.

8. Operations and Maintenance

a. Responsibilities of the County

- (1) Subject to the terms of this Agreement, the County will be responsible for the operation and maintenance of the Brazoria Project from and after substantial completion of the Brazoria Project. TxDOT and the County agree that the Brazoria Project will be operated and maintained by the County. The County agrees to maintain and operate the Brazoria Project in a manner suitable to relevant standards and acceptable procedures similar to those TxDOT uses on state facilities to include TxDOT's Maintenance Management Manual, Maintenance Operations Manual, and Roadside Vegetation Manual; as well as in accordance with the terms of the bond indenture or other financing instrument pursuant to which bonds or other obligations payable from revenues of the Brazoria Project are issued (the "Indenture"). Further, at a future date, the Oversight Committee will establish a maintenance and operational guideline for the corridor to be accepted by the respective parties.
- (2) The County's maintenance obligation includes all routine maintenance, along with all capital maintenance and capital improvements, including, but not limited to:
 - (a) Bridge repair and rehabilitation
 - (b) Pavement repair and rehabilitation
 - (c) Concrete traffic barrier repair, replacement, and rehabilitation
 - (d) Sign/lighting/stripping repair, replacement and rehabilitation
 - (e) Signal installation, repair, replacement, including coordination with cities, and
 - (f) Toll equipment repair and replacement.
- (3) The County will be responsible for the promulgation and enforcement of safety and operational standards for the Brazoria Project, including the

determination, posting and enforcement of speed limits. The County will be responsible for all traffic management and safety operations on the Brazoria Project, to include:

- (a) police services
 - (b) wrecker services
 - (c) incident response
 - (d) lane closure, and
 - (e) emergency evacuation coordination.
- (4) By amendment to this Agreement, the County and TxDOT may agree for TxDOT to provide roadway maintenance services for the Brazoria Project for such compensation and upon such other terms and conditions as may be set forth in such amendment.
- (5) The County will provide TxDOT a minimum fourteen (14) day advance written notice of all planned maintenance or other activity which will or may impact traffic or revenues on the SH 288 Mainlanes and Frontage Roads or may impact traffic or revenues on the Harris Project, which notice will include information regarding any expected lane closures. In the event of a condition requiring emergency maintenance operations, the County may perform that maintenance immediately, and shall notify TxDOT within two (2) hours or as soon as reasonably possible of the beginning of that maintenance that such emergency maintenance operations are being performed. The County shall use its best efforts to coordinate with TxDOT on the status of such emergency maintenance operations and to minimize disruption to traffic on the SH 288 Mainlanes and Frontage Roads and also to minimize disruption to traffic and revenues on the Harris Project, until all such maintenance activities are complete and the facility is fully operational.
- (6) It is understood and agreed that the operation of the Brazoria Project may by necessity be curtailed temporarily in the event of damage caused by flood, accidents or other similar causes. In that event, the County shall be responsible for repairing any damage to the Brazoria Project. The County will do everything reasonable to provide for rapid and timely repairs to those portions which are damaged to ensure that the operation of the facility will be reinstated as soon as possible.
- (7) The County will coordinate with the Office of the Governor of Texas regarding emergency declarations or waivers of tolls on the Brazoria Project during declared emergency evacuations. Any such toll waivers during declared emergencies shall be the responsibility of the County.

- (8) The County shall operate and maintain the Brazoria Project so as to minimize impacts on the ongoing operation and maintenance of the on the Harris Project and on SH 288 Mainlanes and Frontage Roads, and to minimize impacts on the revenues from the Harris Project. In the event that TxDOT determines that the County's operation of the Brazoria Project materially interferes with or adversely affects the construction, maintenance, operation, and/or use of the SH 288 Mainlanes and Frontage Roads or the Harris Project, or adversely affects the revenues from the Harris Project, TxDOT will consult with the County, and such modifications or remedial actions acceptable in good faith to both parties for the continued operation of the Brazoria Project will be accomplished and shall be done at the sole expense of the County.

b. Responsibilities of TxDOT

- (1) TxDOT will provide all routine and capital maintenance for all facilities and structures within the SH 288 Corridor, not including the Brazoria Project. TxDOT agrees to require the maintenance and operation of the Harris Project in accordance with relevant standards and acceptable procedures similar to those used on state facilities to include TxDOT's Maintenance Management Manual, Maintenance Operations Manual, and Roadside Vegetation Manual. Further, at a future date, the Oversight Committee will establish a maintenance and operational guideline for the corridor to be accepted by the respective parties. Notwithstanding the forgoing, TxDOT and the County agree that nothing in this Agreement shall require that the Harris Project be maintained or operated in a manner contrary to or inconsistent with the concession agreement which TxDOT intends to enter into with its project developer.
- (2) TxDOT will provide the County with a minimum fourteen (14) day advance written notice of all planned maintenance or other activity which will or may impact traffic or revenues on the Brazoria Project, which notice will include information regarding any expected lane closures. In the event of a condition requiring emergency maintenance operations, TxDOT may perform that maintenance immediately, and shall notify the County within two (2) hours or as soon as reasonably possible of the beginning of that maintenance that such emergency maintenance operations are being performed. TxDOT shall use its best efforts to coordinate with the County on the status of such emergency maintenance operations and to minimize disruption to traffic on the SH 288 Mainlanes and Frontage Roads, and also to minimize disruption to traffic and revenues on Brazoria Project, until all such maintenance activities are complete and the facility is fully operational.
- (3) It is understood and agreed that the operation of the Harris Project and/or the SH 288 Mainlanes and Frontage Roads may by necessity be curtailed temporarily in the event of damage caused by flood, accidents or other

similar causes. In that event, TxDOT shall be responsible for repairing the damaged facility. TxDOT will do everything reasonable to provide for rapid and timely repairs to those portions which are damaged to ensure that the operation of the facility or facilities will be reinstated as soon as possible.

- (4) TxDOT will coordinate with the Office of the Governor of Texas regarding emergency declarations or waivers of tolls on the Harris Project during declared emergency evacuations. Any such toll waivers during declared emergencies shall be the responsibility of TxDOT.
- (5) TxDOT will perform all state and federally required inspections for bridges and other structures on or along the Brazoria Project, but not including overhead toll gantries, tolling signs, and related structures and facilities, which shall be the responsibility of the County to inspect. The County agrees to provide to TxDOT access to the Brazoria Project as needed to conduct such inspections, and also to provide to TxDOT other information, materials, and assistance as needed to conduct such inspections.
- (6) TxDOT shall operate and maintain the Harris Project so as to minimize impacts on the ongoing operation and maintenance of the Brazoria Project and to minimize impacts on the revenues from the Brazoria Project. In the event that the County determines that TxDOT's operation of the Harris Project materially interferes with or adversely affects the construction, maintenance, operation, and/or use of the Brazoria Project or adversely affects the revenues from the Brazoria Project, the County will consult with TxDOT, and such modifications or remedial actions acceptable in good faith to both parties for the continued operation of the Harris Project will be accomplished and shall be done at the sole expense of TxDOT.

9. Tolls and Tolling

a. Toll Equipment

- (1) The County (either itself or through its contractor) will be responsible for the installation, oversight, testing, commissioning, maintenance, and operation of the toll collection and back-office systems for the Brazoria Project, including all associated hardware and software. The County will design and construct the toll equipment on the Brazoria Project so that it will be interoperable and will accommodate existing toll interoperability agreements between TxDOT and other local agencies including the Harris County Toll Road Authority, METRO, and the Fort Bend County Toll Road Authority.
- (2) Should the County elect to have TxDOT provide, install, test and/or commission the toll collection and back-office systems required for the

Brazoria Project, a separate agreement between TxDOT and the County will be negotiated and executed for such services.

b. Toll Information Signs and Exchange of Information

- (1) TxDOT and the County, including their respective toll collections and operations service providers, will cooperate with one another and establish and maintain interfaces between the Harris County Project toll systems (including the system of the developer's toll collections and operations service provider) and the County's toll system for the mutual exchange of current and historical toll rate information (including current and historical images of toll information signs) and information pertaining to a user's location and time of entry so that (i) toll information signs installed and operated by either party will display in real-time the proper toll rate amounts for users of either project, and (ii) TxDOT's developer (including the developer's toll collections and operations service provider) and the County will have the current and historical information necessary for transaction pricing and for resolving customer service issues.
- (2) The toll information signs operated by either party shall change at the precise time that a change goes into effect (e.g., at the start of each half-hour period when in time-of-day mode, or as determined by the dynamic algorithm if in dynamic mode). However, the effectiveness of any increase in the toll for a toll segment shall be delayed by the minimum configurable period of time it takes, under the then-prevailing traffic conditions, for a user of either project to travel from the respective toll information sign to the toll gantry(ies), so that a user who enters the toll lane is never charged more than the toll amount indicated on the toll information sign immediately before the user entered, regardless of a change that would otherwise take effect while the user is en route to the toll gantry(ies).
- (3) Each party will permit the other to install toll information signs on structures located in the other party's project as necessary to provide toll information to users going from one party's project to the other party's project. Any such toll information signs shall be designed, constructed, maintained, and operated by the party whose toll information will be reflected on the sign, and the other party grants a license as needed to permit the installation, maintenance and operation of such signs. The signs shall, at the option of the party on whose project the signs are being installed, be installed on structures to be constructed by that party, or be installed on new structures built by the party requesting the signs. The party wishing to install such signs shall provide to the other party all such design and other technical information as needed in a timely fashion to allow for the construction, installation, operation, and maintenance of such signs and related structures. The cost of all design, construction, installation, maintenance, and operation of the signs, including any new

structures necessary for the signs, shall be borne by the party requesting the signs.

c. Toll Rates and Policy

(1) The following toll provisions shall apply to the Harris Project.

(a) The minimum toll rate per mile shall be \$0.06 per mile. The minimum toll charged per toll segment that is not a direct connector shall be the greater of (i) \$0.35 per toll segment or (ii) the minimum toll rate per mile (\$0.06 per mile) multiplied by the actual length (in miles) of the toll segment. The minimum toll charged per toll segment that is a direct connector shall be \$0.35. The foregoing amounts (\$0.06 and \$0.35) are expressed in 2012 dollars and shall be escalated annually thereafter on January 1 of each calendar year by the greater of 2% or the annual percentage increase in the Consumer Price Index, All Urban Wage Earners and Clerical Workers (CPI-W), All City Average, All Items, as published by the U.S. Department of Labor, Bureau of Labor Statistics between October of the second immediately preceding year and October of the immediately preceding year.

