



**US Army Corps
of Engineers** ®
Fort Worth District

Public Notice

Applicant: Invest Group Overseas

Project No.: SWF-2015-00058

Date: March 10, 2016

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Mr. Frederick Land

Phone Number: (817) 886-1729

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with The Gate is located on an approximately 40-acre property in the City of Frisco, Collin County, Texas

APPLICANT: Invest Group Overseas
P.O Box 96844 Villa 555 Umm Suqueim I
Jumeirah Beach Road, Dubai – U.A.E.

APPLICATION NUMBER: SWF-2015-00058

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LOCATION: The Gate is located on an approximately 40-acre property in the City of Frisco, Collin County Texas, bound by the Dallas North Tollway to the east and the proposed John Hickman Parkway to the south, (**Sheet 1** and **Sheet 2 of 12**) at latitude 33.11816° and longitude –96.82545°. The site is mapped on the 7.5-minute USGS quadrangle map, Hebron, Texas. The site is in USGS Hydrologic Unit 12030103.

OTHER AGENCY AUTHORIZATIONS: Section 401 State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposed to discharge approximately 3,400 cubic yards of dredged and fill material into approximately 1.20 acres of waters of the United States in conjunction with the construction of The Gate, a mixed use urban development. Direct, permanent impacts would include 566 linear feet (0.06 acre) of Intermittent Stream SC-IS1, 1,166 linear feet (0.08 acre) of ephemeral stream SC-ES1, 0.35 acre of Scrub/shrub Wetland SC-SSW1, less than 0.01 acre of Emergent Wetland SC-EW1, 0.17 acre of Emergent Wetland SC-EW2, 0.48 acre of Emergent Wetland SC-EW3, 0.02 acre of Emergent Wetland SC-EW4, 0.03 acre of Emergent Wetland SC-EW5, and 0.04 acre of Open Water Impoundment SC-OW1. No indirect impacts are proposed. See **Table 1** – Summary of Impacts to Waters of the United States for further information.

The Applicant's proposed purpose is to create a development adjacent to the Dallas North Tollway in the City of Frisco, to provide commercial and retail services, residential units, and office space (i.e. mixed-use urban environment). The Applicant asserts there is a need for high-end, non-traditional, single-family residences in the City of Frisco that is located near to existing and planned employment centers. A hotel would serve as an anchor for the development, located at the intersection of the Dallas North Tollway and John Hickman Parkway. The proposed project would include open water ponds with the dual purpose of recreation and detention.

EXISTING CONDITIONS: The existing property consists of mostly undeveloped pastureland, a former home site, and several abandoned agricultural buildings. A jurisdictional determination dated August 2015 was prepared for the project by the Applicant. Waters of the U.S. identified on-site include, an ephemeral stream, intermittent tributary, open water pond, scrub shrub wetland, and five emergent wetlands (**Sheet 3 of 12**). The applicant believes to develop the property, all waters of the United States would need to be permanently filled or altered as a result of construction.

The ephemeral stream is fragmented by two, breached, on-channel impoundments (now emergent wetlands) and a utility line crossing. The upper reaches of this stream (SC-ES1) exhibit relatively low channel incision, erosion, and sedimentation. However, the lower reaches exhibit more influence from past disturbance (impoundments, pipeline construction, etc.) and are substantially incised and undergoing active erosion and sedimentation. The three emergent wetlands (SC-EW1, SC-EW2, and SC-EW3) along this stream segment are remnants of past disturbance along the stream corridor. Vegetation consists of one or two dominant species and little vertical stratification. The hydrology of SC-EW3 is substantially influenced by beaver activity that, together with the low topographic position, maintains permanent ponding. Other wetlands along this drainage (SC-ES1) have a more dynamic hydroperiod, undergoing sustained inundation as well as periods where they are completely dry.

The intermittent tributary (SC-IS1) begins at an outfall from a box culvert along the northern project area boundary. This stream reach is sustained, in part by stormwater and irrigation runoff from the adjacent apartment complex. The channel of SC-IS1 is in relatively stable condition, but is beginning to show some signs of incision and active bank erosion in the upper reach. The riparian corridor consists mostly of dense, successional vegetation. The lower reaches of this stream have been substantially altered by active beaver activity and are now composed of a complex of scrub/shrub wetland (SC-SSW1), emergent wetlands (SC-EW4 and SC-EW5), and open water (SC-OW1). As a result of the artificial flow from the adjacent apartment complex and the ponding from the beaver activity, these wetlands appear to have a stable hydroperiod and are typically inundated.

Table 1 - Summary of Impacts to Waters of the United States

Feature ID	Average OHWM (feet)	Length of Impact (feet)	Area of Impact (acres)	Activity Description	Impact Type
Streams					
Intermittent Stream (SC-IS1)	2 to 6	566	0.06	Excavation and Backfill	Permanent
Ephemeral Stream (SC-ES1)	3	1,166	0.08	Excavation and Backfill	Permanent
Scrub/Shrub Wetlands					
Scrub/Shrub Wetland (SC-SSW1)	---	---	0.35	Excavation and Backfill	Permanent
Emergent Wetlands					
Emergent Wetland (SC-EW1)	---	---	<0.01	Excavation and Backfill	Permanent
Emergent Wetland (SC-EW2)	---	---	0.17	Excavation and Backfill	Permanent
Emergent Wetland (SC-EW3)	---	---	0.48	Excavation and Backfill	Permanent
Emergent Wetland (SC-EW4)	---	---	0.02	Excavation and Backfill	Permanent
Emergent Wetland (SC-EW5)	---	---	0.03	Excavation and Backfill	Permanent
Open Water					
Open Water (SC-OW1)	---	---	0.04	Excavation and Backfill	Permanent

ALTERNATIVES: An analysis of the alternatives has been completed by the applicant, which outlines the stepwise progression of practicability (i.e. feasibility), beginning with site selection and concluding with on-site alternatives. The focus of this screening process lies in logistical reasons, as either costs, logistics, or technology alone can determine whether or not a project is practicable.

Based on the Applicant's defined purpose and need, twelve sites were identified for screening. Criteria that were used to determine practicability for the alternatives included: adjacency to the Dallas North Tollway, properties not already under development or those approved for development (platted), open space, and sufficient geometry and physical constraints. Out of the twelve sites evaluated by the applicant (**Sheet 4 of 12**), only one site met all the preliminary screening criteria for practicability.

These alternatives have not been evaluated by the USACE Regulatory Division.

MITIGATION: To offset unavoidable adverse impacts to waters of the U.S., the applicant proposes to purchase 436.2 In-Channel Credits and 436.2 Riparian Buffer Credits from the Mill Branch Mitigation Bank and 1.9 Wetland Credits from Bunker Sands Mitigation Bank.

In accordance with the TXRAM model, the impacted streams included four assessment reaches. Stream SC-ES1 was evaluated in three separate reaches to adequately weight the effects of fragmentation within the overall reach, whereas SC-IS1 was evaluated as one reach. Each stream assessment reach (SAR) is characterized as follows:

SAR 1 – Upstream reach of SC-ES1 characterized by ephemeral flows, low incision, earthen/gravel substrate, and low sediment deposition.

SAR 2 – Upstream reach of SC-ES1 characterized by ephemeral flows, moderate to high incision, earthen substrate, and moderate sediment deposition.

SAR 3 – A small reach of SC-ES1 ephemeral channel between two former impoundments. Both impoundments were breached and the channel is experiencing substantial erosion resulting from recent changes in hydrology (increased flow). Because of the influence of the former impoundments, this segment experiences prolonged flow and/or ponding. Physical characteristics include a deeply incised channel with active erosion, earthen substrate, marginal/absent riparian canopy, and moderate to high sediment deposition.

SAR 4 – Single SAR of SC-IS1 is an intermittent stream and is characterized by artificially influenced perennial flow (from irrigation and runoff from adjacent apartment complex), moderate channel incision, flowing water within the channel, moderate sediment deposition, and substantial beaver activity in the lower portion of this reach. Bed substrate is a mix of earthen material, gravel, cobble, and bedrock.

Scores ranged from 28.7 to 70.08, with the lowest score recorded for SAR 2, where stream conditions have been substantially altered by anthropogenic disturbance (i.e. artificial flow, breached impoundments, agricultural activities, etc.). The wetlands within the project footprint are either the result of beaver activity, or are the remnants of former on-channel impoundments that have been breached.

For stream SC-ES1, the upstream reach (SAR 1) scored higher because channel incision, erosion, and sedimentation within the channel were relatively low. Additionally, buffer scores and floodplain connectivity were relatively high. The other reaches of this stream (SAR 2 and SAR 3) scored lower because they were undergoing more active erosion and exhibited greater influence from the former

on-channel impoundments. SAR 4 (SC-IS1) received the highest score because of its flow regime (adjusted because of artificial influence), buffer scores, and in-stream habitat.

