

**CITY OF PACIFIC**

**DEVELOPER AGREEMENT**

THIS AGREEMENT, by and between the City of Pacific, a municipal corporation, hereinafter referred to as "City", and \_\_\_\_\_, hereinafter referred to as "Developer":

WITNESSETH: That whereas the City of Pacific, a municipal corporation, provides water/sanitary/storm/gas or roadway service within this area, and the above-named Developer is preparing to construct an extension or modification or additions thereto, and said development requires the City's service;

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Developer agrees to construct the water/sanitary/storm/gas or roadway system, or additions thereto, to be connected to the City's infrastructure, and to maintain such additions until such time as the improvements are accepted by the City, with the agreements conditioned as set forth below. The improvements, extension, or additions thereto, shall be located within that area commonly referred to as \_\_\_\_\_, which property is described in Exhibit "A" attached hereto and referred to hereinafter as "Premises".
2. As a condition precedent to City obligations under this agreement, the Developer shall construct the proposed water/sanitary/storm/gas/or roadway system, or additions thereto, within said premises in conformance with the minimum standards as set forth in the City's currently adopted Construction Standards, as adopted together with any amendments thereto hereinafter made, and further to conform with the City's comprehensive planning documents, which agreement shall include oversizing of mains necessitated by the comprehensive plan.
3. The developer agrees that the construction of any infrastructure items, or additions thereto, shall not commence until the following conditions have been fulfilled:
  - a. The developer shall furnish the City with four (4) sets of detailed plans for the proposed improvements, or additions thereto, at Developer's own expense, prepared by a qualified engineer currently licensed in the State of Washington.
  - b. The above plans shall require the review and approval by the City and its Engineer, and the cost of such review shall be at the Developer's own expense.
  - c. Minimum requirements for all plans, or additions thereto, submitted to the City for review are:
    - (1) Four (4) sets of all plans and documents shall be submitted, wherein two (2) sets will be retained by the City, and two (2) sets will be returned to the applicant.
    - (2) A preliminary plat of the area in which said improvement, or additions thereto, are to be constructed, which plat has been approved by the City.

- (3) A map showing the location of the plat in relation to the surrounding area.
  - (4) A contour map of the plat with contour intervals of five feet or less extending fifty (50') feet beyond the plat/property lines.
  - (5) A map showing the location and depth of all proposed utilities and any connections and/or interconnections to existing facilities or future extensions and connections.
  - (6) A 1" = 50' plan and profile view of the proposed improvements showing streets, lot lines, dimensions, and location of bench marks (City datum) and monuments for the proposed plat, together with an indication of the development of the adjacent property, as may be applicable.
  - (7) A profile 1" = 50' horizontal and 1" = 5' vertical of the finished road grades with any proposed utility system improvements and other pertinent underground utilities located, with elevations noted thereon. The elevation datum shall be the same as used by the City. It shall be the responsibility of the Developer to confirm such datum with the City.
  - (8) Full-sized detail sheets shall be included as part of the construction drawings, as required to clearly indicate the details for all of the infrastructure improvements not otherwise provided for in this text, or additions thereto, to be constructed, consistent with City standards.
  - (9) Specifications sufficient to fully describe the work, consistent with the City's minimum and currently adopted Construction Standards.
  - (10) Approvals from all regulatory agencies.
- d. Construction requirements in addition to the City standards and details for developer extensions, as adopted, are as follows:
- (1) All streets and/or roadways shall be graded to within six inches of final grade before installation of utility improvements, unless otherwise approved by the City Engineer.
  - (2) All lots shall be fully staked to assist all parties involved in the proper location of utility services.
  - (3) All contractors and subcontractors shall have a current Washington State Contractors License on file with the City.
  - (4) The Developer's proposed improvements, or additions thereto, on Premises shall not be connected to the City system until authorized by- the City, and such connection shall be performed only under the supervision and approval of the City.

- e. For the purpose of applying RCW 4.24.115 to this Contract, the Developer and the City agree that the term "damages" applies only to the finding in a judicial proceeding and is exclusive of third party claims for damages preliminary thereto.

The Developer agrees to indemnify and hold harmless the City from all claims for damages by third parties, including costs and reasonable attorney's fees in the defense of claims for damages, arising from performance of the Developer's express or implied obligations under this Agreement. The Developer waives any right of contribution against the City.