(b) The base rate toll soft cap shall equal (i) \$0.75 per mile for any toll segment that is not a direct connector or (ii) \$1.50 per toll segment for any toll segment that is a direct connector. For this purpose, "base toll" refers to a two-axle vehicle; the base toll soft cap may be multiplied for vehicles with more axles. The foregoing amounts (\$0.75 and \$1.50) are expressed in 2012 dollars and shall be escalated annually thereafter on January 1 of each calendar year by the greater of 3% or the annual percentage increase in the Texas gross state product per capita (being equal to the Nominal Gross Domestic Product by State for the State of Texas, as published by the U.S. Department of Commerce, Bureau of Economic Analysis, divided by the most recently published annual estimate of the population for the State of Texas, as published by the U.S. Department of Commerce, Bureau of Economic Analysis) between the third immediately preceding year and the second immediately preceding year. The base toll soft cap for a toll segment shall equal the base toll rate soft cap multiplied by the actual length (in miles) of such toll segment, rounded to the nearest one-cent.

(c) The base toll charged per toll segment may exceed the base toll soft cap to the extent necessary to maintain average travel speeds of the slower of 45 miles per hour on the toll lanes and the speed equal to 15 MPH slower than the posted speed limit (in the case of the Harris Project, as provided in Exhibit 10 to the Comprehensive Development Agreement for the Harris Project). The parties acknowledge that the Corridor Tolling Policy for SH 288 adopted by the committee convened pursuant to Section 228.013 of the Texas Transportation Code (the "1420 Committee") requires the use of time of day pricing for the Harris Project. If such Corridor Tolling Policy is amended so as to permit Dynamic Mode and Dynamic Mode is otherwise permitted by applicable law, or if applicable law is amended so as to otherwise permit Dynamic Mode notwithstanding the Corridor Tolling Policy, then TxDOT may implement Dynamic Mode with respect to the Harris Project. Before implementing Dynamic Mode, TxDOT shall consult and coordinate with County, but County does not have the unilateral authority to prevent the use of Dynamic Mode, so long as the requirements of this subsection are otherwise met. The County is currently opposed to Dynamic Mode and may continue to oppose Dynamic Mode in communications with the 1420 Committee and in connection with any

potential change in law. Any such increase shall be determined using demand factors that are established to align the toll charge to user demand.

(d) To assist with Brazoria County budgeting purposes, TxDOT shall provide by April 1st of each year (for the next year of operations for the Harris Project) the projected minimum toll rate and the projected base rate soft cap for each segment and direct connector using the escalation rates provided in Sections 9c.1.a and 9.c.1.b above.

(2) The following toll provisions apply to the Brazoria Project.

County intends to set its toll rates based upon transportation studies and financing requirements. County will fully cooperate with TxDOT and its Developer, through the Oversight Committee, to determine what rates are best for both parties, taking into consideration the traveling public's needs, maintaining an average speed of 45 miles per hour, and County's financial requirements.

d. Toll Collection

- (1) The County will have the exclusive right at all times to enforce and collect tolls from the users of the toll lanes of the Brazoria Project, and to retain those toll revenues.
- (2) The County will be responsible for providing and managing toll collection, violation processing and collection (including all necessary enforcement proceedings), revenue handling and accounting, and customer service with respect to the Brazoria Project.

If requested by the County, TxDOT will provide toll collections and operations for the Brazoria Project, subject to agreement by the parties on the price for those services.

10. Transfer of Brazoria Project to TxDOT; Handback Requirements

a. Section 284.008(c), Transportation Code, provides that a project will become a part of the state highway system when: (1) all of the bonds and interest on the bonds that are payable from or secured by revenues of the project have been paid by the issuer of the bonds (or another person with the consent or approval of the issuer); or (2) a sufficient amount for the payment of all bonds and the interest on the bonds to maturity has been set aside by the issuer (or another person with the consent or approval of the issuer) in a trust fund held for the benefit of the bondholders. At the time the Brazoria Project becomes part of the state highway system pursuant to Section 284.008(c) of the Code, Brazoria County and BCTRA agree to convey to TxDOT all of their right, title, and interest in the Brazoria Project pursuant to a deed without warranty of title.

b. Prior to and in connection with the transfer of the Brazoria Project to TxDOT in accordance with Section 284.008(c), Transportation Code, Brazoria County and BCTRA agree to comply with the handback requirements as contained in Exhibit B.

11. Default

Default shall occur only in the event either party fails to comply to its respective obligations hereunder. In such event, the non-defaulting party shall give the defaulting party written notice of the condition of default. The defaulting party may cure such default within thirty (30) days from and after date of receipt of notice of default; provided that if the default is of such a nature that the cure cannot with diligence be completed within such time period, and the defaulting party has commenced meaningful steps to cure promptly after receiving the notice of default, the defaulting party shall have such additional period of time, up to a maximum cure period of one hundred twenty (120) days, as is reasonably necessary to diligently effect cure. In the event of failure to cure such default within the time periods provided in this section, the non-defaulting party may thereafter notify the defaulting party of its intent to terminate this Agreement. This Agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

12. Termination

- a. This Agreement may be terminated upon the occurrence of any of the following conditions:
 - (1) by written, mutual agreement and consent of the parties hereto;
 - (2) by either party hereto, upon the default of the other party, according to the process set forth above;
 - (3) by the County, in the event available funding is not sufficient to construct the Brazoria Project based on bids received from prospective contractors or in the event that cost of requirements for environmental mitigation, remediation or compliance are in excess of funding available to the County for the Brazoria Project and no additional funding can be secured;
 - (4) by written notice of termination from TxDOT to the County, in the event that (i) TxDOT acquires the right, pursuant to Section 228.011 of the Code (or any similar or successor statutory provision governing the relative rights of TxDOT and local entities to develop toll projects), to enter into a contract for the financing, construction, or operation of the Brazoria Project; or (ii) the Brazoria Project becomes part of the State Highway System pursuant to 284.008(c) of the Code; or
 - (5) by written notice of termination from TxDOT to the County, in the event that the County at any time cancels or abandons the Brazoria Project.
- b. Notwithstanding anything to the contrary herein, the County shall maintain, and shall have the right to operate toll facilities and collect toll revenue on the Brazoria Project, so long as the bonds or other obligations secured by toll revenue from the Brazoria Project remain outstanding.

13. Miscellaneous

a. **Notices.** All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or registered U.S. Mail, postage prepaid, addressed to such party at the following respective addresses:

To the County at:
L.M. "Matt" Sebesta, Jr., P.E.
Brazoria County Judge
111 E. Locust, Suite 102A
Angleton, TX 77515
matts@brazoria-county.com

With a copy to:
Matt Hanks, J.D., P.E.
Brazoria County Engineer
451 N. Velasco, Suite 230
Angleton, TX 77515
matth@brazoria-county.com

To TxDOT at:

Texas Department of Transportation
Project Finance, Debt and Strategic Contracts Division
125 E. 11th Street
Austin, TX 78701
Attn: Benjamin Asher
Email: Benjamin.Asher@txdot.gov

with a copy to:

Texas Department of Transportation
Strategic Projects Office
Houston District
P.O. Box 1386
Houston, TX 77251
Attn: Varuna Singh
Email: Varuna.Singh@txdot.gov

b. **Legal Construction.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such provision shall, to the fullest extent permitted by law, be reformed to effectuate the intention of the parties expressed in such provision. To the extent that it cannot be so reformed, that invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

c. **Insurance.** To the extent that this Agreement authorizes the County or its contractor to perform any work on TxDOT right of way, before beginning work the entity performing the work shall provide TxDOT with a fully executed copy of TxDOT's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on TxDOT right of way. This coverage shall be maintained until all work on TxDOT right of way is complete. If coverage is not maintained, all work on TxDOT right of way shall cease immediately, and TxDOT may recover damages and all costs of completing the work.

d. **Hold Harmless.** To the extent permitted by law, each party shall save harmless the other party and its officers, employees, and consultants from all claims and liability due to the materials or activities of the first party, its agents, or employees, performed under this Agreement that are caused by or result from error, omission, or negligent act of the first party or of any person employed by the first party.

e. **Audit.** The state auditor, at its expense, may conduct an audit or investigation of any entity receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. The results of any such audit shall be provided to the County.

f. **Lobbying Certification.** In executing this Agreement, each signatory certifies that:

- (1) No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuing, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for that party shall complete and submit the federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The parties shall require that the language of this certification be included

in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

- (4) By executing this Agreement, the parties affirm this lobbying certification with respect to the Harris Project and the Brazoria Project, respectively, and affirm this certification of the material representation of facts upon which reliance will be made. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352.
- (5) Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

g. **Force Majeure.** Each party shall be excused from any delay in or failure of its performance hereunder, which are caused by the following:

- (1) aircraft or railroad-train incident;
- (2) acts of God, such as earthquake, tidal wave, tornado, hurricane, flood, or other cataclysmic phenomena;
- (3) terrorism;
- (4) war or other national emergency; or
- (5) events or occurrences beyond the reasonable control of that party.

h. **Amendments.** Any changes in the character, agreement, terms and/or responsibilities of the parties hereto must be enacted through a written amendment. No amendment to this Agreement shall be of any effect unless in writing and executed by the County and TxDOT.

i. **Successors and Assigns.** This Agreement shall bind, and shall be for the sole and exclusive benefit of, the respective parties and their legal successors, including without limitation any successor agency to the County. TxDOT is permitted, without the consent of the County, to assign its interests in this Agreement to a successor agency or entity, which successor agency or entity exercises essentially the same rights and powers as are currently exercised by TxDOT. Other than as provided in the preceding sentence or otherwise in this Agreement, neither TxDOT nor the County shall assign, sublet, or transfer its interest in this Agreement without the prior written consent of the other party to this Agreement, unless otherwise provided by law. Notwithstanding the preceding, TxDOT shall provide written notice of any assignment to the County.

j. **Relationship of the Parties.** Except for the limited purposes expressly stated herein, nothing in this Agreement shall be deemed or construed by the parties, or by any third

party, as creating the relationship of principal and agent between TxDOT, Brazoria County, and/or BCTRA. Further, nothing in this Agreement, or the performance thereof by the parties, shall constitute a joint enterprise or partnership between TxDOT, Brazoria County, and/or BCTRA.