All SARs would be directly impacted by the placement of fill material within waters of the United States. Similarly, all wetlands would be impacted by the placement of fill within waters of the United States. Table 2 provides a summary of compensatory mitigation requirements for each feature, followed by the appropriate types of credits, in accordance with the stream mitigation rule.

Table 2 – Summary of TXRAM Final Stream Scores by Impact Type

SAR ID	SAR Length (ft)	SAR Score (Pre)	SAR Score (Post)	TXRAM Units (impacts)	Total	In-Channel Credits	Riparian Buffer Credits
Ephemeral Stream							
SAR 1	765	46.85	0	358.40	475.81	237.9	237.9
SAR 2	215	29.78	0	64.03			
SAR 3	186	28.7	0	53.38			
Intermittent Stream							
SAR 4	566	70.08	0	396.65	396.62	198.33	198.33
Total	1,732			872.9		436.23	436.23

In accordance with the Fort Worth District Stream Mitigation Method (SMM), 237.9 TXRAM in-channel ephemeral stream credits, and 198.33 TXRAM in-channel intermittent stream credits would be required to mitigate for the proposed impacts. This would result in 436.2 in-channel credits and 436.5 riparian buffer credits totaling 872.9 credits. These credits are anticipated to be purchased from Mill Branch Mitigation Bank in accordance with the MBI. The remaining credits necessary for the permanent impacts to the 1.09 acres of wetlands and open water would be purchased from the Bunker Sands Mitigation Bank. These wetland credits required were calculated as 1.05 acres of medium quality habitat multiplied by 1.8 credits/acre totaling 1.89 wetland credits (1.9 credits rounded).

SHEETS

- | | |
|--------------------------|-------------------|
| 1. Vicinity Map | 7. Profile B-B' |
| 2. Location Map | 8. Profile C-C' |
| 3. Aquatic Features Map | 9. Profile D-D' |
| 4. Off-Site Alternatives | 10. Alternative A |
| 5. Preferred Alternative | 11. Alternative B |
| 6. Profile A-A' | 12. Alternative C |

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U.S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which

reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Collin County, where the whooping crane (*Grus americana*), interior least tern (*Sterna antillarum*), red knot (*Calidris canutus rufa*), and piping plover (*Charadrius melodus*) are known to occur or may occur as migrants. The whooping crane and interior least tern are listed as an endangered species. The piping plover and red knot are listed as threatened species. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The USACE has reviewed the latest complete published version of the National Register of Historic Places and found no listed properties to be in the project area. However, presently unknown scientific, archaeological, cultural or architectural data may be lost or destroyed by the proposed work under the requested permit.

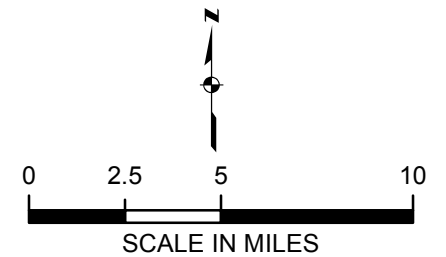
FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before April 9, 2016, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; Regulatory Branch, CESWF-DE-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



Legend

 Project Area

Notes:

1. Service Layer Credits: Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013
2.

Project Title: THE GATE

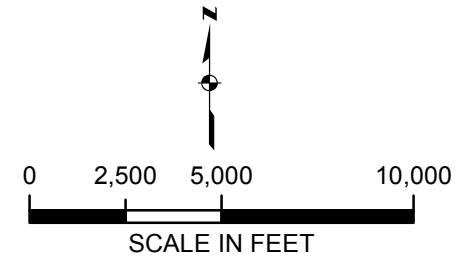
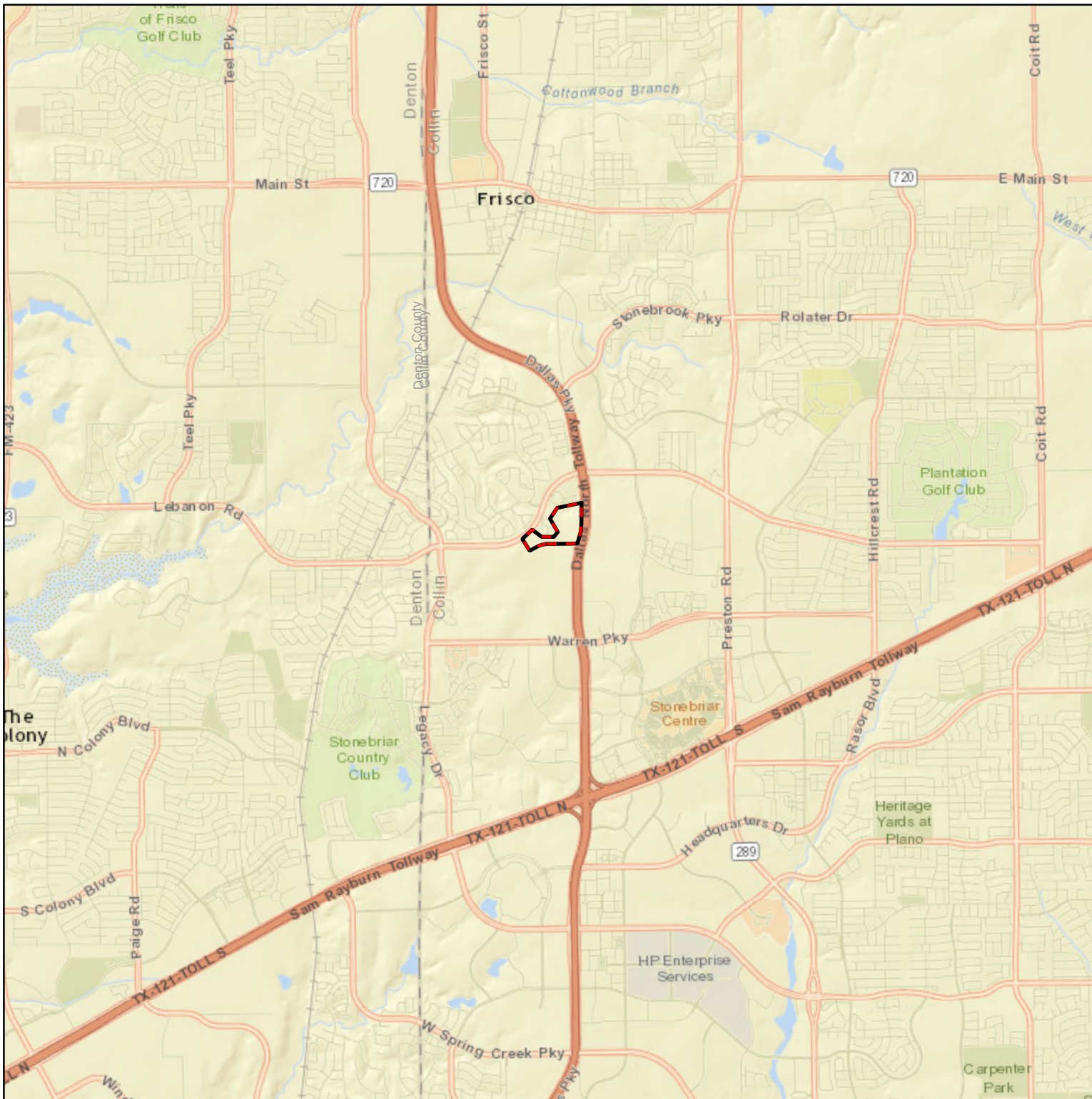
Project Number: SWF-2015-0058

Date: 1/2016 AVO: 30589

Sheet Title: VICINITY MAP

Sheet 1 of 12





Legend

 Project Area

Notes:

1. Service Layer Credits: Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013
- 2.

Project Title: THE GATE

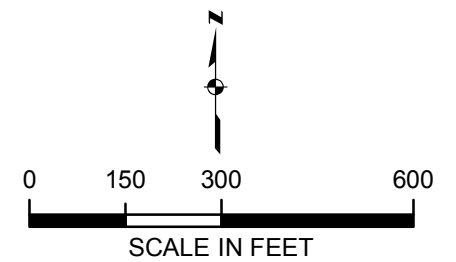
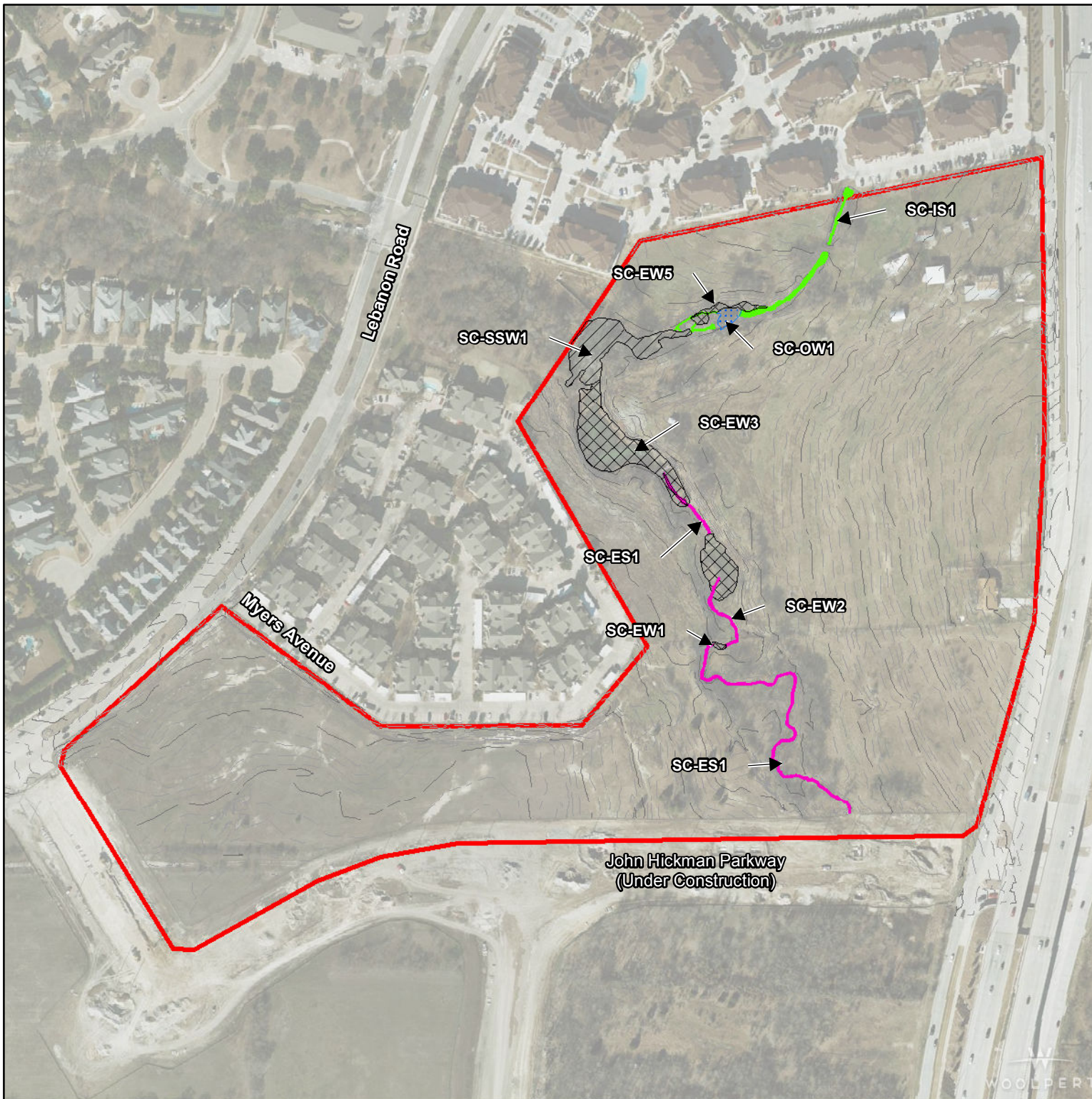
Project Number: SWF-2015-00058

Date: 1/2016 AVO: 30589

Sheet Title: LOCATION MAP

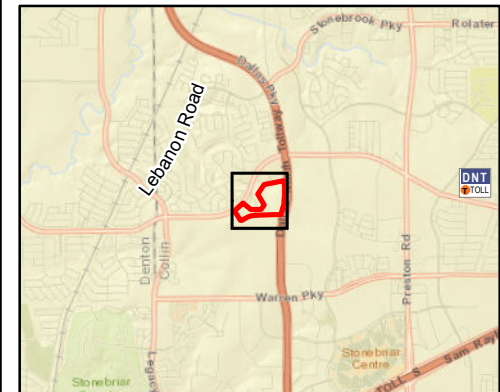
Sheet 2 of 12





Legend

- Project Area
- Waters of the U.S.**
- Emergent Wetland
- Scrub/Shrub Wetland
- Open Water
- Ephemeral Stream
- Intermittent Stream



