

RESOLUTION NO. R-2021-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING A PUBLIC IMPROVEMENT PLAN AGREEMENT WITH RANCH ROAD DEVELOPMENT, LLC FOR PECAN PARK SECTION 1B, AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City Council has adopted the Bastrop Building Block (B³) Code and related codes that provide a process for the standards and construction of public improvements that support the development created during the subdivision process; and

WHEREAS, the Development Manual includes the requirement for a developer to provide a Public Improvement Plan Agreement to ensure the installation of the public improvements; and

WHEREAS, the "Developer" known as Ranch Road Development, LLC has an approved Preliminary Plat and Public Improvement Plan for the construction of a single-family subdivision; and

WHEREAS, The City Council also understands the importance ensuring the proper construction of the required public improvements and the value they bring in regard to the public safety of neighborhoods.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

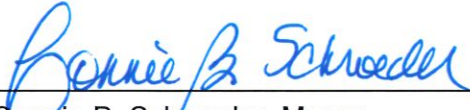
Section 1: That the City Manager will execute the Public Improvement Plan Agreement for Pecan Park Section 1B, attached as Exhibit A.

Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3: That this Resolution shall take effect immediately upon its passage.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 23rd day of March, 2021.

APPROVED:



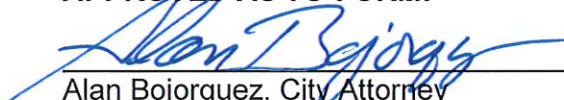
Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

CITY OF BASTROP, TEXAS
Public Improvement Plan Agreement
Pecan Park – Section 1B

The State of Texas

City of Bastrop

WHEREAS, Ranch Road Development LLC hereinafter referred to as, "Developer", is the developer of the following described property and desires to make certain improvements to the Pecan Park Section 1B

; and

WHEREAS, the said Developer has requested the City of Bastrop, a Home Rule Municipality of Bastrop County, Texas, hereinafter referred to as, "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 a through Scott Miller, it's duly authorized officer, and the City, acting herein by and through Paul A. Hofmann, it's City Manager, 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 sanitary sewer facilities, streets, drainage, street lights and street signs, and trail improvements; summary of infrastructure (development) amounts; assurance payments to the City; payment of impact fees; and miscellaneous provisions relating to the acceptable completion of said construction according to the plans for Pecan Park Section 1B approved by the City on ***March 23, 2021***.

1.00 Assurance of Infrastructure Construction

1.10 Employment of Contractors

In accordance with this agreement, the Developer agrees to employ a general contractor or contractors in accordance with the conditions set forth in Section 4.00 for work for which the Developer is providing as stated herein and indicated in the Summary of Infrastructure (Development) Assurance Amounts, Section 2.30 on page 4 of this agreement.

1.11 Payment of Developer Infrastructure Assurance Fees

The Developer and the City agree that the final plat of Pecan Park Section 1B will not be filed for record until payment of the Final Assurance Amount. Except as otherwise provided in Section 4.40 of this contract, no building permits will be issued for any lots prior to the plat recording.

1.12 Payment of Miscellaneous Construction Costs

It is further agreed and understood that additional costs may be required of the Developer to cover such additional work, materials and/or other costs as may be made necessary by conditions encountered during construction and within the scope of this project.

1.13 Compliance with Tree Preservation Ordinance

This is a planned development and is regulated by Ordinance # 2015 – 15.

Public Improvement Plan Agreement – Pecan Park Section 1B

2.00 Infrastructure (Development) Improvement Costs

All infrastructure (development) improvement costs are the full responsibility of the Developer. The following improvement costs have been developed using the Developer's plans and specifications and recommendations by the City in accordance with the construction guidelines set forth by the City:

2.10 Sanitary Sewer Improvements

The distribution of costs between the City and the Developer for all sanitary sewer improvements are as follows:

	Full Project Cost	Developer's Assurance Amount	City Participation
Sanitary Sewer Facilities	\$194,955.50	\$194,955.50	\$0.00
Other Related Facilities	\$0.00	\$0.00	\$0.00
Total Construction Cost	\$194,955.50	\$194,955.50	\$0.00

2.20 Water Infrastructure Improvements

The distribution of costs between the City and the Developer for all sanitary sewer improvements are as follows:

	Full Project Cost	Developer's Assurance Amount	City Participation
Water Line Improvements	\$268,068.00	\$268,068.00	\$0.00
Other Related Facilities	\$0.00	\$0.00	\$0.00
Total Construction Cost	\$268,068.00	\$268,068.00	\$0.00

Public Improvement Plan Agreement – Pecan Park Section 1B

2.30 Street and Storm Drainage Improvements

The distribution of costs between the City and the Developer for all street and drainage improvements are as follows:

	<u>Full Project Cost</u>	<u>Developer's Assurance Amount</u>	<u>City Participation</u>
Storm Drainage Facilities	\$382,798.00	\$382,798.00	\$0.00
Streets & Sidewalks	\$480,627.50	\$480,627.50	\$0.00
Total Construction Cost	\$863,425.50	\$863,425.50	\$0.00

2.40 Summary of Infrastructure (Development) Assurance Amounts

	<u>Final Assurance Amount</u>
Sanitary Sewer Facilities	\$194,955.50
Water Line Improvements	\$268,068.00
Storm Drainage Facilities	\$382,798.00
Streets & Sidewalks	\$480,627.50
Total Construction Cost	\$1,326,449.00

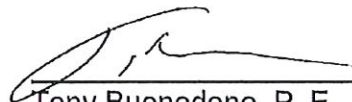
ASSURANCE FEES TO BE PAID PRIOR TO PRE-CONSTRUCTION MEETING*:

Public Improvement Plan Agreement – Pecan Park Section 1B

	Percentage of Construction	Construction Cost	Final Assurance Amount
Water & Sewer Inspection Fee	3.5%	\$463,023.50	\$16,205.82
Storm Drainage Inspection Fee	3.5%	\$382,798.00	\$13,397.93
Streets & Sidewalks Inspection Fee	3.5%	\$480,627.50	\$16,821.96
Payment to the City			\$46,425.72

The final construction amount is **\$1,326,449**, and the final assurance amount is **\$46,425.72** (the "Final Assurance Amount").

RECOMMENDED:

	03/11/2021
Tony Buonodono, P. E. City Engineer	Date

Public Improvement Plan Agreement – Pecan Park Section 1B

3.00 Miscellaneous Improvements

3.10 Sidewalks

The Developer shall be responsible for installing sidewalks along right-of-ways on open space lots and other lots that will not contain single family residential units within Pecan Park Section 1B as shown on the approved Public Improvement Plans by the City on **February 11, 2021**. All sidewalks shall conform to the City of Bastrop Standard Construction Details included within the details of the approved Public Improvement Plans.

3.20 Screening Wall, Landscaping, and Irrigation

This is a planned development and is regulated by Ordinance # 2015 – 15.

3.30 Street Lights and Street Name and Regulatory Signs

The Developer is responsible for the initial installation and maintenance of the streetlights. Installation and energizing of the electric Distribution System shall not affect the inspection or acceptance of the public subdivision improvements by the City of Bastrop. Electrical system installation and energizing of the community is outside the control of the Developer and shall not delay the issuance building permits or home inspections.

Regulatory signs shall be installed by the Developer at the Developer's expense at locations specified within the **Public Improvement Plans** in accordance with the City of Bastrop Standard Construction Details included within the details of the approved Public Improvement Plans. The signs shall conform to The State of Texas Manual on Uniform Traffic Control Devices and City requirements, including but not limited to, exact placement, sign height and block numbers. The City shall

Public Improvement Plan Agreement – Pecan Park Section 1B

not be responsible or obligated to maintain and/or replace any non-standard sign poles, street name signs or regulatory signs prior to acceptance of the subdivision. Installation shall be completed prior to the acceptance of the subdivision.

RECOMMENDED:

 3/11/21
Curtis Hancock Date
Director of Public Work

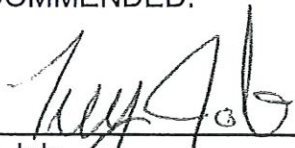
Public Improvement Plan Agreement – Pecan Park Section 1B

3.50 Land Dedication

All Public Open Space requirements for the Pecan Sections 2, 1B & 7 have been fulfilled via the land dedication of 38.08 acres of open space to the City along with the easement agreement which allows for public access to the river trail system owned by the River's Bend at Pecan Park HOA.

The above open space dedications shall fully satisfy all City requirements for dedication of park land or payment of fees in lieu of dedication.