TxDOT agrees to directly undertake all its obligations under this Agreement or to cause such obligations to be undertaken by its developer for the Harris Project or another third party as TxDOT may reasonably determine. The County agrees to directly undertake all its obligations under this Agreement or to cause such obligations to be undertaken by its contractor for the Brazoria Project or another third party as County may reasonably determine.

k. **Representations and Warranties.** Each party to this Agreement represents to the other that it is fully authorized to enter into this Agreement and to perform its obligations hereunder; that this Agreement has been duly authorized by all necessary action of that party; and that each signatory on behalf of that party is fully authorized to bind that entity to the terms of this Agreement.

l. **Limitations.** All covenants and obligations of TxDOT and the County under this Agreement shall be deemed to be valid covenants and obligations of said entities, and no officer, director, or employee of TxDOT or the County shall have any personal obligations or liability hereunder.

m. **Sole Benefit.** This Agreement is entered into for the sole benefit of TxDOT and the County and their respective successors and permitted assigns. Nothing in this Agreement or in any approval subsequently provided by either party hereto shall be construed as creating any liability in favor of any third party or parties against either TxDOT or the County, relieving any third party or parties from any liabilities of such third party or parties to TxDOT or the County, or giving any benefits, rights, remedies, or claims to any other public or private person, firm, corporation or other entity.

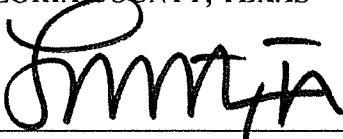
n. **Interpretation.** No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have drafted, prepared, structured, or dictated such provision.

TEXAS DEPARTMENT OF
TRANSPORTATION

By: *James M. Bass*
Its: *Executive Director*

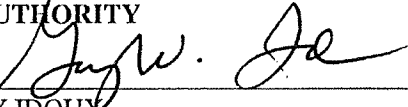
Date: *3/7/17*

BRAZORIA COUNTY, TEXAS

By: 
L.M. (MATT) SEBESTA, JR.
County Judge

Date: 1/9/17

BRAZORIA COUNTY TOLL ROAD
AUTHORITY

By: 
GARY IDOUX
Chairman

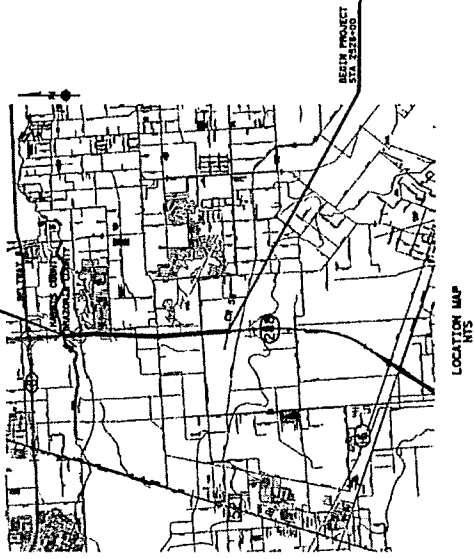
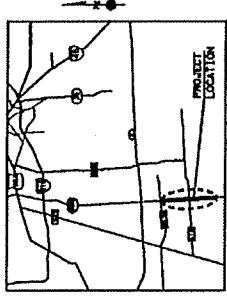
Date: 1/9/17

EXHIBIT A

MAP OF BRAZORIA PROJECT SHOWING STATE OWNED ROW

EXHIBIT A
 DEVELOPMENT, OPERATION AND MAINTENANCE
 FOR SH 288
 FROM CR 68 TO BRAZORIA COUNTY LINE
 BETWEEN
 BRAZORIA COUNTY
 AND
 THE TEXAS DEPARTMENT OF TRANSPORTATION
 HARRIS COUNTY

FROM CR 68 TO BRAZORIA COUNTY LINE
 NET LENGTH OF PROJECT - 25,486 FT - 4,862 MI



DATE: 11/02/2018 10:00:00 AM
 PROJECT: SH 288 FROM CR 68 TO BRAZORIA COUNTY LINE
 DRAWN BY: [unreadable]
 CHECKED BY: [unreadable]
 APPROVED BY: [unreadable]

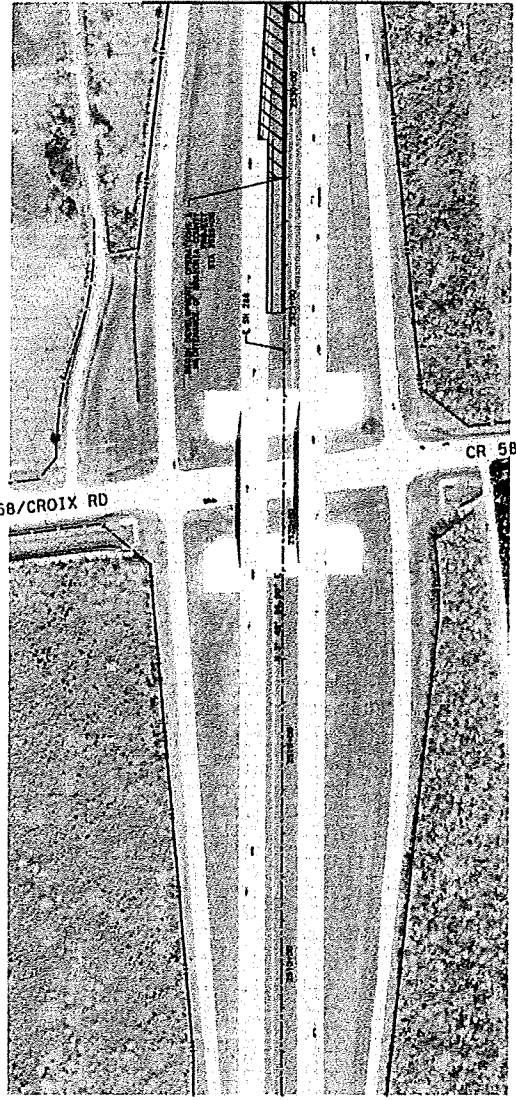
LEGEND

LIMITS OF AREA WHICH MAY BE PERMANENTLY
 ACQUIRED BY MARICOPA COUNTY FOR THE CONSTRUCTION,
 OPERATION AND MAINTENANCE OF THE MARICOPA COUNTY
 EXPRESSWAY.

LIMITS OF AREA WHICH MAY BE TEMPORARILY ACQUIRED
 DURING THE CONSTRUCTION OF THESE FACILITIES,
 WHICH ARE TEMPORARILY MAINTAINED AND MAINTAINED BY
 THE STATE OF ARIZONA.

NOTES:

1. MARKS OF TEMPORARY SIDE OF MARICOPA COUNTY
 SHALL NOT INTERFERE WITH THE CONSTRUCTION,
 OPERATION AND MAINTENANCE OF THIS EXHIBIT A.
 PLANNED FACILITIES SHOWN ON THIS EXHIBIT A.



0 50 100 150 200
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Arizona Department of Transportation

HNTB

EXHIBIT A
 SH 288
 DEVELOPMENT, OPERATIONS,
 AND MAINTENANCE OF THE
 MARICOPA PROJECT

NO.	DESCRIPTION	DATE
1	ISSUED FOR BIDDING	11/15/00
2	REVISION	11/15/00
3	REVISION	11/15/00
4	REVISION	11/15/00
5	REVISION	11/15/00
6	REVISION	11/15/00
7	REVISION	11/15/00
8	REVISION	11/15/00
9	REVISION	11/15/00
10	REVISION	11/15/00

Print Date: 11/15/00
 Plot File: \\hntb\hntb\proj\288\288.dwg
 Plot Title: EXHIBIT A
 Scale: 1"=100'
 Date: 11/15/00
 Author: J. L. GRIFFIN
 Check: J. L. GRIFFIN
 Date: 11/15/00
 Title: EXHIBIT A
 Project: SH 288

LEGEND

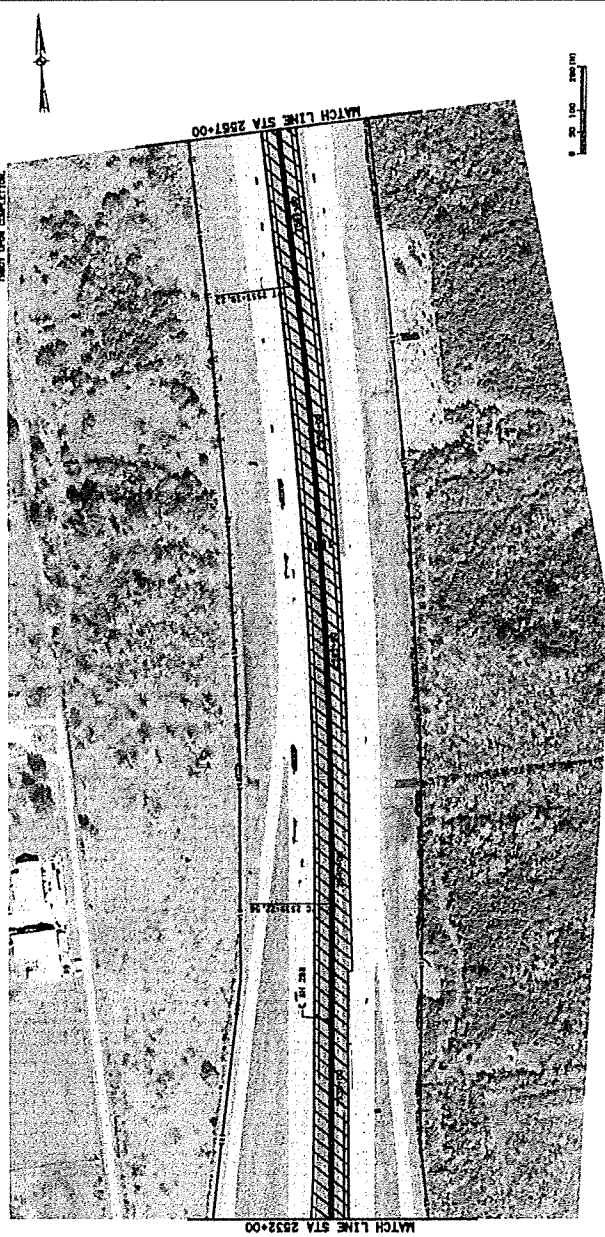
LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED BY MATERIAL QUANTITIES STORED AT OR NEAR THE CONSTRUCTION SITE, AND WHICH MAY BE TEMPORARILY OBTAINED BY CONTRACTOR'S EXPENDITURE.

