PUBLIC IMPROVEMENT PROJECT PERMIT AGREEMENT

This Permit is issued by the City of Springfield to allow for the construction of public infrastructure that is funded and engineered by entities other than the City of Springfield, within public rights-of-way and easements within the jurisdiction of the City of Springfield. The permit is an agreement between the City of Springfield, a municipal corporation of the State of Oregon, hereinafter referred to as "CITY", _____, an agency, corporation, individual or other legal entity which is proposing to construct the public infrastructure, hereinafter referred to as "DEVELOPER", and _____, a professional engineering firm, retained by the DEVELOPER to supply the professional engineering services and project oversight called for in the Permit, hereinafter referred to as "ENGINEER."

For and in consideration of the CITY, in approving and allowing the construction of the proposed public improvement project, entitled _____, City Project Number P_____, related to Land Use Application _____, hereinafter referred to as "PROJECT", and issuing this Public Improvement Project Permit, hereinafter referred to as "PERMIT", initiated by DEVELOPER and engineered and certified by ENGINEER, the CITY, DEVELOPER, and ENGINEER do hereby promise and agree as follows:

DEVELOPER AGREES TO; (See Sections 1-11 and 22-27)

1. Engage or employ, and provide full compensation to the ENGINEER for this PROJECT, who will enter into this agreement for this PERMIT, and who will perform all duties of the ENGINEER for this PROJECT, including, but not limited to, the planning, analysis, design, construction management, inspection, and survey work of the PROJECT, production and attesting to (stamping) of as-built drawings, and attesting to all surveys, analysis, and design incidental to and necessary for the proper performance of the PROJECT. In the event that the designated ENGINEER fails to provide the required services in a satisfactory or timely manner, the DEVELOPER may select and engage an alternate ENGINEER to enter into this agreement and complete the services required in a timely manner.

2. Furnish all financing, personnel, equipment and materials to fulfill the requirements of this PERMIT agreement, including to fully construct and pay all costs of the PROJECT and to complete the PROJECT in accordance with the requirements of State and Federal law, City of Springfield Municipal Code, the Springfield Development Code, the plans and profiles as provided and certified by the ENGINEER and approved by the CITY, the applicable requirements of the Springfield Standard Specifications, the Springfield Public Works Design Standards and Procedures Manual, and any applicable land use decisions, and in accordance with any and all other applicable CITY ordinances and policies. Said PROJECT may include, but is not limited to, storm sewers, sanitary sewers, sidewalks, driveway aprons, pedestrian access ramps, traffic control, street lights, street trees, curb and gutters and paving improvements. The PROJECT shall be completed by _____.

(Date)

3. To ensure quality of construction, DEVELOPER shall select Contractor(s) with sufficient experience, available forces and equipment to complete the job in an acceptable manner. DEVELOPER shall submit name(s) of proposed contractor(s) and sub-contractor(s) for the PROJECT to the CITY Engineer for consideration and shall select Contractor(s) who are qualified by the CITY Engineer for

work on the PROJECT. The CITY Engineer may require a pre-qualification application, evidence of State pre-qualification, and/or references to be submitted to determine qualification for the project.

4. Require selected Contractor(s) to conform to the CITY's Standard Construction Specifications, including but not limited to Section 107.05 regarding indemnification of the CITY and require selected Contractor(s) and all Subcontractors to warranty the work of the project for a minimum of one year from formal PROJECT acceptance by the CITY, in conformance with Section 108.14 of the Standard Construction Specifications and with all plant materials guaranteed for a period of two years, in conformance with Section 205.3.04G of the Standard Construction Specifications.

5. Require the Contractor(s) to maintain in full force for the duration of the PROJECT the following:

   A. Commercial General Liability

   The Contractor shall maintain in force for the duration of the PROJECT, to include the warranty period, a Commercial General Liability insurance policy written on an occurrence basis with limits not less than $2,000,000 per occurrence and $3,000,000 in the aggregate. The policy will be endorsed with a Per Project Aggregate endorsement.

