

## Chapter 6 Section 2-5

# PRIVATE INFRASTRUCTURE IMPROVEMENTS

## INTRODUCTION

~~Chapter 6 Section 2-5~~ outlines the procedures for design development, approval and construction of Private Infrastructure Improvements. Since many of the procedures are the same as those presented in ~~Chapter 5 Section 2-14~~ for Public Infrastructure Improvements, these procedures are referenced herein, for brevity rather than being duplicated.

## DEFINITIONS

~~The City of Albuquerque defines the following terms and concepts as stated and applies them uniformly throughout this portion of the development process. See also the definitions listed in Chapter 5.~~

~~**CITY STANDARDS:** Design criteria for infrastructure improvements as provided in Volume 2 of the Development Process Manual and other ordinances and policies.~~

~~**EASEMENTS:** Right of use located within private ways or other parts of private land for the purpose of installing and maintaining storm water drainage, water and sanitary sewer lines, fire hydrants, landscaping and other infrastructure improvements.~~

~~**PRIVATE INFRASTRUCTURE IMPROVEMENTS:** Streets, sidewalks, sanitary sewers, water system facilities, lines, appurtenances, drainage and flood control facilities, street lights, retaining walls and other improvements which are not dedicated to the public but are used by the public or used in common by owners of one or more lots. Such improvements are commonly owned and maintained by a home owner's association or individual lot owner(s), as indicated on the plat.~~

~~**PRIVATE WAY:** Land which is not public right of way and is a street providing access between public right of way and one or more lots. The term includes easements for storm water drainage and utilities when such are given through a suitable legal document, along with the road rights.~~

~~**PRIVATE WAY STANDARDS:** Criteria such as location, width and surface treatment, as provided in Volume 2 of the Development Process Manual and other ordinances and policies.~~

## FUNDAMENTALS

~~The requirements of the Subdivision Ordinance concerning infrastructure improvements apply whether ownership of these improvements is vested in the City or private owners.~~

### a) Applicability

~~This section applies to p~~Private infrastructure improvements ~~are~~ located in private ways or in easements and are maintained by private entities, such as Homeowner's Associations. ~~A~~  
~~common example of such private infrastructure improvements may be a series of private roads~~

**Comment [JJ1]:** All cross-references will be updated when the section goes back into layout so please ignore any references currently indicated by Xs.

**Comment [JJ2]:** The initial DPM matrix reorganization calls for all definitions to be consolidated into one section.

One option the project team has discussed is creating a tooltip that allows important definitions to be appear by hovering over the word.

**Comment [LTJ3]:** Define required private infrastructure

**Formatted:** Highlight

within a subdivision. If public infrastructure improvements are to be located in a private way, an easement must be provided. Public infrastructure improvements in private ways must be designed and constructed according to procedures described in ~~Chapter 5~~ Section 2-14.

Comment [LTJ4]: Change references to 2-4

Approval to design and construct private infrastructure improvements depends on the determination of the Development Review Board (DRB) (See Section X.x of the IDO Chapter 2, Subdivision) that private ways can adequately serve all identified transportation, utility and storm drainage requirements. The Subdivision Ordinance requires that the City Traffic Engineer approve the creation of private ways before final approval by the Planning Director. The Traffic Engineer's approval is based on the reasonable likelihood that the street will always function as a local street. The DRB may require easements in private ways for public utilities before granting approval. Prior to plat approval, the DRB ~~may also~~ will also require the developer to either construct private infrastructure or post a financial guarantee to ensure that all required infrastructure is constructed.

Comment [LTJ5]: Reference this process

~~The developer must engage a New Mexico Registered Professional Engineer to design private infrastructure improvements to ensure that minimum requirements will be met and subsequently constructed. Minimum City standards for paving, water, sanitary sewer and storm drainage as described in Volume 2 of the Development Process Manual and the Subdivision Ordinance must be adhered to by the consulting engineer. Among the items which must meet City requirements are:~~

- ~~• street width and turnaround adequacy to accommodate emergency and refuse vehicles~~
- ~~• adequate number and type of water valves, sewer manholes, and water loop lines~~
- ~~• developer's proposal for management of external storm flows coming onto the property and internal flows discharged from the property~~
- ~~• adequate size of water lines to serve an adequate number of fire hydrants for the subdivision or development~~

The City of Albuquerque as a rule will not accept private infrastructure improvements for ownership or maintenance. In the event that the owners/maintainers of private facilities decide at a later date that they would like to dedicate those facilities to the City for ownership and maintenance, the terms and conditions of that dedication and the affected facilities will be subject to City staff review and approval. Due to the unusual nature and potentially varied circumstances, a specific procedure does not exist. Items to be considered may include: dedication of right-of-way, compliance with appropriate City standards, a ~~three-one (13)~~ year warranty from date of acceptance (required by City), reproducible As-Built drawings certified by a N.M. Registered Professional Engineer. Contact the DRC Chair~~man~~ at the Plaza Del Sol Building for further advice.

