

Article Six – General Development Guidelines

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Section 6.01 - Development Agreements

After approval of Paving, Drainage, Utility Plans, and Park and Trail Construction Plans (when applicable), the developer must enter into an agreement with the City to delineate responsibility for construction of public improvements and related expenditures, if applicable.

A. City-Developer Agreement

1. For all subdivisions that require public improvements (i.e., streets, water, wastewater, drainage, park improvements, screening, landscaping, etc.), the developer shall enter into an agreement with the City of Keller to ensure proper construction and completion of the subdivision. The agreement to be executed shall include the following:
 - a. City-developer agreement, plus but not limited to, street and drainage participation, oversizing agreements, fees that may include inspections, impact, parks, street lights, street signs, and also may include phasing requirements.
 - b. Two (2) year maintenance bonds for one hundred percent (100%) of the construction cost are to be submitted with the executed Development Agreement and prior to a preconstruction meeting.
2. The agreement and applicable attachments shall be approved prior to the final plat being filed by the City. The agreement shall be executed on forms available from the City. The appropriate fees will be submitted prior to construction or improvements to the subdivision and recordation of the final plat. Fees are to be paid prior to the Pre-construction meeting.

B. Construction Permit

A permit is required from the Public Works Department prior to any work in the City that affects erosion control, vegetation removal, tree removal, or the floodplain.

C. Pre-construction Conference

1. A pre-construction meeting with the Public Works Department is required prior to any single-family residential infrastructure construction. The Development Agreement shall be executed and all applicable fees paid prior to this meeting.
2. A joint Community Development/Public Works/Fire Department meeting will be arranged following the execution of the Development Agreement for non-single family residential developments. The Building Permit will be issued at the meeting. The Director of Public Works or his/her designee may require that all contractors participating in the construction meet for a pre-construction conference to discuss the project prior to release of a grading permit (in accordance with Section 5.02) and before any filling or removal of vegetation and trees. Developer must have an approved tree removal permit for this conference.

D. Conditions Prior to Authorization to Proceed with Construction

1. Prior to authorizing notice to proceed for construction, the Director of Public Works shall be satisfied that the following conditions have been met:
 - a. All plans, including the Final Plat, Building Plans if applicable, have been approved and the Civil Construction Plans have been reviewed and released for construction by the Director of Public Works or City Engineer, evidenced by their signature.
 - b. All required contract documents shall be completed and filed with the Director of Public Works
 - c. An approved Development Agreement with all applicable development fees paid to the City.

- d. All contractors participating in the construction shall be presented with a set of construction plans bearing the stamp of "Reviewed and Released for Construction" from the Public Works Department. These stamped plans shall remain on the job site at all times.

- e. A complete list of the contractors (including general contractors, subcontractors and independent contractors), their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the Director of Public Works.

Section 6.02 - Inspection and Final Acceptance of Public Improvements

A. General Procedure

Construction inspection shall be supervised by the Director of Public Works or City Engineer. Construction shall be in accordance with the approved Plans, Standard Specifications and Standard Details of the City of Keller. Any change in design required during construction should be made by the Engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions shall be reviewed by the Director of Public Works or City Engineer. If the Director of Public Works finds upon inspection that any of the required public improvements have not been constructed in accordance with the City's construction standards and specifications, the property owner shall be responsible for completing and/or correcting the public improvements. All revisions shall be reflected on the "as-built" construction plans.

B. Certificate of Satisfactory Completion or Letter of Acceptance

1. The City will not accept dedication of required public improvements until the applicant's engineer has certified to the Director of Public Works, through submission of a detailed "as-built" plans of the property indicating location, dimensions, materials, and other information required by the City, that all required public improvements have been completed. The "as-built" shall also include a complete set of drawings of the paving, drainage, water, sanitary sewer, park and/or trails improvements or other public improvements, showing the layout of the line and grade of all public improvements is in accordance with construction plans for the plat, and all changes made in the plans during construction and containing on each sheet an "as-built" stamp bearing the signature of the Engineer and the date. Two (2) full-size sets of blue-line or black-line Construction Plans and one (1) set of mylar Construction Plans showing the project "as-built", and a Computer Aided Design (CAD) electronic file in appropriate electronic format (see [Article Nine - Keller CAD Standard Manual](#)). The project engineer must sign, date, and certify that these Plans show the project as it has actually been constructed. When such requirements have been met, the Director of Public Works or City Engineer, on behalf of the City, shall thereafter accept the public improvements for dedication in accordance with the established procedure.
2. Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The Director of Public Works may, at his discretion, accept dedication of a portion of the required public improvements, if the remaining public improvements are not required for health and safety reasons and the owner has posted a performance bond, letter of credit or cash bond in the amount of one hundred percent (100%) of the estimated cost of those remaining improvements for a length of time to be determined by the Director of Public Works. If the remaining public improvements are greater than ten thousand dollars (\$10,000.00) and are not completed within the determined length of time, the City will impose a ten percent (10%) penalty of letter of credit, or cash bond. The obligation to complete the improvements remains with the developer and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than ten thousand dollars (\$10,000.00), the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the City.
3. Upon acceptance of the required public improvements, the Director of Public Works or City Engineer shall provide a letter of acceptance stating that all required public improvements have been satisfactorily completed.

