

FACILITIES IMPROVEMENT AGREEMENT (FIA)
FOR IMPROVEMENTS TO:

Project Name / Property Description

The State of Texas
County of Hood

WHEREAS _____, herein after called the “Developer” is the owner of the following described property and desires to make certain improvements to _____, a proposed addition to the City of Granbury, Texas; and

WHEREAS the developer desires to construct improvements to _____ under the City of Granbury’s Public Improvement Policy, which Policy is incorporated herein and made a part of this Agreement by referencing; and

WHEREAS the developer has requested the City of Granbury, a municipal corporation of Hood County, Texas, herein after called the “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 _____, and the City, acting herein by and through Nin Hulett, its Mayor, 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 water and wastewater improvements, street, storm drainage, parks, grading, electrical, wireless technology and street light improvements, assurance of payments to the City and miscellaneous provisions relating to the acceptable completion of said construction according to the plans for _____ as submitted to the City for its approval.

I. General Provisions

1. The developer hereby relieves the City of any responsibilities for any inadequacies in the preliminary plans, exhibits and cost estimates supplied for the purpose of this agreement and further agrees that he/she will comply with the City of Granbury’s Subdivision Ordinance, Public Improvement Policy and any other applicable policies, rules, regulations and ordinances of the City regarding development.
2. The developer agrees that no construction shall begin on any proposed improvements prior to the City Council’s approval of this agreement.
3. The developer agrees and binds itself to provide free of cost all necessary rights-of-way and/or easements required to construct all improvements described in this agreement which may include but are not limited to water, wastewater, streets,

sidewalks, electrical, wireless technology, storm drainage, lot grading, street lights and parks.

4. The developer agrees to install, adjust or cause to be installed or adjusted, all of the required utilities to serve the development. Prior to construction, the developer will provide the City a list of all utilities that will require relocating, along with assurance that no conflicting construction will take place until the utility relocation and installation has been completed.
5. The developer agrees to submit plans and specifications prepared by an approved Professional Engineer, registered in the State of Texas and proficient in Civil Engineering, for the improvements required under this agreement. Such plans shall be in compliance with the policies, ordinances and rules of the City of Granbury, and are subject to approval by the City.
6. The determination as to compliance of the plans and specifications with applicable policies, regulations and criteria shall be the sole responsibility of the City. Approval of the plans and specifications by the City signifies the City's acceptance of the general design concept and that the minimum criteria appear to be satisfied. Such approval shall not be deemed to be an assumption of responsibility or liability by the City of any negligent act, or omission in the performance of the developer's engineer or in his preparation of such plans and specifications. In this connection the developer shall for a period of two (2) years after the acceptance by the City of the completed construction project indemnify and hold the City and all of its officers, agents, servants and employees harmless from any loss, damage, liability or expense, on account of damage to property and injuries, including death, to 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 and its officers, agents, servants and 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 or any of them in connection therewith.
7. The developer agrees that design and construction plans shall be submitted according to the requirements set forth herein and any other City standards and/or specifications. Plans for all facilities/improvements shall be submitted on sheets no larger than twenty-four inches by thirty-six inches (24" x 36") and at a scale of one inch equals 40 or 50 feet (1" = 40' or 50') horizontally and one inch equals four or five feet (1" = 4' or 5') vertically.
8. The developer's engineer shall submit the following minimum number of plans and specifications to the City during the review phase, construction phase and upon completion of the project. Additional sets may be required for other departments and/or agencies.
 - a) Four (4) sets of the design plans and two (2) sets of preliminary specifications

each time a submittal is made to the City for review purposes.

- b) Five (5) sets of the approved final construction plans and approved specifications prior to award of the contract: one (1) set (24" x 36") and four (4) sets (11" x 17").
 - c) Two (2) sets (11" x 17") of "as built" construction plans and one (1) set (11" x 17") of "as built" sepias when all the improvements are found to be installed in accordance with the approved plans and prior to acceptance by the City.
9. The developer agrees that all coordination required with public and/or private utility agencies to eliminate conflicts with proposed street grades or underground improvements shall be the responsibility of the developer and/or his engineer. Likewise, coordination with agencies requiring special conditions (i.e., railroads and the Texas Department of Transportation) shall be the responsibility of the developer and/or his engineer.
10. The City agrees to provide construction inspection, except for the setting of line and grade stakes for improvements required on all projects regardless of size. The setting of line and grade stakes shall be the responsibility of the developer, except that the City reserves the right to pre-qualify persons and/or firms that are hired to provide this surveying and to check the accuracy of the surveying and the conformance of the stakes to the approved plans.
11. The developer agrees to furnish to the City simultaneous with its execution of this agreement, performance and payment bonds or other security deposit in accordance with Item VI, Security Requirements, Procedures for Obtaining a Contract for the Installation of Improvements in the Public Improvement Policy. These bonds or deposits will be conditioned upon the satisfactory compliance by the developer with all requirements concerning improvements as set forth in this agreement, including, but not limited to, making payments to any persons, firm, corporation or other entity with whom the developer has a direct contractual relationship for the performance of work hereunder.
12. Where City financial participation is allowed by the Public Improvement Policy and desired by the developer, the City shall advertise and receive bids on the project. After approval of the bid tabulations and the apparent responsible low bidder, by the City, the developer may award the construction contract. The developer shall not award the contract for the project until such time as he has received written approval from the City to do so. Under this procedure the developer is required to:
- a) Require the contractor to furnish to the City satisfactory evidence of insurance in accordance with the City's standard requirements of contractors doing work for the City.
 - b) Following the setting of line and grade by a private surveyor hired by the developer, the contractor shall give 48 hours notice to the appropriate City

department so that inspection personnel will be available. No work shall begin until the assigned inspector gives his consent to proceed.

