



FEDERAL HIGHWAY ADMINISTRATION FINDING OF NO SIGNIFICANT IMPACT

FM 1093/Westpark Tollway: From FM 1463/FM 359 to SH 99 (Grand Parkway) Fort Bend County, Texas CSJs: 1258-03-042 and 1258-03-043

INTRODUCTION

The Federal Highway Administration (FHWA) has determined, in accordance with 23 CFR § 771.119 and § 771.121, that the FM 1093/Westpark Tollway project (from FM 1463/FM 359 to SH 99 [Grand Parkway]), located in Fort Bend County, Texas, will not have a significant impact on the human or natural environment. This Finding of No Significant Impact (FONSI) for the Preferred Alternative is based on the April, 2014 FM 1093/Westpark Tollway Environmental Assessment (EA). The EA was approved by FHWA for public involvement on January 22, 2014. Notices offering an opportunity for a public hearing were published on February 27, 2014, March 2, 2014, March 20, 2014 and March 23, 2014. No requests for a public hearing were received by April 2, 2014; therefore, no hearing was scheduled.

The Texas Department of Transportation (TxDOT) and Fort Bend County propose to widen and extend 4.1 miles of FM 1093/Westpark Tollway from FM 1463/FM 359 to SH 99 (Grand Parkway). The proposed project would extend the existing Westpark Tollway (four-lane controlled access tollway with continuous non-toll frontage roads) from its current terminus at SH 99 through the FM 723 intersection. The toll lanes would terminate and tie into the non-toll frontage roads west of the FM 723 intersection. The four-lane divided facility would continue west through the intersection of Westheimer Lakes North Drive. West of Westheimer Lakes North Drive, the four-lane divided roadway would taper into the existing two-lane facility immediately east of the FM 1463/FM 359 intersection. The outside lanes of the non-toll frontage roads would accommodate bicycles. A five-foot sidewalk is proposed on the north side of the FM 1093 non-toll two-lane westbound frontage road facility for the entire length of the proposed project. A sidewalk is not proposed on the south side of the proposed project since a remaining 50-foot section of the Houston METRO right-of-way (ROW) would stay available for future rail use.

The April 2014 EA has been independently evaluated by the FHWA and determined to adequately and accurately discuss the purpose, need, alternatives, environmental issues, and impacts of the previously referenced proposed FM 1093/Westpark Tollway project and appropriate mitigation measures. This document provides sufficient evidence and analysis for determining that an Environmental Impact Statement (EIS) is not required. The April 2014 EA is incorporated by reference into this decision document.

PROJECT BACKGROUND

Currently, FM 1093 is a two-lane undivided facility (one 13-foot lane in each direction) with ten-foot outside shoulders. The existing ROW is typically 100 feet in width. The posted speed limit is 55 miles-per-hour (mph). The existing Westpark Tollway, also known as the Fort Bend Westpark Tollway, is a limited access toll road serving western Houston and Harris County and northeastern Fort Bend County. The existing Westpark Tollway begins at Post Oak Boulevard in the Uptown District of Houston and runs approximately 20 miles west to SH 99. It runs roughly parallel and to the south of Westheimer Road (FM 1093) in Harris County and concurrently with FM 1093 in Fort Bend County. The Harris County Toll Road Authority (HCTRA) and the Fort Bend County Toll Road Authority (FBCTRA) operate the existing Westpark Tollway jointly. The 14-mile HCTRA section is named Westpark Tollway and the six-mile section of the toll road operated by the FBCTRA is named Fort Bend Westpark Tollway.

The needs for the proposed project, or the reasons for the proposed project, are identified in the EA. Currently, FM 1093 is a heavily congested roadway heading east during morning commutes and heading west during afternoon commutes. According to traffic crash data obtained for FM 1093 (and seen in Section 1.5 of the EA), two fatalities have occurred since 2009 along FM 1093 within the proposed project limits; one fatality in 2009 and one fatality in 2011. In addition, in May 2012 TxDOT closed Gaston Road at FM 1093 to left turn movements due to the number of crashes occurring at this intersection. The Gaston Road/FM 1093 closure no longer allows vehicular traffic to turn left from Gaston Road onto eastbound FM 1093 and no longer allows vehicular traffic to turn left from eastbound FM 1093 onto northbound Gaston Road. Due to the high number of crashes, including fatalities, all left turn movements have been removed from this T-intersection.

FM 1093 is an established major transportation route connecting western Houston/Harris County with northeastern Fort Bend County, serving numerous surrounding communities. The proposed project is located just east of the City of Fulshear city limits and is located in the Extra Territorial Jurisdiction (ETJ) of the Cities of Fulshear, Katy, Richmond, and Houston. Increases in population and employment in Fort Bend County and the above-mentioned cities, coupled with ongoing and projected urban development in the project region and with the roadway functioning at a Level of Service (LOS) F (greater than 100 percent capacity), results in the need to improve the FM 1093 rural design facility to a proposed freeway section to meet existing and predicted traffic volumes and improve safety.

From 2010 to 2035, the Houston-Galveston Area Council (H-GAC), the Metropolitan Planning Organization (MPO), predicts increases in population and employment in Fort Bend County and the Cities of Fulshear, Katy, Richmond, and Houston, with Fort Bend County and the City of Fulshear identified as having the highest increases in population and employment.

The proposed project is needed due to the surrounding area's growth in population with new and future development. In addition, FM 1093 is a rural roadway design (two-lane undivided roadway) that needs to be upgraded to an urban roadway system (four-lane divided roadway). The existing FM 1093 roadway does not provide safe mobility for local residents or safe system connectivity for the region.

Traffic projections reflect growth in the project area. Due to residential and business expansion within the proposed project area, traffic demands along FM 1093 have greatly increased. The average daily traffic for FM 1093 in the project area is 12,800 vehicles-per-day (vpd) for the year 2010 and 64,400 vpd for the year 2035. As stated previously, the existing FM 1093 roadway is functioning at a LOS F (greater than 100 percent capacity). The existing FM 1093 roadway would not meet traffic demands if improvements were not implemented.