**GOVERNING REGULATIONS:** ~~Similar to T~~ those listed in ~~Chapter 5~~ Section X.x2-2, on the Infrastructure Improvements Governing Regulations Summary, plus the most recent edition of the Uniform Plumbing Code.

~~Public Infrastructure~~ Infrastructure Improvements, plus the most recent edition of the Uniform Plumbing Code.

## PRIVATE FACILITIES IN PUBLIC RIGHT-OF-WAY

Comment [JJ6]: Text will live in sidebar

Privately owned and maintained facilities proposed to be built within public rights-of-way or easements are not covered by this ~~chapter~~ ~~section~~. An overview of potential occurrences and appropriate procedures defined elsewhere in the DPM follows.

- PRIVATE DRAINAGE FACILITIES IN PUBLIC RIGHT-OF-WAY (DPM, ~~Volume 2~~, Chapter ~~22X~~, ~~Drainage~~). This process applies to privately owned and maintained drainage outfall facilities.
- REAL PROPERTY ENCROACHMENT AGREEMENT AND COVENANTS UPON REAL ESTATE (DPM, ~~Volume 4~~, Chapter ~~82~~, ~~Section X.X~~, ~~Encroachment Contracts~~). This process is designed primarily for installation of private facilities or structures such as walls, fences, or car ports on public right-of-way or easements for public infrastructure. Note that similar requirements exist with private utility companies for construction on their easements or right-of-way.
- AGREEMENT AND COVENANT (Reference not available. Contact City Engineer's Office. ~~This process exists for construction of alley paving which does not meet City Standards in public right of way~~. Such improvements are to be constructed and maintained by the licensee. This license is binding upon the land of the licensee for which the improvements are constructed. The Agreement and Covenant may be amended to suit other improvements or conditions as approved by the City Engineer.

### 1) PROCEDURAL DIFFERENCES:

#### a) PRIVATE INFRASTRUCTURE DESIGN DEVELOPMENT

~~(1) The developer must engage a New Mexico Registered Professional Engineer to design private infrastructure improvements to ensure that minimum requirements will be met and subsequently constructed. Minimum City standards for paving, water, sanitary sewer and storm drainage as described in ~~Technical Standards of the Development Process Manual~~ must be adhered to by the consulting engineer. Among the items which must meet City requirements are:~~

- ~~(a) Street width and turnaround adequacy to accommodate emergency and refuse vehicles~~
- ~~(b) Adequate number and type of water valves, sewer manholes, and water loop lines~~
- ~~(c) Developer's proposal for management of external storm flows coming onto the property and internal flows discharged from the property~~
- ~~(d) Adequate size of water lines to serve an adequate number of fire hydrants for the subdivision or development~~

~~(+) (2) \_\_\_\_\_ Procedures and plan formats for design of private infrastructure improvements are the same as defined in ~~Chapter 5~~ ~~Section X.x~~, for public infrastructure improvements, except as follows:~~

~~(a) Step 1:~~

~~(a) The Application for Design and Construction of Infrastructure Improvements must be accompanied by a Private Infrastructure Supplement to Application of Infrastructure Improvements Form (Chapter 5, Figure 4) must be accompanied by a Private Infrastructure Supplement to Application (Chapter 6, Figure 1).~~

~~(b) Step 2:~~

~~(c) The Chief Building Official, Planning Department/Code Administration Division participates in the Pre-Design Conference.~~

~~(d) Steps 3, 4, 5 and 6:~~

~~(e) The Chief Building Official, Planning Department/Code Administration Division participates in the review and approval of plans along with DRC members. The estimate must clearly identify whether or not the private improvements are to be constructed under the Work Order process.~~

~~(f) Step 7:~~

~~(g)(b) Letter of Instruction for Procedure "A" (Chapter 5, Figure 9) is replaced by Letter of Instruction for Private Infrastructure (Chapter 6, Figure 2).~~

b) **PROCEDURE: CONSTRUCTION OF PRIVATE INFRASTRUCTURE**

(1) All private infrastructure improvements must be inspected under the direction of a New Mexico Registered Professional Engineer and certified complete in accordance with approved plans and specifications. Such certification shall also include verification of inspection and approval by Planning Department/Code Administration Division for compliance with applicable building codes (see Uniform Administrative Code for details).