- c) Any change order to the contract must be approved in writing by the City.
 - d) Except for partial payments as provided below, the City's participation will not become due and payable to the developer until all work has been completed by the contractor and accepted by the City as complete, as evidenced by a letter stating such acceptance, and until the developer has submitted evidence satisfactory to the City that final payment to the contractor has been made, and that all subcontractors and persons furnishing labor and materials have been paid in full and all claims settled. The City's participation shall be based upon actual quantities constructed as measured and calculated by the developer's engineer and approved by the City.
 - e) For projects involving City participation and where the participation amount is fully secured by either performance and payment bonds or an equivalent escrow deposit, the developer may request partial payments of the City's participation, based on completed work. All estimates for partial payments shall be approved by the City prior to payment to the developer. The approval of any partial payment shall in no way constitute acceptance of the work, nor in anyway affect the obligations of the developer under this Facilities Improvement Agreement (FIA). Such partial payments may be approved on a monthly basis, and such payment checks will be issued by the City upon receipt of an affidavit executed by the contractor certifying that he had received payment for the accomplished work in accordance with contracts documents.
13. Where no City financial participation is allowed by the Public Improvement Policy or where City financial participation is allowed but not desired by the developer, the developer has the option of advertising and awarding his own construction contract to the responsible low bidder or awarding the contract on a negotiated basis. Under this procedure the developer is required to comply with items a) through e) listed in paragraph 12 above, plus the following:
- a) The developer shall employ a construction contractor who is approved by the City. This contractor must meet the City's requirements for being registered and bonded to perform work in a public right-of-way.
 - b) Prior to commencing work, the developer shall furnish copies of the contract between the developer and the contractor as required by the City. Upon approved by City officials, the developer will be notified in writing as to when he may commence work.
14. When all work required under this agreement has been completed by the contractor and the following items have been accomplished, the City will accept the project as being complete, as evidenced by a letter to the developer stating such acceptance.

- a) A final inspection of all improvements has been accomplished and the resulting 'Punch List' corrected, and
 - b) The contractor has provided the City a Maintenance Bond, equal to one hundred percent (100%) of the approved Summary of Costs contained within the Facilities Improvement Agreement (FIA) as provided by the developer and approved by the City, indicating that he will be responsible for defects in the project due to faulty materials and/or workmanship for a period of two (2) years from date of final acceptance, and
 - c) The developer has submitted evidence satisfactory to the City that final payment to the contractor has been made, and that all subcontractors and persons furnishing labor and materials have been paid in full and all claims settled, and
 - d) The standard Letter of Inspection & Acceptance [attached hereto as Exhibit 'H'] submitted by the Developer's Design Engineer and accepted by the City, and;
 - e) The required number of "as built" construction plans have been submitted to and accepted by the City.
15. The City may require the developer to begin and complete the construction of any improvements included in this agreement when, in its judgment, the improvements are needed for the proper and orderly development of the area. When the City determines that the improvements should be constructed, it shall notify the developer in writing to make arrangements for said construction. Within 15 calendar days after receiving the notice, the developer shall make arrangements for constructing the improvements. The developer agrees to complete the improvements covered in the notice within 90 calendar days after having been instructed to do so. It is understood that the developer will initiate the construction of all improvements to conform to its own schedule, except for those improvements which the City deems necessary for the proper and orderly development of the area. If construction has not been completed within the 90 day period, the City may take whatever action is required to insure prompt completion of the improvements, including but not limited to, awarding a construction contract for the improvements and requiring forfeiture of the performance bond or security deposit to pay all costs resulting from failure of the developer to complete the improvements. Such costs shall include, but not be limited to; construction costs, engineering costs, administrative and legal expenses, damages, etc.

16. Normal Working Hours

The Contractor's normal hours for work will be from 7:30 a.m. to 5:30 p.m. any day of the week but Sunday and holidays. Construction before or after these hours will be allowed if it is determined by the Public Works Director that the continuation of work is not disruptive to adjacent property owners.

The Contractor is responsible for scheduling the progression of the work. Normal

City working hours is from 8:00 a.m. to 5:00 p.m., Monday through Friday. This excludes holidays and the normally accepted days of recognition for those holidays. Any work hours other than normal City working hours is “overtime”. The City will allow the Contractor to work during hours other than the City’s normal working hours provided:

- A) The City has an inspector available to work beyond the City’s normal hours,
- B) The Contractor understands and agrees to pay for the overtime incurred by the City’s Inspectors at the rate of 2.5 times the hourly salary of the Inspector(s) [Note: There is a four (4) hour minimum on weekends and holidays.],
- C) The Contractor must provide a minimum of 48 hours notice before scheduling overtime.

There are some items of work such as clean up, forming, etc., which may be accomplished without an Inspector present. These items can be accomplished without an Inspector present if agreed to by the Inspector prior to installation.

- 17. By execution of this Agreement, the Developer acknowledges that the City has provided the developer with an explanation and a copy of the “rough proportionality” analysis performed by the City with respect to this development. The developer further agrees, without waiving the right to object to said analysis, that he/she has reviewed the analysis and has had the opportunity to consult with his or her engineer, legal counsel, and/or other consultant regarding its meaning and significance. The “rough proportionality” analysis shall mean the calculation performed by the City Engineer affirming that each exaction requirement to be imposed as a condition of plat approval or permit approval is roughly proportionate to the demand created by the subdivision or development on the applicable public facilities system of the City, taking into consideration the nature and extent of the development proposed.
- 18. Any work not constructed in accordance with the approved plans or specifications shall be demolished and reconstructed in accordance with the approved plans and specifications, at the sole expense of the developer.