   The Contractor shall maintain in force for the duration of the PROJECT, to include the warranty period, an Automobile Liability insurance policy (owned, non-owned, and hired) with limits not less than $1,000,000 per occurrence.

   B. Workers' Compensation

   The Contractor shall provide and maintain Workers' Compensation coverage with limits no less than $500,000 for it employees, officers, agents, or partners, as required by applicable Workers' Compensation laws. If the Contractor is exempt from this coverage a written statement, signed by the Contractor, explaining the reason for the exemption will be provided to the CITY prior to commencement of any work.

   C. Additional Policies and Special Coverages

   The CITY reserves the right to require additional polices or special coverages as it may deem necessary. The requirement for additional polices or special coverages will be at the sole discretion of the CITY.

   D. Evidence of Coverage and Notice of Cancellation or Material Change in Coverage

   Certificates of insurance evidencing the required coverages issued by a company satisfactory of the CITY for all policies and endorsements required by this AGREEMENT shall be delivered to the CITY prior to the commencement of any work. All insurance shall carry a rating of A- or better with A. M. Best and must be approved by the CITY as to terms, conditions and form. The CITY has the right to reject any certificate or endorsement for unacceptable coverage and/or companies.

   A 30-day notice of cancellation or material change in coverage clause shall be included on all policies. If the approved insurance company will not provide this 30 day notice, it shall be the responsibility of the Contractor to provide written notice to the CITY within two (2) days of the

Contractor becoming aware that their coverage has been cancelled or materially changed. The Contractor shall e-mail notification directly to Nathan Bell, Finance Director at nbell@springfield-or.gov with a copy to Terri White at twhite@springfield-or.gov. Regardless of the circumstances causing the Contractor's insurance coverage to cease or be modified, it is the Contractor's responsibility to notify the CITY as described above.

Failure to maintain the proper insurance or provide notice of cancellation or material change shall, at the CITY's option, be grounds for immediate termination of this PERMIT.

E. Subcontractors

The Contractor shall require all Subcontractors to provide and maintain General Liability, Auto Liability and Workers' Compensation insurance and, as applicable, any additional policies or special coverages equivalent to those required of the General Contractor in this PERMIT. The Contractor shall require certificates of insurance and endorsements from all Subcontractors as evidence of required coverage.

F. Equipment and Material

The Contractor and all Subcontractors shall be responsible for any loss, damage, or destruction of its own property, equipment, and materials used in conjunction with the work.

6. Pay all deposits required by the CITY to pay for the CITY's actual costs in reviewing designs, paying for material testing costs and PERMIT issuance and administration. If the initial deposits required by the CITY do not cover all actual costs of the CITY, DEVELOPER agrees to make additional deposits to the CITY as requested and required to pay for the CITY's actual costs.

7. Complete and pay for all additional items of work not shown on the construction drawings but necessary for the successful completion of the PROJECT.

8. Obtain all required permits from other agencies and jurisdictions and provide copies of said permits to the CITY prior to PERMIT issuance.

9. During the time period between the PERMIT issuance (as identified by the date of the CITY Engineer's signature below) and completion and acceptance of the PROJECT, including sidewalks, driveway aprons, and street trees, the DEVELOPER and DEVELOPER's agents shall be responsible for:

   A. The safety, proper traffic control and signing, cleanliness and general condition of all affected streets, alleys, sidewalks, bike paths, or other public ways. This condition applies to dedicated rights of way and easements as well as those rights of way and easements that are proposed for future dedication to the CITY as a part of the PROJECT.

   B. The containment of all work and materials related to the PROJECT within the development area so as not to intrude on surrounding private properties unless written approvals has been obtained from the affected property owners and copies are supplied to the CITY beforehand.

   C. Safeguarding surrounding public properties, private properties, and natural features from damage caused directly, or indirectly, by the PROJECT.

10. Keep safe conditions on the PROJECT and correct any unsafe conditions that are pointed out by the CITY on the PROJECT. If a deficiency in safety is directed to the DEVELOPER or ENGINEER and the deficiency is not corrected in a timely manner, as determined by the CITY, the CITY may take whatever steps necessary to safeguard the public and correct, or have corrected, the deficiency. In extreme cases, as determined by the CITY, the CITY may take whatever steps necessary to correct the problem without contacting the DEVELOPER or ENGINEER beforehand. The DEVELOPER shall bear any and all costs related to correcting said safety problem.

