

MODEL AGREEMENT

DEVELOPER'S (SUBDIVIDER'S) AGREEMENT

CITY OF DOUGLASS, BUTLER COUNTY, KANSAS

(Developer Installed Improvements) :

THIS AGREEMENT made and entered into this ____ day of _____, 20__ by and between the City of Douglass, Kansas, hereinafter referred to as "City" and _____, hereinafter referred to as "Developers"

WHEREAS, the City has approved and accepted the final plat of _____, in the City of Douglass, Kansas, dated the __, day of _____, 20__; and

WHEREAS, the Developers desire to improve all or a portion of the subdivision referred to above; and

WHEREAS, the City desires to assure uniform compliance with specifications, implementation of the Subdivision Regulations, and workmanlike standards;

NOW, THEREFORE, it is agreed as follows;

1. The City of Douglass agrees to allow Developers to make improvements pursuant to the proposed final plat and agrees to allow Developers at their own cost to contract for such improvements on their own.
2. Developers, jointly and severally, agree to make such improvements at their sole and absolute cost pursuant to the engineering plans and specifications of said addition which plans and specifications have been or will be contemporaneously with the execution of this agreement approved by the Governing Body of Douglass. Developers shall pay for all engineering, inspections, testing, construction and associated costs of the projects.
3. Developers, jointly and severally agree that all improvements will be in every respect comply with the latest policies, ordinances, and regulations existing within the City of Douglass.

A. All improvements constructed or erected shall be subject to inspection by the city engineer or official responsible for setting and enforcing the applicable design and construction standards. The Developer shall give at least 48 hours notification to such official prior to the performance of any inspection work.

B. After notice is received, the official designated may conduct an on-site inspection to determine that the work complies with the approved engineering plans and specifications. If, in the opinion of such official, the work does not comply with such final drawings, the official shall have authority to order that all such work shall be corrected or terminated until such time as necessary steps are taken to correct any defects or deficiencies. In the event the contractor does not correct deficient work, the city shall have authority to perform the necessary corrective work and charge all associated costs to the developer (contractor) bond.

C. Upon completion of all improvements, the Developer shall notify the official designated, who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicated that there are any defects or deficiencies or deviations from the final engineering plans and specifications, the official shall notify the developer in writing and the developer shall, at his sole cost and expense, correct such defects or deviations within a reasonable period of time, but not to exceed six months from the date of notification. When such defects, deficiencies, or deviations have been corrected, the Developer shall notify the official that the improvements are again ready for final inspection.

D. After the final inspection is made and before acceptance of the improvement by the City of Douglass' Governing Body, the Developer shall file a sworn statement with the City official, which is executed by the Developer certifying that all obligations incurred in the engineering and construction of the improvements involved have been properly paid and settled.

E. If a final inspection indicates that all improvements contain no defects, deficiencies, or deviations, within 10 days from the submittal of the Developer's statement of obligation paid, the City official shall certify to the Governing Body and/or utility involved that all improvements have been installed in conformity with engineering plans and specifications.

F. Upon the receipt by the Governing Body of the above referred City official's certification that improvements have been constructed in conformity with plans, specifications, policies, ordinances, and regulations, the Governing Body shall thereupon by resolution or utility by letter formally accept such improvements. The improvements shall become the property of the City of Douglass or utility company involved.

4. Developers, jointly and severally, agree to provide the City of Douglass with good and sufficient sureties in the amount of the project to assure completion, payment, and maintenance as follows:

A. Completion and payment guaranteed by \$ _____.

() Contractors corporate completion and payment bond for \$ _____.

() Cashier's check for \$ _____.

() Escrow account for \$ _____.

() Letter of Credit for \$ _____.

If money is deposited in an escrow account, this money can be released as the project proceeds with certification from the city engineer to verify that work has been completed through pay requests submitted by the contractor.

B. The financial sureties provided by the Developer shall include an amount equal to 15% of the cost of all improvements which shall be held by the City for a period of 18 months following the completion of construction and acceptance of such improvements by the City. The 15% so held by the City shall guarantee the costs associated with the correction of any defect in material or workmanship furnished for such improvements which might be latent in character and not discernable at the time of final inspection or acceptance by the Governing Body. Said 15% shall

also guarantee against any damage to such improvements caused by the settling of the ground, base, or foundation thereof. The 15% retainage may be utilized by the City to cause the repair of any defects or deficiencies as identified above and the balance of said 15% (if any) remaining at the expiration of 18 months shall be returned to the Developer or paid to the order of the Developer without payment of interest. Developer agrees to satisfy this requirement as follows:

- () Maintenance bond for \$ _____ for 18 months.
- () Cashier's check for \$ _____ for 18 months.
- () Escrow account for \$ _____ for 18 months.
- () Letter of credit for \$ _____ for 18 months.

C. "Developer, or developer's contractor, shall maintain liability and E and O insurance for not less than \$500,000.00 during all phases of construction. The City shall be named as a co-insured under the policy. Developer agrees to indemnify and hold the City harmless on account of any claim or claims arising from contractor's work.

5. All temporary construction facilities must be removed when building in the immediate vicinity is completed.
6. The Developer assumes responsibility to see that all original purchasers of lots in the Subdivision/Addition receive a copy of the Developer's Agreement at the time of purchase.
7. All lots covered by this agreement shall be kept clean and mowed to a height not to exceed twelve inches.
8. No construction will be allowed on any portion of the Subdivision/Addition unless the Developer or the designated Contractor has first obtained from the designated Building Inspector and Zoning administrator the proper zoning and building permits.
9. The Developer will file this Developer's Agreement, as approved by the City of Douglass' Governing Body, with the Butler County Register of Deeds. A copy of this Developer's Agreement showing said recording along with a copy of the recorded plat shall be furnished to the City before zoning and/or building permits are issued.
10. The terms and conditions set forth herein shall be binding upon the heirs, personal representatives, trustees, successors, and assigns of the parties hereto.
11. In entering into this agreement, the Developer represents familiarization with the policies of the City of Douglass, Kansas applicable to the improvements contemplated under the terms of this agreement and has become familiarized with the City's Subdivision Regulations. Nothing herein shall be construed to grant to the Developer either, directly or indirectly, a zoning variance or modifications under the subdivision regulations. Any waiver of the required improvements or guarantees for their installation may be made only by the applicable Governing Body on a show that such improvements are not technically feasible or necessary.
12. This Developer's Agreement together with the sureties required herein shall be filed with the Douglass City Clerk as a prerequisite of final plat approval. The developer agrees that commencement of the planned improvements shall begin by no later than _____ and that all improvements shall be substantially completed by _____. In the event that the developer fails to commence construction of such improvements by the date specified herein and/or fails to substantially complete such improvements by the date established herein, approval of the final plat may be revoked by the Governing Body which revocation may be made without notice to the developer and a City resolution memorializing such revocation shall immediately thereafter be forwarded to the Butler County Register of Deeds for recording.

The terms and conditions set forth herein shall be binding upon the heirs, executors, and assigns of the parties hereto.

Signed this _____ day of _____, 20__.

BY: _____
OWNER/DEVELOPER

CITY OF DOUGLASS

BY: _____
MAYOR

BY: _____
CITY CLERK

This document was approved and adopted by the Governing Body on January 17, 2005.

STATE OF KANSAS)
)ss
COUNTY OF BUTLER)

BE IT REMEMBERED that on this ____ day of _____, 20____, before me, the undersigned, a Notary Public, came _____, to me known to be the same person who executed the foregoing instrument of writing.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year above last written.

Notary Public

My Appointment Expires: _____

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