

## **MISCELLANEOUS FORMS**

## **CITY OF GRANITE FALLS**

### **DEVELOPER AGREEMENT**

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

WITNESSETH: That whereas the City of Granite Falls, 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 Public Works Standards, as adopted together with any amendments thereto hereinafter made prior to the commencement of construction, 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 given on the plan checklist in the Development Guidelines for Public Works Standards.
  - d. All permits have been received. Permits may include, but are not limited to, Right-of-Way Permit, Fill and Grade Permit, Stormwater Permit (issued by the Department of Ecology for fill and grade activities on sites larger than 1 acre).
  - e. 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 a minimum of two (2) feet above the crown of utility lines 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.
4. Indemnification/Hold Harmless:
- a. The Developer shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.
  - b. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Developer and the City Entity, its officers, officials, employees, and volunteers, the Developer's liability hereunder shall be only to the extent of the Developer's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Developer's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this

indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

5. Insurance

- a. The Developer shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Developer's work through the term of the Agreement and for thirty (30) days after the Physical Completion date of the work, unless otherwise indicated herein.

- b. No Limitation

The Developer's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Developer to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

- c. Minimum Scope of Insurance

The Developer's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the Developer's Commercial General Liability insurance policy with respect to the work performed in the City's right of way using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Builders Risk insurance covering interests of the City, the Developer, and any Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse. The Builders Risk insurance shall include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site. This Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Developer. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Developer and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Developer. The Builders Risk insurance shall be maintained until the City has accepted the work. An installation floater may be acceptable in lieu of Builders Risk for renovation projects only if approved in writing by the City.

d. Minimum Amounts of Insurance

The Developer shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products- completed operations aggregate limit.
3. Builders Risk insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

e. Public Entity Full Availability of Developer Limits

If the Developer maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Developer, irrespective of whether such limits maintained by the Developer

are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Developer.

f. Other Insurance Provision

The Developer's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City Entity. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Developer's insurance and shall not contribute with it.

g. Developer's Insurance for Other Losses

The Developer shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, Developer's employee owned tools, machinery, equipment, or motor vehicles owned or rented by the Developer, or the Developer's agents, suppliers, contractors or subcontractors as well as to any temporary structures, scaffolding and protective fences.

h. Waiver of Subrogation

The Developer and the City waive all rights against each other, any of their Subcontractors, Sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

i. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

j. Verification of Coverage

The Developer shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the Automobile Liability and Commercial General Liability insurance of the Developer before commencement of the work. Before any exposure to loss may occur, the

Developer shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project. Upon request by the City, the Developer shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage.

k. Subcontractors

The Developer shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Developer-provided insurance as set forth herein, except the Developer shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Developer shall ensure that the Public Entity is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an ) using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

l. Notice of Cancellation

The Developer shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two business days of their receipt of such notice.

m. Failure to Maintain Insurance

Failure on the part of the Developer to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Developer to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand.

6. 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 ensure 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.

7. 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.



8. 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 compact disc (CD) 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.
9. 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.
10. Upon performing all requirements, including those as set forth in Paragraph 5 above, the City shall accept the water/sanitary/storm or roadway improvements, and agree therewith to operate and maintain said system.

SUBMITTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY DEVELOPER: \_\_\_\_\_  
Printed Name

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Signature

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Date

[illegible]

SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before, me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the person who executed the foregoing instrument, and acknowledged the said instrument to be his free and voluntary act and deed, for the uses and purposes therein mentioned, and acknowledged that he/she had the legal authority to execute said agreement on behalf of the "Developer".

WITNESS my hand and official seal affixed the day and year first above written.

(INDIVIDUAL)

Notary Public in and for the State  
of Washington, residing at \_\_\_\_\_

**CITY OF GRANITE FALLS**

**DEVELOPER AGREEMENT**

**EXHIBIT "A"**

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

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

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

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