

**CITY OF BASTROP, TEXAS**  
**Public Improvement Plan Agreement**

***INSERT PROJECT NAME***

The State of Texas

County of Bastrop

WHEREAS, ***INSERT OWNER NAME*** hereinafter referred to as, "Developer", is the developer of the following described property and desires to make certain improvements to the following lots and blocks in ***INSERT PROJECT NAME***, a proposed addition to the City of Bastrop, Texas: being ***INSERT LOTS AND BLOCKS***; and

WHEREAS, the said Developer has requested the City of Bastrop, a Home Rule Municipality of Bastrop County, Texas, hereinafter referred to as, "City", to provide approvals and cooperative arrangements in connection with said improvements:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That said Developer, acting herein by and through ***INSERT OWNER REPRESENTATIVE***, its duly authorized officer, and the City, acting herein by and through ***INSERT CITY MANAGER*** it's City Manager, for and in consideration of the covenants and agreements herein performed and to be performed, do hereby covenant and agree as follows regarding assurance of construction of sanitary sewer facilities, streets, drainage, street lights and street signs, and park/trail improvements; summary of infrastructure (development) amounts; assurance payments to the City; payment of impact fees; and miscellaneous provisions relating to the acceptable completion of said construction according to the plans for ***INSERT PROJECT NAME*** approved by the City on ***INSERT DATE OF PUBLIC IMPROVEMENT PLAN APPROVAL***.

## Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME*

### 1.00 Assurance of Infrastructure Construction

#### 1.10 Employment of Contractors

In accordance with this agreement, the Developer agrees to employ a general contractor or contractors in accordance with the conditions set forth in Section 4.00 for work for which the Developer is providing as stated herein and indicated in the Summary of Infrastructure (Development) Assurance Amounts, Section 2.30 on page 4 of this agreement.

#### 1.11 Payment of Developer Infrastructure Assurance Fees

The Developer and the City agree that the final plat of *INSERT PROJECT NAME* will not be filed for record until payment of the Final Assurance Amount. Except as otherwise provided in Section 4.40 of this contract, no building permits will be issued for any lots prior to the plat recording.

#### 1.12 Payment of Miscellaneous Construction Costs

It is further agreed and understood that additional costs may be required of the Developer to cover such additional work, materials and/or other costs as may be made necessary by conditions encountered during construction and within the scope of this project.

#### 1.13 Compliance with Tree Preservation Ordinance

The Developer is responsible to fully comply with the City's Tree Preservation Ordinance during all phases of construction. The Developer submitted a tree protection plan and protected tree survey on *Insert Date*, showing the protected trees on site and the measures of tree protection to be employed during

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construction prior to any site work on the project. The Developer submitted landscape, hardscape, irrigation, and materials plans that were approved by the City on ***INSERT DATE*** and these plans have been included in the final Public Improvement Plans which were approved on ***INSERT DATE***.

**2.00 Infrastructure (Development) Improvement Costs**

All infrastructure (development) improvement costs are the full responsibility of the Developer unless otherwise noted, or unless otherwise funded with ***\*public improvement district revenue, tax increment reinvestments zone revenue, or a Chapter 380*** grant pursuant to a separate agreement. The following improvement costs have been developed using the Developer's plans and specifications and recommendations by the City in accordance with the construction guidelines set forth by the City:

**2.10 Sanitary Sewer Improvements**

The distribution of costs between the City and the Developer for all sanitary sewer improvements are as follows:

**ON-SITE IMPROVEMENTS:**

	<b>Full Project Cost</b>	<b>Developer's Assurance Amount</b>	<b>City Participation</b>
Sanitary Sewer Facilities	\$1,000,000.00	\$1,000,000.00	\$0.00
Other Related Facilities	\$0.00	\$0.00	\$0.00
Total Construction Cost	\$1,000,000.00	\$1,000,000.00	\$0.00

**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

**OFF-SITE IMPROVEMENTS: *DELETE IF NOT NEEDED***

	<b>Full Project Cost</b>	<b>Developer's Assurance Amount</b>	<b>City Participation</b>
Sanitary Sewer Facilities	\$1,000,000.00	\$1,000,000.00	\$0.00
Other Related Facilities	\$0.00	\$0.00	\$0.00
<b>Total Construction Cost</b>	\$1,000,000.00	\$1,000,000.00	\$0.00

**2.20 Street and Storm Drainage Improvements**

The distribution of costs between the City and the Developer for all street and drainage improvements are as follows:

	<b>Full Project Cost</b>	<b>Developer's Assurance Amount</b>	<b>City Participation</b>
Storm Drainage Facilities	\$1,000,000.00	\$1,000,000.00	\$0.00
Streets & Sidewalks	\$1,000,000.00	\$1,000,000.00	\$0.00
<b>Total Construction Cost</b>	\$2,000,000.00	\$2,000,000.00	\$0.00

**2.30 Summary of Infrastructure (Development) Assurance Amounts**

	<b>Final Assurance Amount</b>
Sanitary Sewer Facilities	\$1,000,000.00
Storm Drainage Facilities	\$1,000,000.00
Streets & Sidewalks	\$1,000,000.00
<b>Total Construction Cost</b>	\$3,000,000.00

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**ASSURANCE FEES TO BE PAID PRIOR TO PRE-CONSTRUCTION MEETING\*:**

	<b>Percentage of Construction</b>	<b>Construction Cost</b>	<b>Final Assurance Amount</b>
Sanitary Sewer Inspection Fee	2.5%	\$1,000,000.00	\$25,000.00
Storm Drainage Inspection Fee	2.5%	\$1,000,000.00	\$25,000.00
Streets & Sidewalks Inspection Fee	2.5%	\$1,000,000.00	\$25,000.00
<b>Payment to the City</b>			<b>\$75,000.00</b>

The final construction amount is \$*INSERT DOLLAR AMOUNT*, and the final assurance amount is \$*INSERT DOLLAR AMOUNT* (the “Final Assurance Amount”).

RECOMMENDED:

\_\_\_\_\_  
 Jerry Palady, P. E.  
 Director of Engineering

\_\_\_\_\_  
 Date

**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

**3.00 Miscellaneous Improvements**

**3.10 Drainage Operation and Maintenance Plan**

The developer will provide the City with a Drainage Operation and Maintenance Plan (plan) in accordance with the Stormwater and Drainage Manual. The plan shall provide detailed information regarding the obligation of responsible parties for any drainage system, stormwater system, or other improvement which will not be dedicated to the City as part of this agreement. Proof of payment to the surety and that all other obligations of the developer or contractor have been met in order for the bonds to be binding upon the surety.

**3.10 Sidewalks**

The Developer shall be responsible for installing sidewalks along right-of-ways on open space lots and other lots that will not contain single family residential units within ***INSERT DEVELOPMENT NAME*** as shown on the approved Public Improvement Plans, as required by the Master Transportation Plan, and as approved by the Regulating Plan by the City on ***INSERT DATE***. All sidewalks shall be in compliance with the City's Master Transportation Plan, and conform to the City of Bastrop Standard Construction Details. \* ***INSERT LANGUAGE AS NEEDED, Ex: The Developer shall also be responsible for installing a ten-foot (10') trail within the dedicated open space along the eastern property boundary that extends from the southern boundary along Agnes St., to the northern boundary along HWY 71 West.***

**3.20 Screening Wall, Landscaping, and Irrigation**

The Developer shall be responsible for installing screening walls, retaining walls,

**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

landscaping, and irrigation in accordance with the approved Public Improvement Plans, landscape plans approved on ***INSERT DATE***, and Regulating Plan as approved by the City on ***INSERT DATE***.

3.30 Street Lights and Street Name and Regulatory Signs

The Developer is responsible for the initial installation and maintenance of all street lights. Street name and regulatory signs shall be installed by the Developer at the Developer's expense at locations specified by the City's Director of Public Works per the signage regulations on ***INSERT CONTROLLING DOCUMENT*** of the City of Bastrop Standard Construction Details. The signs shall conform to The State of Texas Manual on Uniform Traffic Control Devices and City requirements, including but not limited to, exact placement, sign height and block numbers. The City shall not be responsible or obligated to maintain and/or replace any non-standard street light poles, sign poles, street name signs or regulatory signs. Installation shall be completed prior to the acceptance of the subdivision.

**FEES TO BE PAID UPON EXECUTION OF THE DEVELOPER AGREEMENT:  
WOULD REQUIRE AN ORDINANCE AMENDMENT**

	<u>Quantity</u>	<u>Unit Cost</u>	<u>Participation Payment to the City</u>
Power for Streetlights	25	\$25.00 per pole per month for 24 months	\$15,000.00
<b>Payment to the City</b>			<b>\$15,000.00</b>

RECOMMENDED:

**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

\_\_\_\_\_  
Trey Job Date  
Managing Director of Public Works & Leisure  
Services