(a) CONSULTING ENGINEER ~~INSPECTS~~ **INSPECTION**

~~(i)~~ Construction permits for the work on private property must be obtained from Planning Department ~~Code Administration~~.

~~(ii)~~ The consulting engineer must verify that the contractor requests and obtains necessary ~~Code Administration~~ inspections and approvals during the course of the construction.

~~(iii)~~ Upon satisfactory completion of the private infrastructure improvements the consulting engineer shall submit to the City Engineer the following:

~~—SUBMITTAL REQUIREMENTS~~

~~—Consulting Engineer provides:~~

- ~~—~~ A statement that he is currently a Registered Professional Engineer in the State of New Mexico.
- ~~—~~ Certification that the described improvements were inspected under his direction and constructed in accordance with the approved plans and specs.
- ~~—~~ Final tabulation of quantities with explanation of overruns and underruns (See ~~Chapter 5~~ **Section 2-1**).
- ~~—~~ Material test data.

5. ~~•~~—Reproducible As-Built drawings (may amend approved originals retained by Engineering Design Section).
6. ~~•~~—Certification that the finished grade is in substantial compliance with the approved grading and drainage plans.

~~(iii)~~(iv) —Upon review and approval of constructed improvements and certification by consulting engineer, the City Engineer will issue a Certificate of Completion to the developer. The format is similar to Certificate of Completion and Acceptance (~~Chapter 5~~Section X.x).

(v) —Ownership and Maintenance of private infrastructure remains the responsibility of the developer, Homeowners' Association or individual lot owner(s) as indicated on the plat.

**Figure 1**  
**PRIVATE INFRASTRUCTURE**  
**SUPPLEMENT TO APPLICATION**

INSTRUCTIONS: • PRINT OR TYPE IN BLACK INK ONLY  
• Attach to Application for Design and Construction of Infrastructure Improvements (Chapter 5) only if  
Private Infrastructure is proposed.

1. REFERENCE INFORMATION Date: \_\_\_\_\_

Developer: \_\_\_\_\_

Subdivision Name \_\_\_\_\_

Map Key No. \_\_\_\_\_ DRB Case # \_\_\_\_\_

2. The subject subdivision requires Private Infrastructure

ONLY  As well as Public Infrastructure

3. The Private Infrastructure will be designed by:

Developer's Consulting Engineer  City

4. If Public and Private Improvements are required, they will be designed:

In one composite plan set

In separate plan sets

Not Applicable

City Project No \_\_\_\_\_

**Figure 2**  
**LETTER OF INSTRUCTION**

\_\_\_\_\_  
(Date)

(Developer Name \_\_\_\_\_  
and Address) \_\_\_\_\_

RE: CONSTRUCTION OF PRIVATE INFRASTRUCTURE Project # \_\_\_\_\_

(Subdivision Name) \_\_\_\_\_

Gentlemen:

The Design Development Process has been completed for the subject project which you requested. Since the project involves Private Infrastructure Improvements, you should follow

~~procedures outlined in Volume 1, Chapter 6 of the Development Process Manual. If you need assistance on how to proceed, please contact me or the Design Engineer for this project.~~

~~Enclosed for your use are three half-size prints of the approved construction plans and engineer's estimate of quantities. Construction of Private Infrastructure must be completed by a contract to you, rather than by a City contract. Inspection and certification of the improvements may be by your Consulting Engineer or the City Engineer's staff, as described in Chapter 6.~~

~~If you have not yet initiated a Subdivision Improvements Agreement for this project, you should do so in the near future to avoid delays. The appropriate Agreements are listed in Chapter 6 along with standard forms.~~

~~Please contact this office when you are ready to initiate construction.~~

~~Sincerely,~~

~~Assistant City Engineer - Design~~

~~cc: Project Administrator~~

~~Project File~~

### **Figure 3**

## **PROCEDURE "B" ERRATA FOR PRIVATE AND PUBLIC INFRASTRUCTURE**

~~When a Subdivision requires both Private and Public Infrastructure Improvements, the City Standard "Agreement to Construct Subdivision Improvements" (Chapter 5), must be modified as follows:~~

