



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

Public Notice

Section 408 Request ID #: 408-SWF-2024-0055

Date issued: March 13, 2025

Close of comment period: April 12, 2025

USACE Point of Contact: Jason Story

REQUEST TO ALTER A U.S. ARMY CORPS OF ENGINEERS FEDERALLY AUTHORIZED CIVIL WORKS PROJECT UNDER 33 USC 408 (SECTION 408)

TITLE: Section 408 Request # 408-SWF-2024-0055, U.S. Highway 59 (US 59) Access Roads and Ramps, at Wharton, Texas

SUBJECT: Request for a Section 408 permission to alter the Lower Colorado River Basin Phase I, Flood Risk Management Project at Wharton, Texas, a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project. Written comments are being solicited from anyone having an interest in this proposed alteration. Comments will become part of the USACE administrative record and will be considered in determining whether to approve the proposed alteration. Comments supporting, opposing, or identifying concerns that may be considered by the USACE in its decision process are welcome. Issuance of this notice does not imply USACE endorsement of the proposed alteration as described.

REQUESTER: Texas Department of Transportation (TxDOT)

LOCATION: The proposed project is located in Wharton County in the City of Wharton, Texas

NON-FEDERAL SPONSOR: City of Wharton

LOCATION MAP(S)/DRAWING(S): Attached figures

DESCRIPTION OF THE PROPOSED ALTERATION: The proposed alteration consists of activities within the Lower Colorado River Basin Phase I, Flood Risk Management Project at Wharton, Texas. The larger TxDOT roadway improvements include widening of US 59 from SH 60 to 1 mile south of FM 961 in Wharton County, Texas. The proposed alteration consists of improvements to US 59 where it crosses the future USACE Wharton Phase 1 Levee along the north bank of the Colorado River. The proposed alteration involves construction of access roads and ramps on the west and east sides of US 59 to facilitate current construction and future maintenance activities. Both proposed west and east access roads will provide a crossing of the levee for

TxDOT construction and maintenance operations and a permanent connection for the USACE to the USACE's Levee System from the north side of the levee. The access roads will remain as permanent features for shared use between TxDOT, USACE, and the City of Wharton.

REGULATORY AUTHORITY: This request will be reviewed pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408). A requester has the responsibility to acquire other authorizations required by federal, state, and local laws or regulations, including any required permits from the USACE Regulatory Program. An approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION: The decision whether to grant the request for the alteration under Section 408 is based on several factors which are outlined in Engineer Circular 1165-2-220. The benefits which reasonably may be expected to accrue from the proposed alteration must be balanced against its reasonably foreseeable detriments. Review of the proposed alteration will be reviewed by a USACE technical review team considering the following factors:

1. *Impacts to the Usefulness of the USACE Project Determination.* The USACE technical review team will determine if the proposed alteration would limit the ability of the federally authorized project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs.

2. *Injurious to the Public Interest Determination.* The USACE technical review team will determine the probable impacts of the proposed alteration, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation.

3. *Environmental Compliance.* The USACE technical review team will determine if the Section 408 request is in compliance with the National Environmental Policy Act (NEPA) and other applicable federal environmental and cultural resources compliance requirements.

STATUS OF REVIEW: The USACE technical review team has determined the following based on the Section 408 request submittal.

1. IMPACTS TO THE USEFULNESS OF THE USACE PROJECT: The USACE technical review team has reviewed the proposed alteration for impacts to the USACE project and initial review indicates there would be no adverse hydrologic and hydraulic impacts resulting from the proposed alteration. The ramps have been reviewed by USACE engineering personnel and are in compliance with

relevant levee design criteria; no adverse impacts are anticipated to the levee embankment from the proposed alteration.

2. THREATENED AND ENDANGERED SPECIES: The TxDOT completed a federal and state threatened and endangered species analysis to comply with the Endangered Species Act (ESA) dated December 2021. The USACE intends to adopt the TxDOT ESA documentation as applicable for the Section 408 permission. The US 59 work across and within the Colorado River is outside of the Section 408 jurisdiction.