C. Withholding Improvements Until Approved

1. City services or improvements, including the maintenance of streets and provision of sewer and water services shall be withheld from all additions, until all public improvements have been inspected and accepted by the City.

2. The City shall withhold the issuing of a building permit for any building in the City on a newly subdivided parcel of land until all the requirements of these subdivision regulations have been complied with, including installation and acceptance by the City of all water, sewer, drainage, paving, sidewalks, hike/bike trails, street lights, underground electric, and erosion control improvements for the area designated including all planned development requirements imposed as part of the zoning approval, except as herein provided.
3. For residential subdivisions, the Building Official may release up to ten percent (10%) of the building permits, provided that all public improvements relating to said land are complete and have been inspected and accepted by the City, indicated by a letter of acceptance (in accordance with Section 4.12.G of this code) from the Director of Public Works or his/her designee. The screening wall, landscaping, irrigation and private amenities may be under construction upon acceptance of the subdivision. The remaining ninety percent (90%) of building permits will be released following the completion of the screening wall, landscaping, irrigation, and private amenities. The Building Official has the discretion to release additional permits as progress is made toward completion.
4. The electric, cable, gas, and telephone companies shall coordinate with the Developer/Owner and the Public Works Department to arrange the installation of their respective utility service lines and "drops" before the street right-of-way is placed in final condition for acceptance by the City. All damage to the streets, street right-of-way, drainage and erosion control features and improvements after acceptance by the City shall be the responsibility of the respective utility installing service lines and "drops". Utility installations after the acceptance of public improvements by the City must be individually permitted by the Public Works Department. Whenever practicable, private utility installations shall be coordinated with public improvements/installations to minimize community impact and disruption.

Section 6.03 - Escrow Policy for Public Improvements

A. Request for Escrow

Whenever these regulations require a property owner to construct a public improvement, the property owner may petition the City for deposit of escrow in exchange for constructing the improvements as established in this section. The Director of Public Works shall determine whether the escrow is to be accepted in lieu of the obligation to construct the improvement.

B. Deposit with the City

Whenever the City agrees to accept escrow deposits in lieu of construction by the owner of the property under these regulations, the property owner or developer shall deposit an amount equal to his share of the costs of design and construction in escrow with the City. This amount shall be paid prior to release of construction plans by the Director of Public Works. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors, and assigns; and the liability therefore shall be joint and several.

C. Determination of Escrow Amount

The amount of the escrow shall be determined by using the average of the comparable bids awarded by the City in the preceding six (6) months or, if none exist, then current market value of construction as determined by an estimate by the Director of Public Works. The determination shall be made as of the time the escrow is due.

D. Termination of Escrow

Escrows placed with the City under this section that have been held for a period of ten (10) years from the date of the payment or agreement, and in the event that the City has not commenced construction of such improvements for which the escrow was made, shall upon written request by the original applicant be returned to the original party establishing the escrow account, with accrued interest, as limited by Section 6.03 (F). Such return does not remove any obligations of the owner for construction of the required improvement(s) if a building permit is applied for.

E. Refund

If any public improvement for which escrow is deposited is constructed or is reconstructed by another governmental authority at no cost to the City, the escrow funds and accrued interest shall be refunded to the property owner or developer after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another governmental authority, the difference between the owner's actual proportionate cost and the escrow funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

F. Interest Limitation

If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued calculated at one percent (1%) less than the rate of actual earnings received on the escrowed funds. In the event that the rate of actual earning received on escrowed funds is less than one percent (1%), only the principal will be refunded.

Section 6.04 - City Participation Policy

A. General Standards

1. City's Share of Improvement

- a. The City shall participate in the costs of public improvements that are not for the primary benefit of the development and that have been oversized to serve developments other than that for which the plat has been submitted for approval, only to the extent and according to the standards stated in this Article and pursuant to the procedures herein set forth, and only if a Development Agreement is entered between the City and owner, as provided in these regulations, which conforms to the requirements of [Texas Local Government Code](#), Section 252, and Sections 212.071 through 212.074. In no event shall the City participate in the cost of facilities that have not been oversized.
- b. The City also may participate in the dedication of public open space corridors pursuant to [Article Seven](#) of this Ordinance.