II. Miscellaneous Provisions

1. Title of those Improvements dedicated to the Public

- a) **Title vests in the City.** Developer agrees to deliver to the City clear and unencumbered title to all public improvements. Upon issuance of a letter of Acceptance, title to all public improvements for the Development shall be vested in the City and Developer relinquishes any right, title or interest in and to such public improvements or any part thereof. It is understood and agreed that the City shall have no liability or responsibility in connection with such public improvements until the Letter of Acceptance is issued.

2. Amenities

It is understood that the Development may incorporate a number of unique amenities and aesthetic improvements such as ponds and lakes, unique landscaping, walls, street furniture, etc., and may incorporate specialty signs and accessory facilities. Developer agrees to accept responsibility for the construction and maintenance of all such amenities until (indefinitely). Only those amenities or specialty items listed in this section may be constructed within the public right-of-way. The City shall not be responsible for the replacement of these items under any circumstances. Developer, its successors and assigns, agree to indemnify and hold harmless the City from any and all damage, loss of liability of any kind whatsoever by reason of injury to property or third persons occasioned by the location of these amenities within the public right-of-way, and Developer, its successors and assigns, shall defend and protect the City against all such claims and demands.

3. Public Facilities to be Provided by the City

The City makes no guarantee that water supply or wastewater treatment capacity will be available at any particular time or place, it being fully understood by both parties hereto that the ability of the City to supply water and wastewater services is subject to the City's water and wastewater system capacity. The City shall be the sole judge of the availability of such capacity to supply such water and/or wastewater services, provided, however that the City will use its best efforts to ensure that said water supply and wastewater treatment capacity is available.

4. Erosion Control

During construction of the Development and after the streets have been installed Developer agrees to keep the streets free from soil build-up. Developer agrees to use soil control measures such as hay bales, silt screening, hydromulch, etc., to prevent soil erosion. It will be Developer's responsibility to present to the City Engineer a soil control development plan that will be implemented for this Development. When, in the opinion of the City Engineer, there is sufficient soil build-up on the streets or other drainage areas, the City shall give written notice to Developer, and Developer will have seventy-two (72) hours to clear the soil from the streets or affected areas. If Developer does not remove the soil from the streets within seventy-two (72) hours, the City may cause the soil to be removed either by contract or City forces and place the soil within the Development at Developer's expense. All expenses must be paid to the City prior to acceptance of Development.

5. Mowing

Developer shall be responsible for mowing all grass and weeds and otherwise reasonably maintain the aesthetics of all land and lots in the Development, which have not been sold or leased to third parties. The City may abate the nuisance, charge the costs to Developer, and assess a lien against the property if Developer violates the provisions of the Granbury Municipal Code.

6. Law Compliance

Developer agrees to comply with all federal, state, and local laws and all development regulations that are applicable to this Development.

7. Venue

Venue for any action brought hereunder shall be in Hood County, Texas.

8. Assignment

This Agreement or any part hereof or any interest herein shall not be assigned by Developer without the express written consent of the City Manager, which consent shall not be unreasonably withheld.

9. Waiver

Developer expressly acknowledges that by entering into this Agreement, Developer, its successors, assigns, vendors, grantees, and/or trustees, shall never construe this Agreement as waiving any of the requirements of the City's Zoning or Subdivision regulations or any other ordinance of the City, except as herein agreed upon.

10. Amendments

This Agreement may be changed or modified only with the written consent of Developer and the City Council of the City.

11. Liens and Assessments

In the event Developer fails to comply with any of the provisions of this Agreement, the City shall be authorized to cease issuance of any further Certificates of Occupancy or Building Permits on property owned by Developer, and the City shall be further authorized to file this instrument in the Mechanic's Lien records of Hood County as a Mechanic's Lien against Developer's property; and, in the alternative, the City shall be authorized to levy an assessment against Developer's property for any improvements made by the City in accordance with applicable state law.

12. Continuity

This Agreement shall be a covenant running with the land and shall be binding upon Developer, its successors, heirs, assigns, grantees, trustees and/or representatives.

13. Severability

The provisions of the Agreement are severable and, in the event any word, phrase, sentence, paragraph, section or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be determined by a court of

competent jurisdiction to be invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall remain in full force and effect and the application thereof to any other person or circumstance shall not be affected thereby. The invalid, illegal, or unenforceable provision shall be rewritten by the parties to this Agreement to accomplish the parties' original intent as nearly as possible.

14. Termination and Release

Upon the following events, this Agreement shall terminate and become null and void:

- 1.) The satisfactory completion of the construction of all facilities by Developer;
- 2.) The standard Letter of Inspection & Acceptance submitted by the Developer's Design Engineer [See Exhibit 'H'], and
- 3.) The submission of the final As-Build Drawings by the Developer's Engineer, including the digital copy of the As-Build Drawings (*.pdf and AutoCAD Drawings on the proper coordinate system), and;
- 4.) The required maintenance guarantee has been provided
- 5.) The final acceptance by the City of all requirements of this Agreement which shall be done in writing by the City's issuance of the 'Letter of Acceptance'.