3. HISTORIC, CULTURAL, AND ARCHAEOLOGICAL RESOURCES: The TxDOT conducted a cultural resources survey in 2015 and consultation with the Texas State Historic Preservation Office and tribal nations with an interest, in association with this project in 2021, with a finding of No Historic Properties Affected. The USACE also conducted a cultural resources survey within the Area of Potential Effects (APE) in association with the Colorado River Flood Control Project in 2020 and 2021. The USACE reviewed the results of both surveys and identified no historic properties within the APE. Based on this review, the USACE determined that this undertaking shall have **No Effect to Historic Properties** in accordance with 36 CFR Part 800.4 (d)(1). Review of this documentation along with the changes described in the application, it was determined that no additional Section 106 consultation is required.

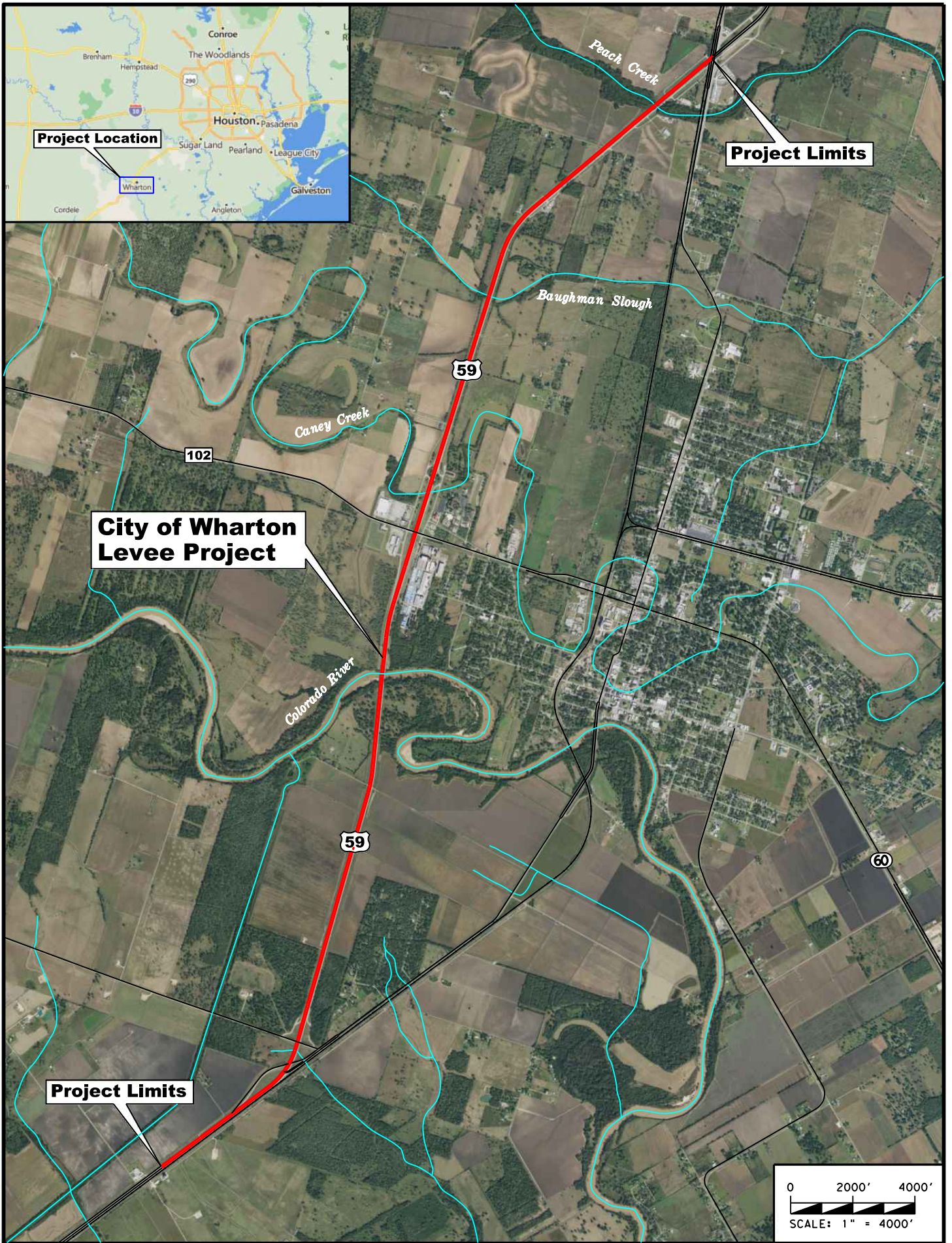
SOLICITATION OF COMMENTS: The USACE is soliciting comments from the public, federal, state, and local agencies and officials, federally recognized tribes, and other interested parties to consider and evaluate the impacts of the proposed alteration.