2. Owner's Responsibility

a. Improvements Serving the Subdivision or Addition

The property owner or developer shall be responsible for the entire costs of designing and installing all public improvements that primarily serve the subdivision or addition. Facilities required by these regulations, unless listed in Section 6.04 (A.2.b) below, shall be considered as primarily serving the subdivision or addition unless otherwise determined by the City.

b. Oversized Improvements

The property owner or developer also shall be responsible for its share of the costs of oversized or off-site public improvements needed to assure adequacy of public facilities and services for the addition or subdivision, subject to participation and escrow policies contained in this Article.

c. Extension of Utilities

The property owner shall be responsible for extending streets, water, wastewater, or drainage facilities off-site to his property in accordance with the Master Thoroughfare Plan and Water/Waste Water Master Plan as required by the City Council and/or required to ensure adequacy of public facilities.

B. Facilities Eligible for City Participation

The developer shall be responsible for the entire initial cost of installing public facilities, including over-sizing. As funds become available, the City shall participate in the costs of installing public improvements as followed:

1. Generally

The City will pay only the cost of over-sizing facilities larger than those required to serve the development alone in accordance with the Water/Waste Water Master Plan. Payments over fifty thousand dollars (\$50,000.00) will not be made for oversize facilities unless the over-sizing has been approved by the City Council. Over-sizing participation of fifty thousand dollars (\$50,000.00) or less may be approved by the City Manager.

2. Streets

The City may participate in the cost of street improvements to alleviate traffic problems on a case-by-case basis.

3. Water and Sanitary Sewer Lines

Any water and sanitary sewer line that exceeds eight inches (8") in diameter and is required by the Public Works Department or city policy to be sized above eight inches (8") in diameter in order to serve properties beyond the boundaries of the subdivision or property being developed may be eligible for oversize reimbursement. In the event the City determines that a water or sanitary sewer line size greater than eight inches (8") in diameter is required to serve the development alone, no oversize reimbursement will be paid.

4. Drainage Facilities

The City may participate in the costs of drainage facilities required pursuant to [Section 5.17](#) to accommodate potential runoff from an upstream drainage area. This may include additional detention storage or the increase in capacity of downstream drainage structures.

5. Proportionate Share Studies

Where a traffic impact analysis, water study, wastewater study, drainage study has been required by these regulations and accepted by the City in order to determine the proportionate costs of facilities attributable to the development, participation by the City in the costs of such facilities will be limited to those costs not attributable to impacts from the subdivision.

6. Criteria

Eligibility and the terms of payment will be made in accordance with the City's Impact Fee Ordinance, pro rata ordinance, Keller Park and Open Space Master Plan, or facilities studies as provided in Section 6.04 (B.5) above, and shall be incorporated in a developer's agreement prior to Final Plat approval.

C. Limitations and Exceptions

Notwithstanding [Section 6.04 \(B\)](#) above, the City shall not participate in the following cost:

1. Those portions of the costs of any public improvements not expressly described in [Section 6.04 \(B\)](#).
2. Costs of construction for streets built wider than called for in the Keller Thoroughfare Plan.
3. Costs of street lights, decorative finishes, or other similar expenses.
4. Costs of retention/detention ponds or slope protection.
5. When reimbursing the property owner or developer pursuant to this Article, the City shall have the discretion to pay up to a maximum of twelve percent (12%) of the cost for engineering fees, which includes surveying, design, and construction staking. The City shall not be responsible for any other costs associated with surveying, design, geotechnical investigations, quality controls or other construction costs.

D. Procedures for City Participation

1. Subdivision Improvement Agreement

The developer must enter into a Development Agreement in which the following information must be provided by the developer:

- a. Owner's name, address, phone number.
- b. Contractor's name, address, phone number.

- c. Three lowest competitive bids, prepared in accordance with State law regarding competitive bidding, [Texas Local Government Code](#), Section 252.
2. Director of Public Works Determination

The Director of Public Works shall determine the City's participation in the cost of public improvements, in accordance with the criteria in [Section 6.04 \(A\)](#) through [6.04 \(C\)](#) in this Article.
3. Final Determination of City Participation

Upon completion of the work and acceptance by the City, final construction costs will be determined. City participation will then be calculated based on measurements in the field and applying the standards in [Section 6.04 \(A\)](#) through [6.04 \(C\)](#) in this Article.
4. Reimbursement

Reimbursement of the City's share of the public infrastructure improvements will be made as funds become available from allocated resources or assessments on the first in, first out process.