The proposed FM 1093/Westpark Tollway project is included in the Fort Bend County Major Thoroughfare Plan, the City of Fulshear's Major Thoroughfare Plan, and the City of Houston's Major Thoroughfare Plan. The City of Katy's Thoroughfare Plan, Major & Secondary Streets, does not extend into the FM 1093 proposed project area. The City of Richmond does not have a major thoroughfare plan. Fort Bend County Commissioners approved a motion for an agreement on the road expansion project for FM 1093 on October 8, 2010.

The purpose of the proposed project, or solutions to the needs, is identified in the EA. The purpose of the proposed project is to 1) reduce congestion, 2) increase safety, and 3) improve operational efficiency along a congested and developing FM 1093 corridor.

The FM 1093/Westpark Tollway project was developed in accordance with the National Environmental Policy Act (NEPA) of 1969, Council on Environmental Quality (CEQ) Regulation for Implementing the Procedural Provisions of the NEPA (40 CFR §1500-§1508), FHWA Environmental Impact and Related Procedures (23 CFR §Part 771), Public Involvement Rules (43 TAC Chapter 2), and other related federal and state requirements.

REVIEW OF THE EA

TxDOT completed the Draft EA in December 2013, and FHWA issued a Satisfactory for Further Processing on January 22, 2014. The EA considered and analyzed the potential social, economic, and environmental impacts associated with the widening and extension of the FM 1093/Westpark Tollway from FM 1463/FM 359 to SH 99 (Grand Parkway). The potential impacts studied include direct, indirect, and cumulative impacts of the proposed project.

Three Build Alternatives (Alternatives 1, 2, and 3) and a No Build Alternative were evaluated to assess their capability to reasonably and feasibly satisfy the purpose and need of the proposed project, while minimizing adverse impacts to the human and natural environments. Through the evaluation process, it was determined that Alternatives 2 and 3 would be eliminated from further study:

- Alternative 2 was eliminated from further study due to the fact that METRO chose to preserve a 50-foot portion of their 100-foot ROW for potential future rail and will not allow additional acquisition beyond the 50-foot portion identified in Alternative 1.

- Alternative 3 was eliminated from further study due to a greater number of displacements/relocations than Alternative 1, and a greater number of noise sensitive receptors than Alternative 1.

Alternative 1 was selected to be carried forward for further study as the Preferred Alternative in the EA.

The No Build Alternative assumes no transportation improvements on FM 1093. The No Build Alternative would not address existing or increased traffic demands or regional connectivity. This alternative would not meet the purpose and need of the proposed project.

The selected Build Alternative, as described in the approved EA, is the selected Preferred Alternative. The Preferred Alternative would widen and extend FM 1093/Westpark Tollway from FM 1463/FM 359 to SH 99 (Grand Parkway). The proposed project is described on page 1 of this FONSI document and below. Approximately 72.11 acres of additional ROW would be required. The proposed project would expand the existing ROW from typically 100-feet to a maximum of 315-feet at major cross streets. The expanded ROW would accommodate a four-lane controlled access tollway with continuous non-toll, one-way two-lane frontage roads from its current terminus at SH 99 through the FM 723 intersection. The toll lanes would terminate and tie into the non-toll, one-way two-lane frontage roads west of the FM 723 intersection. This section would become a four-lane divided facility and continue west through the intersection of Westheimer Lakes North Drive. West of Westheimer Lakes North Drive, the four-lane divided roadway would taper into the existing two-lane facility immediately east of the FM 1463/FM 359 intersection. The expanded ROW would also accommodate a five-foot sidewalk on the north side of FM 1093 and the outside lanes of the non-toll frontage roads would accommodate bicycles.

The Preferred Alternative would consist of two grade-separated overpasses: 1) Spring Green/FM 723, and 2) Katy-Gaston Road. These existing cross street signalized intersections would be reconstructed into timed signalized intersection pairs with the non-toll, one-way two-lane frontage roads. Turns lanes would be included at these cross streets and one-way frontage road intersections to provide traffic turning movements with a LOS meeting design criteria. U-turns would be constructed at both overpass locations to facilitate eastbound and westbound non-toll frontage road access from other side streets within the proposed project limits.

Right turn lanes would be constructed with the non-toll, one-way two-lane frontage roads and four-lane divided facility at side street intersections, as part of the Preferred Alternative. Side streets considered to need right turn lanes, at this time, include Westheimer Lakes North Drive, Canyon Fields Drive, Cinco Rose Drive and Gaston Road. It should be noted that in May 2012, TxDOT closed Gaston Road at FM 1093 to left turn movements due to the number of crashes occurring at this intersection. The Gaston Road/FM 1093 closure no longer allows vehicular traffic to turn left from Gaston Road onto eastbound FM 1093 and no longer allows vehicular traffic to turn left from eastbound FM 1093 onto northbound Gaston Road. Due to the high number of crashes, including fatalities, all left turn movements have been removed from this T-intersection. In addition to a right turn lane, left turn lanes and a center median turnaround would be constructed between the four-lane divided facility to provide eastbound and westbound access

to Westheimer Lakes North Drive. The center median turnaround would facilitate eastbound and westbound divided facility access from other side streets between FM 1463/FM 359 and Spring Green/FM 723 intersections.

The Preferred Alternative achieves the project objectives and minimizes environmental impacts. As a result of public involvement, the project development process, and coordination with local officials, the Preferred Alternative was chosen to improve the rural design facility to meet current TxDOT standards, increase capacity to provide a more efficient transportation facility between the proposed project limits and to accommodate future traffic demands, improve safety, decrease traffic congestion and reduce travel times, and minimize the cost of the proposed project, ROW acquisitions, and environmental impacts.

The No Build Alternative would leave the existing facility as is. Normal routine maintenance would continue, and all other pending, previously authorized actions would proceed as long as they didn't require additional travel lanes.