Materials submitted as part of the Section 408 request become part of the public record and are available to the public under the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Fort Worth District, U.S. Army Corps of Engineers, Office of Counsel.

Comments received will be considered by the USACE to determine whether to issue, modify, condition, or deny a permission for this proposed alteration. It is presumed that all parties receiving this notice will wish to respond to this public notice, therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed alteration as described herein.

CLOSE OF COMMENT PERIOD: Written comments on the proposed alteration must reach this office on or before the close of the comment period. Comments must reference the Section 408 Request ID # and project name. Submit comments and requests for additional information to CESWF-408@usace.army.mil. Telephone inquiries may be directed to Mr. Jason Story, Section 408 Coordinator at (817) 886-1852. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available. For more information on

Section 408, visit the Fort Worth District Section 408 webpage at <https://www.swf.usace.army.mil/Missions/Section-408/>.

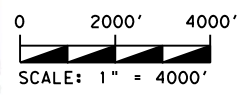


Project Location

Project Limits

**City of Wharton
Levee Project**

Project Limits

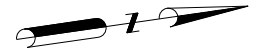
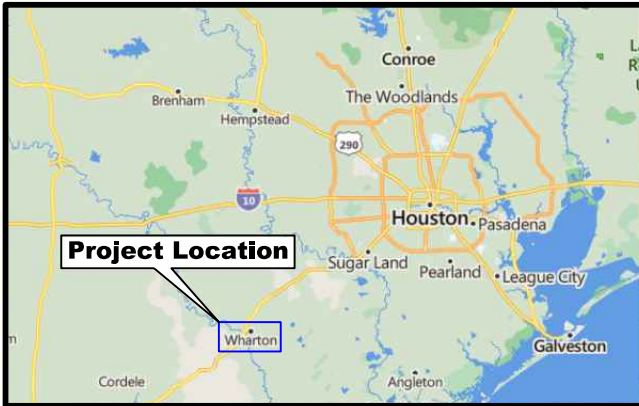


DATE: \$DATE\$
FILE: \$FILES\$

Civil Corp
ENGINEERS • SURVEYORS
29255 FM 1093, SUITE 7A, FULSHEAR, TEXAS 77441
TEL: (832) 252-8100 FAX: (832) 252-8103 TXENG FIRM #10283