~~1. Insert: "(PRIVATE AND PUBLIC)" in upper right hand corner of page 1.~~

~~2. Insert an additional Whereas clause on page 1, between the second and third Whereas clauses; the new clause should read as follows:~~

~~"Whereas, the preliminary plat submitted by the Developer proposes both private and public infrastructure improvements within the subdivision; and"~~

~~3. On Page 3, Delete paragraph 3 in its entirety and substitute the following:~~

~~3a) Prior to final acceptance of the completed Public Improvements by the City, the Developer shall furnish to the City Engineer all documentation of the completion of construction as set forth and specified in Exhibit "A" attached hereto.~~

~~3b) Prior to release of financial assurance, the Developer shall either provide Certification by a New Mexico Registered Professional Engineer that the required Private Improvements have been constructed in compliance with approved plans and specifications or the Developer shall make necessary arrangements for Certification by the City Engineer that the required improvements are satisfactorily completed."~~

~~4. On page 5, delete paragraph 11 in its entirety and substitute the following:~~

~~11a) The City shall issue a Certificate of Completion and Acceptance for the Public Improvements upon final completion to the City's satisfaction of the Improvements as described in the plans and specifications as set forth and specified in Exhibit "A" attached hereto;~~

~~11b) The City shall issue a Certificate of Completion for the Private Improvements upon final completion to the City's satisfaction of the Private Improvements as described in the plans and specifications as set forth and specified in Exhibit "A" attached hereto."~~

~~5. Revise the first sentence of Exhibit B, Page 1, paragraph 1 to read as follows:~~

~~"Inspection of the subdivision improvement construction shall be performed by \_\_\_\_\_ on Private facilities. And by \_\_\_\_\_ on Public facilities, both being New Mexico Professional Engineers, in accordance..."~~

~~6. Revise the first sentence of Exhibit B, Page 1, paragraph 2 to read as follows:~~

~~"Construction surveying for the subdivision improvement project shall be performed by \_\_\_\_\_ on Private facilities and by \_\_\_\_\_ on Public facilities in accordance with..."~~

~~7. Revise the first sentence of Exhibit B, Page 2, paragraph 3 to read as follows:~~

~~"Field testing of the subdivision improvement construction shall be performed by \_\_\_\_\_ on Private facilities and by \_\_\_\_\_ on Public facilities, each being a certified testing laboratory under..."~~

~~*Note: Blank forms with these errata included may be obtained from the Albuquerque Development and Building Services Center(DBSC).*~~

## **Figure 4 SUBDIVISION IMPROVEMENTS AGREEMENT PRIVATE INFRASTRUCTURE ONLY**

~~THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, by and between the City of Albuquerque, New Mexico (hereinafter referred to as "City") and \_\_\_\_\_ (hereinafter referred to as "Developer") pursuant to Section 6 of the City's Subdivision Ordinance (Enactment No. 56-1983, effective June 29, 1983);~~

~~WHEREAS, the Developer is developing certain lands within the City of Albuquerque, County of Bernalillo, State of New Mexico known as \_\_\_\_\_ (hereinafter referred to as the "Subdivision"); and~~

~~WHEREAS, the Developer has submitted and the City has approved a preliminary plat identified as \_\_\_\_\_ describing the Subdivision; and~~

~~WHEREAS, the Preliminary plat submitted by the Developer proposes infrastructure improvements within the Subdivision, all of which are private improvements; and~~

~~WHEREAS, Section 6 of the City's Subdivision Ordinance requires the Developer to install and construct certain private improvements at no cost to the City; and~~

~~WHEREAS, the City requires the execution of an Agreement to construct said private improvements, together with actual satisfactory construction or acceptable guarantees of construction as specified below, as a prerequisite to approval of a Final Plat of the Subdivision; and~~

~~WHEREAS, the Developer must obtain City approval of construction plans, specifications, and cost estimates for the improvements, and upon City approval of such construction plans, specifications, and cost estimates, the City is prepared to sign this Agreement, and will approve the Final Plat of the Subdivision upon execution of this Agreement and payment of all required fees, all as set forth and specified in Exhibit "A", which is attached hereto and incorporated herein as if fully set forth in this Agreement; and~~