15. Hold Harmless Agreement

- a) LIABILITY FOR DESIGN. APPROVAL BY THE CITY ENGINEER OR OTHER CITY EMPLOYEE OF ANY PLANS, DESIGNS OR SPECIFICATIONS SUBMITTED BY DEVELOPER PURSUANT TO THIS CONTRACT SHALL NOT CONSTITUTE OR BE DEEMED TO BE AN ASSUMPTION OF RESPONSIBILITY AND LIABILITY BY THE CITY OR A RELEASE OF THE RESPONSIBILITY AND LIABILITY OF DEVELOPER, ITS ENGINEER, EMPLOYEES, OFFICERS OR AGENTS FOR THE ACCURACY AND COMPETENCY OF THEIR DESIGN AND SPECIFICATION FOR THE IMPROVEMENTS, IT BEING THE INTENT OF THE PARTIES THAT APPROVAL BY THE CITY ENGINEER SIGNIFIES THE CITY'S APPROVAL OF ONLY THE GENERAL DESIGN CONCEPT OF THE IMPROVEMENTS TO BE CONSTRUCTED. IN THIS CONNECTION, DEVELOPER SHALL FOR A PERIOD OF TWO (2) YEARS AFTER THE ACCEPTANCE BY THE CITY OF THE IMPROVEMENTS, INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM ANY LOSS, DAMAGE, LIABILITY, CLAIM, OBLIGATION, PENALTY, CHARGE, COST OR EXPENSE INCLUDING PROPERTY DAMAGE, PERSONAL INJURY OR DEATH TO ANY AND ALL PERSONS WHICH MAY ARISE OUT OF ANY DEFECT, DEFICIENCY OR NEGLIGENCE OF THE DEVELOPER'S ENGINEER'S DESIGNS, PLANS AND SPECIFICATIONS INCORPORATED INTO ANY OF THE IMPROVEMENTS WETHER OR NOT SUCH LOSS, CLAIM, LIABILITY, OBLIGATION,

PENALTY, CHARGE, COST OR EXPENSE IS CAUSED IN PART BY THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, AND THE DEVELOPER SHALL DEFEND AT ITS OWN EXPENSE ANY SUITS OR OTHER PROCEEDINGS BROUGHT AGAINST THE CITY, ITS OFFICERS, AGENTS SERVANTS OR EMPLOYEES OR ANY OF THEM, ON ACCOUNT THEREOF, AND SHALL PAY ALL EXPENSES (INCLUDING WITHOUT LIMITATION REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND CONSULTANTS) AND SATISFY ALL JUDGMENTS WHICH MAY BE INCURRED BY OR RENDERED AGAINST THEM IN CONNECTION HEREWITH.

- b) **LIABILITY FOR CONSTRUCTION, USE, ETC.** DEVELOPER COVENANTS AND AGREES TO INDEMNIFY AND DOES HEREBY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING DEATH TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, EXPERT WITNESSES AND OTHER CONSULTANTS), ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THE CONSTRUCTION, MAINTENANCE, OCCUPANCY, USE EXISTENCE OR LOCATION OF THE IMPROVEMENTS, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, AND SHALL FURTHER BE LIABLE FOR INJURY OR DAMAGE TO CITY PROPERTY, ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL ACTS OR OMISSIONS OF DEVELOPER, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, INVITEES, OR TRESPASSERS.

III. Water and/or Wastewater Improvements by Developer

1. The developer agrees and binds itself to provide all water and/or wastewater improvements required to provide necessary service to the development. An approach main and its appurtenances, if required, must be capable of providing water and/or wastewater service to the development, from a point in the existing water and/or wastewater system that has adequate capacity.
2. The developer agrees to install or cause to have installed the water and/or wastewater improvements shown on the attached Exhibits "A" and/or "B", in accordance with plans and specifications prepared by the developer's engineer and approved by the City.

3. The developer agrees that water and/or wastewater improvements installed in conformance with this agreement shall be constructed at the locations and to the line and grade established in the approved final construction plans. It is the responsibility of the developer and his/her contractors to perform all construction in accordance with the approved construction plans and specifications. Any change in design required during construction shall be made by the Engineer whose seal and signature are shown on the plans.
4. The developer agrees that the Standard Specifications for Public Works Construction, North Central Texas Council of Governments, are hereby adopted by reference, unless the City has adopted stricter standards which shall prevail, and made part of this agreement, which shall be controlling in construction and installation of all improvements required herein.
5. Distribution of Cost
 - a) The developer shall be responsible for one hundred percent (100%) of the cost of installing all standard water and/or wastewater improvements required by this agreement. Minimum water main pipe size shall be eight inches (8") in diameter or such larger size as may be necessary to properly serve the proposed development. Minimum wastewater main pipe size shall be eight inches (8") in diameter, or such larger size as may be necessary to properly serve the proposed development.
 - b) In the event that the City's Master Water/Wastewater Plan, Capital Improvements Plan or the City approved developer's comprehensive water and/or wastewater facilities study indicate that larger sized water and/or wastewater improvements are needed; than those required to provide exclusive service to the proposed development; for ultimate growth considerations, the developer shall be responsible for one hundred percent (100%) of the cost of all improvements designed to provide exclusive service to the proposed development beyond the minimum 8" size. Should the City elect to install larger facilities than indicated to be necessary for the exclusive service to the development, the additional incremental cost shall be borne by the City based on the unit prices contained in the lowest responsible bid received from a qualified bidder.
 - c) The developer shall be responsible for one hundred percent (100%) of the cost of installation of all water and/or wastewater services to each proposed or existing lot or tract within the development.
 - d) No permanent structures shall be constructed over an existing water main or an existing wastewater main or lateral. In the event that the developer desires to construct a permanent structure over an existing water and/or wastewater facility, the developer shall be responsible for the total cost of relocating the existing facility.