3.50 Land Dedication

The Developer shall dedicate to the City the area shown as public open space on the ***INSERT PLAN NAME*** attached to Ordinance 201**X-XX** (the "Public Open Space"), including, but not limited to, the ***INSERT DESCRIPTION*** parcel identified on the Parcel Plan attached to Ordinance 201**X-XX**. A private home owners association or property owners association shall maintain the Public Open Space. ***\*INSERT LANGUAGE AS NEEDED, Ex. This dedication shall be credited to the Developer in the amount of \$75,000.00. In no case shall the amount of dedicated open space to the City be less than 1.50 acres.***

The following table identifies the Park Development Fees due by the Developer for this project at the time of single family building permit issuance, subject to a credit reduction as described above in this Section 3.50:

<b>Number of Lots</b>	<b>Fee Per Lot</b>	<b>Total Amount of Park Development Fees Owed (Subject to Credits)</b>
10	\$500.00	\$5,000.00

The above open space dedications and fees in lieu of shall fully satisfy all City requirements for dedication of park land or payment of fees in lieu of dedication.

**OR**





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3.60 Impact Fees

Water Impact Fees and Wastewater Impact Fees as set forth by City ordinances will be assessed at the time of final plat recording and shall be paid by the builder, property owner or developer at the time of Building Permit issuance for each individual lot within ***DEVELOPMENT NAME*** and shall be based on the Water and Wastewater Impact Fee for Service as set forth in the City of Bastrop Impact Fee Ordinance that is in effect as of the final plat recording date.

**IMPACT FEES TO BE PAID AT THE TIME OF BUILDING PERMIT ISSUANCE:**

	<u>Lots</u>	<u>Fee per Lot</u>	<u>Final Assessment Amount</u>
Waste Water Impact Fee	10	\$5,020.00	\$50,200.00
Water Impact Fee	10	\$1,785.00	\$17,850.00
<b>Total Impact Fees To Be Collected</b>			<b>\$68,050.00</b>

RECOMMENDED:

\_\_\_\_\_  
Trey Job Date  
Managing Director of Public Works & Leisure  
Services

**4.00 Miscellaneous Provisions**

**4.10 Bonds**

The Developer agrees to require the contractor(s) to furnish the City with a payment and performance bond if the contract cost exceeds \$25,000.00. The payment and performance bonds shall be submitted prior to the City issuing the Notice to Proceed.

The Developer agrees to require the contractor(s) to furnish the City with a two (2) year maintenance bond in the name of the City, subject to City approval for one hundred twenty-five percent (125%) of the contract price of the residential streets, sanitary sewer, and underground stormwater drainage facilities improvements. The maintenance bond(s) shall be submitted and approved prior to the final acceptance of the improvements.

The developer will provide the City with proof of payment to the surety and that all other obligations of the developer or contractor have been met in order for the bonds to be binding upon the surety.

**4.20 Public Liability**

The Developer shall further require the contractor(s) to secure Public Liability Insurance. The amount of Insurance required shall include Public Liability, Bodily Injury and Property Damage of not less than \$100,000 one person, \$300,000 one accident and \$100,000 property damage. The minimum requirements for automobile and truck public liability, bodily injury and property damage shall also include not less than \$100,000 one person, \$300,000 one accident, and \$100,000 property damage.

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The Contractor shall provide Worker's Compensation Insurance in accordance with the most recent Texas Workers' Compensation Commission's rules.

4.30 General Indemnity Provisions

The Developer shall waive all claims, fully release, indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including all expenses of litigation and/or settlement which may arise by injury to property or person occasioned by error, omission, intentional or negligent act of Developer, its officers, agents, consultants, employees, invitees, or other person, arising out of or in connection with the Agreement, or on or about the property, and Developer will, at its own cost and expense, defend and protect the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all such claims and demands. Also, Developer agrees to and shall indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suit and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for any damage to any property arising out of or in connection with this Agreement or any and all activity or use pursuant to the Agreement, or on or about the property. This indemnity shall apply whether

**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

the claims, suits, losses, damages, causes of action or liability arise in whole or in part from the intentional acts or negligence of developer or any of its officers, officials, agents, consultants, employees or invitees, whether said negligence is contractual, comparative negligence, concurrent negligence, gross negligence or any other form of negligence. The City shall be responsible only for the City's sole negligence. Provided, however, that nothing contained in this Agreement shall waive the City's defenses or immunities under Section 101.001 et seq. of the Texas Civil Practice and Remedies Code or other applicable statutory or common law. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the claims, suits, losses, damages, causes of action or liability arise in whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

4.31 Indemnity Against Design Defects

Approval of the City Engineer or other City employee, official, consultant, employee, or officer of any plans, designs or specifications submitted by the Developer under this Agreement shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, its engineer, contractors, employees, officers, or agents for the accuracy and competency of their design and specifications. Such approval shall not be deemed to be an assumption of such responsibility or liability by the City for any defect in the design and specifications prepared by the consulting engineer, his officers, agents, servants,