RECOMMENDED:



Trey Job Date
Assistant City Manager of Community
Development (Acting Director of Planning and
Development)

Public Improvement Plan Agreement – Pecan Park Section 1B

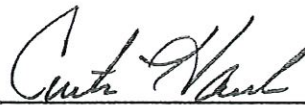
3.60 Impact Fees

Water Impact Fees and Wastewater Impact Fees as set forth by City ordinances will be assessed at the time of final plat recording and shall be paid by the builder, property owner or developer at the time of Building Permit issuance for each individual lot within Pecan Park Section 1B and shall be based on the Water and Wastewater Impact Fee for Service as set forth in the City of Bastrop Impact Fee Ordinance that is in effect as of the final plat recording date.

IMPACT FEES TO BE PAID AT THE TIME OF BUILDING PERMIT ISSUANCE:

	<u>Lots</u>	<u>Fee per Lot</u>	<u>Final Assessment Amount</u>
Waste Water Impact Fee	81	\$6,173.00	\$500,013.00
Water Impact Fee	81	\$4,109.00	\$332,829.00
Total Impact Fees To Be Collected			\$832,842.00

RECOMMENDED:



Curtis Hancock
Director of Public Works

3/11/21

Date

Public Improvement Plan Agreement – Pecan Park Section 1B

4.00 Miscellaneous Provisions

4.10 Bonds

The Developer or the homebuilder agrees furnish the City with a payment and performance bond (or cash in lieu of bond) for all uncompleted public improvement work prior to recordation of the Final Plat, if the remaining contracted costs exceed \$25,000.00. The payment bond will be 125% of the Final Assurance Amount for the work remaining. The payment and performance bonds shall be submitted prior to the City issuing the Notice to Proceed.

The Developer agrees to require the contractor(s) to furnish the City with a two (2) year maintenance bond in the name of the City, subject to City approval for one hundred twenty-five percent (25%) of the contract price of the residential streets, sanitary sewer, and underground stormwater drainage facilities improvements. The maintenance bond(s) shall be submitted and approved prior to the final acceptance of the improvements.

The developer will provide the City with proof of payment to the surety and that all other obligations of the developer or contractor have been met in order for the bonds to be binding upon the surety.

4.20 Public Liability

The Developer shall further require the contractor(s) to secure Public Liability Insurance. The amount of Insurance required shall include Public Liability, Bodily Injury and Property Damage of not less than \$100,000 one person, \$300,000 one accident and \$100,000 property damage. The minimum requirements for automobile and truck public liability, bodily injury and property damage shall also

Public Improvement Plan Agreement – Pecan Park Section 1B

include not less than \$100,000 one person, \$300,000 one accident, and \$100,000 property damage.

The Contractor shall provide Worker's Compensation Insurance in accordance with the most recent Texas Workers' Compensation Commission's rules.

4.30 General Indemnity Provisions

The Developer shall waive all claims, fully release, indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including all expenses of litigation and/or settlement which may arise by injury to property or person occasioned by error, omission, intentional or negligent act of Developer, its officers, agents, consultants, employees, invitees, or other person, arising out of or in connection with the Agreement, or on or about the property, and Developer will, at its own cost and expense, defend and protect the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from any and all such claims and demands. Also, Developer agrees to and shall indemnify, defend and hold harmless the City and all of its officials, officers, agents, consultants, employees and invitees in both their public and private capacities, from and against any and all claims, losses, damages, causes of action, suit and liability of every kind, including all expenses of litigation, court costs and attorney fees for injury to or death of any person or for any damage to any property arising

Public Improvement Plan Agreement – Pecan Park Section 1B

out of or in connection with this Agreement or any and all activity or use pursuant to the Agreement, or on or about the property. This indemnity shall apply whether the claims, suits, losses, damages, causes of action or liability arise in whole or in part from the intentional acts or negligence of developer or any of its officers, officials, agents, consultants, employees or invitees, whether said negligence is contractual, comparative negligence, concurrent negligence, gross negligence or any other form of negligence. The City shall be responsible only for the City's sole negligence. Provided, however, that nothing contained in this Agreement shall waive the City's defenses or immunities under Section 101.001 et seq. of the Texas Civil Practice and Remedies Code or other applicable statutory or common law. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the claims, suits, losses, damages, causes of action or liability arise in whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

4.31 Indemnity Against Design Defects

Approval of the City Engineer or other City employee, official, consultant, employee, or officer of any plans, designs or specifications submitted by the Developer under this Agreement shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, its engineer, contractors, employees, officers, or agents for the accuracy and competency of their design and specifications. Such approval shall not be deemed to be an assumption of