LIMITS OF AREA WHICH MAY BE TEMPORARILY OBTAINED BY CONTRACTOR'S EXPENDITURE, DURING THE CONSTRUCTION OF THESE FACILITIES, AND WHICH WILL BE MAINTAINED AND MAINTAINED BY THE CONTRACTOR.

NOTES:

1. SCALE OF LIMITS AND BY MATERIAL QUANTITIES STORED AT OR NEAR THE CONSTRUCTION SITE, AND WHICH MAY BE TEMPORARILY OBTAINED BY CONTRACTOR'S EXPENDITURE, SHALL NOT EXCEED 1/4" = 100'.

2. PLANNED FACILITIES SHOWN ON THIS SHEET ARE SUBJECT TO CHANGE.



Scale: 1" = 100'

Texas Department of Transportation

HNTB

EXHIBIT A
SH 288
DEVELOPMENT, OPERATIONS,
AND MAINTENANCE OF THE
BRAXTON PROJECT

NO.	DATE	BY	REVISION

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 Plot: 10411+ 206.dwg
 Date: 12/17/2018

LEGEND

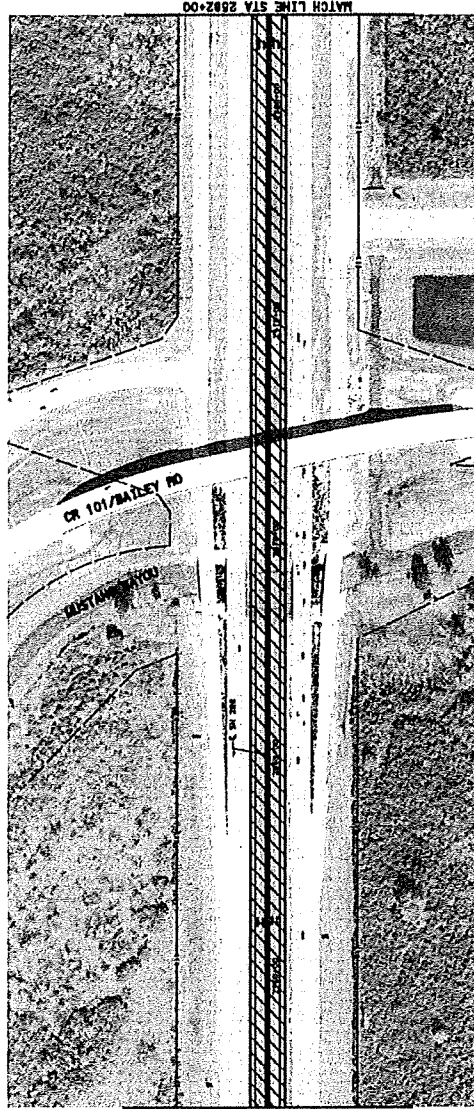
LIMITS OF AREA WHICH MAY BE PERMANENTLY ACQUIRED BY MARICOPA COUNTY FOR THE CONSTRUCTION AND MAINTENANCE OF THE MARICOPA COUNTY EXPRESSWAY.

LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED DURING THE CONSTRUCTION OF THESE FACILITIES. THESE AREAS WILL BE RESTORED AND MAINTAINED BY THE STATE AFTER COMPLETION.



NOTES

1. SHALL BE SUBJECT AREA BY MARICOPA COUNTY SHALL NOT INTERFERE WITH THE CONSTRUCTION PLANNED FACILITIES SHOWN ON THIS CONTRACT A.



Scale: 1" = 100'

HNTB
 Trans Department of Transportation
 1000 North Central Expressway
 Suite 1000
 Phoenix, Arizona 85004
 Phone: (602) 998-7000
 Fax: (602) 998-7001

PROJECT A
 SH 248
 DEVELOPMENT, OPERATIONS,
 AND MAINTENANCE OF THE
 MARICOPA PROJECT

NO.	DATE	BY	CHKD
1	10/1/00	J. J.
2	10/1/00	J. J.
3	10/1/00	J. J.

File Path: \\hntb\projects\248\248-001\248-001-001\248-001-001.dwg
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 Plot Scale: 1" = 100'

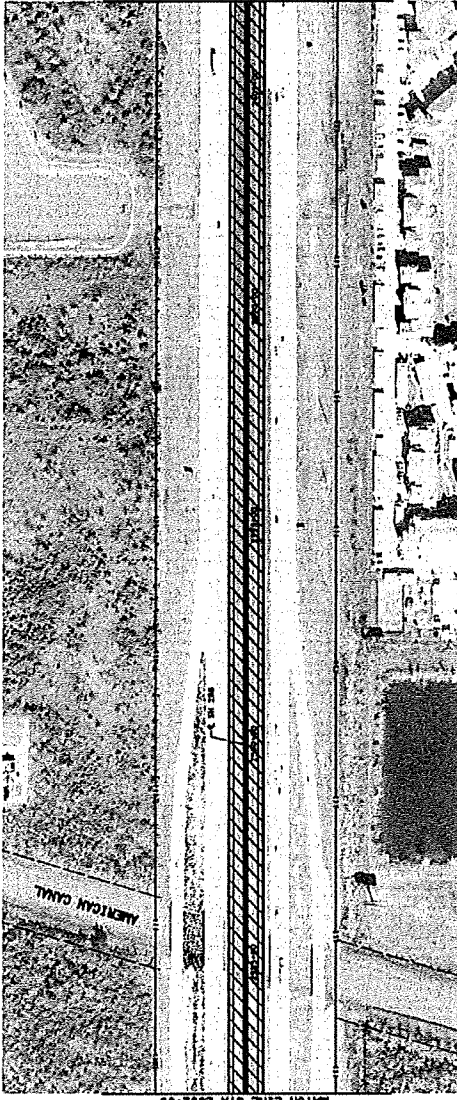
LEGEND

AREAS WHICH MAY BE TEMPORARILY OCCUPIED BY SANDHILL COUNTY FOR THE CONSTRUCTION, DEVELOPMENT, OPERATION, AND MAINTENANCE OF THE BRAZORIA PROJECT.

AREAS WHICH MAY BE TEMPORARILY OCCUPIED DURING THE CONSTRUCTION OF THESE FACILITIES AND WHICH WILL BE MAINTAINED AND MAINTAINED BY SANDHILL COUNTY.

NOTES:

1. SHALL BE CONFORM WITH THE CONSTRUCTION, DEVELOPMENT, OPERATION, AND MAINTENANCE PLAN FOR FACILITIES SHOWN ON SHEET EXHIBIT A.



Texas Department of Transportation

HNTB

EXHIBIT A
SHEET 25A

DEVELOPMENT, OPERATIONS,
AND MAINTENANCE OF THE
BRAZORIA PROJECT

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File Path: \\hntb\hntb\projects\2008\BRAZORIA\25A\25A.dwg
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 Plot Scale: 1:1
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 Plot Orientation: Landscape
 Plot Color: Black
 Plot Lineweight: 0.20
 Plot Font: Arial, 10
 Plot Title: BRAZORIA PROJECT - EXHIBIT A - SHEET 25A

LEGEND

LIMITS OF AREA BENCH MAY BE PERMANENTLY LOCATED BY SURVEILLANCE POINTS FOR THE CONSTRUCTION AND MAINTENANCE OF THE BASKIN COUNTY FACILITY.

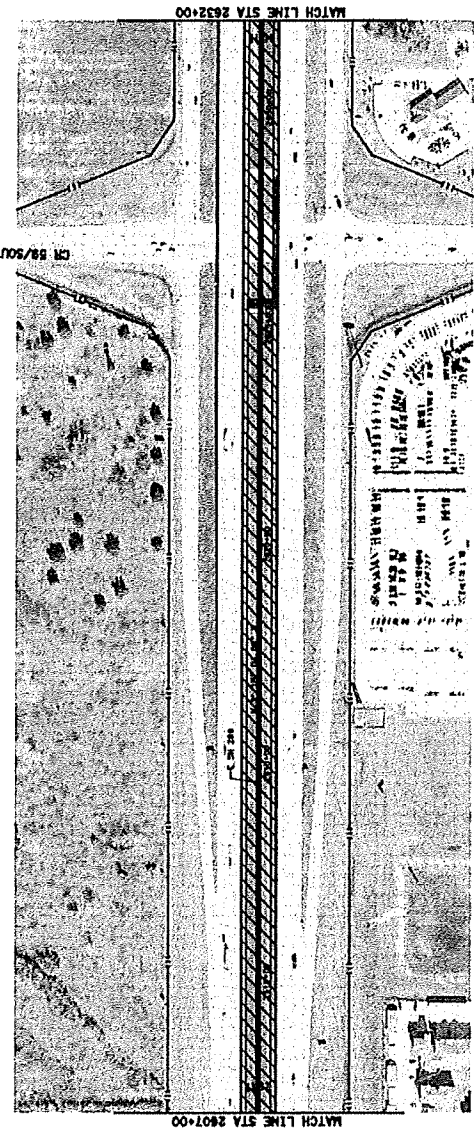
LIMITS OF AREA BENCH MAY BE TEMPORARILY LOCATED BY MARKING THE CONSTRUCTION OF THESE FACILITIES DURING THE CONSTRUCTION AND MAINTAINED BY THE STATE AFTER COMPLETION.