In accordance with the regulatory requirements of Section 106 of the National Historic Preservation Act and the terms of the First Amended Programmatic Agreement, coordination with the Texas Historical Commission (THC) for Historic Structures and Archeology has been completed:

- TxDOT Historians have determined that no historic resources are present within the proposed project's Area of Potential Effects (APE). Individual project coordination with the Texas State Historic Preservation Officer (SHPO) is not required (February 27, 2014).
- TxDOT and the THC/Texas SHPO consulted on the proposed project impacts. The THC/Texas SHPO concurred that the proposed project will not affect archeological resources that would be afforded further consideration under cultural resources laws (June 21, 2012 and October 18, 2012).

Coordination with Texas Parks and Wildlife Department (TPWD) was completed on December 27, 2012. The Preferred Alternative would not require the use of any publicly owned land from a public park, recreation area, wildlife/waterfowl refuge, or any significant historic site. Therefore, neither a Section 4(f) nor a 6(f) evaluation would be required for the Preferred Alternative. The results of the air quality assessment indicate that no mitigation is necessary. The results of the noise analysis indicate that noise abatement measures would be reasonable and feasible; therefore, noise abatement measures are proposed for the project. The proposed project would not impact any waters of the U.S., including wetlands, regulated by the U.S. Army Corps of Engineers (USACE) under authority of Section 404 of the Clean Water Act (CWA). Therefore, a Section 404 permit would not be required for the proposed project.

The FHWA approved the EA as "Satisfactory for Further Processing" on January 22, 2014. Notices offering an opportunity for a public hearing were published on February 27, 2014, March 2, 2014, March 20, 2014 and March 23, 2014. No requests for a public hearing were received during the posted comment period; therefore, no public hearing was held.

Support Rationale

As previously mentioned, FM 1093/Westpark Tollway is included in the Fort Bend County Major Thoroughfare Plan, the City of Fulshear's Major Thoroughfare Plan, and the City of Houston's Major Thoroughfare Plan. The City of Katy's Thoroughfare Plan, Major & Secondary Streets, does not extend into the FM 1093 proposed project area. The City of Richmond does not have a major thoroughfare plan. Fort Bend County Commissioners approved a motion for an agreement on the road expansion project for FM 1093 on October 8, 2010. Implementation of the Preferred Alternative would reduce congestion, increase safety, and improve operational efficiency along a congested and developing FM 1093 corridor. The Preferred Alternative would also support existing and anticipated growth of the project area, as well as provide a safe and efficient transportation facility. The Preferred Alternative would be constructed using standard, proven techniques at a reasonable cost.

The Preferred Alternative widens and extends the existing FM 1093/Westpark Tollway facility and is consistent with local and regional plans. The Preferred Alternative would comply with all federal, state, and local environmental laws and regulations. All necessary permits from regulatory agencies would be obtained before proceeding with construction of the proposed project.

As noted above, the EA examines the direct, indirect, and cumulative impacts of the proposed project and identifies potential impacts of special concern to include (a) traffic noise, (b) waters of the U.S., and (c) indirect and cumulative project effects on land use due to the current forecasted pace of development in the area. The EA concludes:

1. Alternative 1 is the Preferred Alternative for the proposed FM 1093/Westpark Tollway project.
2. Alternative 1 meets the purpose and need of the proposed project with the least amount of impacts the resource areas.
3. The proposed project would have no significant impacts on the quality of the human or natural environment.
4. TxDOT recommends a Finding of No Significant Impact for the proposed FM 1093/Westpark Tollway project.

TxDOT's recommendation for the selection of Alternative 1 was developed from a process that involved public input and coordination with federal, state, and local government agencies.

PUBLIC INVOLVEMENT

Public involvement is an integral and critical component of the NEPA project development process. Public involvement efforts were developed and exercised to incorporate all of the different types of stakeholders and their needs, from safety, to mobility, to environmental

concerns. The public involvement team for the FM 1093/Westpark Tollway project included representatives from Fort Bend County, TxDOT Houston District, TxDOT Environmental Affairs Division, and environmental and engineering consultants.

Public Meetings

Fort Bend County conducted a series of public meetings regarding the expansion of FM 1093 and the extension of the Westpark Tollway. A total of nine public meetings were conducted to present the proposed project alternatives and receive input from the public; two open house public meetings were conducted at the Fulshear Community Center in July 2005 and in November 2006; three public meetings were conducted at Fulshear City Council meetings and at the Fulshear Planning Committee meetings in 2005 and 2006; three public meetings were conducted at the Fort Bend County Commissioners Court meetings in December 2005, February 2006, and October 2010; and one public meeting was conducted at Seven Lakes High School in Katy in October 2011.

The public meetings were announced and advertised through a variety of methods. Thirty days prior to the meetings, Fort Bend County made extensive efforts to announce the meetings through mailings and published advertisements. Copies of the Public Notices announcing the meeting time, location, and purpose were mailed to a list of adjacent property owners along the proposed project ROW, and concerned citizens. The Public Notices were published in newspapers with local and city-wide circulation, including the Houston Chronicle, the Houston Chronicle community newspapers for zip codes 77494 and 77406, and the La Voz Spanish newspaper.

Summary of Comments

The most recent October 2011 public meeting was conducted by TxDOT and Fort Bend County and was held on October 27, 2011 at Seven Lakes High School in Katy, Texas. The public was encouraged to ask questions and make comments. All verbal questions and comments were immediately responded to at the meeting. Sixteen public meeting comment forms were submitted at the public meeting and 11 comment forms were submitted via regular mail or email by the deadline of November 10, 2011.

The majority of the comments and concerns addressed during the public meeting related to expediting the process to get the road constructed, as the existing roadway is very dangerous, including two fatalities; the addition of a bicycle lane due to heavy bicycle traffic on the weekends, and access/noise concerns at Canyon Springs at Westheimer Lakes subdivision (south of FM 1093) with regard to the tollway.

Stakeholder Involvement

Coordination occurred with federal, state, and local governmental agencies, including the THC, Texas Commission on Environmental Quality (TCEQ), TPWD, the City of Fulshear, and the H-GAC. As part of the public involvement process, federal, state, and local public officials were invited to attend the public meetings.