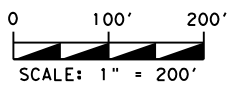
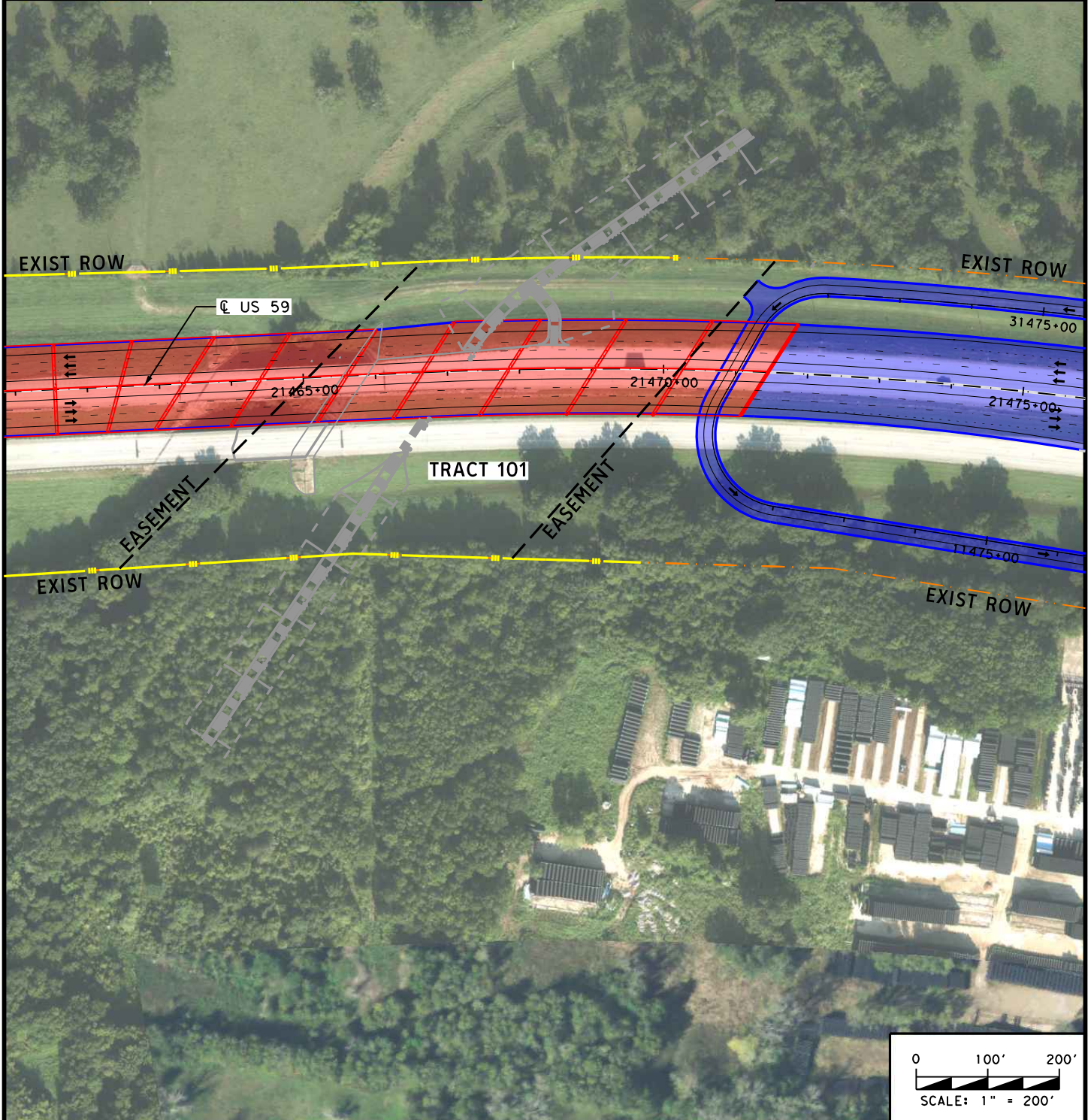
US 59 (FUTURE I-69)
WHARTON COUNTY
SH 60 TO 1 MILE SOUTH OF FM 961