NOTES:

1. SHALL NOT INTERFERE WITH THE CONSTRUCTION OF PLANNED FACILITIES SHOWN ON THIS CONTRACT.



CR 58/SOUTHBORK DM



9 1/2" x 11" 20110
 1/4" = 100'

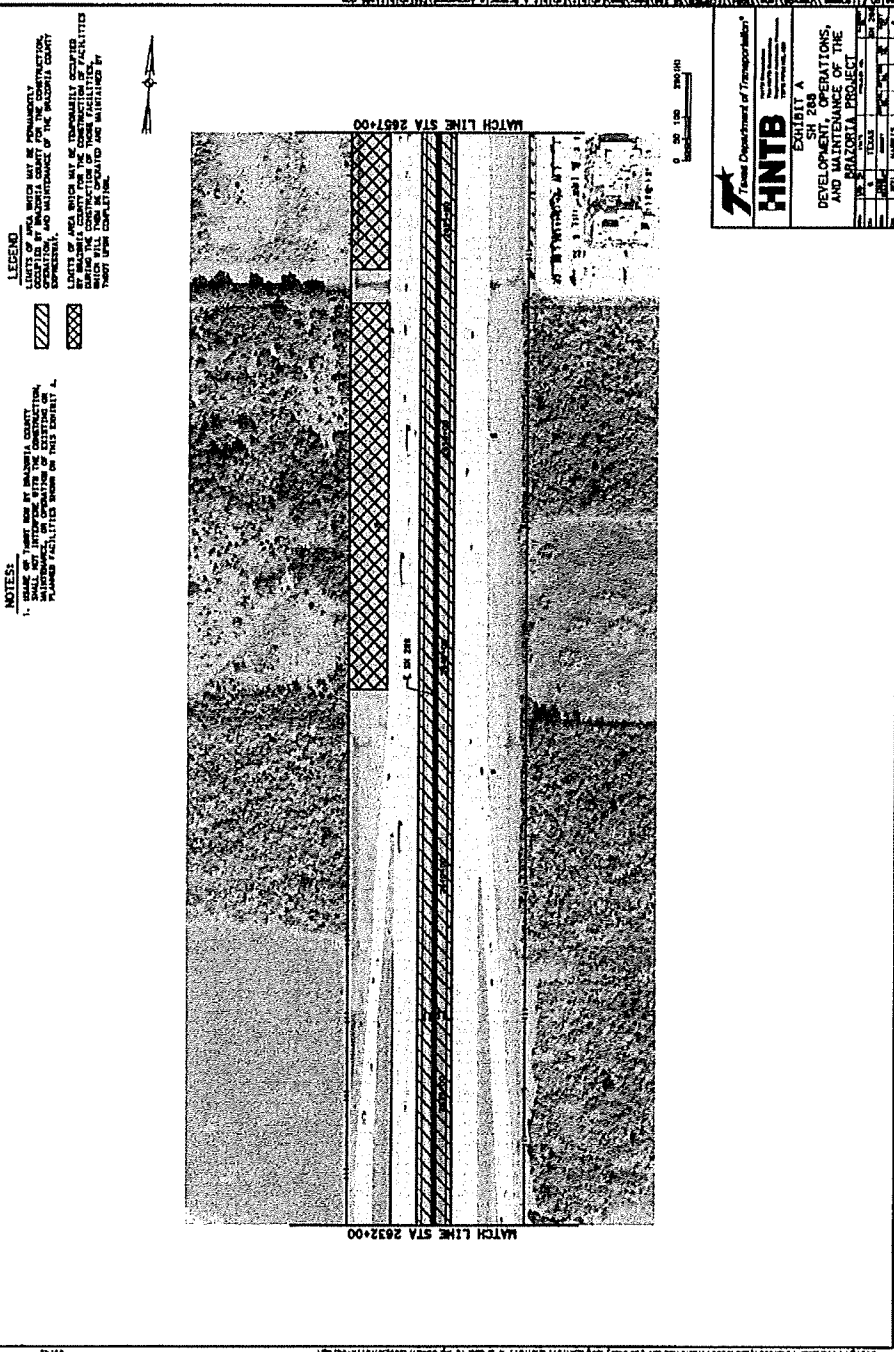
Texas Department of Transportation

HNTB

EXHIBIT A
 SH 286
 DEVELOPMENT, OPERATIONS,
 AND MAINTENANCE OF THE
 BASKIN COUNTY PROJECT

NO.	DATE	BY	DESCRIPTION
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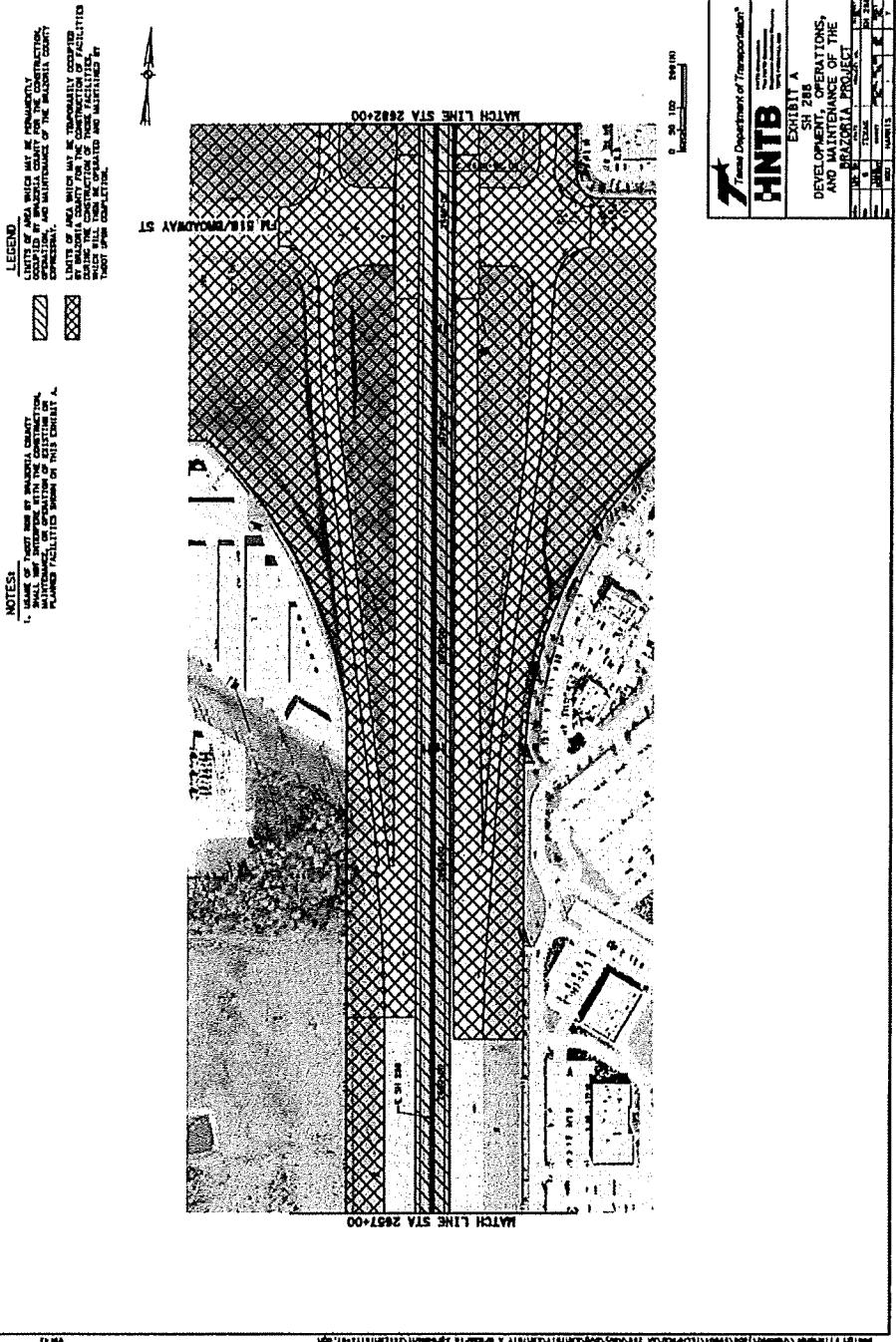
1. GRADE ON TOWER SIDE BY BRADSHAW COUNTY SHALL NOT INTERFERE WITH THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF THESE FACILITIES SHOWN ON THIS CONTRACT.