- e) In those situations where the construction of water main transmission facilities or wastewater collector main facilities are not economically feasible, the developer may petition the City to construct water supply facilities and/or package wastewater treatment facilities or water/wastewater pumping facilities, and, subject to the approval of the City Manager and the City Council, construct same.
 - 1) When the special facilities are designed to provide service exclusively to the development, the developer shall be responsible for one hundred percent (100%) of the cost of such facilities. In the event that the City requires larger facilities be constructed to provide service to other areas, the developer shall be responsible for the portion which represents the cost of constructing facilities to provide exclusive service to the proposed development and the City shall be responsible for the remainder of the cost. In the event City funds are not available, the developer shall install those special facilities as are required to provide service to the proposed development and are consistent with the adopted minimum standards.
 - 2) The special facilities statement shall not be construed as requiring the City to provide water and/or wastewater service to areas where normal service is not immediately or economically available. Rather, it is intended to permit an equitable method of providing such water and/or wastewater service where the best interests of the City will be served by the use of such facilities.
 - f) The developer shall pay a construction inspection and materials testing fee established pursuant to the City of Granbury Fee Schedule, as amended. The construction inspection, all required deposits, and materials testing fees shall be submitted as a cash deposit together with the signed Facilities Improvement Agreement (FIA) to the Director of Community Development. This amount may be adjusted by the City, upon written request by the developer, to conform to the actual construction cost upon completion and acceptance of the water and/or wastewater improvements, provided the difference is greater than twenty-five dollars (\$25.00).
 - g) The City shall assume a share of the cost of the water and/or wastewater improvements only if funds are available for such participation. In the event that no funds are available for City participation, the developer shall award the contract and deposit with the City cash or a bond in the amount of the total construction cost of the facility.
6. The following special cost distribution conditions shall be in lieu of, shall supersede and shall prevail over any of the standard cost distribution provisions, which may be in conflict herewith.
- a) None in this agreement

7. Based upon preliminary engineering design, the water and/or wastewater improvements listed on the attached “Estimates of Probable Cost” are required. It is understood that actual sizes, quantities and costs may vary after detailed engineering is accomplished and bids are taken. The distribution of estimated cost between the developer and the City, as per paragraph 5 above, for all water and/or wastewater improvements required herein is estimated as shown on the attached “Estimate of Probable Cost”.
8. The developer agrees that the work herein shall be completed within two (2) years from the date of approval of this agreement by the City Council. It is understood that any obligation on the part of the City to make any refunds shall cease upon the expiration of the two (2) years, except when extended for one (1) year under the conditions set forth in the Public Improvement Policy.

IV. Storm Drainage and Site/Lot Grading Improvements by Developer

1. The developer agrees and binds itself to provide a drainage system that is fully functional and readily maintainable. The storm drainage improvements shall be designed to carry the appropriate design storm based on ultimate land use.
2. The developer agrees to install or have installed the storm drainage improvements shown on the attached exhibit “C”, in accordance with plans and specifications prepared by the developer’s engineer and approved by the City.
3. The developer agrees that storm drainage improvements installed in conformance with this agreement shall be constructed at the locations and to the line and grade established in the approved final construction plans. It is the responsibility of the developer and his/her contractors to perform all construction in accordance with the approved construction plans and specifications. Any change in design required during construction shall be made by the Engineer whose seal and signature are shown on the plans.
4. The developer agrees to provide sufficient drainage easements for all storm drainage improvements outside a public right-of-way. Drainage or flood plain easements shall be provided along the entire length of the system to include an outfall condition, which is acceptable to the City.
5. The developer agrees that the Standard Specifications for Public Works Construction, North Central Texas Council of Governments, unless the City has adopted stricter standards which shall prevail, are hereby adopted by reference and made part of this agreement, which shall be controlling in construction and installation of all improvements required herein.
6. The Developer agrees and binds himself to prepare the subdivision and each lot by mass grading within the development for the purpose of establishing grades to manage stormwater runoff. Prior to the City issuing the Letter of Acceptance for

the Improvements and Facilities contained herein, all lots within the development shall be graded within 6" (six inches) vertically of its final pad elevation based on the overall site grading plan as designed by the Developer's Engineer and accepted by the City Engineer. Final building site grading standards are presented in Section 3.6 of the City of Granbury, Subdivision Ordinance.

7. Distribution of Cost

a) Residential Subdivisions or Additions.

- 1) Where a storm drainage pipe is installed, the developer shall dedicate at his own expense a drainage easement of sufficient width to permit the construction and maintenance of the storm drainage pipe. The developer shall pay the total cost of all underground drainage systems regardless of the size of the largest diameter of pipe required to carry the design storm flow.
- 2) Where an improved drainage channel is installed, whether lined or unlined, the developer shall dedicate at his own expense a drainage easement of sufficient width to permit the construction, access and maintenance of the channel. The developer shall pay the total cost of the facility and all appurtenances required to complete the system. Where an unlined channel is constructed, the City may, at its own discretion choose to maintain the drainage channel, or mandate that a maintenance entity or property owner maintain the drainage channel.
- 3) There shall be no City participation in the cost of parkway improvements, including pedestrian ways, guardrails, etc.
- 4) If the City desires a roadway width greater than required, one hundred percent (100%) of the additional cost of the drainage facility necessary for that excess width will be paid by the City of Granbury.
- 5) If the developer constructs a roadway wider than determined necessary by the City, then there shall be no City participation for the additional cost of the drainage facility necessary for the excess width.
- 6) There shall be no City participation in the cost of site/lot grading.

b) Commercial and Industrial Developments.

- 1) The developer shall pay the total cost of all underground drainage systems regardless of the size of the largest diameter of pipe required to carry the design storm flow.
- 2) Where an improved drainage channel is installed, whether lined or unlined, the developer shall dedicate at his own expense a drainage easement of sufficient width to permit the construction, access and maintenance of the channel. The developer shall pay the total cost of the facility and all

appurtenances required to complete the system. Where an unlined channel is constructed, the City may, at its own discretion choose to maintain the drainage channel or mandate that a maintenance entity or property owner maintain the drainage channel.