Media Coordination

Fort Bend County advertised the notices for the public meeting in newspapers with local and city-wide circulation, including the Houston Chronicle, the Houston Chronicle community newspapers for zip codes 77494 and 77406, and the La Voz. A summary of the public meeting was made available for viewing at the TxDOT Houston District office, located at 7600 Washington Avenue, Houston, Texas 77007 and the Fort Bend County Engineering office, located at 1124-52 Blume Road, Rosenberg, TX 77471. Copies of the schematic layout showing the location and design, the Draft EA, and other information related to the proposed project are on file and have been made available for public review at the two previously mentioned locations.

Changes Made to the FM 1093/Westpark Tollway Project as a Result of Public Input

Through the public involvement and project development process, it was determined that Alternative 2 was eliminated from further study due to the fact that METRO chose to preserve a 50-foot portion of their 100-foot ROW for potential future rail and will not allow additional acquisition beyond the 50-foot portion identified in Alternative 1. Alternative 3 was eliminated from further study due to a greater number of displacements/relocations than Alternative 1, and a greater number of noise sensitive receptors than Alternative 1. Alternative 1 was selected to be carried forward for further study as the Preferred Alternative in the EA. A south bound to west bound at-grade connector will be added to the final schematic due to public comment.

Public Hearing Notice

The Notice Affording an Opportunity for Public Hearing (NAOPH) was published on February 27, 2014 and March 20, 2014 in the Houston Chronicle and the Houston Chronicle community newspapers for zip codes 77494 and 77406, and on March 2, 2014 and March 23, 2014 in the La Voz Spanish newspaper. The NAOPH was also mailed to adjacent property owners, concerns citizens, and local, state, and federally elected officials. The NAOPH expired on April 2, 2014. No requests for a public hearing were received.

POTENTIAL IMPACTS AND PROPOSED MITIGATION COMMITMENTS

The potential impacts associated with construction of the Preferred Alternative studied include direct, indirect, and cumulative impacts of the proposed project. Potential adverse impacts and proposed mitigation measures that would be incorporated to minimize impacts are discussed below.

Land Use

Existing land use adjacent to the proposed project includes developed and platted subdivisions, single-family residences, commercial properties including strip centers, a church, two daycare centers, urban and industrial properties including gravel businesses, the Covey Trails Airport, the Westheimer Air Park, and undeveloped land, including a 100-foot strip of Houston METRO ROW to the south of FM 1093. There are no cemeteries located within a one-quarter mile boundary on either side of FM 1093.

The current development trend in the City of Fulshear (located west of the proposed project) and surrounding area (Cities of Katy, Richmond, and Houston) is a gradual expansion of the existing

community's core (both residential and commercial properties) outward into undeveloped rural areas. Areas of future development are expected to continue in the proposed project limits and extend north and west to the City of Fulshear and beyond.

The proposed project is located just east of the City of Fulshear city limits and is located in the ETJ of the Cities of Fulshear, Katy, Richmond, and Houston. Construction of the proposed project is not anticipated to substantially alter current or future land use of the area. The proposed project is consistent with Fort Bend County, the City of Fulshear, and the City of Houston's planning efforts. The City of Katy's Thoroughfare Plan, Major & Secondary Streets, does not extend into the FM 1093 proposed project area. The City of Richmond does not have a major thoroughfare plan. Fort Bend County Commissioners approved a motion for an agreement on the road expansion project for FM 1093 on October 8, 2010.

Mitigation Commitment: No mitigation is required or recommended.

Socioeconomics:

Right-of-Way Acquisition and Displacements/Relocations

The Preferred Alternative would require approximately 72.11 acres of additional ROW. This would widen the existing 100-foot ROW to a maximum of 315 feet of ROW at major intersections. There are no residential displacements/relocations and one commercial displacement/relocation associated with the Preferred Alternative. The displacement is a commercial property (StorIt!@ Seven Meadows) located on the north side of FM 1093 just west of SH 99 (Grand Parkway). The displacement/relocation involves the front office structure but none of the storage units. The proposed project design includes filling the existing StorIt!@SevenMeadows detention pond and accounting for that drainage; therefore, there is space available to rebuild the front office on the southwest corner of the property. However, it is not known at this time if the business plans on relocating the front office elsewhere on the property or relocating within the community.

Mitigation Commitment: Access to residences and businesses or use of any commercial, agricultural, or public area would be maintained at all times during and after project construction.

Compliance with Uniform Relocation Assistance and Real Property Acquisition Act Policies of 1970 and Other Applicable Standards

The Uniform Relocation Assistance and Real Property Acquisition Act (URARPA) requires that comparable, decent, safe, and sanitary replacement housing within a person's financial means be made available to all affected residents.

Early acquisition of ROW occurred for this project. Fort Bend County acquired four parcels of land from three landowners along the FM 1093/Westpark Tollway corridor for a total of approximately 31.94 acres of land in advance of the Final NEPA document. The four parcels of land were acquired early as a protective purchase to ensure the properties would be available for the proposed project.

Mitigation Commitment: Fort Bend County followed fair practices in the acquisition of each parcel of land, and the properties were acquired expeditiously through negotiations or as

otherwise provided under State law. There were no displacements associated with the acquisitions; therefore, no relocations were necessary. In acquiring each of the parcels of land, the County followed, to the greatest extent practicable under State law, the land acquisition policies of the URARPAA and, the property owners, either wholly avoided or received benefit, as reimbursement for expenses incidental to the transfer of title.

Texas Local Government Code Section 232.001 requires the owner wishing to subdivide land to two or more parts to submit a plat for County approval. Section 232.102 allows a County to require dedication of ROW along major thoroughfares. The County incorporated the authority provided by both statutes in the Fort Bend County Regulation of Subdivisions to require dedication of ROW as a condition of plat approval in circumstances allowed by State law.

The early acquisition parcels were purchased “at risk” with the understanding that the Preferred Alternative alignment could change based on alternative selection. Subsequently, the early acquisition of the parcels did not bias the determination of the selected alternative, as the parcels were purchased knowing that the Preferred Alternative had not been finalized.

