

Memo



To: Clay Pearson, City Manager
From: Cara Davis, Senior Project Manager
CC: Trent Epperson, Assistant City Manager
Robert D. Upton, P.E., Director of Engineering
Skipper Jones, Assistant Director of Capital Projects
Chris Orlea, Director of Parks & Recreation
Date: December 6, 2018
Re: Shadow Creek Trail

12/6/2018
To: Mayor and City Council members
The bidding for the Shadow Creek Trail connection along Clear Creek, from where it currently ends to Kirby Drive, so it can keep going, has been a bidding saga. Path forward laid out here. Will require new AFA thanks to a TxDOT error and then award. Clay

In 2013, the Houston Galveston Area Council (H-GAC) selected the City's Shadow Creek Ranch Trail application for funding with federal Transportation Enhancement (TE) funds and federal Surface Transportation Program, Metropolitan Mobility Off-System (STP-MM) funds. In August of 2015, the City entered into an AFA with TxDOT for Design services, including survey and environmental clearances, with \$248,562.00 in federal participation dollars.

A separate AFA for construction was approved by Council and executed with TxDOT in November 2017. Federal participation was listed as \$1,447,555.00. Both agreements reimburse the City for all approved consultant/construction costs up to 80% of the approved amount, less direct/indirect state cost incurred on the project, and requires twenty percent matching funds from the City. The City will be responsible for all costs in excess of the approved amount.

Advertising for the project letting commenced on July 18, 2018 and followed the procedures per the Local Government Project Management Guide. Bids were opened and read aloud at the City Hall Annex on August 16, 2018 in the presence of City staff as well as representatives from TxDOT and Talley Landscape Architects. Two contractors submitted bids in the amounts of \$1,353,270.78 and \$1,636,959.60. Millis Development & Construction, LLC (Millis) was the apparent low bidder at approximately 1% below the consultant's construction estimate. However, during the bid analysis process it was discovered that Millis did not submit the complete bid package, omitting portions of the child support information as required by the federal guidelines and were determined to be "non-responsive" and disqualified from further consideration. The second bidder, Texas Wall and Landscape, LLC (Texas Wall), submitted a complete bid package but, their bid was 19.6% over the consultant's construction estimate. Texas Wall's bid was still within the construction funds that were allocated to the project per the AFA executed in November 2017 with some funds remaining to partially cover construction phase services for Talley Landscape Architects and construction management, inspection and materials testing costs.

The City's concurrence to award package, which included the City's and Designer's recommendation of award, contract documents, and procedural checklists, was submitted to

TxDOT on August 31, 2018. Staff anticipated receiving TxDOT's concurrence of award approval for the Texas Wall contract by September 28th per communications with the TxDOT Houston District Office. On September 26th, Staff was notified by the Houston District that the AFA did not have enough funds in the account to cover consultant contracts for construction phase services and CM/CI/CMT and noted that the City should be responsible for these 100%. Further explanation of the budget accounting was requested from TxDOT by City staff. On September 28th the City was notified that there was an error on the second funding agreement (construction AFA). Per TxDOT the TIP Amendment #31, which allocated the funds for the project from the MPO, only allocated \$1,299,804.00 for construction instead of the \$1,447,555.00 shown on the Construction AFA approved by Council in November 2017. Despite this error, TxDOT issued their Concurrence of Award letter on October 1, 2018.

The error on the AFA will require terminating the original AFA and reissuance of a new AFA with the correct Federal fund allocations. City staff has worked with TxDOT to draft a new AFA for the Shadow Creek Ranch Trail project as a whole, which will replace both existing AFA's for design and construction. The language and articles in the new AFA reflect the current language TxDOT's Contract Services office is using for current AFA's. The project budget in Attachment C of the AFA has been updated to show the project estimates, source of funds and fund allocation for design and construction in one chart. The section relating to design has been revised from the original AFA approved in 2015 to move \$30,000 in funds allocated for Right-of-Way (ROW) to Engineering as no ROW was required for this project. The construction budget of the AFA corrects the Category 9 TAP funding to reflect \$1,091,590, which was the amount actually awarded by the MPO, instead of the \$1,199,341 that was incorrectly shown on the original 2017 AFA.

The funding error in the original AFA represents a \$147,751.00 reduction from what was approved by Council on the original construction AFA and what the City based the CIP budget on. The AFA caps allocated funds for the 80% direct construction reimbursement at \$1,259,804, with the City's 20% share being \$314,952. This is a total construction funding of \$1,574,756. Based on the current bid award recommendation of \$1,636,959.60 the City's responsibility would be an additional \$62,203.

On LGPP projects, when federal/state allocated funds are not adequate to cover all construction costs plus CM/CI/CMT, additional City funds are allocated in the CIP to cover all construction phase costs. Current contract negotiations estimate these costs to be approximately \$208,000. The project budget has been reviewed and has adequate funds to cover all proposed construction costs, including professional services, with a remaining fund balance of approximately \$108,000. The Construction Management, Inspection and Materials Testing contracts are being prepared for presentation at the first January 2019 Council meeting.

