

COST PARTICIPATION AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

THIS COST PARTICIPATION AGREEMENT (this “**Agreement**”) is entered into between **WILLIAMSON COUNTY, TEXAS**, a Texas political subdivision (the “**County**”) and **MORRIS CORNERS COLLECTION, LTD.**, its successors and assigns (“**Developer**”). In this Agreement, the County and Developer are sometimes individually referred to as “**Party**” and collectively referred to as the “**Parties**”.

RECITALS

WHEREAS, the County and the Texas Department of Transportation (“**TxDOT**”) have entered into an Agreement regarding the design and re-construction of the intersection of DB Wood Drive and SH 29 (the “**Project**”) in Georgetown, Texas, wherein the County will design and TxDOT will construct, the Project; and

WHEREAS, the County and Developer desire to co-operate in the design of additional items (the “**Additional Design**”) to be included in the final design and construction of the Project; and

WHEREAS, the Additional Design for the Project will be mutually beneficial to the County, the City of Georgetown, TxDOT and Developer; and

WHEREAS, the Parties wish to memorialize their respective agreements, duties and obligations with respect to the Project;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

I.

TERMS

- A. Recitals.** The Recitals above are incorporated herein.
- B. Project.** The Project is the re-design and construction of the widening of the intersection of DB Wood Drive and SH 29. The County will cause the plans and specifications for the Project, including the Additional Design, to be prepared in compliance with all applicable governmental rules and regulations, including environmental regulations, as well as good engineering and design practices. TxDOT will construct the Project based on said design and specifications.
- C. Additional Design of Project.** The Additional Design for the Project shall include

those items listed in Exhibit "A", attached hereto and incorporated herein.

- D. **Developer Participation.** Developer agrees to pay all costs related to the Additional Design of the Project, with an estimated cost of FIFTY THOUSAND DOLLARS (\$50,000) (the "**Developer Funding**"). The Developer Funding shall be due and owing to the County within ten days after receipt of written notice to Developer that such payment is due. Engineering invoices will be used as backup for invoice amounts.
- E. **County Participation.** The County agrees to pay for all Design costs other than those described in Section D above. The Developer will have no responsibility to the County for any costs of the Project other than as described in Section D. above. County will also provide to Developer, at Developer's request, all current Project design files. TxDOT may require the Developer to participate in the construction costs related to the Additional Design.

II.

GENERAL PROVISIONS

- A. **Severability.** The provisions of this Agreement are severable and, if any provision of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement shall not be affected and this Agreement shall be construed as if the invalid portion had never been contained herein.
- B. **Cooperation.** The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.
- C. **Entire Agreement.** This Agreement contains the entire agreement of the Parties regarding the sharing of costs for the Project and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter.
- D. **Amendments.** Any amendment of this Agreement must be in writing and shall be effective if signed by the authorized representatives of both of the Parties.
- E. **Assignment.** Developer may not assign its obligations under this Agreement to a third party without the express written consent of the County (which consent shall not be unreasonably withheld, conditioned, or denied).
- F. **Termination.** If the County and/or TxDOT elect not to proceed with the Project as contemplated in the Agreement between the County and TxDOT, the County shall notify the Developer in writing of such election and return the Developer Funding to the Developer and, upon the refund of the Developer Funding, this Agreement and the obligations of both Parties hereunder will terminate and of no further force or effect.
- G. **Applicable Law; Venue.** This Agreement shall be construed in accordance with Texas law. Venue for any action arising hereunder shall be in Williamson County, Texas.
- H. **Force Majeure.** The Parties shall not be deemed in violation of this Agreement if they

prevented from performing any of their obligations hereunder by reasons of Force Majeure. As used herein, "Force Majeure" means any period of delay experienced by due to strikes, civil riots, war, invasion, fire or other casualty, Acts of God, unavailability of labor or materials, adverse weather conditions, act or failure to act of governmental authorities other than the County, defaults of the other party to this Agreement, or other causes beyond the reasonable control of the performing party, provided that the Party affected by such delay promptly gives notice of such event of Force Majeure to the other Party and uses due diligence to resume performance as soon as reasonably practicable.