Environmental Justice

Individual minority and low-income persons would be equally affected by the Preferred Alternative. No disproportionate adverse effect on any minority or low-income population would result from construction of the Preferred Alternative. Minority populations exist within the proposed project area. Of the 28 Census blocks analyzed within the proposed project area, six have a minority population exceeding the 50 percent threshold. Median household incomes were evaluated at the Census block group (BG) level. Three BGs are located within the proposed project area. The three BGs analyzed exceeded the Department of Health and Human Services 2013 poverty guideline of \$23,550/year for a family of four, indicating that no low-income populations exist within the proposed project area. There are three Census Tracts within the proposed project area. None of the three Census Tracts have minority populations exceeding the 50 percent threshold. The proposed project consists of the widening and extension of FM 1093/Westpark Tollway, and over the long term, the entire corridor would benefit from the proposed project as a result of improved safety and regional circulation. The requirements of Executive Order 12898 appear to be satisfied.

Mitigation Commitment: No mitigation is required or recommended.

Community Cohesion

An adverse impact on community cohesion is not expected to occur as a result of the proposed project.

Mitigation Commitment: No mitigation is required or recommended

Soils and Farmland

Three mapped soil units in the proposed project area are listed on the Natural Resources Conservation Service’s (NRCS) Prime Farmland list for Fort Bend County, Texas, and are

considered potentially subject to the Farmland Protection Policy Act (FPPA) (NRCS, 1972, 1988, and 1996). The mapped soil units are Bernard clay loam, Katy fine sandy loam and Katy-Waller complex.

The 72.11 acres of additional ROW has been scored using Form NRCS-CPA-106. Based on a final assessment and calculation of Part VI of the form, the proposed project received a score less than 160 points; therefore, no further consideration with the NRCS is required.

Mitigation Commitment: No mitigation is required or recommended.

Vegetation

Construction activities associated with the proposed project permanently and temporarily impact approximately 104.32 acres of vegetation within the existing and proposed ROW. Vegetation communities include maintained landscaping, existing vegetated ROW, hackberry (*Celtis laevigata*)/Chinese tallow-tree (*Sapium sebiferum*) woodlands (Houston METRO ROW corridor), and pasture land. As defined by the TxDOT-TPWD Memorandum of Understanding (MOU), there are no unusual vegetation features within the project limits. The only special habitat features present are the two man-made drainage channels located within the proposed project limits. The vegetation in the vicinity of the drainage channels is consistent with the vegetation along the length of the project. There is no vegetation that would be considered riparian; therefore, there would be no impact to such habitat. There would be no channel modifications associated with the proposed project. The vegetated portions of the existing and proposed ROW would be converted to maintained ROW, excavated for the installation of culvert extensions, or cleared, graded, and paved to accommodate construction.

Mitigation Commitment: Design and construction of the proposed project would promote and preserve vegetation within the proposed project area to the greatest extent practicable. Unavoidable vegetation impacts would be appropriately re-vegetated in accordance with Executive Order 13112 on invasive species and the Executive Memorandum on beneficial landscaping.

Wildlife

No new barriers to wildlife movement would be introduced since the proposed project involves an existing transportation facility. The proposed project would widen the existing barriers, temporarily decrease the attractiveness of adjacent habitat, and possibly disturb normal behavior during construction activities.

The Preferred Alternative is expected to result in permanent effects on wildlife habitat, including small amounts of habitat loss through its conversion to transportation infrastructure and maintained ROW. Wildlife in the proposed project area has and would continue to be slowly dominated by species that are better able to adapt to a disturbed physical environment and could tolerate possible disturbances from the proposed project. The potential loss or displacement of wildlife populations into adjacent habitats could increase competition for food and shelter for many resident and migratory species. Construction of the Preferred Alternative could remove and/or convert habitat, and therefore, displace wildlife in certain areas. Habitat loss and the resulting effects on wildlife are expected to be approximately 104.32 acres, of which 20 acres is woody vegetation. Any disturbance beyond the normal conditions of the proposed project area is

expected to be limited to the immediate vicinity of construction of the proposed corridor. The proposed project is not anticipated to significantly impact wildlife species.

Mitigation Commitment: Design and construction of the proposed project would promote and preserve wildlife habitat within the proposed project area to the greatest extent practicable. The contractor would be notified about and be responsible for complying with the Migratory Bird Treaty Act (MBTA) for migratory birds that may inhabit the project area throughout the duration of the construction project.

Threatened and Endangered Species

Databases of sensitive species maintained by the U.S. Fish and Wildlife Service (USFWS) and TPWD were reviewed to determine if State and/or federally-listed threatened or endangered species occur or have historically occurred within the proposed project study area. Field reconnaissance, USFWS Endangered Species List, the TPWD Annotated County List of Rare Species for Fort Bend County, and a search of the Natural Diversity Database, in conjunction with Geographic Information System, was conducted to determine the potential occurrence of State and federally listed threatened and endangered species and their habitat. A determination of no effect has been made for all federally-listed threatened or endangered species of Fort Bend County. No State-listed threatened or endangered species would be adversely impacted by the proposed project.

Mitigation Commitment: No mitigation is required or recommended.

Migratory Birds

The Preferred Alternative is not expected to affect the migration patterns of any migratory species.

Mitigation Commitment: In the event that migratory birds or their nests are observed prior to construction activities, measures would be taken to avoid harm to migratory birds, their nests, eggs, or young. To ensure compliance with the MBTA, clearing vegetation and work within the proposed project area would be conducted outside of the normal nesting season or measures would be taken to discourage birds from nesting in existing structures.

Essential Fish Habitat

No tidally influenced waters exist in the proposed project area; therefore, no essential fish habitat will be impacted.

Mitigation Commitment: No mitigation is required or recommended.