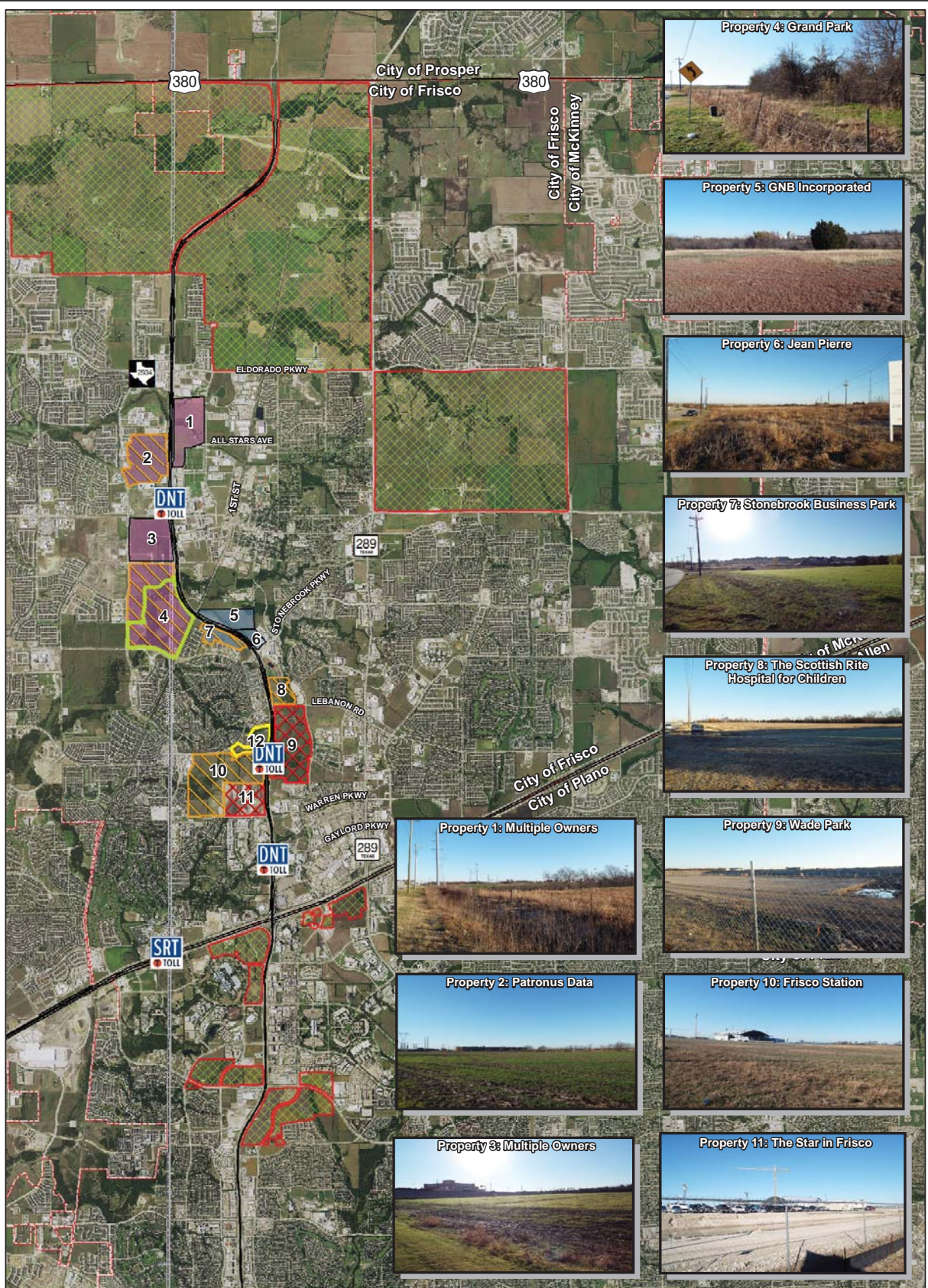
Project Title: THE GATE

Project Number: SWF 2015-00058

Date: 1/2016 AVO: 30589

Sheet Title: AQUATIC FEATURES MAP

Sheet 3 of 12



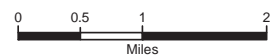
Legend

- City_Limits
- Preferred Alternative
- Eliminated from further consideration

Screening Criteria

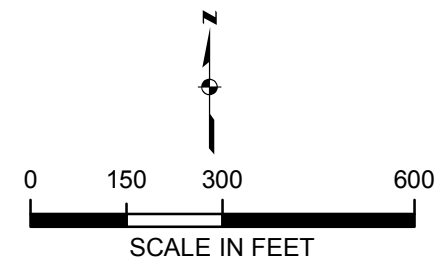
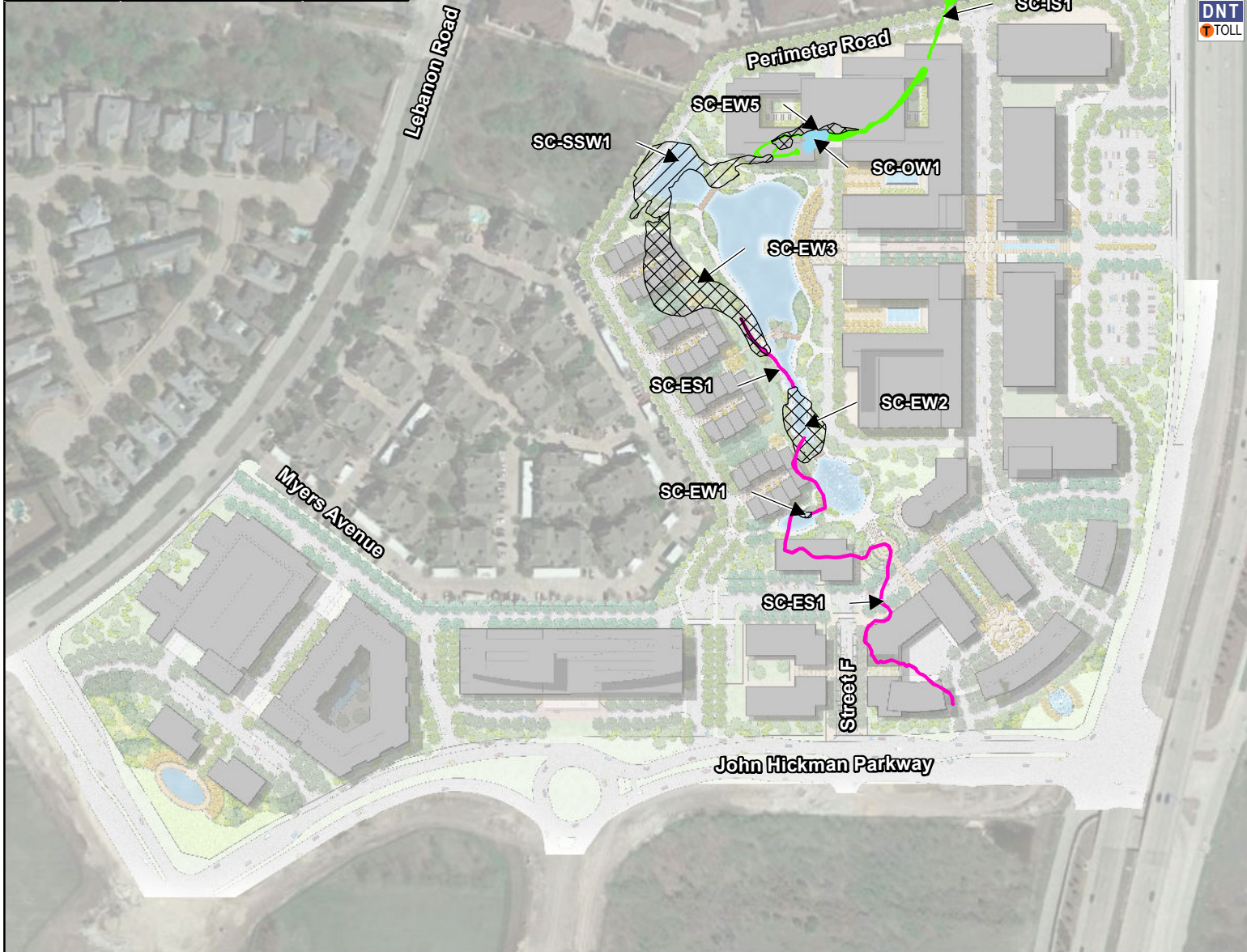
- Major_Roads
- Designated as Open Space
- Approved for Development
- Under Development
- Insufficient Geometry
- Not Proximal to DNT/SH 121

SHEET 4 OF 12 OFF-SITE ALTERNATIVES AND SCREENING CRITERIA #2015-00058



Aerial Photograph: NCTCOG/2015






Feature Name	Classification	Impacts
SC-IS1	Intermittent Stream	566 lf
SC-ES1	Ephemeral Stream	1166 lf
SC-OW1	Beaver Pond (On-Channel)	0.04 ac
SC-SS1	Shrub/Scrub Wetland	0.35 ac
SC-EW1	Emergent Wetland	<0.01 ac
SC-EW2	Emergent Wetland	0.17 ac
SC-EW3	Emergent Wetland	0.48 ac
SC-EW4	Emergent Wetland	0.02 ac
SC-EW5	Emergent Wetland	0.03 ac



Legend

Waters of the U.S.

Type

-  Emergent Wetland
-  Scrub/Shrub Wetland
-  Open Water
-  Ephemeral Stream
-  Intermittent Stream

Project Title: THE GATE

Project Number: SWF 2015-00058

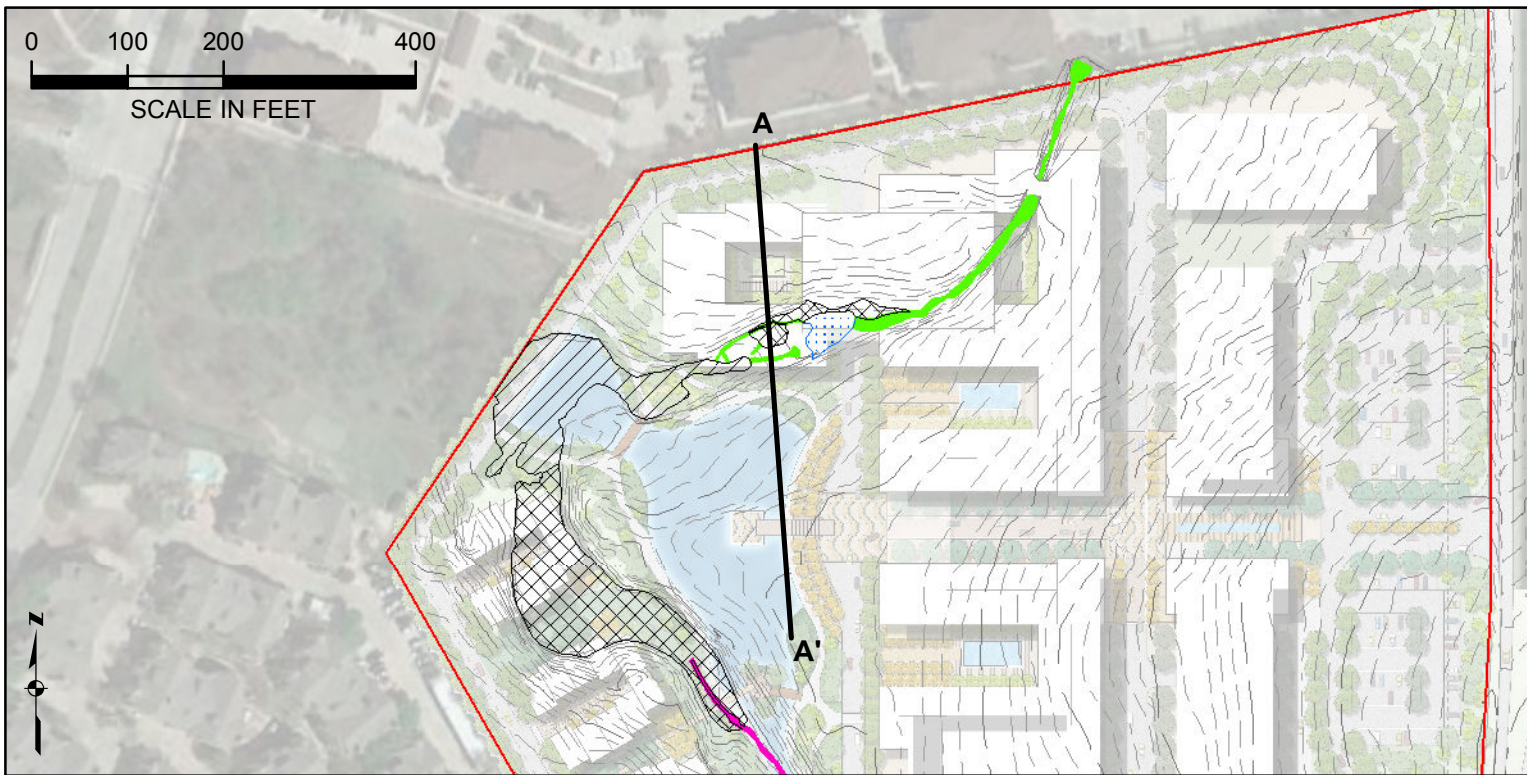
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Sheet Title: PREFERRED






