

Section 85-140 Development Agreement for Improvements

1. **Plans and Specifications:** Prior to installation of any required improvements and prior to approval of the final plat, the sub-divider shall enter into a contract in writing with the City requiring the sub-divider to furnish and construct the improvements at his sole cost and in accordance with plans and specifications and usual contract conditions all approved by the Council, which shall include provisions for supervision of details of construction by the City Engineer and grant to the City Engineer authority to coordinate the work to be done under said contract by any subcontractors authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity. The agreement shall require the sub-divider to make an escrow deposit, or in lieu thereof, to furnish a performance bond as specified in subsection B, the amount of the deposit and the penal amount of the bond to be equal to the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection by the City. On request of the sub-divider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event, the amount of the deposit or bond shall be reduced in an amount equal to the estimated cost of the improvements to be furnished after the acceptance of the plat only. The time for completion of the work and the several parts thereof shall be determined by the Council upon recommendation of the City Engineer after consultation with the sub-divider and shall be reasonable in relation to the work to be done, the season of the year and proper coordination with construction activities in the subdivision. The provisions of this subsection shall be waived or amended as deemed appropriate by the City Council upon advice of the City Engineer on those improvements which the city has agreed to install under the provision of Section 85-150.
2. **Financial Guarantee:** The contract required by this Section shall require the sub-divider to make an escrow deposit or in lieu thereof, furnish a performance bond as follows:
 - a. **Escrow Deposit:** An escrow deposit shall be made with the City Clerk in an amount equal to the total cost, as estimated by the City Engineer including the cost of inspection by the City, of all the improvements to be furnished and installed by the sub-divider pursuant to the contract and which have not been completed prior to approval of the final plat. The City shall be entitled to reimburse itself out of said deposits for any cost and expense incurred by the City for completion of the work in case of default of the sub-divider under said contract, and for any damages sustained by the City on account of any breach thereof. Upon completion of the work and termination of any liability to the City of the sub-divider under this contract, the balance remaining in the deposit shall be refunded to the sub-divider.
 - b. **Performance Bond:** In lieu of making the escrow deposit above described, the sub-divider may furnish the City with a public contractor's performance bond in the form prescribed by statute, with corporate surety, in a penal sum equal to the total cost, as estimated by the City Engineer including the cost of inspection by the City, of all of the improvements to be furnished and installed by the sub-divider pursuant to the contract and which have not been completed prior to approval of the final plat. The bond shall be approved by the City Attorney and filed with the City Clerk.
 - c. **Construction Plans:** Construction plans for the required improvements, conforming in all respects with the standards of the City Engineer and this code, shall be prepared at the sub-divider's expense by a professional engineer who is registered in the State of Minnesota and shall contain his seal. The plans, together with the quantities of construction items, shall be submitted to the City Engineer for his estimate of the total cost of the required improvements. Upon approval they shall become a part of the contract required in subsection A. The tracings of the

plans proved by the City Engineer plus two prints shall be furnished to the City to be filed by the City Engineer as a record in the engineering department.

- d. **Inspection:** All required improvements on the site that are to be installed under the provisions of this section shall be inspected during the course of construction by the City Engineer at the sub-divider's expense, and acceptance shall be subject to the City Engineer's certificate of compliance with the contract.

Section 85-150 Optional City Construction Permitted

1. **Petition:** In lieu of doing the actual construction work on improvements required to be made by the sub-divider under this section, the sub-divider may petition the City to do the construction work required. The petition shall include a request that the benefitted property be assessed for the cost of such improvements where appropriate. The petition shall be presented to the City for construction during the next season, or at the earliest convenience of the City. The option shall apply to streets, alleys, curb and gutters, water and sanitary sewer facilities. In no event shall such construction result in a cost to be borne by the taxpayers of the City generally, except in those cases where part of the benefit of the construction is deemed by the City Council to extend beyond the properties contained in the proposed subdivision.
2. **Payment for installation of improvements:** Improvements required by this subsection are to be furnished and installed at the sole expense of the sub-divider and at no expense to the city, unless otherwise stated. In the case of an improvement the cost of which would, by general policy of the Council, be assessed only in part to the improved property and the remaining cost paid out of the general tax levy, the Council may make provisions for payment of a portion of the cost by the sub-divider and the remaining portion of the cost by the City, and provided further, that if any improvement installed within the subdivision, the Council may make provision for causing a portion of the cost of the same and in such case the sub-divider will be required only to pay for such portion of the whole cost of said improvements as will represent the benefit to the property within the subdivision.