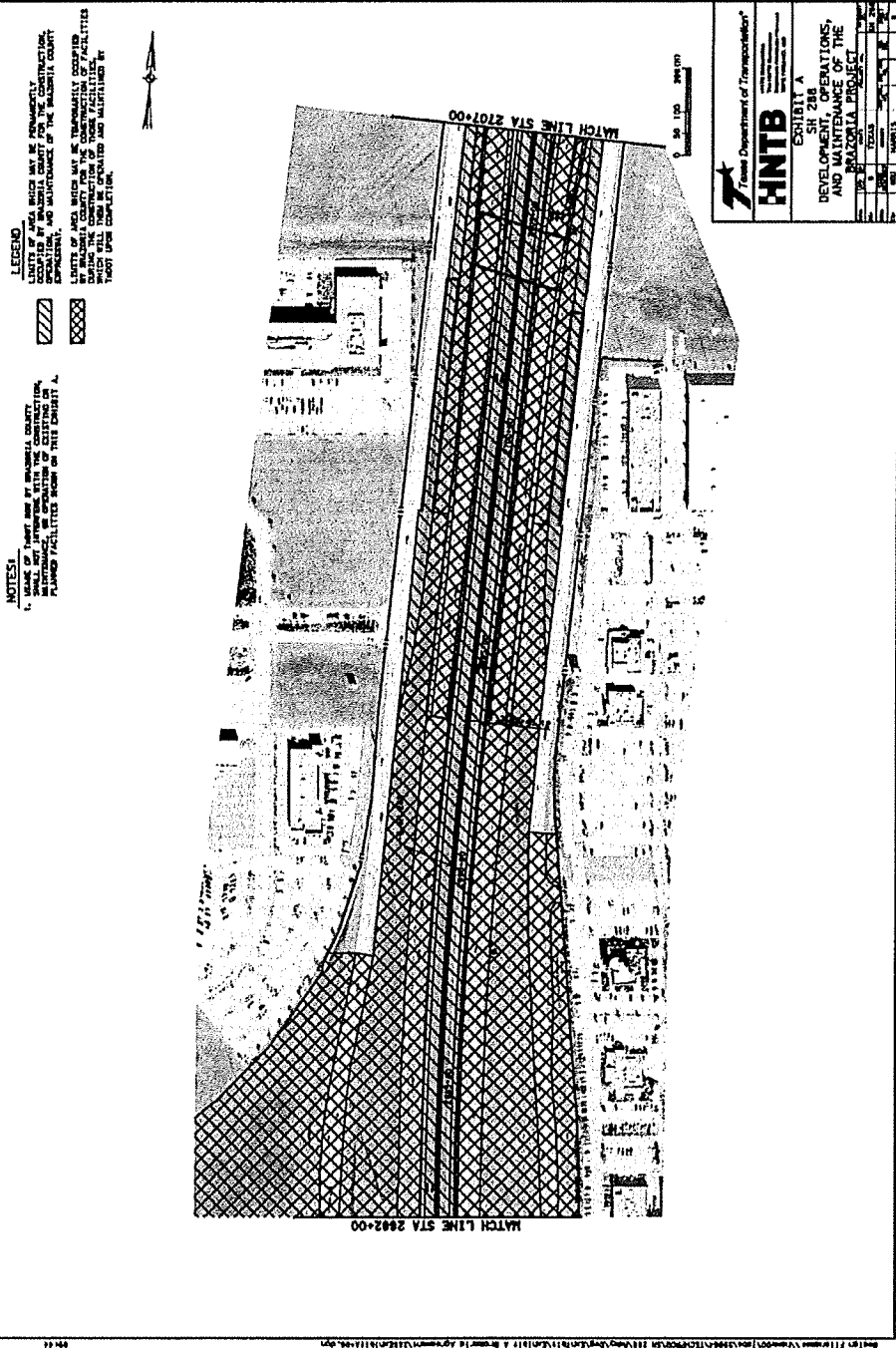
2. LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED DURING THE CONSTRUCTION OF THESE FACILITIES SHALL BE SPECIFIED AND MAINTAINED BY THE CONTRACTOR.

3. LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED BY THE CONTRACTOR FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF THE BRADSHAW COUNTY EXPRESSWAY SHALL BE SPECIFIED AND MAINTAINED BY THE CONTRACTOR.

HNTB
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 Texas Department of Transportation
 EXHIBIT A
 SH 208
 DEVELOPMENT, OPERATIONS,
 AND MAINTENANCE OF THE
 BRADSHAW COUNTY
 EXPRESSWAY PROJECT

DATE	NO.	DESCRIPTION
11/11/11	1	ISSUED FOR BIDDING
11/11/11	2	REVISED TO ADD BRADSHAW COUNTY
11/11/11	3	REVISED TO ADD BRADSHAW COUNTY
11/11/11	4	REVISED TO ADD BRADSHAW COUNTY
11/11/11	5	REVISED TO ADD BRADSHAW COUNTY
11/11/11	6	REVISED TO ADD BRADSHAW COUNTY
11/11/11	7	REVISED TO ADD BRADSHAW COUNTY
11/11/11	8	REVISED TO ADD BRADSHAW COUNTY
11/11/11	9	REVISED TO ADD BRADSHAW COUNTY
11/11/11	10	REVISED TO ADD BRADSHAW COUNTY





LEGEND

LIMITS OF JAVELA BRIDGE MAY BE PERMANENTLY LOCATED BY WALSHVILLE COUNTY FOR THE CONSTRUCTION AND MAINTENANCE OF THE WALSHVILLE COUNTY EXPANSION.

LIMITS OF JAVELA BRIDGE MAY BE TEMPORARILY OCCUPIED DURING THE CONSTRUCTION OF THESE FACILITIES UNTIL THE BRIDGE IS RECONSTRUCTED AND MAINTAINED BY WALSHVILLE COUNTY.

NOTES:

1. NAME OF TRACT AND CITY OF WALSHVILLE COUNTY, MISSOURI, SHALL BE SHOWN ON ALL PLANS AND CONTRACTS FOR THE CONSTRUCTION OF THESE FACILITIES SHOW ON THIS EXHIBIT A.

Texas Department of Transportation

HNTB

EXHIBIT A
SH 286
DEVELOPMENT, OPERATIONS,
AND MAINTENANCE OF THE
WALSHVILLE PROJECT

NO.	DATE	BY	REVISION
1	11/11/11	JL	ISSUED FOR BIDDING
2	11/11/11	JL	ISSUED FOR BIDDING
3	11/11/11	JL	ISSUED FOR BIDDING
4	11/11/11	JL	ISSUED FOR BIDDING
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10	11/11/11	JL	ISSUED FOR BIDDING

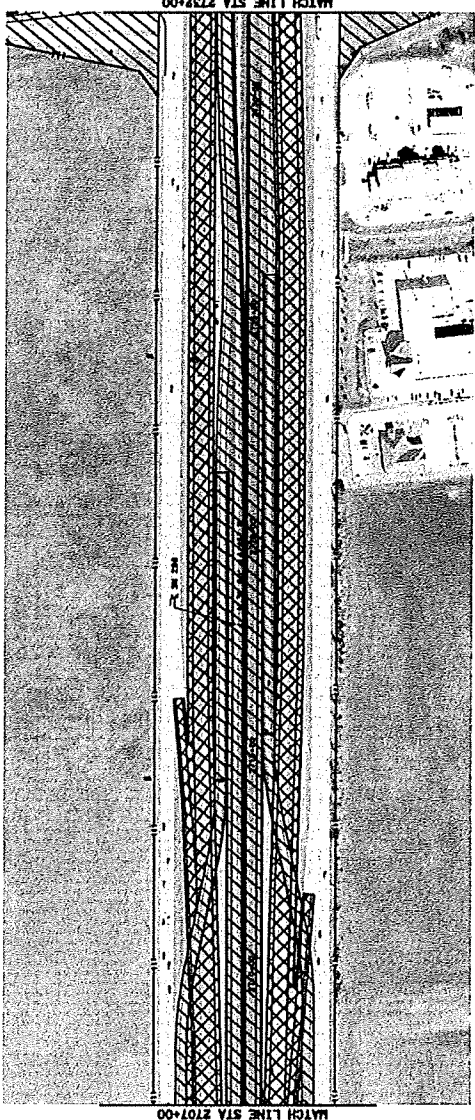
DATE: 11/11/11
 PROJECT: WALSHVILLE PROJECT
 SHEET: 286-1
 DRAWN BY: JL
 CHECKED BY: JL
 APPROVED BY: JL

NOTES:

1. RANGE OF 5' WIDE AND BY BRACKENRILL COUNTY. THIS RANGE IS TO BE MAINTAINED BY BRACKENRILL COUNTY FOR THE CONSTRUCTION AND MAINTENANCE OF THE BRACKENRILL COUNTY EXPANDED.

LEGEND:

- [Hatched Box] RANGE OF 5' WIDE AND BY BRACKENRILL COUNTY. THIS RANGE IS TO BE MAINTAINED BY BRACKENRILL COUNTY FOR THE CONSTRUCTION AND MAINTENANCE OF THE BRACKENRILL COUNTY EXPANDED.
- [Cross-hatched Box] LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED DURING THE CONSTRUCTION OF THESE FACILITIES. THIS AREA SHALL BE MAINTAINED AND MAINTAINED BY BRACKENRILL COUNTY.



0 100 200 FT

Texas Department of Transportation

HNTB

ENGINEER

PROJECT NO. 0-100-00000-1

CONTRACT NO. 0-100-00000-1

SECTION NO. 1

DATE: 12/27/18

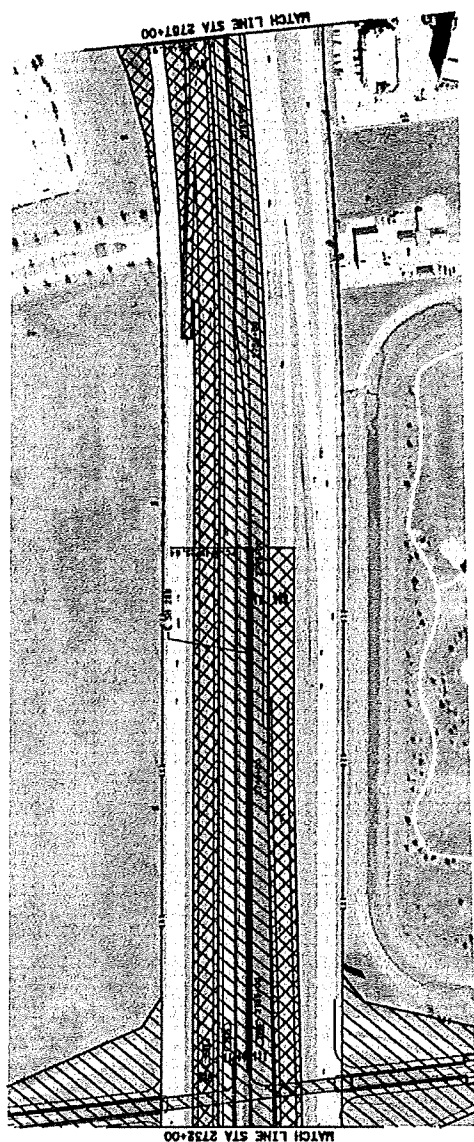
BY: [Signature]

FOR: DEVELOPMENT, OPERATIONS, AND MAINTENANCE OF THE BRACKENRILL COUNTY PROJECT

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 Plot File Size: 1000000 bytes
 Plot File Type: AutoCAD
 Plot File Version: 12.0

NOTES:
 1. SCALE OF THIS PLAN BY MARICOPA COUNTY SHALL BE THE SAME AS THE SCALE OF THE ORIGINAL PLAN. THIS PLAN SHALL BE CONSIDERED AS A PART OF THE ORIGINAL PLAN AND SHALL BE SUBJECT TO THE SAME REVISIONS AND AMENDMENTS AS THE ORIGINAL PLAN.