ALTERNATIVE

Sheet 5 of 12










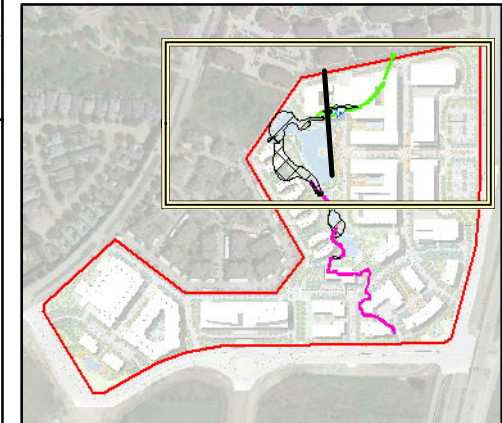
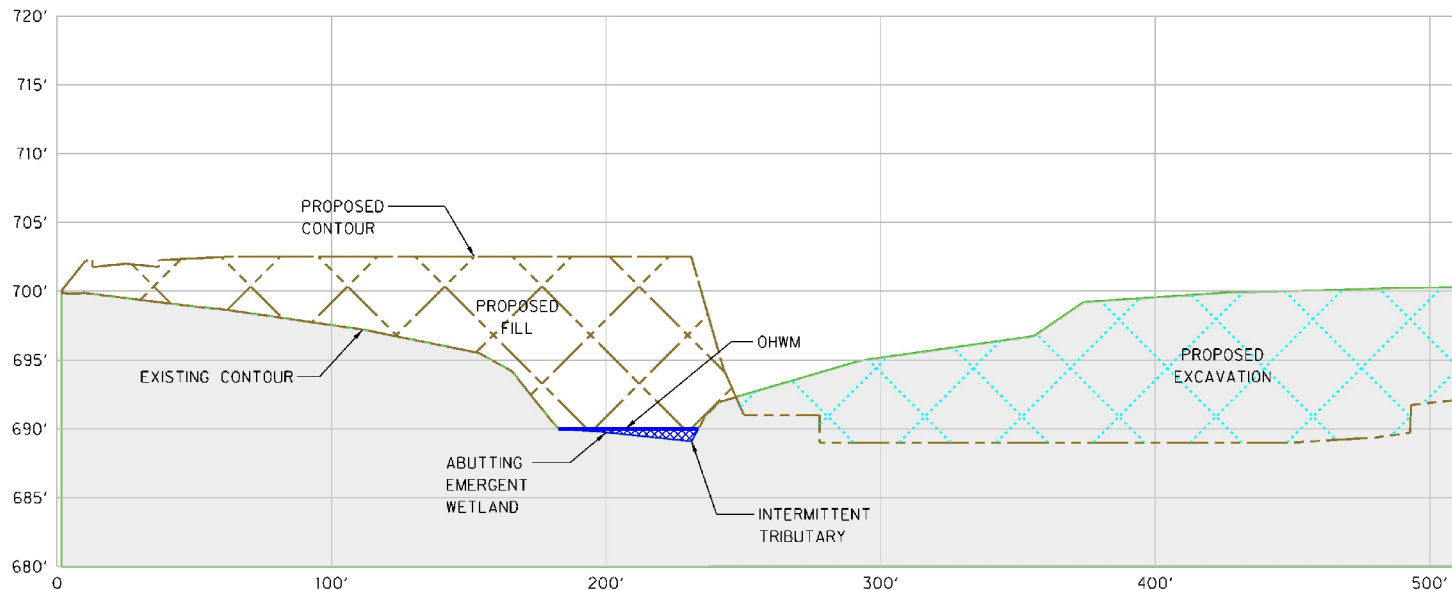
Waters of the U.S. Legend

-  Emergent Wetland
-  Scrub/Shrub Wetland
-  Open Water
-  Ephemeral Stream
-  Intermittent Stream

Profile Legend

-  Existing Contour
-  Proposed Fill
-  Proposed Excavation
-  WOUS OHWM
-  Proposed Contour

Profile A - A'



Notes:

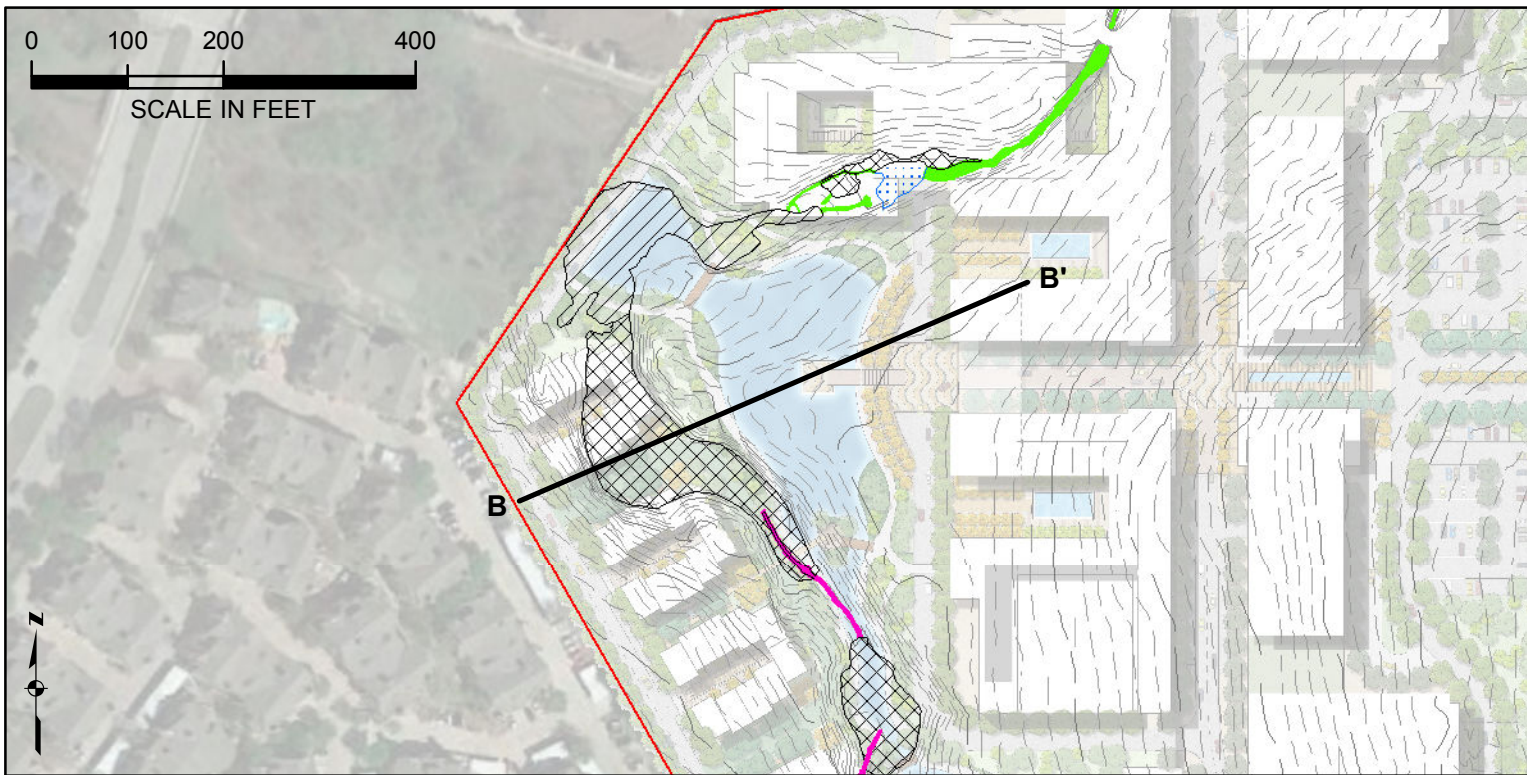
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Sheet Title: PROFILE A - A'