~~WHEREAS, the City is willing to inspect or monitor the private inspection of the improvements during the course of their construction and certify said improvements upon their satisfactory completion, all as set forth and specified in Exhibit "B", which is attached hereto and incorporated herein as if fully set forth in this Agreement; and~~

~~WHEREAS, the Developer financially guarantees the satisfactory completion of the infrastructure construction required herein and the payment of all labor and material costs and charges, all as set forth and specified in Exhibit "C", which is attached hereto and incorporated herein as if fully set forth in this Agreement; and~~

~~WHEREAS, upon satisfactory completion of the private improvements, the City is willing to release any required financial guarantees, as specified in Exhibit "C", which is attached hereto and incorporated herein as if fully set out in this Agreement.~~

~~NOW, THEREFORE, in consideration of the above, the City and the Developer hereby agree as follows:~~

~~1. The Developer shall, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, complete to the satisfaction of the City the improvements required for the Subdivision as set forth, specified and referenced in Exhibit "A" attached hereto. The improvements which the Developer shall satisfactorily complete within the time limitation stated above are described and identified in Exhibit "D", which is attached hereto and incorporated herein as if fully set forth in this Agreement.~~

~~The time limitation stated above may be extended by the City Engineer for a period not to exceed twelve (12) months if the Developer shows adequate reasons for said extension.~~

~~2. After execution of this Agreement, the developer shall pay all fees as specified in Exhibit "A" attached hereto, and, if applicable, deliver the financial guarantee specified in Exhibit "C" attached hereto. The Developer shall advise the City Engineer in advance of the actual start of construction and arrange for all inspections required and specified in Exhibit "B" attached hereto. The Developer shall permit the City or other participating agencies to make such tests and inspections during the construction of the improvements and upon completion of the improvements as are necessary or desirable.~~

~~3. Prior to release of financial guarantee and/or certification of the completed improvements by the City, the Developer shall either provide Certification by a New Mexico Registered Professional Engineer that the required Private Improvements have been constructed in~~

~~compliance with City approved plans and specifications, or make necessary arrangements for Certification by the City Engineer that the required improvements are satisfactorily completed.~~

~~— 4. Indemnification. Until the Improvements are accepted by the City, the Subdivider shall be solely responsible for maintaining the premises upon which the Improvements are being constructed in a safe condition. The Subdivider agrees to defend, indemnify and hold harmless the City and its officers, agents and employees from and against all suits, actions or claims. Of any kind brought because of any injury or damage arising out of the design or construction of the Improvements, or by reason of any act, omission or misconduct of the Subdivider, its agents and employees, or the Subdivider's engineer or contractor or their agents or employees. The indemnification required hereunder shall not be limited as a result of the specifications of any applicable insurance coverage. Nothing herein is intended to impair any right or immunity under the laws of the State of New Mexico.~~

~~— Nothing herein is intended to impair any right or indemnity under the laws of the State of New Mexico.~~

~~— 5. In the event that any of the work contemplated by this Agreement takes place on City property, the Developer shall procure, or cause to be procured, and maintain public liability insurance in the amount of not less than One Million Dollars (\$1,000,000) combined single limit for accidents or occurrences which cause bodily injury, death or property damage to any member of the public resulting from any condition of the lands of the subdivision or improvements therein or the construction activities thereon. The insurance policy must name the City of Albuquerque, its employees, and elected officials, as their interest may appear, as additional insured. The Developer shall maintain such insurance until completion of the improvements and their approval by the City. Any cancellation provision must provide that if the policy is canceled prior to the expiration date hereof, materially changed, or not renewed, the issuing company will mail 30 days written notice to the City, attention City Engineer. The Developer shall furnish the City Engineer a certificate of said insurance prior to issuance of a Permit for construction of the improvements.~~

~~— 6. The City shall either perform or monitor the performance of inspections during the course of construction of the improvements and inspect the improvements upon their completion in a timely manner, all as set forth and specified in Exhibit "B" attached hereto.~~

~~— 7. The City shall designate a Construction Engineer and/or Inspector for this project.~~

~~— 8. The City shall make available at established reproduction costs for the use of the Developer or its agents all of its maps, records, laboratory tests, or other data pertinent to the work to be performed by the Developer or its agents pursuant to this Agreement and also any other maps, records, or other materials available to the City upon the City's request to any other public agency or body.~~

~~— 9. The City shall issue a Certificate of Completion for the Private Improvements upon final completion to the City's satisfaction of the Private Improvements as described in the plans and specifications as set forth and specified in Exhibit "A" attached hereto. However, the City Engineer, in his discretion, may issue a Certificate of Completion for a portion of the Improvements in accordance with the conditions and procedures set forth in Exhibit "C" attached hereto.~~

10. If the Developer has requested Final Plat approval by the City prior to the actual construction of the improvements, the City will approve the Final Plat for recordation upon execution of this Agreement, payment of all fees specified in Exhibit "A" attached hereto, delivery of the financial guarantee specified in Exhibit "C" attached hereto and full compliance with the City's Subdivision Ordinance.