11. Provide financial security using the City's approved documents, in the form of a bond, letter of credit, cash deposit, or other approved security satisfactory to the CITY, hereinafter referred to as "BOND", as necessary to guarantee the successful completion of the PROJECT. The BOND shall list the CITY as the Obligee and the DEVELOPER as the Principal. The BOND shall not expire and will not be released by the CITY until the expiration of the warranty period on the PROJECT work, at least one year after formal acceptance of the project or two years after formal CITY acceptance for plant materials. The amount of the BOND shall be equal to the total estimated cost of the PROJECT, including all engineering services and City fees. This amount shall be calculated as follows; the total estimated cost of the PROJECT, including engineering services, shall equal 100% and the CITY fees shall be estimated at 10% of the total estimated cost of the PROJECT, making the total amount of the required BOND equal to 110% of the total estimated cost of the PROJECT.

    The BOND provided to the CITY by the DEVELOPER shall guarantee:

    A. Completion of the PROJECT within the time frame allowed by this PERMIT.

    B. A one-year warranty, or a two-year warranty for all plant materials, after formal PROJECT acceptance by the CITY protecting the CITY against faulty workmanship and/or materials.

    C. Fees charged by the ENGINEER to design, inspect, and certify the PROJECT is constructed in accordance with the plans and specifications as well as all other CITY requirements.

    D. CITY fees for plan examination, engineering, inspection, and materials testing incurred during the PROJECT in excess of those deposited.

    E. Costs incurred by the CITY to safeguard the worksite as defined in section 9 above.

    F. Restoration of all existing CITY infrastructure damaged or disturbed in the course of prosecution of the PROJECT.

    If all sidewalks, driveway aprons and street trees required for a development are not installed with the PROJECT, the BOND shall provide that all sidewalks, driveway aprons, and street trees which front future building lots shall be fully constructed within two years of acceptance of PROJECT by the CITY. The BOND covering the extended installation period shall remain in place until all improvements required by the PERMIT are constructed to the City's satisfaction and have met their applicable warranty period.

    In the event of failure on the part of the DEVELOPER to complete all obligations of this agreement and complete the PROJECT in a timely manner, the CITY may, at its sole discretion, use the BOND to either complete the PROJECT or to restore the disturbed area and return the PROJECT site to a safe, attractive and functional condition.

ENGINEER AGREES TO; (See Sections 12-20 and 22-27)

12. Employ a professional engineer, registered in the State of Oregon, to act as a representative of the ENGINEER for this PROJECT, hereinafter referred to as the "ENGINEER OF RECORD," who will be responsible for the oversight of all engineering duties for this PROJECT, including those listed in the following sections, and who will sign all designs, certifications and as-builts.

13. Perform all duties of the ENGINEER for this PROJECT, including, but not limited to, the planning and design of PROJECT, the management and inspection of PROJECT, arrangements for and interpretation of testing of all construction of PROJECT, the oversight of all survey work for the PROJECT, completion and attesting to (stamping) of as-built drawings and attesting to all surveys, analysis, and design incidental to and necessary for the proper performance of the work. ENGINEER specifically understands and agrees that the CITY's issuance of this PERMIT and approval of plans for the PROJECT is not a certification that the design or plans for the PROJECT fully meet engineering design standards for performance, but that the CITY's review noted no unacceptable conflicts with the CITY design and specification standards. ENGINEER also specifically understands that any CITY oversight during construction of PROJECT in no way relieves ENGINEER of the primary responsibility of ENGINEER to inspect, test, provide surveys or measurements and otherwise manage and oversee construction and documentation of PROJECT to assure and certify that it was built in conformance with the design and all CITY standards.

14. Ensure that all construction work is completed in accordance with State laws, City code, and the current edition of the City of Springfield "Standard Construction Specifications" as amended, the applicable special provisions, and the contract plans.