Sheet 6 of 12



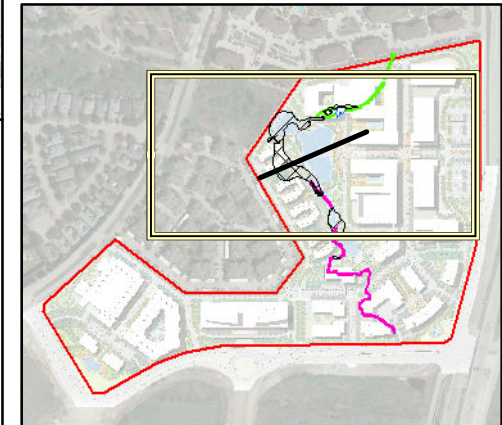
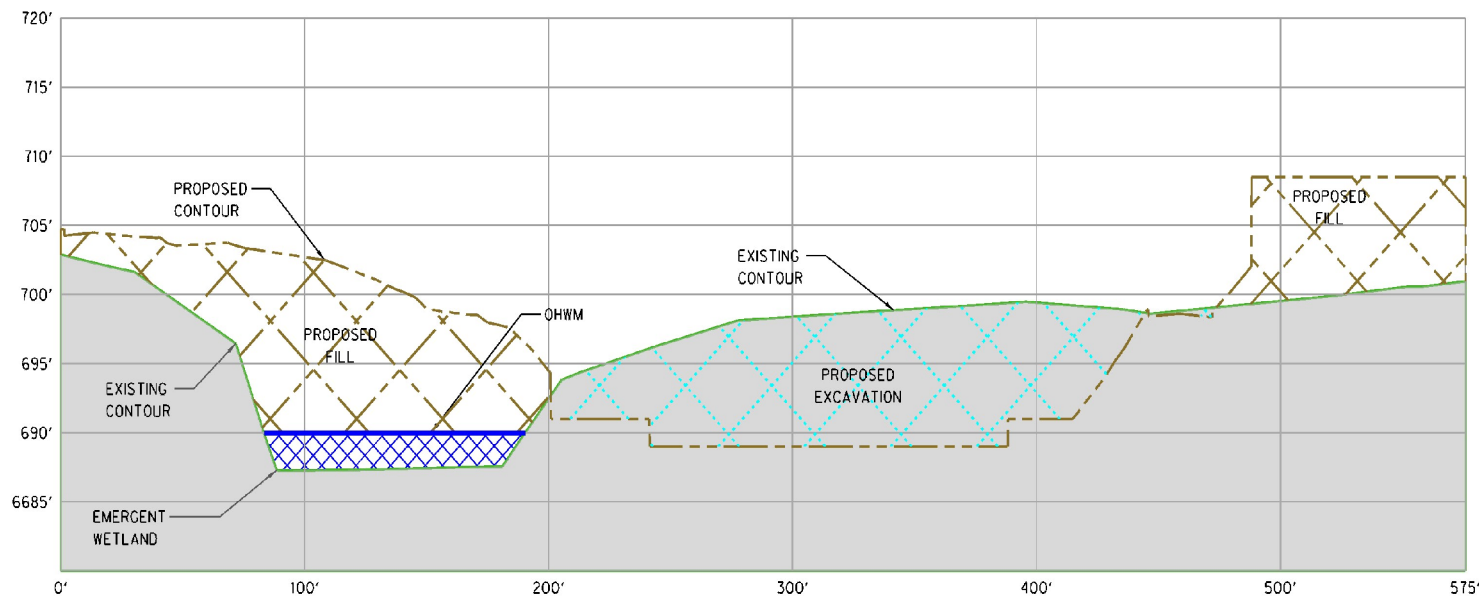
Waters of the U.S. Legend

- Emergent Wetland
- Scrub/Shrub Wetland
- Open Water
- Ephemeral Stream
- Intermittent Stream

Profile Legend

- Existing Contour
- Proposed Fill
- Proposed Excavation
- WOUS OHWM
- Proposed Contour

Profile B - B'



Notes:

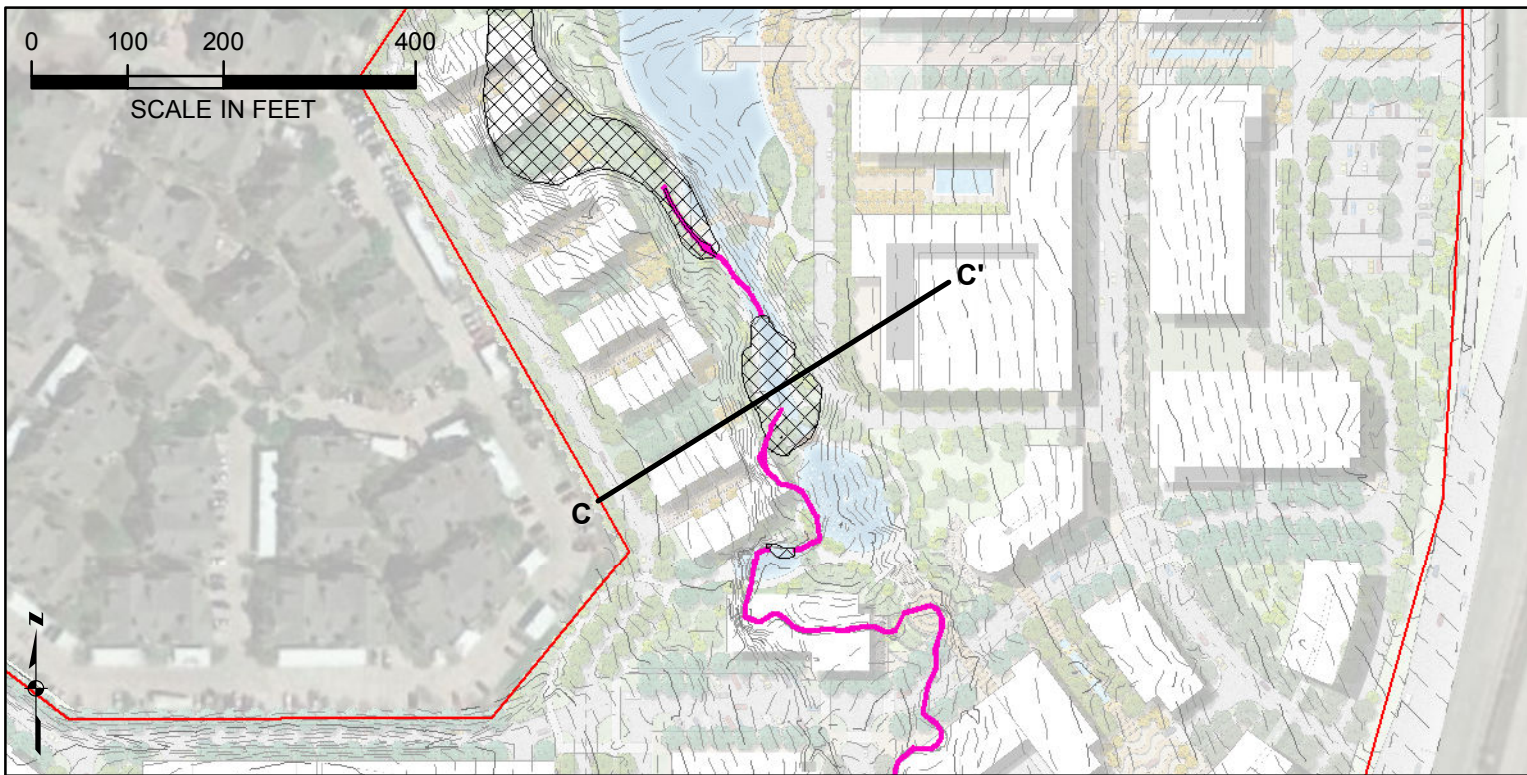
Project Title: THE GATE

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Sheet Title: PROFILE B - B'

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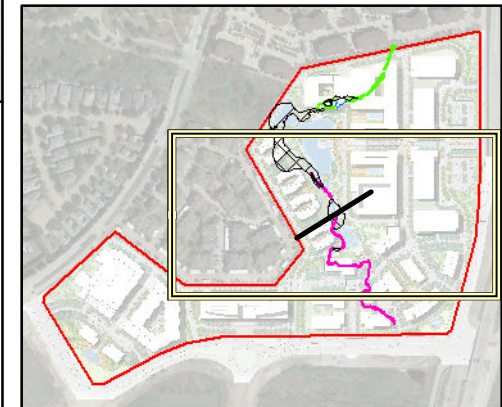
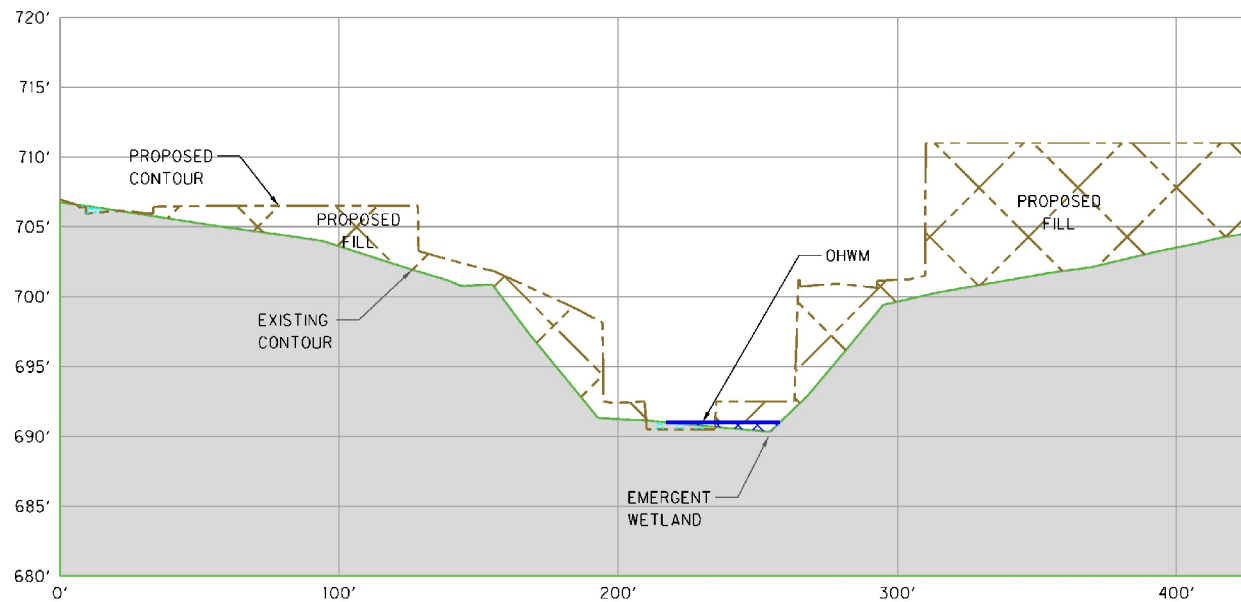
Waters of the U.S. Legend