11. This Agreement shall not be assigned except with the written consent of the parties hereto and the express written concurrence of any surety who has undertaken to guarantee the completion of the Improvements. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.

12. In the event of the sale, conveyance, or assignment of the Subdivision or any portion thereof, the City will not release the Developer from its obligations under this Agreement and will continue to hold the Developer responsible for all Improvements until a successor in interest to the Developer has posted a suitable guarantee and entered into a Subdivision Improvement Agreement with the City. At such time as acceptable security has been posted by the Developer's successor in interest and the Agreement executed, the City will release the guarantee.

13. Should there be a conflict between the terms and conditions of this Agreement (with Exhibits A, B, C and D) and the terms and conditions of any other document referred to herein, the terms and conditions of this Agreement (with Exhibits A, B, C and D) shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

DEVELOPER \_\_\_\_\_ CITY OF ALBUQUERQUE, NEW MEXICO

Signed \_\_\_\_\_

Name \_\_\_\_\_  
\_\_\_\_\_ City Engineer

Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk \_\_\_\_\_ Chief Administrative Officer

REVIEWED AS TO FORM ONLY:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
City Attorney

STATE OF NEW MEXICO \_\_\_\_\_)

\_\_\_\_\_) ss:

COUNTY OF BERNALILLO )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_, by \_\_\_\_\_ its \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_

STATE OF NEW MEXICO )

\_\_\_\_\_ ) ss:

COUNTY OF BERNALILLO )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_, by \_\_\_\_\_, City Engineer of the City of Albuquerque.

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_

STATE OF NEW MEXICO )

\_\_\_\_\_ ) ss:

COUNTY OF BERNALILLO )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_, by \_\_\_\_\_, Chief Administrative Officers of the City of Albuquerque.

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT "A"**

**TO SUBDIVISION IMPROVEMENT AGREEMENT—PRIVATE INFRASTRUCTURE  
ONLY**

EXECUTED BY AND BETWEEN \_\_\_\_\_ (DEVELOPER) AND  
CITY OF ALBUQUERQUE, NEW MEXICO (CITY) ON THE \_\_\_\_ DAY OF \_\_\_\_\_,  
19\_\_.

**1. COMMITMENT TO CONSTRUCT IMPROVEMENTS.**

The Developer shall construct in a manner satisfactory to the City the improvements identified in Paragraph 1 of the Subdivision Improvement Agreement, which are shown in greater detail on the Developer's proposed and approved Subdivision Improvements Plan, which was filed with the office of the City Engineer and identified as Project No. \_\_\_\_\_

**2. DESIGN AND CONSTRUCTION METHODS.**

As soon as reasonably practical after approval of the Developer's Preliminary Plat of the Subdivision, the Developer shall submit to the City Engineer final construction plans, specifications, and cost estimates for the proposed private improvements. At this time, the Developer shall pay all fees required under Section 12.D of the City's Subdivision Ordinance and Paragraph 4 of this Exhibit.

The Developer has engaged \_\_\_\_\_ as Engineer(s) for the construction project, who are Registered Professional Engineers in the State of New Mexico. The Developer shall ensure that the Engineer(s), in such capacity, shall provide the following services prior to, during, and after construction of the improvements:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Developer shall ensure that the Engineer(s) perform all of the above services in a satisfactory manner and submit to the City Engineer any reports required by the City Engineer.

The Developer has engaged \_\_\_\_\_ as Contractor(s), who is properly licensed in the State of New Mexico. The Developer shall ensure that the Contractor(s), in such capacity, shall, in a manner satisfactory to the City, construct the improvements as shown on Developer's proposed Subdivision Improvements Plan (Project No. \_\_\_\_\_) incorporating any change orders approved by the City Engineer, and in accordance with all other applicable laws, regulations, and policies. Construction surveying and testing shall be performed as set forth in Exhibit "B" of the Subdivision Improvement Agreement between Developer and the City.