Cultural Resources

Historic Structures

Pursuant to Stipulation VI “Undertakings with Potential to Cause Effects” Appendix 4 of the Programmatic Agreement for Transportation Undertakings between FHWA, the Texas SHPO,

the Advisory Council on Historic Preservation, and TxDOT and the MOU, TxDOT historians determined that no historic properties are present within the proposed project's area of potential effects and individual project coordination with Texas SHPO is not required.

Mitigation Commitment: No mitigation is required or recommended.

Archeological Resources

Pursuant to Stipulation VI of the Programmatic Agreement and 43 TAC 2.24 (f)(1)(C) of the MOU, TxDOT finds that the proposed undertaking would not affect archeological historic properties (36 CFR §800.13(1)) or State Archeological Landmarks. No further investigations are warranted.

Mitigation Commitment: In the event that unanticipated archeological deposits are encountered during construction, work in the immediate area would cease, and TxDOT archeological staff would be contacted.

Parkland and Section 4(f)/6(f) Properties

The Preferred Alternative does not require the use of any publicly owned lands from a public park, recreation area, wildlife/waterfowl refuge, or any historic sites of national, state, or local significance. Neither a Section 4(f) nor a Section 6(f) evaluation is required.

Mitigation Commitment: No mitigation is required or recommended.

Water Resources:

Section 404 of the CWA: Waters of the U.S., including Wetlands

The proposed project would not impact any waters of the U.S., including wetlands, regulated by the USACE under authority of Section 404 of the CWA. Therefore, a Section 404 permit would not be required for the proposed project.

Mitigation Commitment: No mitigation is required or recommended.

Section 401, Section 402, and Section 303(d) of the CWA

This proposed project would not require a USACE Section 404 permit; therefore, Section 401 certification would not be required. However, the design and construction of the proposed improvements would include construction and post-construction TCEQ 401 Water Quality Best Management Practices (BMPs) to manage storm water runoff and control sediments.

The proposed project would require more than five acres of earth disturbances.

The TCEQ 2010 Texas Water Quality Inventory List (known as the Integrated Report) was utilized in the water quality assessment. The proposed project is located within five miles upstream of Flewellen Creek (unclassified waterbody), which is identified as Segment 1245E and is listed on the Integrated Report. Flewellen Creek, Segment 1245E, is located from the

confluence with Oyster Creek upstream to the confluence with two unnamed tributaries, 0.3 kilometers (approximately 984 feet) east of Fulshear in Fort Bend County. Segment 1245E is listed as impaired due to elevated levels of bacteria within the entire waterbody. The level of concern is listed as “CN” – Concern for near-nonattainment of the water quality standards. The proposed project is not expected to contribute the pollutant of concern to the impaired waterbody.

Mitigation Commitment: Design and construction of the proposed project would promote minimal earth disturbances to lessen the potential for excessive erosion and sedimentation. Development of a Storm Water Pollution Prevention Plan (SW3P) would include BMPs including temporary vegetation, blankets/matting, and/or sod for erosion control; vegetative filter strips and grassy swales for post-construction total suspended solids (TSS) controls; and silt fencing for sediment control. Other approved BMPs may be substituted, if necessary, using one of the BMPs from the same category. Best Management Practices would be maintained and remain in place during and after construction, until the project area has been stabilized.

The proposed project would comply with the TCEQ Texas Pollutant Discharge Elimination System (TPDES) Construction General Permit (CGP). A SW3P would be implemented, and a construction site notice would be posted on the construction site. A Notice of Intent (NOI) would be required. This proposed project is located within the boundaries of the Phase II (Fort Bend County) Municipal Separate Storm Sewer System (MS4), and would comply with the applicable MS4 requirements.

Groundwater

No adverse effects to the quality and quantity of groundwater in the proposed project area are expected. Subsurface water would not be required.

Mitigation Commitment: TxDOT will ensure that any existing wells encountered during construction or located on properties potentially requiring acquisition would be sealed utilizing currently accepted methods to protect local groundwater quality.

Floodplains

According to the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Maps (FIRM) for Fort Bend County, the proposed project is not located within a FEMA designated 100-year floodplain; therefore, none of the Build Alternative alignments crossed any designated 100-year floodplains.

The hydraulic design for this proposed project would be in accordance with current FHWA and TxDOT design policies. Fort Bend County is a participant in the National Flood Insurance Program (NFIP).

Mitigation Commitment: Coordination with the local Floodplain Administrator is not required.

Coastal Zone Management

The proposed project is not located within the designated Texas Coastal Management Zone. Coordination with the Coastal Zone Management Agency is not required.

Mitigation Commitment: No mitigation is required or recommended.

Noise

A noise analysis was performed in accordance with TxDOT's *Guidelines for Analysis and Abatement of Roadway Traffic Noise* (April 2011). Existing and predicted traffic noise levels were modeled at receiver locations that represent land use activity areas adjacent to the proposed project that might be impacted by traffic noise and potentially benefit from feasible and reasonable noise abatement. The noise analysis identified noise impacts at multiple locations. Four preliminary barriers were evaluated as both reasonable and feasible: a 503-foot long by 16-foot high barrier at the Palm at Cinco Ranch Apartments; a 1,829-foot long by 14-foot high barrier at the Cinco Terras neighborhood; a 1,338-foot high by 14-foot high barrier at the Westheimer Lakes North neighborhood; and a 1,600-foot long by 14-foot high barrier at Canyon Springs at Westheimer Lakes neighborhood. These barriers would benefit an estimated 71 residential locations.

Mitigation Commitment: Development of preliminary noise barriers would continue. Decisions to construct noise barriers would not be made until design is finalized and public involvement with affected property owners is performed.

To minimize construction noise, provisions would be included in the plans and specifications that require the contractor to make every reasonable effort to minimize construction noise through abatement measures such as work-hour controls and proper equipment maintenance.

Air Quality, including MSATs

The proposed project is located in Fort Bend County, which is in the Houston-Galveston-Brazoria (HGB) region. The HGB area is designated as a "marginal" ozone nonattainment area in accordance with the 2008 8-hour National Ambient Air Quality Standards (NAAQS); therefore, the transportation conformity rules apply.