**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

or employees, it being the intent of the parties that approval by the City Engineer or other City employee, official, consultant, or officer signifies the City's approval of only the general design concept of the improvements to be constructed. In this connection, the Developer shall indemnify and hold harmless the City, its officials, officers, agents, servants and employees, from any loss, damage, liability or expense on account of damage to property and injuries, including death, to any and all persons which may arise out of any defect, deficiency or negligence of the engineer's designs and specifications incorporated into any improvements constructed in accordance therewith, and the Developer shall defend at his own expense any suits or other proceedings brought against the City, its officials, officers, agents, servants or employees, or any of them, on account thereof, to pay all expenses and satisfy all judgments which may be incurred by or rendered against them, collectively or individually, personally or in their official capacity, in connection herewith. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the claims, suits, losses, damages, causes of action or liability arise in whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

**4.32 Approval of Plans**

The Developer and City agree that the approval of plans and specifications by the City shall not be construed as representing or implying that improvements built in accordance therewith shall be free of defects. Any such approvals shall in no event be construed as representing or guaranteeing that any improvement built in accordance therewith will be designed or built in a good and workmanlike manner.

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Neither the City nor its elected officials, officers, employees, contractors and/or agents shall be responsible or liable in damages or otherwise to anyone submitting plans and specifications for approval by the City for any defects in any plans or specifications submitted, revised, or approved, in the loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, for any loss or damage arising from the non-compliance of such plans or specifications with any governmental ordinance or regulation, nor any defects in construction undertaken pursuant to such plans and specifications.

4.33 Venue

Venue of any action brought hereunder shall be in Bastrop, Bastrop County, Texas.

4.40 Release of Building Permits

The Developer may request, and the Director of Planning and Development may approve, the release of up to ten percent (10%) of the total building permits for the lots listed on pg. 1 of this agreement upon completion of the public streets, to include street lights, and final acceptance of the sanitary sewer and underground stormwater drainage facilities that are not deemed private. Building permits for all lots will be released upon final acceptance of all public and private infrastructure improvements, park and trail construction, screening walls, retaining walls, landscaping, irrigation, and tree mitigation in accordance with the Public Improvement Plans that were approved by the City on ***INSERT APPROVAL DATE***.

## Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME*

### 4.50 Dedication of Infrastructure Improvements

Upon final acceptance of *INSERT DEVELOPMENT NAME*, the public streets, sanitary sewer, and underground stormwater drainage facilities shall become the property of the City.

### 4.60 Assignment

This agreement, any part hereof, or any interest herein shall not be assigned by the Developer without written consent of the City Manager, said consent shall not be unreasonably withheld, and it is further agreed that such written consent will not be granted for the assignment, transfer, pledge and/or conveyance of any refunds due or to be come due to the Developer except that such assignment, transfer, pledge and/or conveyance shall be for the full amount of the total of all such refunds due or to become due hereunder nor shall assignment release assignor or assignee from any and all Development assurances and responsibilities set forth herein.

### 4.70 Conflicts

In the event of a conflict between this agreement and that certain Development Agreement between the City of Bastrop and *INSERT DEVELOPER NAME* effective *INSERT DATE* (the "Development Agreement"), the Development Agreement shall control. In the event of a conflict between this agreement and that certain *MUD, PID, 380* agreement between the City of Bastrop and *INSERT DEVELOPER NAME* effective *INSERT DATE* (the "MUD,PID,380 Reimbursement Agreement"), the *PID, MUD, 380* Reimbursement Agreement shall control. Nothing in this agreement shall be construed as amending the Development



**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

Agreement or the PID Reimbursement Agreement.

**DRAFT**

**Public Improvement Plan Agreement – *INSERT DEVELOPMENT NAME***

IN TESTIMONY WHEREOF, the City of Bastrop has caused this instrument to be executed in duplicate in its name and on its behalf by its City Manager, attested by its City Secretary, with the corporate seal of the City affixed, and said Developer has executed this instrument in duplicate, at the City of Bastrop, Texas this the XX day of XXXXXXXXXX, 20  .

***INSERT DEVELOPMENT NAME***

**City of Bastrop, Texas**

\_\_\_\_\_  
Developer Name  
Company Name

\_\_\_\_\_  
Lynda Humble  
City Manager

ATTEST:

\_\_\_\_\_  
Ann Franklin  
City Secretary

\_\_\_\_\_  
Date

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Alan Bojorquez  
City Attorney

\_\_\_\_\_  
Date

Distribution of Originals:    Developer  
  City Secretary  
  Planning and Development Department