**3. COMPLETION OF CONSTRUCTION.**

The Developer shall report the completion of construction in writing to the City Engineer. Upon receipt of the report, the City Engineer or his representative shall visually inspect the private improvements to verify completion of construction according to

plan. Subsequent to verification, the Developer shall submit to the City Engineer a certification by a New Mexico Registered Professional Engineer stating that the Private Improvements have been constructed in compliance with the plans and specifications approved by the City, and have been inspected and found acceptable by the City's Code Administration Office, together with Mylar, reproducible record drawings of all improvements constructed by the Developer.

If the City Engineer is providing inspection of the improvements as defined in the Subdivision Improvements Agreement, Exhibit "B", then the above Certification and record drawings will be provided by the City.

Upon receipt of the above described documents and information, the City Engineer shall review it for completeness and accuracy. If the documentation has been satisfactorily completed, the City Engineer shall approve the package and issue a Certificate of Completion. Any financial guarantee provided by the Developer (in accordance with Section 6.D.2 of the City's Subdivision Ordinance and as described in Exhibit "C" to the Subdivision Improvement Agreement between the Developer and the City) shall be released no later than sixty (60) days after approval of the completion package by the City Engineer.

**4. PAYMENT OF FEES:**

Prior to issuance of a Building Permit, the Developer shall pay to the City the following fees:

Type of Fee	Amount

Prior to final approval of the improvements by the City, the Developer shall pay any other City fees which may have been incurred during the course of construction.

**EXHIBIT "B"**

**TO SUBDIVISION IMPROVEMENT AGREEMENT PRIVATE INFRASTRUCTURE ONLY**

EXECUTED BETWEEN \_\_\_\_\_ (DEVELOPER) AND THE CITY OF ALBUQUERQUE (CITY) ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_.

**1. CONSTRUCTION INSPECTION METHODS:**

Inspection of the subdivision improvement construction shall be performed by \_\_\_\_\_, a New Mexico Registered Professional Engineer, in accordance with all applicable laws, ordinances and regulations. If said inspection is performed by an entity other than the City, the City may monitor said inspection and the Developer shall ensure that the inspecting entity provides all inspection results, reports and related data to the City as required for review. The City retains the right to

perform its own general overall inspection of the construction project at any time prior to final approval of the improvements if deemed necessary or advisable by the City Engineer. For any inspections performed by the City, the Developer shall pay to the City a reasonable fee therefor.

**2. CONSTRUCTION SURVEYING.**

Construction surveying for the subdivision improvement project shall be performed by \_\_\_\_\_ in accordance with all applicable laws, ordinances and regulations. If said construction surveying is performed by an entity other than the City, the City may monitor said construction surveying and the Developer shall ensure that the construction surveying entity provides all construction surveying field notes, plats, reports and related data to the City as required for review. If any construction surveying is performed by the City, the Developer shall pay to the City a reasonable fee therefor.

**3. FIELD TESTING.**

Field testing of the subdivision improvement construction shall be performed by \_\_\_\_\_, a certified testing laboratory under the supervision of a New Mexico Registered Professional Engineer, in accordance with the technical standards contained in the applicable contract documents and all applicable laws, ordinances and regulations. If any field testing is performed by an entity other than the City, the City may monitor said field testing and the Developer shall ensure that the field testing entity provides all field testing results, reports and related data to the City as required for review. If any field testing is performed by the City, the Developer shall pay to the City a reasonable fee therefor.

**4. RECORD TESTING.**

Notwithstanding the provisions of Paragraph 3 above, the City retains the right to perform any and all record testing which may be deemed necessary or advisable by the City Engineer and the Developer shall pay to the City a reasonable fee therefor.

**EXHIBIT "C"**

**TO SUBDIVISION IMPROVEMENT AGREEMENT - PRIVATE INFRASTRUCTURE ONLY**

**EXECUTED BETWEEN \_\_\_\_\_ (DEVELOPER) AND THE CITY OF ALBUQUERQUE (CITY) ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_.**

**1. PLAT APPROVAL STATUS.**

The developer has/has not (circle one) requested final plat approval by the City prior to construction of the Subdivision Improvements described in Paragraph 1 of the Subdivision Improvement Agreement. If the Developer has not requested final plat approval prior to construction of the improvements, no financial guarantee is required by the City. However, the Developer understands and agrees that the City will not approve the Developer's proposed plat until the improvements are completed in accordance with the Agreement to which this document is attached as an Exhibit.