LEGEND
 LIMITS OF AREA WHICH MAY BE PERMANENTLY OCCUPIED BY AND MAINTAINED BY THE MARICOPA COUNTY EXPANSION.
 LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED DURING THE CONSTRUCTION OF THESE FACILITIES, BUT NOT PERMANENTLY MAINTAINED BY THE COUNTY AFTER COMPLETION.

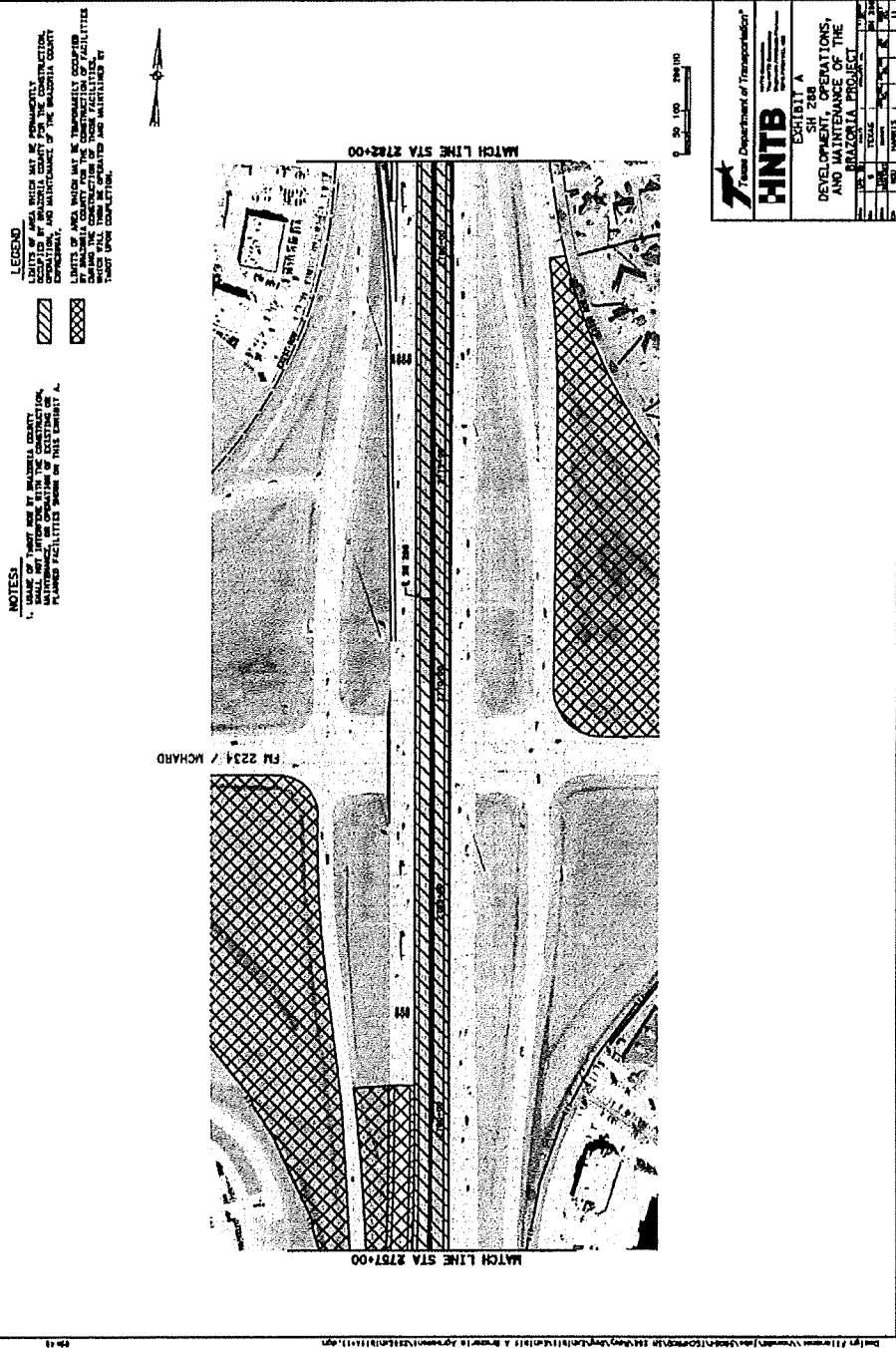


DATE: 12/10/2010
 TIME: 10:00 AM

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 Texas Department of Transportation
 EXHIBIT A
 SH 285
 DEVELOPMENT, OPERATIONS,
 AND MAINTENANCE OF THE
 MARICOPA PROJECT

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 Project File Size: 1,000,000 bytes
 Project File Date: 12/10/2010 10:00 AM



LEGEND

LIMITS OF AREAS WHICH MAY BE TEMPORARILY OCCUPIED BY HALL COUNTY FOR THE CONSTRUCTION, DEVELOPMENT, OPERATION, AND MAINTENANCE OF THE BRAZORIA COUNTY EXPRESSWAY.

LIMITS OF AREAS WHICH MAY BE TEMPORARILY OCCUPIED BY HALL COUNTY FOR THE CONSTRUCTION, DEVELOPMENT, OPERATION, AND MAINTENANCE OF THE BRAZORIA COUNTY EXPRESSWAY.

NOTES

1. LIMITS OF TEMPORARY USE BY HALL COUNTY SHALL NOT LIMIT LIABILITY OF CONTRACTOR. PLANNED FACILITIES SHOWN ON THIS EXHIBIT A.

Texas Department of Transportation

HNTB

EXHIBIT A
SH 288
DEVELOPMENT, OPERATIONS,
AND MAINTENANCE OF THE
BRAZORIA PROJECT

NO.	DATE	BY	REVISION
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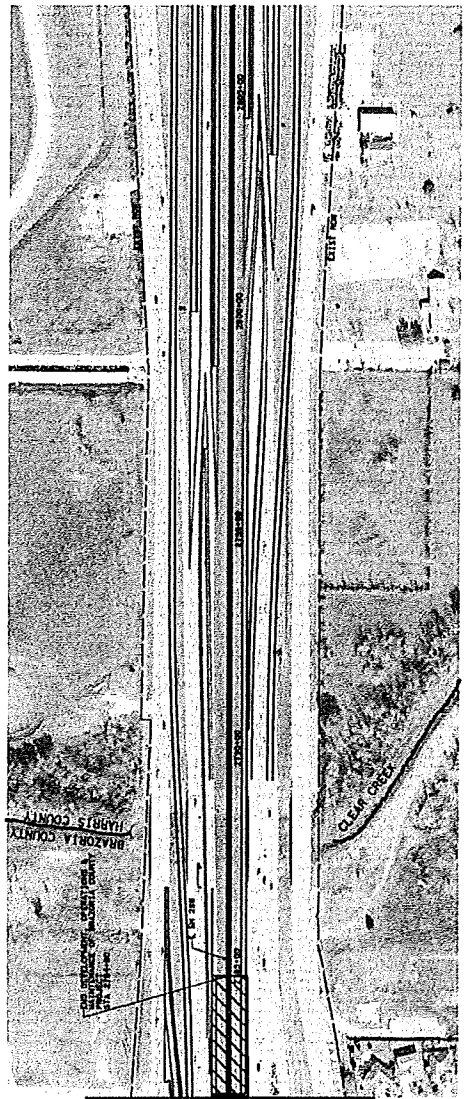
LEGEND

LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED BY BRAZORIA COUNTY FOR THE CONSTRUCTION, DEVELOPMENT, OPERATION, AND MAINTENANCE OF THE BRAZORIA COUNTY PROJECT.

LIMITS OF AREA WHICH MAY BE TEMPORARILY OCCUPIED BY THE STATE OF TEXAS FOR THE CONSTRUCTION OF BRIDGE FACILITIES DURING THE CONSTRUCTION OF THIS FACILITY. FACILITIES MUST BE CONSTRUCTED AND MAINTAINED BY THE STATE OF TEXAS.

NOTES

1. BRIDGE FACILITIES SHALL BE CONSTRUCTED, DEVELOPED, OPERATED, AND MAINTAINED BY THE STATE OF TEXAS. BRIDGE FACILITIES SHALL BE CONSTRUCTED AND MAINTAINED BY THE STATE OF TEXAS.



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Texas Department of Transportation

HNTB

ESTIMATE A
SH 248
DEVELOPMENT, OPERATIONS,
AND MAINTENANCE OF THE
BRAZORIA PROJECT

NO.	DATE	BY	CHKD.
1	10/15/11	J. H. ...	...
2	10/15/11	J. H. ...	...
3	10/15/11	J. H. ...	...
4	10/15/11	J. H. ...	...
5	10/15/11	J. H. ...	...
6	10/15/11	J. H. ...	...
7	10/15/11	J. H. ...	...
8	10/15/11	J. H. ...	...
9	10/15/11	J. H. ...	...
10	10/15/11	J. H. ...	...

PROJECT: BRAZORIA COUNTY PROJECT, ESTIMATE A, SH 248, DEVELOPMENT, OPERATIONS, AND MAINTENANCE OF THE BRAZORIA PROJECT. SHEET: 10 OF 12. DATE: 10/15/11. DRAWN BY: J. H. ...

EXHIBIT B
HANDBACK REQUIREMENTS

HANDBACK REQUIREMENTS

1. Handback Requirements

The County must prepare a Handback Plan that contains the methodologies and activities to be undertaken or employed to meet the requirements of TxDOT at the time the County transfers the Brazoria Project to TxDOT (“Handback” or the “Handback Date”) pursuant to Section 10 of the Agreement. County must submit the Handback Plan, including a Residual Life Methodology Plan, to TxDOT for review at least 48 months before the anticipated Handback Date. The Parties will resolve comments to allow TxDOT approval of the Residual Life Methodology Plan at least 36 months before the anticipated Handback Date. The Residual Life Methodology Plan must include all elements that are part of the Brazoria Project, including entrance and exit ramps and associated structures (collectively, the “Elements”). The County is responsible for performing, at its expense, all work necessary so that the Brazoria Project meets the Residual Life Requirements specified in the Handback Plan on the Handback Date.