Public Improvement Plan Agreement – Pecan Park Section 1B

such responsibility or liability by the City for any defect in the design and specifications prepared by the consulting engineer, his officers, agents, servants, or employees, it being the intent of the parties that approval by the City Engineer or other City employee, official, consultant, or officer signifies the City's approval of only the general design concept of the improvements to be constructed. In this connection, the Developer shall indemnify and hold harmless the City, its officials, officers, agents, servants and employees, from any loss, damage, liability or expense on account of damage to property and injuries, including death, to any and 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, its officials, officers, agents, servants or 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, collectively or individually, personally or in their official capacity, in connection herewith. Notwithstanding anything to the contrary in this section, the Developer shall not be required to indemnify the City in the event the claims, suits, losses, damages, causes of action or liability arise in whole or in part as a result of the City's breach of this agreement or a separate agreement pertaining to the property governed by this agreement.

4.32 Approval of Plans

The Developer and City agree that the approval of plans and specifications by the City shall not be construed as representing or implying that improvements built in

Public Improvement Plan Agreement – Pecan Park Section 1B

accordance therewith shall be free of defects. Any such approvals shall in no event be construed as representing or guaranteeing that any improvement built in accordance therewith will be designed or built in a good and workmanlike manner. Neither the City nor its elected officials, officers, employees, contractors and/or agents shall be responsible or liable in damages or otherwise to anyone submitting plans and specifications for approval by the City for any defects in any plans or specifications submitted, revised, or approved, in the loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, for any loss or damage arising from the non-compliance of such plans or specifications with any governmental ordinance or regulation, nor any defects in construction undertaken pursuant to such plans and specifications.

4.33 Venue

Venue of any action brought hereunder shall be in Bastrop, Bastrop County, Texas.

4.40 Release of Building Permits

The City will allow for the submittal of house plans, plan check by the City and approval by the City for all the residential lots listed on page 1 in advance of completion of the Public Improvements. The issuance of residential building permits shall be governed by the language below.

The Developer may request, and the Director of Planning and Development may approve, the issuance of up to ten percent (10%) of the total residential building permits for the lots listed on pg. 1 of this agreement upon recordation of the Final Plat and completion public streets, sanitary sewer, water system, stormwater

Public Improvement Plan Agreement – Pecan Park Section 1B

drainage facilities and proof of payment for the street lights.

Building permits for all lots will be released upon final acceptance of all public and improvements in accordance with the Public Improvement Plans that were approved by the City on February 11, 2021.

4.50 Dedication of Infrastructure Improvements

Upon final acceptance of Pecan Park Section 1B, the public streets, sanitary sewer, and underground stormwater drainage facilities shall become the property of the City.

4.60 Assignment

This agreement, any part hereof, or any interest herein shall not be assigned by the Developer without written consent of the City Manager, said consent shall not be unreasonably withheld, and it is further agreed that such written consent will not be granted for the assignment, transfer, pledge and/or conveyance of any refunds due or to become due to the Developer except that such assignment, transfer, pledge and/or conveyance shall be for the full amount of the total of all such refunds due or to become due hereunder nor shall assignment release assignor or assignee from any and all Development assurances and responsibilities set forth herein.

4.70 Conflicts

In the event of a conflict between this agreement and that certain Memorandum of Understanding for Development of Land ("MOU") between the City of Bastrop and Ranch Road Development LLC effective December 12th, 2013, the MOU shall

Public Improvement Plan Agreement – Pecan Park Section 1B

control.

IN TESTIMONY WHEREOF, the City of Bastrop has caused this instrument to be executed in duplicate in its name and on its behalf by its City Manager, attested by its City Secretary, with the corporate seal of the City affixed, and said Developer has executed this instrument in duplicate, at the City of Bastrop, Texas this the **23rd** day of **March, 2021**.

Pecan Park

City of Bastrop, Texas



Scott Miller, Manager
Ranch Road Development LLC



Paul A. Hofmann
City Manager

ATTEST:



Ann Franklin
City Secretary

March 23, 2021
Date

APPROVED AS TO FORM AND LEGALITY:



Alan Bojorquez
City Attorney

March 23, 2021
Date

Distribution of Originals: Developer
City Secretary
Planning and Development Department