— If the Developer has requested final plat approval prior to the construction of the improvements, a financial guarantee in an amount of not less than 125 percent of the costs of completing the improvements (as estimated by the City Engineer) is required pursuant to the City's Subdivision Ordinance. Said financial guarantee must be irrevocable in form and may be effected by a bond, letter of credit, escrow deposit, or other acceptable pledge of liquid assets payable to the City in the event of Developer's default under the Subdivision Improvement Agreement.

**2. FINANCIAL GUARANTEE:**

— With respect to the Subdivision Improvement Agreement to which this document is attached as an Exhibit, the Developer has acquired or is able to amount, identification number, name of bank or bonding entity, inclusive dates of guarantee, and all other relevant information):

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— The Developer understands and agrees that the original executed financial guarantee described above must be delivered to the City prior to the City's approval and filing of the Final Subdivision Plat; and must be in an amount of not less than 125 percent of the cost of completing the improvements, as estimated by the City Engineer.

— In the event the Developer shall fail or neglect to fulfill his obligations under this Agreement, the City shall have the right to construct or cause to be constructed the Improvements specified herein, as shown on the Final Plat and in the plans and specifications as approved, and the Developer as Principal and the surety or sureties shall be jointly and severally liable to pay to and indemnify the City, the total cost to the City thereof, including but not limited to, engineering, legal, and contingent costs together with any damages, either direct or consequential, which the City may sustain on account of the failure of the Developer to carry out and execute all of the provisions of the Agreement to which this document is attached as all of the provisions of the Agreement to which this document is attached as an Exhibit. The City shall have the unconditional right to call upon the financial guarantee provided by the Developer described in this paragraph for the purposes specified and in the amount enumerated in such guarantee.

**3. PROCEDURES FOR REDUCTION OF FINANCIAL GUARANTEE UPON PARTIAL COMPLETION OF IMPROVEMENTS:**

— The Developer may request a reduction in the amount of financial guarantee upon partial completion of the subdivision improvements. To qualify for a financial guarantee reduction, the

completed improvements must be of a free-standing nature, functionally independent of any uncompleted improvements, and completed in substantial compliance with the subdivision improvement construction plans as determined by an inspection conducted by the City.

If the completed improvements meet the above requirements, the City Engineer will then estimate the cost of completing the remaining improvements. The Developer may then submit the following documents to the City for review and approval:

- a) A revised financial guarantee in an amount of not less than 125 percent of the City Engineer's estimated cost of completing the remaining improvements;
- b) A release of the original financial guarantee for execution by the City;
- c) Documentation that the completed improvements and the land in which the completed improvements are located are subject to no liens, claims or other encumbrances.

Upon receipt of the above described documents in forms acceptable to the City, the City shall issue a Certificate of Completion and Acceptance for the completed improvements and accept the revised financial guarantee tendered by the Developer.

**EXHIBIT D**

DRB Case No. \_\_\_\_\_

DRC Project No. \_\_\_\_\_

Date Submitted \_\_\_\_\_

**EXHIBIT D**

to Subdivision Improvements Agreement  
DEVELOPMENT REVIEW BOARD (DRB)  
REQUIRED INFRASTRUCTURE LISTING  
for \_\_\_\_\_

Following is a summary of Public/Private Infrastructure required to be constructed or financially guaranteed to be constructed for the above development.

Size \*Type Improvement Location From To

This instructional information may be deleted from official listings.

\*Types may include Arterial Paving, Residential Paving, Water Line, Sanitary Sewer, Storm Sewer, Drainage Channel, Sidewalks, and Retaining Walls. Any non-standard design or waivers must be clearly described in this listing.

If phased Platting is anticipated, a listing should be prepared for each proposed phase.

Use additional sheets as necessary to complete the listing. The final page must be signed by the preparer and provide signature spaces for DRB members, as illustrated below:

Prepared by: \_\_\_\_\_

Print Name \_\_\_\_\_

Firm \_\_\_\_\_

Page \_\_\_ of \_\_\_

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**Development Review Board Member Approvals**

\_\_\_\_\_

Traffic Date PWD Date Design & Development, CIP Date

\_\_\_\_\_

City Engineer/AMAFCA Date DRB Chairman Date

**Comment [JJ7]:** Moved to Admin