- 3) There shall be no City participation in the cost of parkway improvements, including pedestrian ways, guardrails, etc.
- 4) If the City desires a roadway width greater than required, one hundred percent (100%) of the additional cost of the drainage facility necessary for that excess width will be paid by the City of Granbury.
- 5) If the developer constructs a roadway wider than determined necessary by the City, then there shall be no City participation for the additional cost of the drainage facility necessary for the excess width.
- 6) Storm flow shall not be diverted from its natural drainage course to a perimeter street unless approved by the City. Where storm flow is diverted, in the opinion of the City, there shall be no City participation for the additional cost of constructing and/or over sizing any drainage facility or appurtenance required to handle such diverted storm flow and the City's participation shall stay the same as if the diversion did not occur.
- 7) There shall be no City participation in the cost of site/lot grading.
- 8) If required by the City Engineer, the developer shall pay a construction inspection and materials testing fee established by either i.) the City of Granbury Fee Schedule, as amended; or, ii.) the invoiced amount of the of the company hired to do the testing as agreed to by both Parties. The construction inspection and materials testing fee shall be submitted as a cash deposit together with the signed Facilities Improvement Agreement (FIA) to the Director of Community Development. This amount may be adjusted by the developer or the City, upon written request, to conform to the actual construction cost upon completion and acceptance of the storm drainage and lot grading improvements, provided the difference is greater than twenty-five dollars (\$25.00).
- 9) Any replacement or relocation of an existing storm drainage facility required by the developer to accommodate a contemplated or projected use of a property shall be the responsibility of the developer. The plans for any such replacement or relocation shall be approved in writing by the City Engineer prior to initiation of construction.
- 10) No permanent structures shall be constructed over an existing or proposed storm drainage facility. In the event that the developer desires to construct a permanent structure over an existing storm drainage facility, the developer shall be responsible for the total cost of relocating the existing facility.

- 11) The City shall assume its share of the cost of the storm drainage facilities only if funds are available for such participation. In the event that no funds are available for City participation, the developer shall award the contract and deposit with the City cash or a bond in the amount of the total construction cost of the facility.
- 12) The following special cost distribution conditions shall be in lieu of, shall supersede and shall prevail over any of the standard cost distribution provisions stated in this subsection b, which may be in conflict herewith.
- 13) Based upon preliminary engineering design, the storm drainage improvements listed on the attached “Estimates of Probable Cost” are required. It is understood that actual sizes, quantities and costs may vary after detailed engineering is accomplished and bids are taken. The distribution of estimated cost between the developer and the City, as per paragraph above, for storm drainage improvements required herein is estimated shown on the attached “Estimate of Probable Cost”.
- 14) The developer agrees that the work herein shall be completed within two (2) years from the date of approval of this agreement by the City Council. It is understood that any obligation on the part of the City to make any refunds shall cease upon the expiration of the two (2) years, except when extended for one (1) year under the conditions set forth in the Public Improvement Policy.

V. Street Improvements by Developer

1. The developer agrees to install or cause to have installed the street, alley and parkway improvements shown on the attached Exhibit “C”, in accordance with plans and specifications prepared by the developer’s engineer and approved by the City.
2. The developer hereby agrees and binds itself to construct all utilities and services in the streets to at least two (2) feet back of the curb line prior to the construction of the streets. All trenches shall be backfilled in accordance with current City specifications.
3. The developer agrees that all streets, including parkways, and alleys shall be constructed to the line and grade established in the approved final construction plans. It is the responsibility of the developer and his contractors to perform all construction in accordance with the approved construction plans and specifications. Any change in design required during construction shall be made by the Engineer whose seal and signature are shown on the plans. All changes shall be approved by the City Engineer.
4. The developer agrees that the Standard Specifications for Public Works Construction, North Central Texas Council of Governments, unless the City has adopted stricter standards which shall prevail, are hereby adopted by reference and made part of this

agreement, which shall be controlling in construction and installation of street paving, curbs and gutters, sidewalks, utilities and other improvements required herein, unless the City has adopted stricter standards which shall prevail. Standard Specifications for construction of Highways, Streets and Bridges, 1993, Texas Department of Transportation, may also be referenced as applicable for particular items.

5. Distribution of Cost

a) Interior and Perimeter Streets -

- 1) The developer shall bear the full cost of constructing all street improvements.
- 2) If the developer constructs a wider or thicker street than required or requested by the City, there shall be no City participation for the cost of the extra width or thickness, unless otherwise authorized by City Council.

If the City Council determines that an improved roadway is needed for the proper and orderly development of the surrounding area, the perimeter street improvements shall be constructed at the time of development.

b) Alleys - The developer shall bear the full cost of constructing required improvements within alley right-of-ways.

c) Sidewalks are required on both sides of all streets and shall be constructed as lots are built upon. Cost shall be paid by the builder or developer. It shall be the responsibility of the developer to ensure the installation of water, sewer, storm drainage and street light infrastructure (mains, valves, manholes, meter boxes, clean-outs, fire hydrants, etc.) do not conflict with the required location of the sidewalk. If such infrastructure is installed in conflict with the required location of the sidewalk, the developer shall bear the expense for utility relocation prior to final acceptance of the subdivision by the City.

d) Railroad Crossings -

- 1) The developer shall bear the full cost of constructing railroad crossings.
- 2) If the developer constructs a wider street than required by the City, there shall be no City participation in the cost of the crossing through the extra width, unless specifically authorized by City Council.

e) The developer shall pay a construction inspection and materials testing fee established pursuant to the City of Granbury Fee Schedule, as amended. The construction inspection and materials testing fee shall be submitted as a cash deposit together with the signed Facilities Improvement Agreement (FIA) to the Director of Community Development. This amount may be

adjusted by the developer or the City, upon written request, to conform to the actual construction cost upon completion and acceptance of the street improvements, provided the difference is greater than twenty-five dollars (\$25.00).

