

STATE OF TEXAS           §  
  §  
COUNTY OF FORT BEND   §

COST SHARE AGREEMENT FOR DESIGN AND  
CONSTRUCTION OF BEECHNUT STREET THROUGH GRAND VISTA

This Agreement, made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, by and through its Commissioners Court, hereinafter called "County," and Taylor Morrison of Texas, Inc., hereinafter referred to as "Developer," authorized to conduct business in the State of Texas.

**WHEREAS**, County and Developer have agreed to participate in the improvements to the Beechnut Street corridor between Grand Mission Boulevard and FM 1464, including but not limited to construction of the roadway (hereinafter referred to as "the Project") by providing funding and administration for the design and construction of a portion of the Project as outlined in Section 2 "Scope of Work"; and

**WHEREAS**, County has determined in good faith that the expenditure of funds services a public purpose, in that it aides the flow of traffic for the residents and business-owners in the area of the Project; and

**WHEREAS**, the attached Exhibit A map shows the segments of the Project that are within the boundaries of or adjoining Developer's land which would require contribution to the Project by Developer. The probable costs for these segments are shown on the attached Exhibit B.

**WHEREAS**, County and Developer have determined that construction of contiguous full boulevards of the Project is preferred over construction of half boulevards by segment within the corridor; and

**WHEREAS**, Developer's contribution should be based on the linear footage of a full boulevard equivalent to its responsibility of linear footage of a half boulevard within the boundaries of or adjoining Developer' land.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements, and benefits to the parties hereto, County and Developer agree as follows:

**AGREEMENT**

**1.     Period of the Agreement**

This Agreement becomes effective on the date signed by County and shall remain in effect until the Project is completed.

## **2. Scope of Work**

The Scope of the Project shall be limited to the scope authorized by County and is shown on the map attached Exhibit "A" attached hereto and incorporated herein for all purposes. The scope of the Project is for Developer to administer and construct the improvements to Beechnut Street from Grand Mission Boulevard east for approximately 4,069 linear feet to a point just east of the NETCO Pipeline crossing ("Developer Improvements"), including drainage improvements on behalf of Fort Bend County Municipal Utility District No. 30 ("MUD 30"); and the County to administer and construct the improvements to Beechnut Street for the remaining portion within the limits of the Project. The scope includes the design and construction of the Project and any other work necessary to complete the Project.

## **3. County's Responsibilities**

- A. County shall assist Developer in acquiring "No Objection" letters from all pipeline companies affected by the limits of the Developer Improvements.
- B. County will assume responsibility for the maintenance of the Developer Improvements upon completion of the one-year maintenance period by Developer and acceptance into County's maintenance system in accordance with the Fort Bend County Regulations of Subdivisions.
- C. County will take all steps necessary to provide any needed access or easements for the construction of the Project.
- D. County will obtain the additional right of way needed for the Project outside the boundaries of Developer's property.

## **4. Developer's Responsibilities**

- A. Developer shall pay the construction costs related to the Developer Improvements including engineering, construction phase services, geotechnical, and construction materials testing.
- B. Developer shall prepare, or cause to be prepared, the drawings and specifications for the Developer Improvements utilizing professional services approved by the County.
- C. Developer shall advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Developer Improvements. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders, which may become necessary subsequent to the award of the construction contract.

- D. Developer shall use its approved contract letting and award procedures to let and award the construction contract.
- E. Upon completion of the Developer Improvements, the Developer shall issue to County a "Notification of Completion," acknowledging that the Developer Improvements have been completed.
- F. Developer shall dedicate to the County the additional property needed for the Project including acreage along Beechnut Street from Grand Mission Boulevard, to the extent such property is owned by Developer, to FM 1464, and provide detention capacity, on behalf of MUD 30 for the Project at no cost to the County through MUD 30. The County shall accept such conveyance within thirty (30) days of the date the Developer provides the County an executed deed.
- G. Developer, with County's assistance, shall facilitate obtaining "no objection" letters from Kinder Morgan, NETCO, and other relevant utilities, as necessary, for Beechnut Street crossings within the Grand Vista development.

**5. Environmental Assessment and Mitigation**

- A. County is responsible for the identification and assessment of any environmental problems associated with the Project, except for those related to the Developer Improvements or land owned by Developer and governed by this Agreement.
- B. Developer is responsible for the cost of any environmental problems, mitigation and remediation of property owned by Developer, to the extent permitted by law, if such mitigation and remediation is required by law. Developer shall provide an acceptable Phase 1 Environmental Assessment covering property owned by Developer at the time of dedication.