The proposed action is consistent with the H-GAC's financially constrained 2035 Regional Transportation Plan (RTP) Update, as amended, and the 2013-2016 Transportation Improvement Program (TIP), which were found to conform to the TCEQ State Implementation Plan (SIP) by FHWA and the FTA on January 25, 2011 and November 1, 2012, respectively.

Traffic data for the proposed 2035 design year is estimated to be 64,400 vpd; therefore a Traffic Air Quality Analysis (TAQA) is not required. Though the proposed project is adding capacity, the design year average annual daily traffic (AADT) is less than 140,000. The 140,000 AADT rate is a threshold based on a TxDOT modeling study which demonstrated that it is highly unlikely that the NAAQS for carbon monoxide would ever be exceeded on any project with traffic numbers below this level.

A qualitative Mobile Source Air Toxics (MSAT) assessment determined that the proposed project may result in increased exposure to MSAT emissions in certain locations; however, since

concentrations and exposure durations are uncertain, health effects from emissions exposure cannot be estimated.

Mitigation Commitment: No mitigation is required or recommended.

Hazardous Materials

An initial site assessment (ISA) of the proposed project area was conducted to determine the presence of hazardous materials contamination within the existing and proposed ROW. The ISA consisted of on-site investigations and review of applicable hazardous materials database records. The results of the ISA indicate there is a low risk of encountering potential sites of environmental concern within the proposed project area, which would warrant further investigation in relation to hazardous materials. Due to the distance and/or the site status, it is unlikely that any of the sites identified on the regulatory database search pose an environmental concern. There is no known unresolved contamination within the proposed project ROW. The proposed project would not involve known hazardous materials impacts that could be anticipated to adversely affect construction.

Mitigation Commitment: Any hazardous materials encountered during construction would be handled according to applicable federal, state, and local regulations per TxDOT Standard Specifications. The contractor would take appropriate measures to prevent, minimize, and control the spill of hazardous materials.

SUMMARY OF INDIRECT AND CUMULATIVE IMPACTS

Based on the indirect impacts analysis, the proposed project could result in conversion of undeveloped land into residential, commercial, and mixed-use land uses within the region by 2035. This development is expected to cause some environmental impacts, such as impacts to water quality, as well as loss of wetlands and vegetation from land clearing and construction/development. Cumulative impacts of this proposed project along with other past, present, and reasonable foreseeable project in the vicinity are likely to occur. FM 1093/Westpark Tollway lies within a predominantly rural resource study area (RSA) with a substantial amount of land left for development within clearing existing land uses. Land use change and development is likely to occur for the foreseeable future within the RSA of the proposed project. Although there is a lot of land that could be redeveloped, because this is not a new location facility, reasonably foreseeable effects do not suggest a sudden burst of land conversion. This is based on the fact that land development has been experiencing a steady amount of growth regardless of roadway conditions along the FM 1093/Westpark Tollway. Given the current economy, it is anticipated that development and the foreseeable actions would take place at such a rate that it would not impact water quality at more than an incremental rate. This, in conjunction with storm water control measures, is expected to ease and attenuate these impacts. Current laws and regulations require that wetlands affected by these projects would be required to be avoided, replaced, or mitigated, thus reducing cumulative impacts. Vegetation impacts could be reduced by developers if they chose to protect and preserve trees and create green spaces using existing vegetation during development. The indirect and cumulative impacts to resources evaluated are not anticipated to be substantial as a result of the proposed project.

MONITORING OR ENFORCEMENT

All commitments and conditions of approval stated in the EA will be monitored by Fort Bend County and other appropriate state, federal, and local agencies to ensure compliance.

SUMMARY

The following table summarizes the environmental effects of the Preferred Alternative and committed mitigation measures.

Summary of Environmental Constraints and Mitigation Commitments

Environmental Constraints	Unit	Impacts	Mitigation Commitment			
Land Use						
Existing land use adjacent to the proposed project includes developed and platted subdivisions, single-family residences, commercial properties including strip centers, a church, two daycare centers, urban and industrial properties including gravel businesses, the Covey Trails Airport, the Westheimer Air Park, and undeveloped land, including a 100-foot strip of Houston METRO ROW to the south of FM 1093. There are no cemeteries located within a one-quarter mile boundary on either side of FM 1093.	None	See Displacements/ Relocations and ROW Acquisitions (Below)	See Displacements/ Relocations and ROW Acquisitions (Below)			
Socioeconomics						
ROW Acquisition	Acres	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">72.11 Total ROW</td> </tr> <tr> <td style="text-align: center;">31.94 Early ROW Acquisition</td> </tr> <tr> <td style="text-align: center;">40.17 ROW To Be Acquired</td> </tr> </table>	72.11 Total ROW	31.94 Early ROW Acquisition	40.17 ROW To Be Acquired	Access to residences or use of any commercial, agricultural, or public area would be maintained at all times during and after project construction.
72.11 Total ROW						
31.94 Early ROW Acquisition						
40.17 ROW To Be Acquired						
Displacements/Relocations and Compliance with URARPAA	Number	1				
Fort Bend County followed fair practices in the acquisition of each parcel of land, and the properties were acquired expeditiously through negotiations or as otherwise provided under State law. There were no displacements associated with the acquisitions; therefore, no relocations were necessary. In acquiring each of the parcels of land, the County followed, to the greatest extent practicable under State law, the land acquisition policies of the URARPAA						

Environmental Constraints	Unit	Impacts	Mitigation Commitment
			<p>and, the property owners, either wholly avoided or received benefit, as reimbursement for expenses incidental to the transfer of title.</p> <p>Texas Local Government Code Section 232.001 requires the owner wishing to subdivide land to two or more parts to submit a plat for County approval. Section 232.102 allows a County to require dedication of ROW along major thoroughfares. The County incorporated the authority provided by both statutes in the Fort Bend County Regulation of Subdivisions to require dedication of ROW as a condition of plat approval in circumstances allowed by State law.</p> <p>The early acquisition parcels were purchased “at risk” with the understanding that the Preferred Alternative alignment could change based on alternative selection. Subsequently, the early acquisition of the parcels did not bias the determination of the selected alternative, as the parcels were purchased knowing that the Preferred Alternative had not been finalized.</p>
Environmental Justice	Effect	None	No mitigation is required or recommended