- f) The City shall assume a share of the cost of the street improvements only if funds are available for such participation. In the event that no funds are available for City participation, the developer shall award the contract and deposit with the City cash or a bond in the amount of the total construction cost of the facility.
6. The following special cost distribution conditions shall be in lieu of, shall supersede and shall prevail over any of the standard cost distribution provisions, stated in paragraph 5, which may be in conflict herewith.
- a) None in this agreement.
7. Based upon preliminary engineering design, the roadway improvements listed on the attached Exhibit ‘C’ Street improvements/estimates of probable costs” contained within Section XI, Summary of Costs are required. It is understood that actual sizes, quantities and costs may vary after detailed engineering is accomplished and bids are taken. The distribution of estimated cost between the developer and the City, as per paragraph 5 above, for all roadway improvements required herein is estimated as shown within Section XI, Summary of Costs.
8. The developer agrees that the work herein shall be completed within two (2) years from the date of approval of this agreement by the City Council. It is understood that any obligation on the part of the City to make any refunds shall cease upon the expiration of the two (2) years, except when extended for one (1) year under the conditions set forth in the Public Improvement Policy or by mutual written agreement by both the Developer and City.

VI. Street Light Improvements by Developer

- 1. The developer agrees to install or have installed street lights at the locations shown on the attached Exhibit “E”, in accordance with plans and specifications prepared by the developer’s engineer and approved by the City.
- 2. The developer agrees and binds itself to dedicate all easements required for the installation and maintenance of the street lights and to provide for the installation of any electrical transformers required for the proper operation of the street lights.
- 3. Distribution of Cost
 - a) Interior Streets - The developer shall bear the full cost of installing street lights and appurtenances on interior streets.

b) Perimeter Streets -

- 1) The developer shall bear the full cost of installing street lights along all perimeter streets except when the street is a thoroughfare. As street lights are required for each direction of traffic on thoroughfare streets, the developer shall only bear the cost of installing street lights for the direction of traffic adjacent to the developing property.
 - c) The developer shall pay for the electricity until building permits have been issued for 50% of the lots within that phase of development or for two (2) years from the date of installation, after which the City shall pay for the electricity. It shall be the responsibility of the developer to notice the City after 50% of the lots for each phase has been permitted.
 - d) The developer shall pay a construction inspection and materials testing fee established pursuant to the City of Granbury Fee Schedule, as amended. The construction inspection and materials testing fee shall be submitted as a cash deposit together with the signed Facilities Improvement Agreement (FIA) to the Director of Community Development. This amount may be adjusted by the developer or the City, upon written request, to conform to the actual construction cost upon completion and acceptance of the street improvements, provided the difference is greater than twenty-five dollars (\$25.00).
4. The following special cost distribution conditions shall be in lieu of, shall supersede and shall prevail over any of the standard cost distribution provisions stated above which may be in conflict herewith.
- a) None in this agreement.
5. The distribution of estimated cost for all street lighting facilities required herein is estimated as shown on the attached "Estimate of Probable Cost".
6. The developer agrees that the work herein shall be completed within two (2) years from the date of approval of this agreement by the City Council. It is understood that any obligation on the part of the City to make any refunds shall cease upon the expiration of the two (2) years, except when extended for one (1) year under the conditions set forth in the Public Improvement Policy.

VII. Park Improvements by Developer

1. The developer agrees to install or to have installed the park improvement shown on the submitted Park Plan and itemized on Exhibit "G". The developer further agrees that the park improvements shall be built in accordance with plans and specifications prepared by the developer's engineer and approved by the City.

2. All park improvements shall be constructed in accordance with the approved construction plans and specifications. Any change in design from the approved park plan shall require the prior written approval of the City prior to implementation. The changes shall be reviewed and approved or denied by the Community Services Director.
3. The developer agrees that the Standard Specifications for Public Works Construction, North Central Texas Council of Governments, are hereby adopted by reference and made part of this agreement, unless the City has adopted stricter standards for construction, which shall be controlling in construction and installation of all applicable improvements. Adherence to the Standard Specifications for construction of Highways, Streets and Bridges, 1993, Texas Department of Transportation, shall also be required where applicable.
 - a) Parking areas, pedestrian sidewalks and ADA sidewalk ramps, neighborhood illumination poles, etc., at the designated locations, shall be constructed in accordance with adopted standards of the City of Granbury, North Central Texas Council of Governments and the State of Texas and all costs associated therewith shall be the responsibility of the developer. Additionally, all costs associated with approved park amenities (playground equipment, play courts, etc.) as shown on the approved park plan shall be the responsibility of the developer.
 - b) The developer shall pay a construction inspection and materials testing fee established pursuant to the City of Granbury Fee Schedule, as amended. The construction inspection and materials testing fee shall be submitted as a cash deposit together with the signed Facilities Improvement Agreement (FIA) to the Director of Community Development. This amount may be adjusted by the developer or the City, upon written request, to conform to the actual construction cost upon completion and acceptance of the park improvements, provided the difference is greater than twenty-five dollars (\$25.00)
4. Based upon preliminary park design, the improvements for the development of the park are listed on the attached "Estimate of Probable Cost" are required to be submitted by the developer and approved by the City. It is understood that actual sizes, quantities and costs may vary after detailed design is complete and bids are taken. The distribution of estimated cost between the developer and the City are shown in Section XI 'Summary of Costs' contained herein, and is reflected on the attached exhibit "'G' Park improvements/estimates of probable costs w/ Park Plan.
5. The developer agrees that the work herein shall be completed within two (2) years from the date of approval of this Agreement by the City Council, in accordance with the requirements of the City's Public Improvement Policy. If construction has not been completed within the above-prescribed time frame, the City may take whatever action is required to insure prompt completion of the park improvements, including but not limited to, awarding a construction contract for the improvements and requiring forfeiture of the performance bond or security deposit to pay all costs

resulting from failure of the developer to complete the improvements. Such costs shall include, but not be limited to; construction costs, engineering costs, administrative and legal expenses, damages, etc.