Section 6.05 - Main Extension Policy

A. Purpose

The purpose of the Water and Sanitary Sewer Main Extension Policy is to provide a method for individuals and developers to recover reasonable costs when the installation of a water or sanitary sewer main extension is required, and to establish a methodology for calculating and collecting fees from individuals and developers who wish to connect to the main extension.

B. Policy

It is the policy of the City of Keller to reduce barriers to development and to decrease the financial burden on developers without increasing the financial burden on utility ratepayers. Therefore, this procedure is established to provide for a fair reimbursement of developer-financed water and sanitary sewer main extensions through fees collected from other developers and individual property owners as new utility services are connected to the main systems.

C. Procedure

1. Council Action

A development agreement shall be approved by the City Council for each project on a case- by-case basis. All requests shall meet the guidelines set forth in this policy. All requirements within a site specific Main Extension Development Agreement shall be subject to City Council approval. The Agreement shall be non-transferable, unless otherwise stated in the Development Agreement or if the Agreement is later amended by the City Council.

2. Criteria

This policy applies to requests that meet the following criteria:

- a. The property to be served must be platted and the property owner must follow all development guidelines including the Water and Sanitary Sewer Master Plan.
- b. All easements and public rights-of-ways necessary to construct the main extension must be acquired by the developer at the developer's expense and filed by the City of Keller. The City may elect to use its Power of Eminent Domain to acquire the easements or rights-of-way, the cost of which shall be the responsibility of the developer.
- c. On-site utility lines shall not be included in the Main Extension Reimbursement Policy.
- d. This policy applies only to off-site main extensions exceeding five hundred feet (500') for any development. If the extension from an existing main to the development's property line is greater than the above linear foot criteria, the extension policy may be utilized if authorized by the City Council.

3. Engineering Requirements

- a. The mains shall be extended through a development at the developer's cost as determined by the Director of Public Works to allow for utility connections and/or extensions to other developments.
- b. The engineering design must be performed by a registered professional engineer licensed in the State of Texas, at the expense of the developer or applicant (see Section 6.04 (C)). All engineering and construction standards must be approved by the City of Keller and must meet the City of Keller's Standard Specifications for Public Works. The developer/applicant is responsible for any cost relating to a change order and or improper design that results in an increase in the initial project cost.

- c. The developer/applicant must extend any required on-site utility lines at their expense for the proposed development to the utility main extension.
 - d. Over-sizing of water or sanitary sewer mains will be determined and paid for by the City of Keller following the construction and acceptance of the project. The developer/applicant will provide funding for a minimum of eight-inch (8") main or the portion of the main extension that meets the capacity needs of the development, whichever is greater. The City may utilize this policy to recoup the cost of over-sizing a main extension.
 - e. The developer/applicant shall provide a parcel map of the area identifying all parcels and acreage to be served by the main extension.
4. Reimbursement
- a. The City shall maintain a record of total cost for each project. A fee of \$5,000 for management of the program shall be paid by the developer/applicant prior to the construction of the main extension.
 - b. The length of time for collection (recovery) and distribution of funds shall not exceed five (5) years from the date of the utility main acceptance by the City of Keller. Reimbursement shall be based upon total acreage, which can be served by the main extension according to the Water and Sanitary Sewer Master Plan. All properties on either side of the line that can reasonably connect to the line shall be included in the acreage calculations. All properties at the terminus of the line that can be served by the line with an extension of three hundred feet (300') or less shall also be included in the calculations.
 - c. The reimbursement amount shall be assessed on a per acre basis. The parcel map of all properties that may be served by the main extension shall be provided by the developer/applicant prior to the issuance of notice to proceed for the construction of the main.
 - d. Public properties, which are not subject to development, shall not be included in the acreage calculation. If a natural barrier exists in which service cannot be provided, that area shall not be included in the determination of the acreage.
 - e. If a transmission main and a distribution main are located along the frontage of the property, the fee will be based upon the distribution main only.
 - f. Funds will be collected from property owners who will be served by the main extension prior to the approval of their final plat or site plan, or issuance of their building permit, whichever is first.
 - g. Reimbursements will be made to the original signing party of the Agreement of any funds that have been collected pertaining to their main extension, within said five (5) year period. The Agreement is not transferable, unless otherwise stated within the Agreement. Reimbursements will be made within thirty (30) days following the City's receipt of the reimbursement money from a developer. The original signing party shall maintain a current address on file with the City. Following the completion and acceptance of the facilities constructed in accordance with this policy, all facilities shall be dedicated to the City and become the City's property thereafter. The City's standard maintenance bond requirement will apply to each project.