It is agreed and mutually negotiated that in any and all claims against the City or any of its agents or employees by any employee of the Developer, any contractor or subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Developer or any contractor or subcontractor under Workman's Compensation Acts, disability benefits acts or other employees' benefit acts. The City and the Developer agree that all third party claims for damages against the City for which the Developer's insurance carrier does not accept defense of the City may be tendered by the City by the Developer who shall, if so tendered by the City, accept and undertake to defend or settle with the Claimant. The City retains the right to approve claim investigation and counsel assigned to said claim and all investigation and legal work product regarding said claim shall be performed under a fiduciary relationship to the City. In the event that the City agrees or a court finds that the claim arises from the sole negligence of the City, this indemnification shall be void and the City shall be responsible for all damages payable to the third party claimant. In the event that the City and the Developer agree or a court finds that the claim arises from or includes negligence of both the Developer and the City, the Developer shall be responsible for all damages payable by the Developer to the third party claimant under the court findings, and, in addition thereto, the Developer shall hereunder indemnify the City for all damages paid or payable to the City under the court findings in an amount not to exceed the percentage of total fault attributable to the Developer. For example, where the Developer is 25% negligent, the Developer shall not be required to indemnify the City for any amount in excess of 25% of the claimant's total damages.

- f. In the event the Developer in his operation damages or disrupts existing improvements, the repairs shall be made at the Developer's expense. In the event they are so damaged or the service disrupted and the Developer fails or is unable to immediately restore the service, then the Owners of the improvements may cause the repairs to be made by others and all costs for the same shall be at the Developer's own expense.

Where the construction crosses or is adjacent to existing utilities, the Developer shall exercise extreme care to protect such utilities from damage.

If any damage is done to an existing utility, the Developer shall notify the utility company involved, who will dispatch a crew to repair the damage at the Developer's expense. All costs for the same shall be at the Developer's own expense.

The Developer shall be aware that some existing City owned facilities are known to contain asbestos cement pipe. The Developer shall conduct all work related to existing asbestos cement pipe in strict accordance with current WISHA safety regulations and provisions contained within WAC 296-62-077. All costs related to work in compliance with established rules and regulations shall be the responsibility of the Developer. Demolition of existing asbestos cement pipe, if required, will be permitted only after the proper permits are obtained from the Puget Sound Air Pollution Control Agency. The Developer shall be responsible for all associated fees and permits required for asbestos removal and disposal. Work crews shall be provided with proper protective clothing and equipment. Hand tools shall be used, and the asbestos cement pipe shall be scored and broken in lieu of the sawing or other methods which release fibers into the atmosphere. Waste asbestos pipe shall be buried in the trench. Asbestos pipe to be abandoned in place shall not be disturbed, except as noted herein, and shall remain in its original position.

The Developer is cautioned that all existing drainage systems, whether open ditch, buried pipe, or drainage structures, are not on record. It shall be the responsibility of the Developer to repair or replace all such systems found during construction, which are damaged by the Developer's construction in a manner which is satisfactory to the City.

Where the Developer is allowed to use private property adjacent to the work, the property so used shall be returned to its original or superior condition. The Developer shall make all arrangements in advance with such property owners, to insure that no conflicts will ensue after the property is restored as described above. The Developer will be required to furnish the City with a written release from said private property owners, if the City deems it to be necessary to obtain such document.

4. The construction of the Developer's proposed improvements or additions thereto, on the Premises shall be supervised by the City in such a manner and at such times as the City deems reasonably necessary to assure that construction of the system will conform with the above-mentioned plans and specifications and minimum City Standards. The Developer herewith agrees to allow such inspections and agrees to cooperate providing reasonable advance notice on his construction schedule during the various construction phases as requested by the City. The Developer further agrees to reimburse the City for all engineering fees and expenses incurred by the City for such supervision.
5. The Developer's proposed improvements, or additions thereto, on Premises shall not be accepted for service and use until the same have been fully inspected and approved, and the following requirements have been performed:
  - a. Submit to the City in Auto-CADD format, latest revision, the computer file supplied on a three and one half (3-1/2) inch disc accompanied by the original "fixed line" mylars, with all changes from the original design clearly marked to reflect the as-built conditions. The Developer's Engineer shall certify the accuracy of the record drawings and shall affix his seal and signature.
  - b. Payment of all permit fees and equivalent assessment charges and any other applicable City charges required for Premises.

- c. Payment of all plan check and inspection fees and related fees.
  - d. Prepare and furnish the required easements in accordance with City's standard form, and furnish same to the City for approval by the City Attorney, along with the necessary recording fees.
  - e. Furnish the City with an affidavit warranting there are no liens against the improvements constructed on Premises by the Developers, this affidavit shall be in the form prescribed by the City.
  - f. Furnish the City with a Bill of Sale conveying the water/sanitary/storm or roadway system to the City, which shall include a two-year guarantee that the conveyed systems or improvements or additions thereto shall be free of defects in labor and materials. Form shall be as prescribed by the City.
  - g. Payment of all applicable bills, invoices, fees, etc., have been paid in full.
6. In the event any warranty repairs are required, the City agrees, whenever feasible, to provide the Developer with reasonable notice before directly undertaking such repairs. The City reserves the right, however, to effect emergency repairs as deemed necessary by the City. The City shall be reimbursed by the Developer for all costs thereof.



**CITY OF PACIFIC**  
**DEVELOPER AGREEMENT**  
**EXHIBIT "A"**

PLAT NAME: \_\_\_\_\_

DEVELOPER: \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

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