Environmental Constraints	Unit	Impacts	Mitigation Commitment
Community Cohesion	Effect	None	No mitigation is required or recommended
Soils and Farmland			
Soils and Farmland	Effect	Less than the required for further NRCS coordination.	No mitigation is required or recommended.
Vegetation			
Maintained Landscaping	Acres (temporary/permanent)	7.57/33.25	Design and construction of the proposed project would promote and preserve vegetation within the proposed project area to the greatest extent practicable. Unavoidable vegetation impacts would be appropriately re-vegetated in accordance with Executive Order 13112 on invasive species and the Executive Memorandum on beneficial landscaping.
Existing Vegetated ROW	Acres (temporary/permanent)	0/32.21	
Hackberry/Chinese tallow-tree woodlands (METRO ROW corridor)	Acres (temporary/permanent)	0/19.0	
Pasture Land	Acres (temporary/permanent)	4.39/7.90	
Wildlife			
Wildlife	Effect	Minor	Design and construction of the proposed project would promote and preserve wildlife habitat within the proposed project area to the greatest extent practicable. The contractor would be notified about and be responsible for complying with the MBTA for migratory birds that may inhabit the project area throughout the duration of the construction project.
Threatened and Endangered Species			
Threatened and Endangered Species	Effect	None	No mitigation is required or recommended.

Environmental Constraints	Unit	Impacts	Mitigation Commitment
----------------------------------	-------------	----------------	------------------------------

Migratory Birds			
Migratory Birds	Effect	None	In the event that migratory birds or their nests are observed prior to construction activities, measures would be taken to avoid harm to migratory birds, their nests, eggs, or young. To ensure compliance with the MBTA, clearing vegetation and work within the proposed project area would be conducted outside of the normal nesting season or measures would be taken to discourage birds from nesting in existing structures.
Essential Fish Habitat			
Essential Fish Habitat	Effect	None	No mitigation is required or recommended.
Cultural Resources			
Historic Structures	Effect	None	No mitigation is required or recommended.
Archeological Resources	Effect	None	In the event that unanticipated archeological deposits are encountered during construction, work in the immediate area would cease, and TxDOT archeological staff would be contacted.
Parkland and Section 4(f)/6(f) Properties			
Parkland and Section 4(f)/Section 6(f) Properties	Effect	None	No mitigation is required or recommended.
Water Resources			
Section 404 of the CWA: Waters of the U.S., including Wetlands	Acres	None	No mitigation is required or recommended.

Environmental Constraints	Unit	Impacts	Mitigation Commitment
----------------------------------	-------------	----------------	------------------------------

Section 401 and Section 303(d) of the CWA	Effect	None	Design and construction of the proposed project would promote minimal earth disturbances to lessen the potential for excessive erosion and sedimentation. Development of a SW3P would include BMPs, including temporary vegetation, blankets/matting and/or sod for erosion control, vegetative filter strips and grassy swales for post-construction TSS controls, and silt fencing for sediment control. Other approved BMPs may be substituted, if necessary, using one of the BMPs from the same category. Best Management Practices would be maintained and remain in place during and after construction, until the project area has been stabilized.
Section 402 of the CWA	Acres	More than five acres of earth disturbance	The proposed project would comply with TCEQ's TPDES CGP. A SW3P would be implemented, and a construction site notice would be posted on the construction site. A NOI would be required.
Groundwater	Effect	None	TxDOT will ensure that any existing wells encountered during construction or located on properties potentially requiring acquisition would be sealed utilizing currently accepted methods to protect local groundwater quality.
Floodplains	Acres	None	Coordination with the local Floodplain Administrator is not required.
Environmental Constraints	Unit	Impacts	Mitigation Commitment

Coastal Zone Management	Effect	None	No mitigation is required or recommended.
Noise			
Noise Barriers	Yes/No	Yes	<p>Development of preliminary noise barriers would continue. Decisions to construct noise barriers would not be made until design is finalized and public involvement with affected property owners is performed.</p> <p>To minimize construction noise, provisions would be included in the plans and specifications that require the contractor to make every reasonable effort to minimize construction noise through abatement measures such as work-hour controls and proper equipment maintenance.</p>
Air Quality, including MSATs			
Air Quality, including MSAT	Effect	None	No mitigation is required or recommended.
Hazardous Materials			
Hazardous Materials	Effect	None	<p>Any hazardous materials encountered during construction would be handled according to applicable federal, state, and local regulations per TxDOT Standard Specifications. The contractor would take appropriate measures to prevent, minimize, and control the spill of hazardous materials.</p>

FHWA DECISION

FHWA has reviewed all of the relevant documents and materials and all environmental studies and findings. Based upon our own independent review and analysis, we find that the April, 2014 project EA analyzed and considered all the relevant potential environmental impacts and issues. FHWA concurs with the findings made in the EA in that: 1) the Preferred Alternative (Alternative 1), as identified in the document, best meets the purpose and need of the proposed project without significant impacts to the resource areas, and 2) the Preferred Alternative would have no significant impacts on the quality of the human or natural environment under NEPA.

Based upon our own agency review and consideration of the analysis and evaluation contained in the EA for this proposed project, and after further careful consideration of all social, economic, and environmental factors, including input from the public involvement process, FHWA hereby approves the issuance of a Finding of No Significant Impact for the FM 1093/Westpark Tollway project. The proposed project is consistent with H-GAC's financially constrained 2035 RTP Update and is included in H-GAC's 2013-2016 TIP. As to project mitigation, TxDOT is hereby required to ensure completion of all mitigation outlined above and set out specifically in this FONSI. TxDOT is also required to ensure that any and all local, state, or federal permit requirements and conditions are met and otherwise complied with.

_____ Date _____
Federal Highway Administration