- Emergent Wetland
- Scrub/Shrub Wetland
- Open Water
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- Intermittent Stream

Profile Legend

- Existing Contour
- Proposed Fill
- Proposed Excavation
- WOUS OHWM
- Proposed Contour

Profile C - C'



Notes:

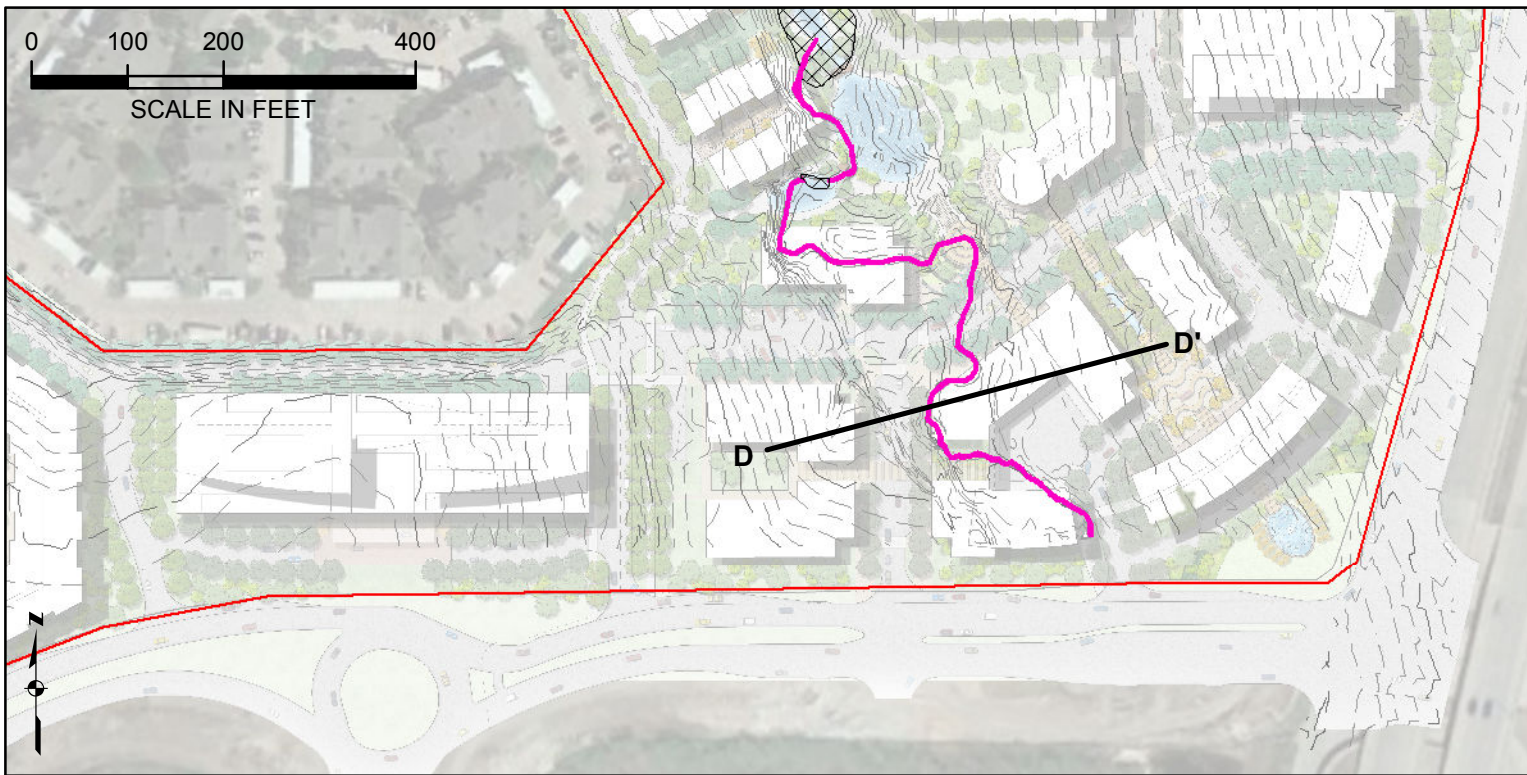
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Project Number: SWF-2015-00058

Date: 1/2015 AVO: 30589

Sheet Title: PROFILE C - C'

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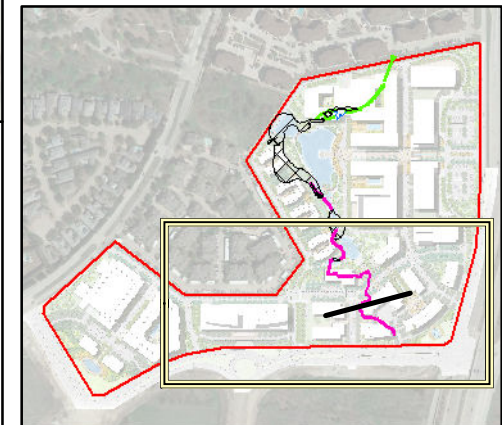
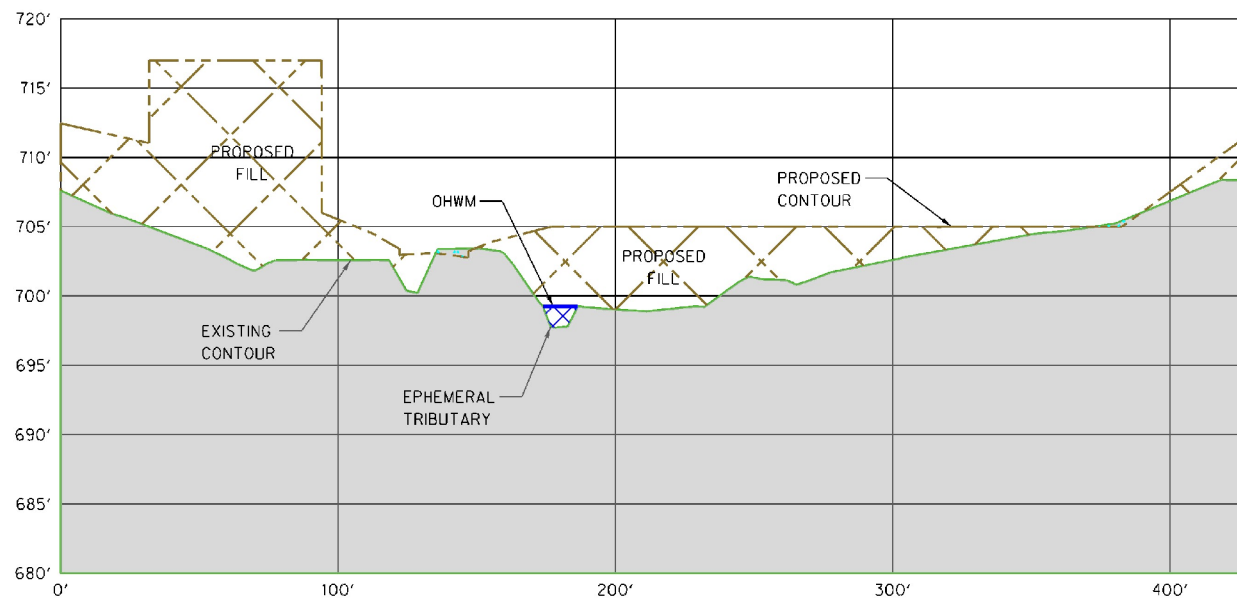
Waters of the U.S. Legend

- Emergent Wetland
- Scrub/Shrub Wetland
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- Intermittent Stream

Profile Legend

- Existing Contour
- Proposed Fill
- Proposed Excavation
- WOUS OHWM
- Proposed Contour

Profile D - D'



Notes:

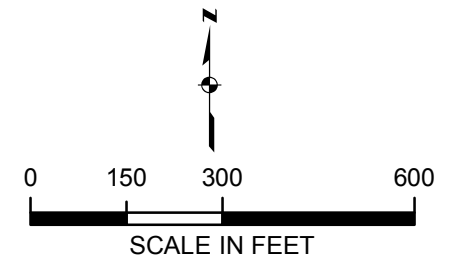
Project Title: THE GATE

Project Number: SWF-2015-00058

Date: 1/2015 AVO: 30589

Sheet Title: PROFILE D - D'

Sheet 9 of 12



Legend

Ephemeral Stream (WOUS)