FIGURE 1



LEGEND

- PROP ROADWAY
- PROP BRIDGE
- EXIST ROW
- CONTROL OF ACCESS
- TRAFFIC FLOW



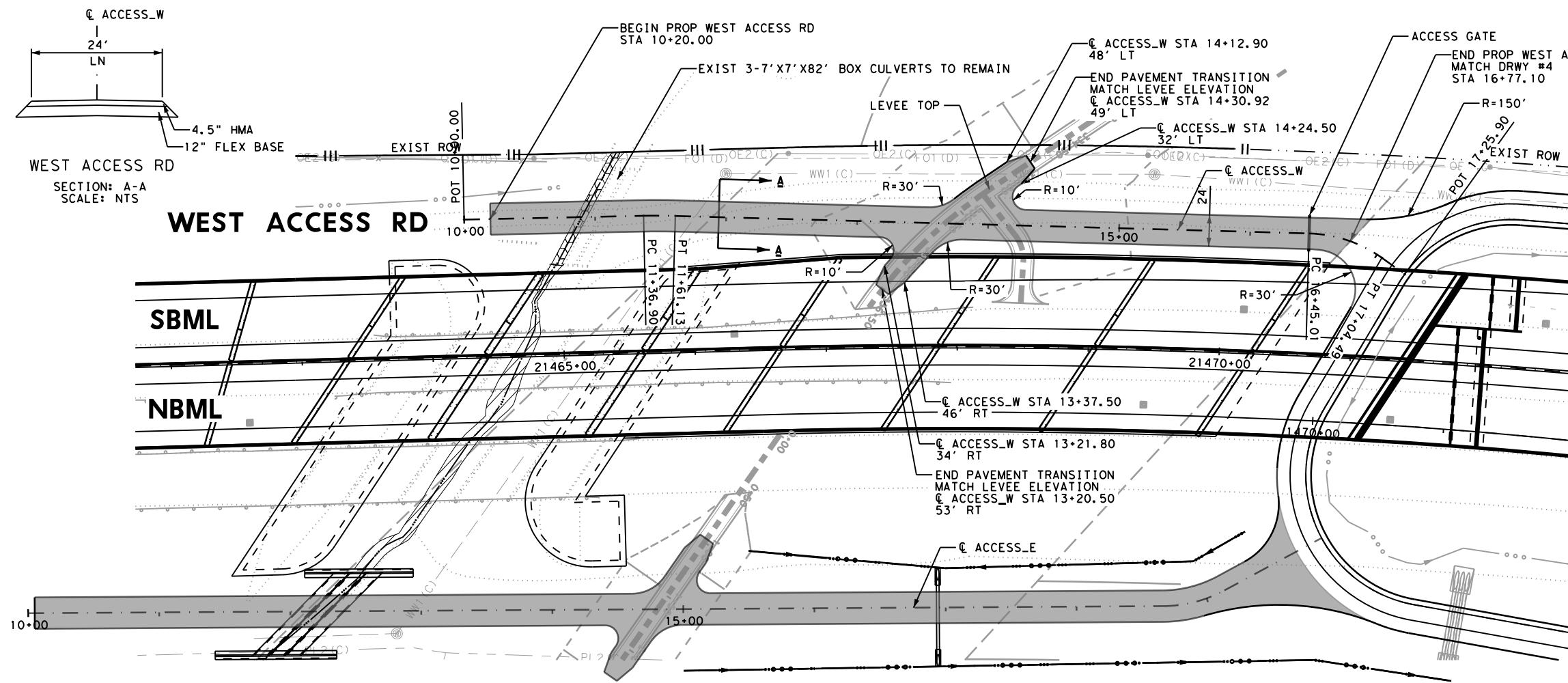
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US 59 (FUTURE I-69)
 WHARTON COUNTY
 SH 60 TO 1 MILE SOUTH OF FM 961