Table 1, Residual Life Requirements, defines the Residual Life at Handback which the Elements must have at Handback. For any Element in Table 1, where a Residual Life at Handback is specified, the Residual Life at Handback must be equal to or greater than the period set forth. The time period of the Required Final Residual Life as noted in Table 1 begins at Handback Date. For any Element of the Brazoria Project for which a Residual Life at Handback is not specified in Table 1, the Residual Life at Handback for the Element must equal the documented serviceable life of the Element or five (5) years, whichever is less.

2. Residual Life Inspections

(a) Once the County determines and notifies TxDOT of the intent to transfer the facility to TxDOT, the County will perform Residual Life Inspections within the Brazoria Project. The Residual Life Inspections will include all Elements within the Brazoria Project regardless of whether the County has undertaken Renewal Work for a particular Element in the period prior to any Residual Life Inspection. The County will prepare and submit to TxDOT a plan for conducting three (3) Residual Life Inspections over the course of 36 months prior to the Handback Date. TxDOT must be given the opportunity to witness any of the inspections and/or tests. The County must deliver to TxDOT, within ten (10) calendar days after it is created, the output data arising from any testing and any interpretation thereof made by the testers. Within thirty (30) days following performance of each Residual Life Inspection, the County must submit to TxDOT the findings of the inspection, Residual Life test results and Residual Life calculations. County must perform Residual Life Inspections and testing with appropriate coverage such that the results are representative of the whole Brazoria Project as described in Table 1.

(b) The Residual Life Methodology Plan must contain the evaluation and calculation criteria to be adopted for the calculation of the Residual Life at Handback for all Elements of the Brazoria Project. The scope of any Residual Life testing must be included, together with a list of all independent Residual Life testing organizations, proposed by the County.

(c) TxDOT’s written approval of the Residual Life Methodology Plan, including the scope and schedule of inspections, is required before commencement of Residual Life Inspections.

- (d) County must perform all Work necessary to meet or exceed the Residual Life requirements contained in Table 1 by the time of Handback of the Brazoria Project to TxDOT.
- (e) At the point of Handback, the County must certify in writing to TxDOT that all physical Elements of the Brazoria Project meet or exceed their respective Residual Life requirements.
- (f) Between thirty-six (36) and thirty-three (33) months prior to the Handback Date, the County must perform the first Residual Life Inspection (the First Inspection), including all Elements set forth in Table 1. Within thirty (30) calendar days following performance of the First Inspection, the County must submit to TxDOT the First Inspection Report which must contain the findings of the inspection, including Residual Life test results, the report of the independent testing organization(s), and County calculation of the Residual Life at Handback for all Elements.
- (g) Between twenty-one (21) and eighteen (18) months prior to the Handback Date, the County must perform the second Residual Life Inspection (the Second Inspection) including all Elements within the Brazoria Project, regardless of whether the County has undertaken Renewal Work for a particular Element in the period since the First Inspection. Within thirty (30) calendar days following performance of the Second Inspection, County must submit the Second Inspection Report to TxDOT, which must contain the findings of the inspection.
- (h) Between twelve (12) and six (6) months before the Handback date, the County must perform a final Residual Life Inspection (the Final Inspection) including all Elements within the Brazoria Project, regardless of whether the County has undertaken Renewal Work for a particular Element in the period since the First Inspection. Within thirty (30) calendar days following performance of the Final Inspection, the County must submit the Final Inspection Report to TxDOT, which must contain the findings of the inspection.

Table 1 Residual Life Requirements
for Brazoria Project

Element Category	Required Final Residual Life (yrs)	Element Category	Required Final Residual Life (yrs)	Element Category	Required Final Residual Life (yrs)
Structures		Road Pavement		Ancillary	
Reinforced concrete	50	Main lanes	10	Earthwork slopes	50
Pre-stressed concrete	50			Metal beam guard rail	10
Structural steelwork	50	Frontage/access roads	10	Concrete barrier	20
Weathering steel	50	Toll plaza approaches	10	Impact attenuators	*
Corrugated steel	20			Lighting columns	10
Corrosion protection for structural steelwork	10	High mast lighting	10	High mast lighting Overhead signs	10
Deck surfacing	10			Traffic signal housing and mountings	10
Deck joints	10			Fences	10
Bearings	30			Manhole covers, gratings, frames, and boxes	50
Railing	50	Toll Collection and TM Facilities	N/A	curbs and gutters	10
Sign/signal gantries	30			Lanterns (lamps/luminaires)	*
Retaining walls	25	Drainage		Roadside traffic signs	*
Noise Walls	25	Underground storm sewer systems	50	Pavement markings	*
Traffic signal poles	10	Culverts	50	Delineators	*
		Ditches	10		
		Inlets	50		

* See attached description of conditions at Handbook

3. Description of Conditions at Handback

The County agrees that it will perform, at its expense, all work necessary so that the Brazoria Project meets the requirements shown below on the Handback Date.

3.1 Graffiti:

Graffiti is removed in a manner and using materials that restore the surface to a like appearance similar to adjoining surfaces.

3.2 Guardrails and Safety Barriers

All guardrails, safety barriers, concrete barriers, etc. are free of defects. They are appropriately placed and correctly installed at the correct height and distance from roadway or obstacles. Installation and repairs shall be carried out in accordance with the requirements of NCHRP 350 standards.

3.3 Impact attenuators

All impact attenuators are appropriately placed and correctly installed, and functional, free from structural defects.

3.4 Traffic, Toll, and Guide Signs

- a. Signs are clean, correctly located, clearly visible, legible, reflective, at the correct height and free from structural and electrical defects.
- b. Identification markers are provided, correctly located, visible, clean and legible.
- c. Sign mounting posts are vertical and structurally sound.
- d. All break-away sign mounts are clear of silt or other debris that could impede break-away features and shall have correct stub heights.
- e. Obsolete and redundant signs are removed or replaced as appropriate.
- f. Visibility distances meet the stated requirements.
- g. Sign information is of the correct size, location, type and wording to meet its intended purpose and any statutory requirements.
- h. All structures and elements of the signing system are free from debris and have clear access provided.
- i. Dynamic message signs are in an operational condition.

3.4.1 General – Safety critical signs

Requirements as above, plus: “Stop,” “Yield,” “Do Not Enter,” “One Way” and “Wrong Way” signs are clean, legible and undamaged.

3.5 Drainage

Pipes and Channels:

- a. Each element of the drainage system is functioning by cleaning, clearing and/or emptying as appropriate from the point at which water drains from the travel way to the outfall or drainage way.
- b. Drainage treatment devices: drainage treatment and balancing systems, flow and spillage control devices function correctly and their location and means of operation is recorded adequately to permit their correct operation in emergency.
- c. Travel Way: The travel way is free from water to the extent that such water would represent a hazard by virtue of its position and depth.
- d. Discharge systems: surface water discharge systems perform their proper function and discharge to groundwater and waterways complies with the relevant legislation and permits.
- e. Drainage pathways through and around concrete traffic barriers that are located between the

toll/managed lanes and general purpose lanes, are maintained in their proper function and clean to avoid ponding that impacts the travel way for the toll/managed lanes and the general purpose lanes.

3.6 Roadway Lighting - General

- a. All lighting is free from defects and provides acceptable uniform lighting quality.
- b. Lanterns are clean and correctly positioned.
- c. Lighting units are free from accidental damage or vandalism.
- d. Columns are upright, correctly founded, visually acceptable and structurally sound.
- e. All obstruction lights are present and working (if required).
- f. Compartment door is secure with all bolts in place.

3.7 Performance Requirements for Pavements

3.7.1 Pavement Condition Rating System

Unless stated otherwise, measurements shall be conducted using procedures, techniques, and measuring equipment consistent with a TxDOT approved Pavement Management Rating System.

Measurement:

Pavement Condition Score for 80% of Auditable Sections exceeding:

- Mainlanes and ramps – CRS = 7.5 - 100%

3.7.2 Pavement Ruts – Mainlanes, Shoulders & Ramps

Depth as measured using an automated device in compliance with TxDOT Standards. 10ft straight edge used to measure rut depth for localized areas.

Measurement:

Percentage of wheel path length with ruts greater than ¼" in depth in each Auditable Section:

- Mainlanes, shoulders and ramps – 3% - Nil
- Frontage roads – 10% - Nil

Depth of rut at any location greater than 0.5" – Nil

3.7.3 Pavement Ride Quality

Measurement of International Roughness Index ("IRI") according to TxDOT standard Tex-1001-S, Operating Inertial Profilers and Evaluating Pavement Profiles.

To allow for measurement bias, an adjustment of -10 (minus ten) is made to IRI measurements for concrete pavements before assessing threshold compliance.

Renewal work and new construction subject to construction quality standards.

Measurement:

For 80% of all Auditable Sections measured, IRI throughout 98% of each Auditable Section is less than or equal to:

- Mainlanes, ramps – 95** inches per mile
- IRI measured throughout 98% of each lane containing a bridge deck in any Auditable Section, 0.1 mile average – 200** inches per mile
- Individual discontinuities greater than 0.75" – Nil

**To allow for measurement bias, an adjustment of -10 (minus 10) is made to IRI measurements for concrete pavements before assessing threshold compliance.

3.7.4 Pavement Failures

No instances of failures exceeding the failure criteria set forth in the TxDOT approved Pavement Management Rating System, including potholes, base failures, punchouts and jointed concrete pavement failures.

3.7.5 Joints in Concrete

Joints in concrete paving are sealed and watertight.

3.7.6 Curbs

Curbs are free of defects.

3.7.7 Pavement Markings

Pavement markings are:

- a. clean and visible during the day and at night
- b. whole and complete and of the correct color, type, width and length
- c. placed to meet the TMUTCD and TxDOT's Pavement Marking Standard Sheets

Markings – General Portable retroreflectometer, which uses 30 meter geometry meeting the requirements described in ASTM E 1710.

3.7.8 Raised reflective markers

Raised reflective pavement markers, object markers and delineators are:

- a. clean and clearly visible
 - b. of the correct color and type
 - c. reflective or retroreflective as TxDOT standard
 - d. correctly located, aligned and at the correct level firmly fixed in a condition that will ensure that they remain at the correct level.
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