**6. Dispute Resolution**

- A. In the event of a dispute related to the breach of this Agreement that cannot be settled through negotiation, County and Developer agree to submit the dispute to mediation.
- B. In the event County or Developer desire to mediate any dispute, that party shall notify the other party in writing of the dispute desired to be mediated. If the parties are unable to resolve their differences within 10 days of the receipt of such notice, such dispute shall be submitted for mediation.
- C. All expenses associated with mediation shall be shared 50 percent (50%) by each party excepting any attorney fees, which shall be paid by Developer and County for their respective representation.

- D. The requirement to seek mediation shall be a condition required before filing an action at law or in equity. Any such action shall be filed in a court of competent jurisdiction in Fort Bend County, Texas, and the laws of Texas shall apply.

**7. Amendments**

Amendments and changes to this Agreement due to changes in the character of the work or terms of the Agreement, or responsibilities of the parties relating to the Project, may only be enacted through a mutually agreed upon, written amendment between County and Developer.

**8. Remedies**

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

**9. Notices**

- A. All notices to either party by the other required under this Agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

**County:** Fort Bend County Engineering Department  
Attention: County Engineer  
301 Jackson Street  
Richmond, Texas 77469

With a copy to: Fort Bend County  
Attention: County Judge  
401 Jackson Street, 1<sup>st</sup> Floor  
Richmond, Texas 77469

**Developer:** Taylor Morrison of Texas, Inc.  
Attention: Todd Merrill  
12111 N. Westshore Blvd., Suite 512  
Tampa, FL 33607

With a copy to: Taylor Morrison of Texas, Inc.  
Attention: Bill Dalton  
5353 W. Sam Houston Pkwy. N., Suite 190  
Houston, TX 77041

With a copy to: Morris, Lendais, Hollrah & Snowden  
Attention: Barry Snowden  
1980 Post Oak Boulevard, Suite 700  
Houston, Texas 77056

And: Johnson Development Corporation  
Attention: Michael Cox  
5005 Riverway, Suite 500  
Houston, Texas 77056

- B. All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally, by certified U.S. mail, overnight carrier or Federal Express and such request shall be honored and carried out by the other party.

**10. Legal Construction**

In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

**11. Responsibilities of the Parties**

The parties agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

**12. Ownership of Documents**

Upon completion or termination of this Agreement, all documents prepared by County shall remain the property of County. All data prepared under this Agreement shall be made available to Developer without restriction or limitation on their further use.

**13. Compliance with Laws**

The parties shall comply with all federal, county, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement.

**14. Sole Agreement**

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

**15. Inspection of Books and Records**

The parties to this Agreement shall maintain all books, documents, papers, accounting records and other documentation relating to costs incurred under this Agreement and shall make such materials available to County and Developer, or their duly authorized representatives for review and inspection at its office during the contract period and for four (4) years from the date of completion of work defined under this contract or until any impending litigation, or claims are resolved. Additionally, County and Developer and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

**16. Signatory Warranty**

The signatories to this Agreement warrant that each has the authority to enter into this Agreement on behalf of the party represented.


IN TESTIMONY HEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

FORT BEND COUNTY, TEXAS:

TAYLOR MORRISON OF TEXAS, INC:

\_\_\_\_\_  
Robert E. Hebert, County Judge

  
\_\_\_\_\_  
~~Bill Dalton~~, Vice President  
JONATHAN WHITE


\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Attest:**

\_\_\_\_\_  
Laura Richard, County Clerk

Approved: COUNTY PROJECT MANAGER

  
\_\_\_\_\_  
Richard W. Stolleis, P.E., County Engineer

Approved as to Legal Form:

  
\_\_\_\_\_  
Marcus D. Spencer, First Assistant County Attorney

APPENDIX

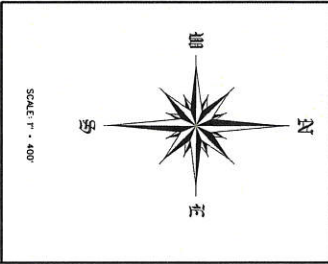
The appendix attached to this Agreement consists of:


- Exhibit "A"                      Project Location Map
- Exhibit "B"                      Estimated Project Costs and Estimated Proration

# EXHIBIT A



 TAYLOR MORRISON PROPERTY BOUNDARY  
 RIGHT-OF-WAY DEDICATED BY DONATION DEED TO F.B.C.