X. Street Signs, Public & Private

1. The developer agrees to submit a cash deposit together with the executed copy of this agreement to the Director of Community Development for the installation of the street signs shown on the attached “Exhibit F/estimates of probably costs”.
2. In order to provide uniformity and consistency in materials and workmanship throughout the City, the City agrees and binds itself to obtain, locate and install all street name signs for public streets within the development.
3. Should the Developer propose the use of non-standard signs for private streets within the development, the Developer will need the approval of the street sign design from City of Granbury and Hood Count 911 prior to presenting this FIA to Council for final consideration and approval. Private street signs will be secured as a part of the development. However, if the Developer purchases and installs the approved alternate street sign design at his own expense, the cash deposit securing the signs will be returned to the Developer on the City has issued the Final Acceptance of improvements contained herein.
4. Intersections created by streets within the subdivision that intersect a perimeter street shall be considered intersections within the development.
5. This development results in the creation of _____intersection(s). At the current cost of \$275.00 per intersection, the total cost to the developer is \$_____.

XI. <u>Summary of Costs</u> <u>Construction Costs</u> Water Improvements Wastewater Improvements Storm Drainage Street Improvements Park Improvements Street Lights (a) Total Construction Cost	Developer _____	City _____	Total _____
<u>Cash Payments</u> Inspection & Testing Fee (3%) Street Sign Payment (\$275.00 each) Street Lights (b) Electric Infrastructure (c) Total Cash Payment Amount Total Project Cost	_____ _____	_____ _____	_____ _____

Please provide the following information:

- (a) Street light improvements are to be installed by either United Cooperative, Tri-County Electric or by any other Cooperative.
- (b) Street light improvements are to be installed by the City of Granbury.
- (c) Electric improvements are to be installed by the City of Granbury. If installed by another franchise, provide signed letter from Franchised Electric provider regarding electric infrastructure. Form provided by City of Granbury.

The Developer agrees to pay a park dedication fee-in-lieu of dedicating public park land as prescribed in Section 4.12 of the Subdivision Ordinance. The Developer’s fee calculated at \$525 per dwelling unit totals \$_____. Said fee shall be required to be paid prior to filing of the plat for record.

The Developer has provided the City of Granbury with a non-refundable deposit equal to \$_____ as required by the Subdivision Ordinance. Such non-refundable deposit shall be utilized for _____(street, sidewalk, cul-de-sac urban standard, storm drainage) improvements along _____(Street Name(s)). Such non-refundable deposit is required by the DRC Comment Deadline and included in the FIA.

The Developer agrees to pay a Tree Replacement Credit of \$_____to the City of Granbury in accordance with Article 13 of the City of Granbury Zoning Ordinance. Said fee shall be required to be paid prior to filing of the plat for record.

The Facilities Improvement Agreement (FIA) has been approved by the following Staff Members and forwarded to City Council for approval.

Director of Community Development

Director of Building & Permitting

Director of Public Works

City Engineer

IN TESTIMONY WHEREOF, each of the parties has caused this instrument to be executed by its undersigned duly authorized representatives as of the date hereinabove first mentioned.

DEVELOPER

CITY OF GRANBURY

Signature

City Manager, Chris Coffman

Printed Name

Title - Company Name

DEVELOPER'S DESIGN ENGINEER

Signature

Printed Name

Firm or Company Name

- Exhibits:
- 'A' Water & 'B' Wastewater improvements/estimates of probable costs;
 - 'C' Street improvements/estimates of probable costs;
 - 'D' Storm Drainage & Site/Lot Grading improvements/estimates of probable costs;
 - 'E' Street Light improvements/estimates of probable costs;
 - 'F' Street Sign improvements/estimates of probable costs,
 - 'G' Park improvements/estimates of probable costs w/ Park Plan;
 - 'H' Standard Letter of Inspection & Acceptance, which shall be provided by Developer's Engineer

- Distribution of Originals: Developer
City Secretary
- Distribution of Copies: Community Development Department
Public Works Department
Community Services Department

Exhibit 'H' - Letter of Inspection & Acceptance,
[provided by Developer's Engineer]

Date

Mr./Ms. _____
Director of Public Works
City of Granbury
401 N. Park Street
Granbury, Texas 76048

RE: [Project Name as referenced on the FIA]

Dear Mr./Ms. _____:

As a follow up to the project walk through and completion of the punch list items for the above referenced project, we have performed our on-site walk through inspection of the project site.

Based on the contractors' information and my personal inspection of the project, the public and private improvements/facilities for the Project are in general conformance of the design plans prepared under my direction and seal.

The as-built mylar plan set, inclusive of all field changes and revisions which I have inspected and approved, and compact disk containing both CAD and pdf files have been provided [or are included herein] for the City's records.

With this letter, I hereby request that the final letter of acceptance be issued for this project.

Sincerely,

Engineer of Record [w/ original Seal and Signature]
Engineering Firm and Firm registration #

cc: Mr. David Wynn, City Engineer, Freese & Nichols, Inc.
Community Development Department, City of Granbury, FIA Project File