FIGURE 2

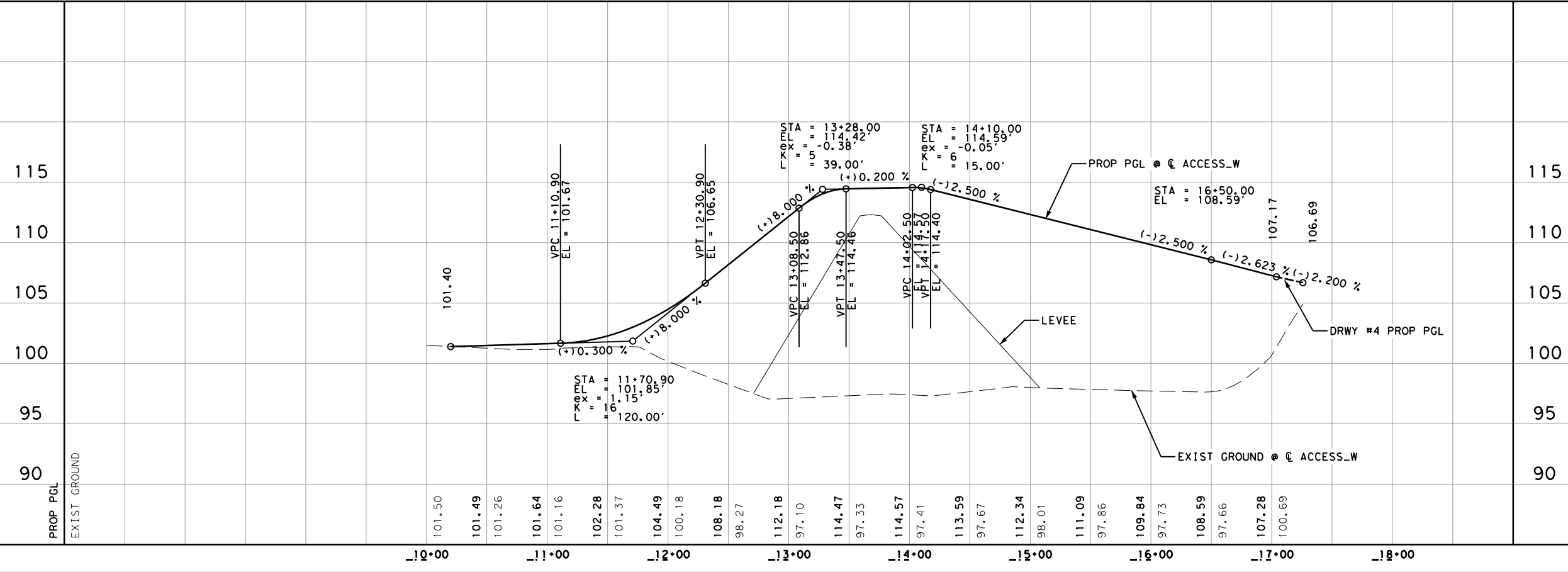
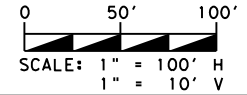
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LEGEND

- XXXXX CURVE NAME
- ← PROP TRAVEL LANE
- XX DRIVEWAY NUMBER
- III ACCESS DENIAL
- ⊙ BOREHOLE
- CONCRETE RIPRAP
- STONE RIPRAP
- NO WORK AREA
- TEMPORARY WORK AREA (SEE GENERAL NOTES & EPIC)
- DELINEATED WETLAND
- DELINEATED STREAM
- CONSTRUCTION FENCING
- PROPOSED OVERHEAD SIGN

- NOTES:**
- SEE "ACCESS ROAD DETAILS" FOR BENCHING DETAILS AND ACCESS GATE DETAILS.
 - THE CONTRACTOR SHALL PROVIDE A TEMPORARY FLOOD PROTECTION PLAN THAT INCLUDES BUT NOT LIMITED TO THE FOLLOWING:
 - THE TOP OF LEVEE SHALL NOT BE DEGRADED BELOW AUTHORIZED GRADE.
 - SPECIFY THE AVAILABILITY OF FILL MATERIAL (LOCATION AND QUANTITY) IF LEVEE IS DEGRADED AND THERE IS EMINENT FLOODING/HURRICANE OR OTHER UNFORESEEN CIRCUMSTANCE WHILE CONSTRUCTING THE RAMPS.
 - SPECIFY LABOR AND EQUIPMENT AVAILABLE FOR USE.
 - THE CONTRACTOR SHALL PROVIDE A STAGING AREA FOR EQUIPMENT. THE LEVEE SHALL NOT TO BE USED FOR STAGE EQUIPMENT.
 - THE CONTRACTOR SHALL PROVIDE A QUALITY CONTROL PLAN FOR EMBANKMENT WORK.



PRELIMINARY REVIEW

DOCUMENT IS FOR INTERIM REVIEW AND NOT INTENDED FOR CONSTRUCTION, BIDDING, OR PERMIT PURPOSES.

JASON C. KASPAR
NAME

108672
TEXAS SERIAL NO.

2/5/2025
DATE

CIVILCORP, LLC
TXENG FIRM #10283



US 59

WEST ACCESS ROAD AT LEVEE

SHEET 1 OF 2

DEV NO	STATE	PROJECT NO	HWY NO		
6	TEXAS		US 59		
DIST	COUNTY	CONT	SECT	JOB	SHT NO
YKM	WHARTON	0089	07	154, ETC	