15. Submit all surveys, analysis and designs, all contractual documents including drawings, special provisions, bid proposals, contracts, estimates, and change orders to the CITY Engineer for consideration and approval. Obtain the written approval of the CITY Engineer prior to execution of all deviations from, alterations of, or additions to the said documents, and all change orders.

16. Update the CITY regularly on the status of the project by completing and submitting a "Weekly Construction Permit Status Report" to the CITY inspector.

17. Coordinate construction work with all utility companies.

18. Be present, or appoint and oversee a qualified person who shall be present on the job site at all critical times needed to assure the quality of the construction and conformance with the plans and specifications and to make any observations necessary to complete an accurate as-built of the construction.

19. Upon completion of the construction, or, if applicable, the termination of the ENGINEER prior to the completion of the PROJECT, all records pertaining to the PROJECT shall be attested to and submitted in detail by the ENGINEER OF RECORD to the CITY. Unless otherwise approved by the CITY, the ENGINEER shall submit all documentation necessary for CITY acceptance of the PROJECT no more than two months after date of the final inspection. Such information and data shall include, but not be limited to, the following:

A. As-built drawings, both in hard copy and electronic file, in AutoCAD format and in conformance with drafting and electronic acceptance standards outlined in the CITY's Design Standards and Procedures Manual.

B. Laboratory test reports - one copy of each laboratory test report required by the specifications to be conducted by an accredited laboratory approved by the CITY Engineer.

C. Certification documents - the standard CITY acceptance form shall be completed, signed and attested to by the ENGINEER OF RECORD as evidenced by his/her signature and seal.

D. Place street centerline monumentation on new streets and replace survey monuments of record destroyed during construction in compliance with ORS 92 and ORS 209.

20. ENGINEER shall maintain in force for the duration of the PROJECT, to include the warranty period, a Commercial General Liability insurance policy written on an occurrence basis with limits not less than $2,000,000 per occurrence and $3,000,000 in the aggregate. The policy will be endorsed with Additional Insured, Per Project Aggregate, Products and Completed Operations and Primary and Noncontributory endorsements. The CITY, its employees, officials and agents will be named as Additional Insured's where operations are being conducted related to this AGREEMENT on the Commercial General liability policy as respects to work or services performed under this AGREEMENT to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the ENGINEER or the fault of the ENGINEER's agents, or representatives. The following statement will appear on the face of the certificate; "The City, its employees, officials and agents are all named as additional insured while acting in their capacity as such." The CITY's Additional Insured status for Products and Completed Operations hazards shall extend for at least one year beyond formal Council acceptance of the PROJECT. This insurance shall be primary and non-contributory and shall be paid and applied first in its entirety prior to any application of insurance the CITY may carry on its own.

    ENGINEER shall maintain in force for the duration of the PROJECT, to include the warranty period, an Automobile Liability insurance policy (owned, non-owned, and hired) with limits not less than $1,000,000 per occurrence. The policy will be endorsed with Additional Insured and Primary and Noncontributory endorsements. The CITY, its employees, officials and agents will be named as Additional Insured's where operations are being conducted related to this AGREEMENT on the Automobile Liability policy as respects to work or services performed under this AGREEMENT to the extent that the death or bodily injury to persons or damage to property arises out of the fault of the ENGINEER or the fault of the ENGINEER's agents or representatives. The following statement will appear on the face of the certificate; "The City, its employees, officials and agents are all named as additional insured while acting in their capacity as such." This insurance shall be primary and non-contributory and shall be paid and applied first in its entirety prior to any application of insurance the CITY may carry on its own.

    ENGINEER shall maintain in force during the duration of the PROJECT, to include formal CITY acceptance of the PROJECT, and if it is a claims made policy for one year following formal CITY acceptance of the PROJECT, a Professional Liability policy with limits of not less than $2,000,000 per occurrence and $3,000,000 in the aggregate. The CITY reserves the right to review the required policy limits and to increase the required Professional Liability coverage on a per project basis.