Due to the length of time that has passed while the funding issues were being resolved with TxDOT, the 90 day timeframe the contractor was required to hold their bid expired. The contractor was only required to hold bid prices until November 14, 2018. Per recent discussions with Texas

Wall they have submitted two extension letters that will hold their bid prices until December 28, 2018.

The agenda request on December 17th will request that Council terminate the two AFA's for Shadow Creek Ranch Trail previously approved, and approve the revised combined AFA with corrected funding amounts to replace the previous.

City staff will also submit an agenda requesting approval of the bids and award of the construction contract to Texas Wall and Landscape Services for the Shadow Creek Ranch Trail project in the amount of \$1,636,960 on December 17th.

Budget Info:

Funding Sources	Series	To Date	Future	Total Budget
TIRZ Reimbursement (CO)	2016	324,951		324,951
TIRZ Reimbursement (CO)	2018	380,000		380,000
General Obligation Bonds				-
General Obligation Bonds				-
W/S Revenue Bonds				-
W/S Revenue Bonds				-
General Revenue - Cash		38,994		38,994
Other Funding Sources (TIP)		1,492,366		
Other Funding Sources - Fund Balance		23,815		23,815
Total Funding Sources		2,260,126	-	2,260,126

Expenditures	To Date	Future	Total
PER			-
Land			-
Design	296,592	63,783	360,375
Construction	10,055	1,636,960	1,647,015
Construction Management/Inspection		144,000	144,000
Construction Materials Testing			-
FF&E			-
Total Expenditures	306,647	1,844,742	2,151,390

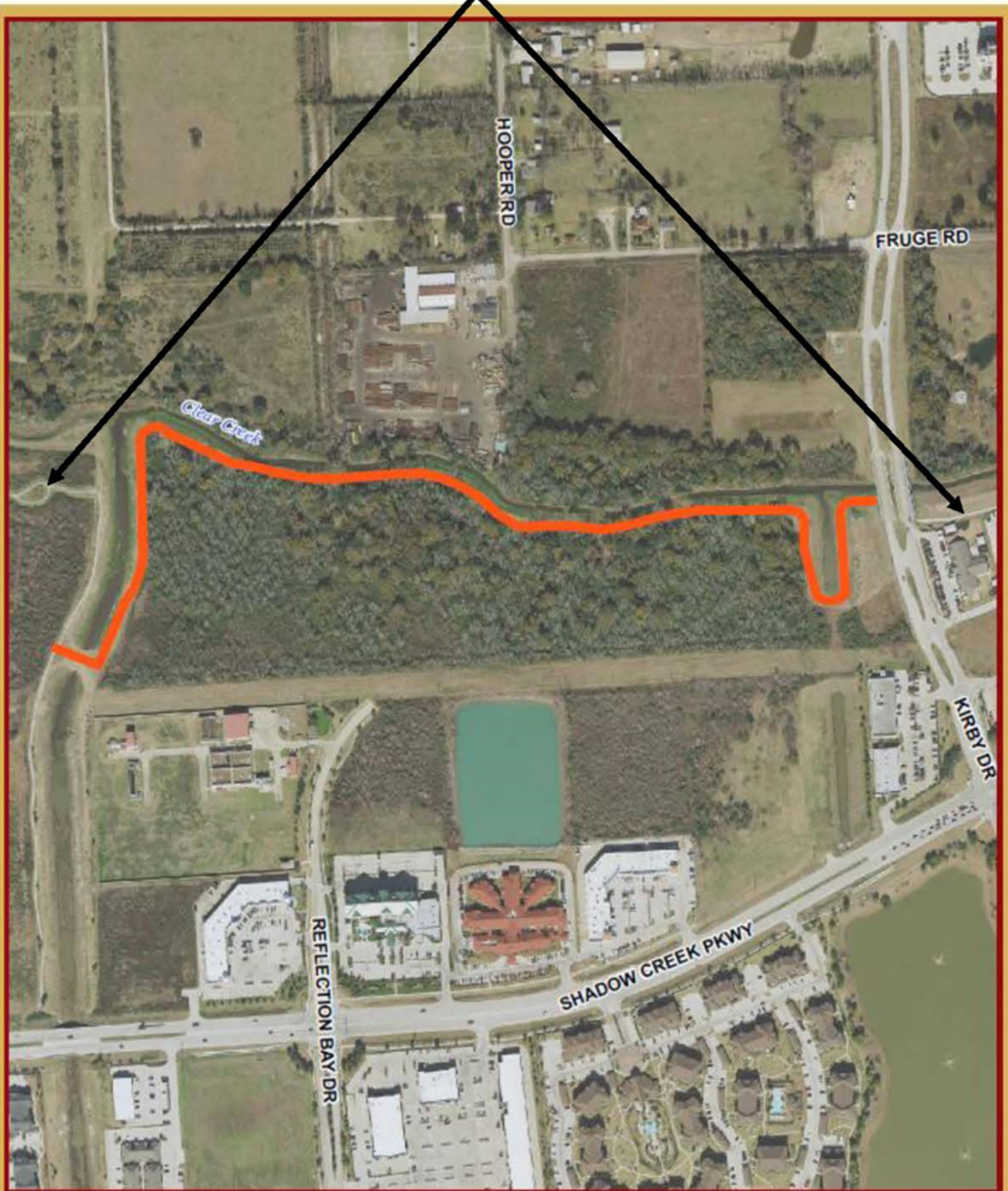
Project Balance/Contingency	108,736
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Schedule Info:

	Base Line	Current
Design Start	September-15	February-17
Bid Start	May-18	July-18
Construction Start	October-18	January-19
Proposed Construction Completion	August-19	

Project Location Map:

Existing Shadow Creek Ranch Nature Trail



CITY OF PEARLAND
Shadow Creek Ranch Trail

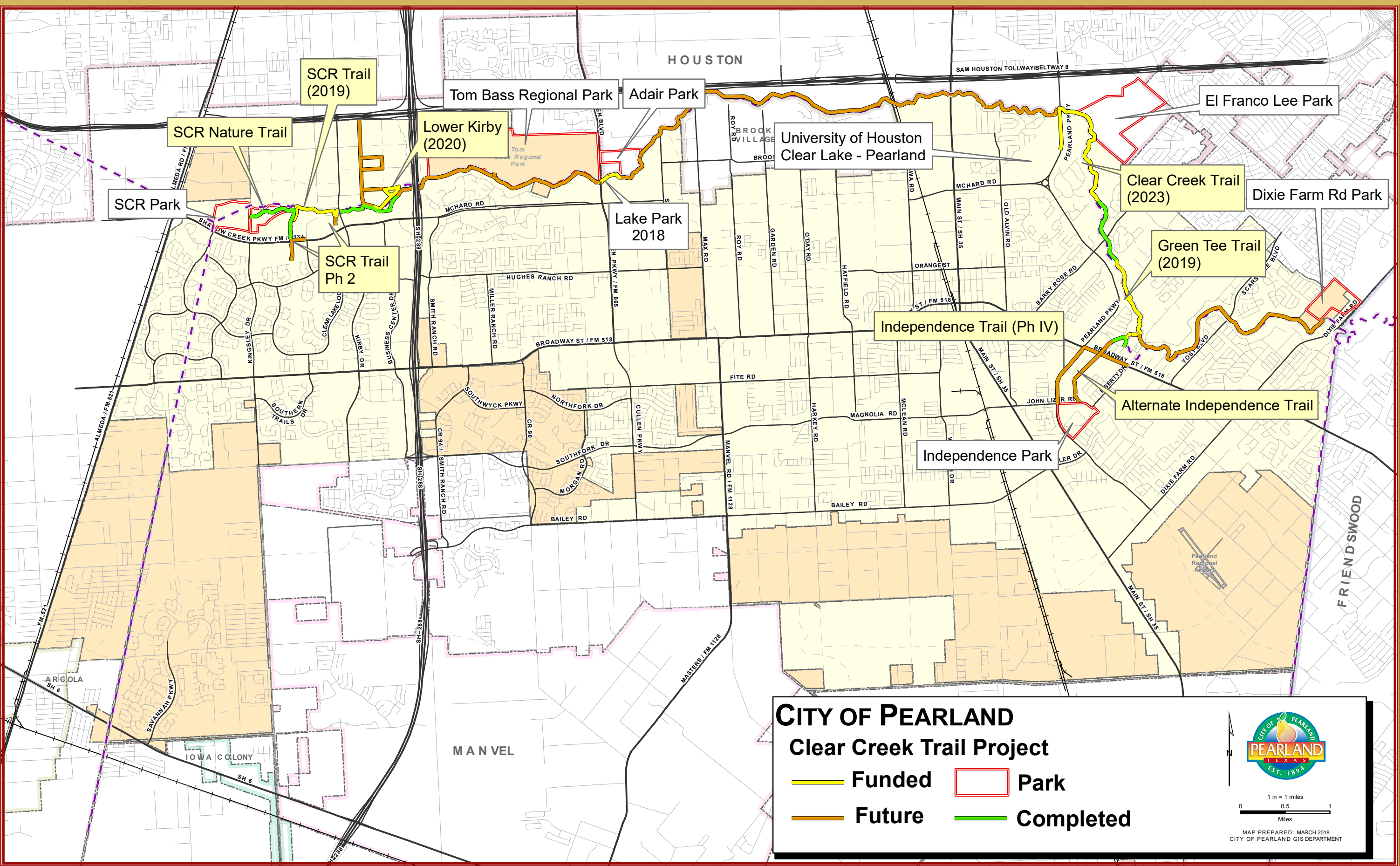


1 inch = 425 feet



MAP PREPARED: AUG 2015
GIS DEPARTMENT

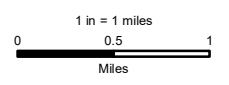
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Clear Creek Trail Project

- Funded
- Future
- Park
- Completed



MAP PREPARED: MARCH 2018
CITY OF PEARLAND GIS DEPARTMENT