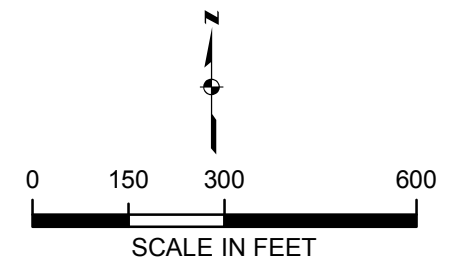
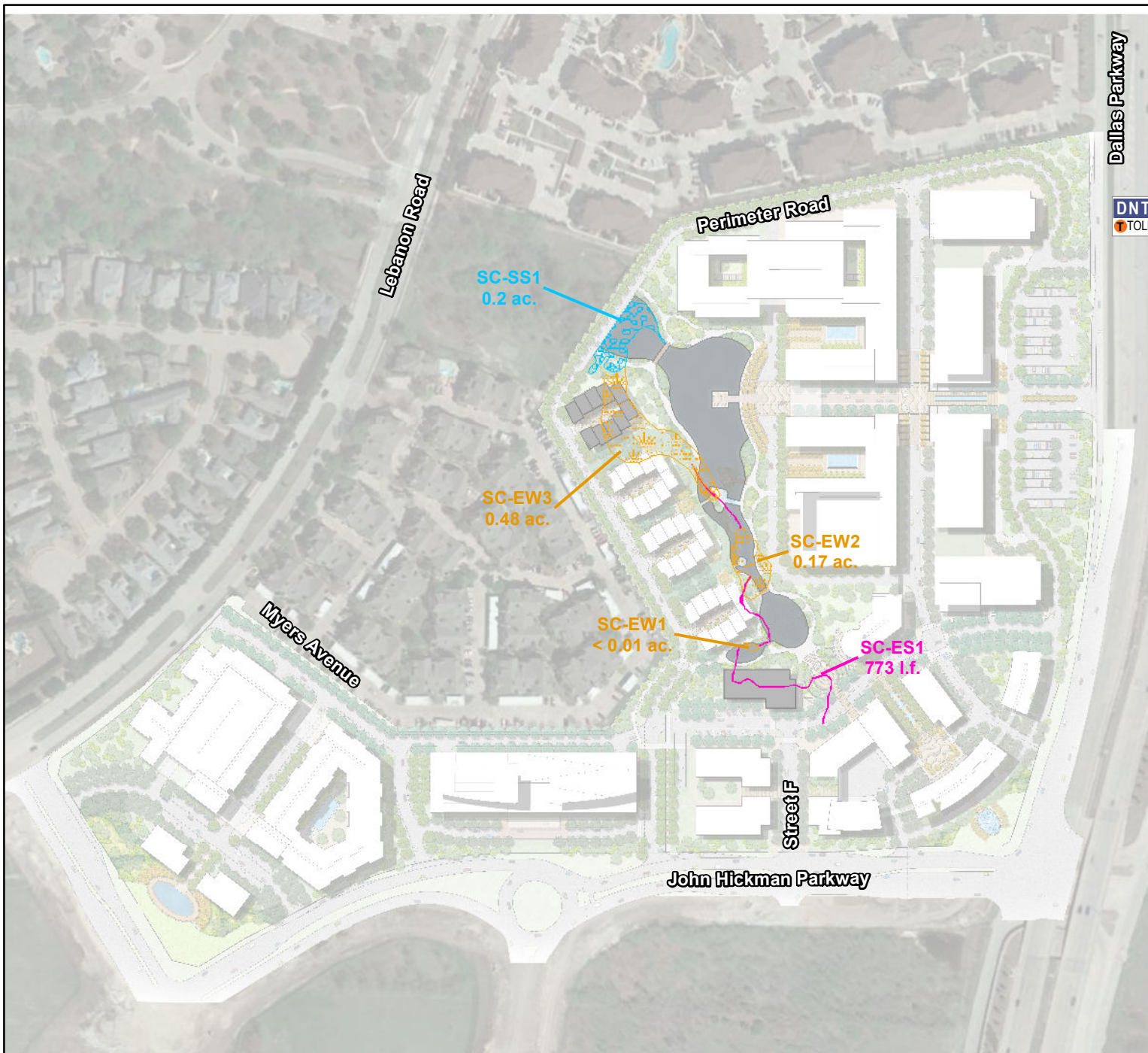
Project Title: THE GATE

Project Number: SWF 2015-00058




Date: 07/2015 AVO: 30589

Sheet Title: Alternative A

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Legend

-  Emergent Wetland (WOUS)
-  Ephemeral Stream (WOUS)
-  Scrub/Shrub (WOUS)

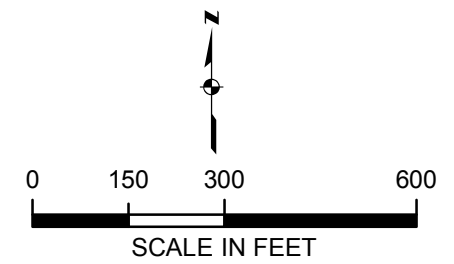
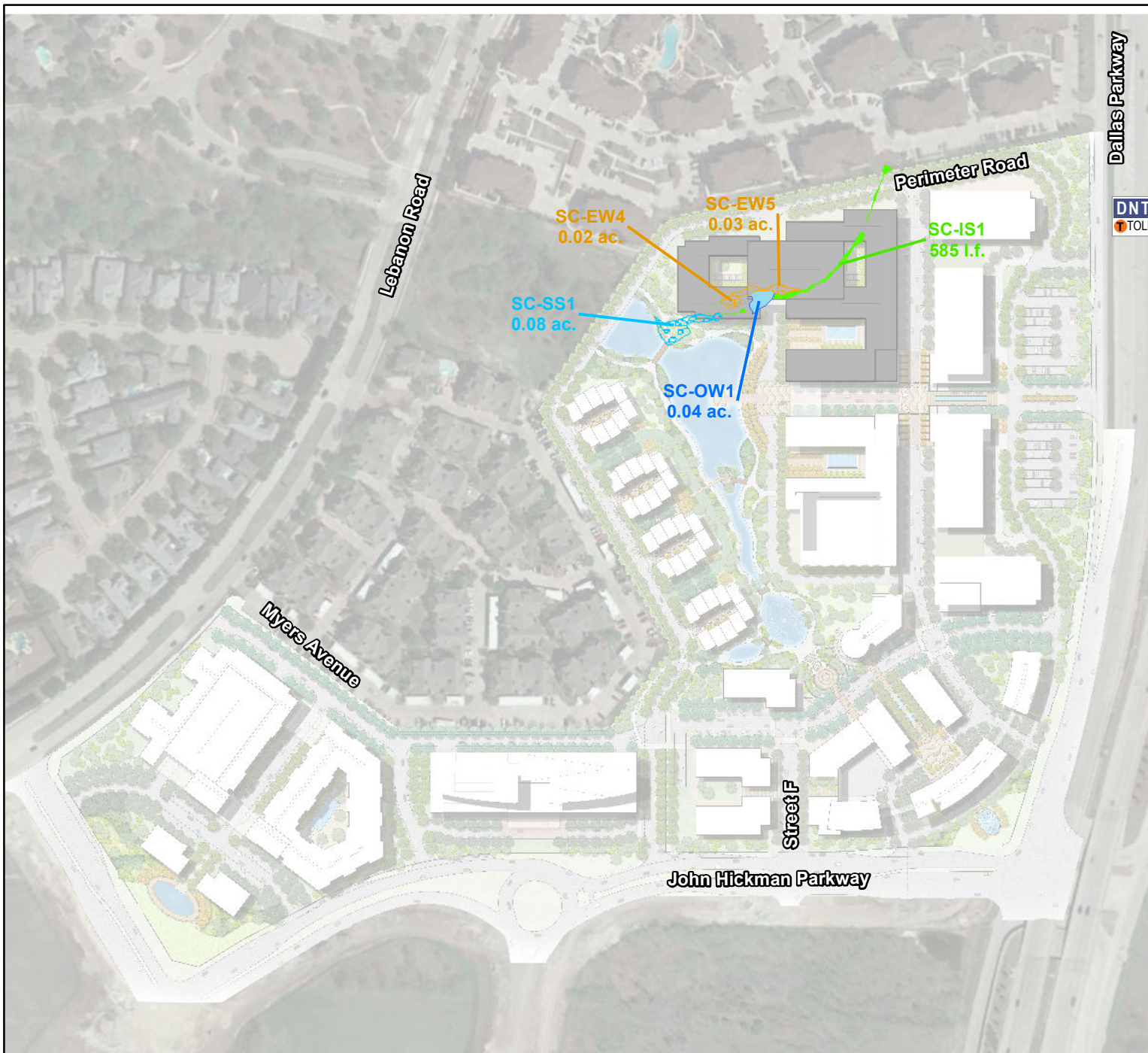
Project Title: THE GATE

Project Number: SWF 2015-00058





Date: 07/2015 AVO: 30589

Sheet Title: Alternative B

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Legend

-  Emergent Wetland (WOUS)
-  Scrub/Shrub (WOUS)
-  Intermittent Stream (WOUS)
-  Open Water (WOUS)

Project Title: THE GATE

Project Number: SWF 2015-00058

Date: 07/2015 AVO: 30589

Sheet Title: Alternative C

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