I. Exhibit. The following exhibit is attached to this Agreement and incorporated herein by reference:

Exhibit "A" - Additional Design Items

J. Counterparts. To facilitate execution, this Agreement may be executed in any number of counterparts, and it will not be necessary that the signatures of all Parties be contained on any one counterpart. Additionally, for purposes of facilitating the execution of this Agreement: (a) the signature pages taken from separate, individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts; and (b) a facsimile signature will be deemed to be an original signature for all purposes. All executed counterparts of this Agreement will be deemed to be originals, but all such counterparts, when taken together, will constitute one and the same instrument

K. Authority. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

L. Notices. Notices provided hereunder shall be sufficient if forwarded to the other Party by hand-delivery or via U.S. Postal Service, postage prepaid, to the address of the other Party shown below:

THE COUNTY: Williamson County
Attn: County Judge
710 Main St., suite 101
Georgetown, TX 78628

DEVELOPER: _____

Attn: _____

M. No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture between the Parties.

N. Interested Parties. Developer acknowledges that Texas Government Code Section 2252.908 ("Section 2252.908") requires disclosure of certain matters by contractors

entering into a contract with a local government entity such as the County. Developer confirms that it has reviewed Section 2252.908 and will 1) complete FORM 1295, using the unique identification number specified on page 1 of this Agreement, and electronically file it with the Texas Ethics Commission (“TEC”); and 2) submit the signed Form 1295, including the certification of filing number of the Form 1295 with the TEC, to the County at the same time Developer executes and submits this Agreement to the County. Form 1295 is available at the TEC’s website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. This Agreement is not effective until the requirements listed above are satisfied and any award of this Agreement by the County is expressly made contingent upon Developer’ compliance with such requirements. **The signed Form 1295 may be submitted to the County in an electronic format.**

O. Conflicts of Interest. Developer acknowledges that Texas Local Government Code Chapter 176 (“Chapter 176”) requires the disclosure of certain matters by contractors doing business with or proposing to do business with local government entities such as the County. Developer confirms that it has reviewed Chapter 176 and, if it is required to do so, will complete and return FORM CIQ promulgated by the TEC and available on the TEC website at <https://www.ethics.state.tx.us/forms/CIQ-New-2015.pdf> within seven days of the date of submitting this Agreement to the County or within seven days of becoming aware of a matter that requires disclosure under Chapter 176, whichever is applicable.

P. Verification Under Chapter 2270, Texas Government Code. For purposes of Chapter 2270 of the Texas Government Code, Developer represents and warrants that, at the time of execution and delivery of this Agreement, neither Developer, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of Developer, boycotts Israel. Developer agrees that, except to the extent otherwise required by applicable federal law, including, without limitation, 50 U.S.C. Section 4607, neither Developer, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of Developer, will boycott Israel during the term of this Agreement. The terms “boycotts Israel” and “boycott Israel” as used in this provision have the same meaning assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code.

Q. Verification Under Chapter 2252, Texas Government Code. For purposes of Subchapter F of Chapter 2252 of the Texas Government Code, Developer represents and warrants that, at the time of execution and delivery of this Agreement, neither Developer, nor any wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of Developer, (i) engages in business with Iran, Sudan, or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller under Sections 2270.0201 or 2252.153 of the Texas Government Code. The term “foreign terrorist organization” as used in this provision has the same meaning assigned to such term in Section 2252.151 of the Texas Government Code.

THE COUNTY:

WILLIAMSON COUNTY, TEXAS

By: Bill Gravel Jr
Bill Gravel Jr, County Judge

ATTEST:

Nancy E. Rister
Nancy Rister, County Clerk

Date: _____

STATE OF TEXAS

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COUNTY OF WILLIAMSON

On this 23rd day of April, 2019, before me, the undersigned notary public, personally appeared Judge Bill Gravel Jr, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein stated.



Andrea L. Schiele
Notary Public, State of Texas

COLLECTION
MORRIS CORNERS COLLECTION, LTD.:

BY: Corners & Covers, LLC
Its General Partner

BY: Sharon K. Morris
Sharon K. Morris

Its: Manager

Date: April 16, 2019

STATE OF TEXAS §

COUNTY OF HARRIS §



On this 16th day of April, 2019, before me, the undersigned notary public, personally appeared Sharon K. Morris, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein stated.

Michael L. Bankston
Notary Public, State of Texas

EXHIBIT "A"
Additional Design Items

- Two (2) new driveways, at the approximate locations as shown on Exhibit A-1, attached, will be added.
- One median opening with both the westbound and the eastbound left turn lane, as shown on Exhibit A-1, attached, will be added.
- Prepare and obtain approval of Exception request from TxDOT for left turn lane design.
- Add portion of deceleration lane within the Project limits as allowed under current Environmental clearance approval.

EXHIBIT A-1