FORT BEND COUNTY M.U.D. No. 30 <b>PROPOSED BEECHNUT ROAD</b>	
 Costello Surveying and Engineering, Inc. 1715 W. 29th Street, Suite 100 Houston, Texas 77019 (713) 261-1100 www.costelloinc.com	GRAND VISTA
BY: J.A.R. SCALE: 1" = 400'	MARCH 2017

# EXHIBIT B

Project Proration of Beechnut Street (Through Grand Vista to FM 1464)

Frontage Segment	Length (ft)	% Total Frontage	Probable Cost Share
A	867	5.0%	\$564,458.76
B	887	5.1%	\$577,479.72
C	626	3.6%	\$407,556.15
D	1,088	6.2%	\$708,340.41
E	1,409	8.1%	\$917,326.87
F	625	3.6%	\$406,905.10
G	662	3.8%	\$430,993.89
H	575	3.3%	\$374,352.70
I	933	5.3%	\$607,427.94
J	2,927	16.8%	\$1,905,617.99
K	2,875	16.5%	\$1,871,763.48
L	740	4.2%	\$481,775.64
M	1,253	7.2%	\$815,763.35
N	545	3.1%	\$354,821.25
O	1,448	8.3%	\$942,717.75
<b>TOTAL</b>	<b>17,460</b>	<b>100.0%</b>	<b>\$11,367,301.00</b>

<b>Total Probable Construction Cost including Engineering and Contingency *</b>
<b>\$11,367,301.00</b>

\* This is from an itemized probable cost estimate.

Taylor Morrison's Frontage Segments B, C, D, E, F, H & J	Frontage Length	Full Boulevard Length
\$5,297,578.94	8,137	4,069

Skymark Frontage Segments A & I	Frontage Length	Full Boulevard Length
\$1,171,886.70	1,800	900

Fort Bend County Frontage Segment K, L, M, N & O	Frontage Length	Full Boulevard Length
\$4,466,841.48	6,861	3,431

TXI Frontage Segment G	Frontage Length	Full Boulevard Length
\$430,993.89	662	331

**Beechnut Rd Preliminary Estimate**  
**Ultimate Design**

Bid Item	No	Description	Unit	Quantity	Unit Cost	Estimate
105	6049	REMOVING STAB BASE & ASPH PAV (4"-22")	SY	21525	\$ 3.00	\$ 64,575.00
360	6002	CONC PVMT (CONT REINF-CRCP)(8")	SY	54288	\$ 55.00	\$ 2,985,840.00
260	6006	LIME TRT (EXST MATL) (6")	SY	61896	\$ 1.50	\$ 92,845.00
260	6012	LIME (SYD, COM OR QK)OR QK(DRY)	TON	835.60	\$ 171.00	\$ 142,888.00
360	6027	CURB (TYPE II)	LF	34238	\$ 4.00	\$ 136,952.00
531	6001	CONC SIDEWALK	SF	72786	\$ 4.00	\$ 291,144.00
400	6005	CEM STABIL BKFL	CY	8015	\$ 35.00	\$ 280,523.00
464	6005	RC PIPE (CL III)(24 IN)	LF	8120	\$ 57.00	\$ 462,840.00
464	6007	RC PIPE (CL III)(30 IN)	LF	2560	\$ 73.00	\$ 186,880.00
464	6008	RC PIPE (CL III)(36 IN)	LF	1800	\$ 94.00	\$ 169,200.00
464	6009	RC PIPE (CL III)(42 IN)	LF	1200	\$ 130.00	\$ 156,000.00
464	6011	RC PIPE (CL III)(48 IN)	LF	300	\$ 150.00	\$ 45,000.00
465	6001	INLET (COMP)(TY C)	EA	30	\$ 3,100.00	\$ 93,000.00
465	6013	MANH (COMP)(TY A)	EA	24	\$ 3,750.00	\$ 90,000.00
		PIPELINE CROSSINGS	EA	4	\$ 430,000.00	\$ 1,720,000.00
		STORM OUTFALL INTO WET POND	EA	2	\$ 30,000.00	\$ 60,000.00
		TRAFFIC CONTROL	EA	1	\$ 850,000.00	\$ 850,000.00
		SIGNING AND PAVEMENT MARKINGS	EA	1	\$ 60,000.00	\$ 60,000.00
		TRAFFIC SIGNAL MODIFICATION	EA	1	\$ 20,000.00	\$ 20,000.00

SUBTOTAL \$ 7,907,687.00  
CONTINGENCY (25%) \$ 1,976,922.00  
**TOTAL CONSTRUCTION \$ 9,884,609.00**  
ENGINEERING (1.5%) \$ 1,482,692.00  
**TOTAL CONSTRUCTION \$ 11,367,301.00**  
**& ENGINEERING**

NOTE: CONTINGENCY ADDED TO COVER  
MISCELLANEOUS CONSTRUCTION  
ITEMS NOT IDENTIFIED IN THIS PHASE.