    The ENGINEER shall provide and maintain Workers' Compensation coverage with limits no less than

$500,000 for it employees, officers, agents, or partners, as required by applicable Workers' Compensation laws. If the ENGINEER is exempt from this coverage a written statement, signed by the ENGINEER, explaining the reason for the exemption will be provided to the CITY prior to commencement of any work.

Certificates of insurance evidencing the required coverages issued by a company satisfactory of the CITY for all policies and endorsements required by this AGREEMENT shall be delivered to the CITY prior to the commencement of any work. All insurance shall carry a rating of A- or better with A. M. Best and must be approved by the CITY as to terms, conditions and form. The CITY has the right to reject any certificate or endorsement for unacceptable coverage and/or companies.

A 30-day notice of cancellation or material change in coverage clause shall be included on all policies. If the approved insurance company will not provide this 30 day notice, it shall be the responsibility of the ENGINEER to provide written notice to the CITY within two (2) days of the ENGINEER becoming aware that their coverage has been cancelled or materially changed. The ENGINEER shall e-mail notification directly to Nate Bell, Finance Director at nbell@springfield-or.gov with a copy to Terri White at twhite@springfield-or.gov. Regardless of the circumstances causing the ENGINEER's insurance coverage to cease or be modified, it is the ENGINEER's responsibility to notify the CITY as described above.

Failure to maintain the proper insurance or provide notice of cancellation or material change shall, at the CITY's option, be grounds for immediate termination of this PERMIT.

To the fullest extent of the law, ENGINEER shall defend, indemnify and hold harmless the CITY, its officers, agents and employees all while acting in their official capacity as such from and against all claims, demands, and judgments (including attorney fees), made or recovered against them including but not limited to damages to real or tangible personal property or for bodily injury or death to any person, arising out of, or in any manner connected with the performance of this PERMIT by ENGINEER, its officers, employees, and agents.

CITY AGREES TO:

21. Recommend the project to the City Council for acceptance, ownership and maintenance by the City of Springfield after the completed project meets all requirements of the PERMIT and other applicable City requirements.

CITY, DEVELOPER AND ENGINEER AGREE:

22. The PROJECT may include private improvements that will not be accepted by the CITY for ownership or maintenance but are necessary for the successful completion of the PROJECT. This PERMIT is specifically for public improvement work to be accepted by the CITY and those private improvements necessary for the successful completion of the PROJECT. This PERMIT in no way pertains to other private work on the private property.

23. In the event the ENGINEER or inspector representative of the ENGINEER fails to perform all duties specified in this PERMIT, the CITY may request that the ENGINEER or inspector representative of the ENGINEER be replaced or may file a report with the State Board of Engineering Examiners, citing deficiencies and recommending that appropriate action be taken. If the lack of performance by the

ENGINEER or inspector representative of the ENGINEER is deemed by the CITY to threaten the safety or proper management or construction of the PROJECT, a stop work order may be issued by the CITY.

24. The ENGINEER has prepared a detailed cost estimate for the PROJECT, including design, construction and CITY fees and submitted that estimate to the CITY. The estimated total cost of the PROJECT is *$*_____. It is understood that this figure is only an estimate and may be subject to change as the PROJECT progresses. The ENGINEER and the DEVELOPER agree that the CITY may change the estimated total cost of the project as shown above based on updated cost estimates. Furthermore, it is agreed that any change made to the estimated total project cost figure will not alter or amend any other term or condition of this agreement.

25. In accordance with ORS 279C800(6)(a)(B)(C), if 25 percent or more of the square footage of this PROJECT as completed will be occupied or used by a public agency and/or the PROJECT utilizes $750,000 or more of funds of a public agency then the DEVELOPER acknowledges that this PROJECT is "public works" and will require, as a condition of any contract for construction, that the specifications for such contract shall contain a provision;

    A. complying with the provisions of ORS 279C.830, with respect to the payment of the prevailing rate of wage;

    B. requiring that each and every contractor or subcontractor shall file such bonds as may be required under ORS 279C.836;

    C. requiring that any contractor or subcontractor shall comply with each and every provision of ORS 279C.800 – 870, with respect to such PROJECT.

    If the Commissioner of the Bureau of Labor and Industries, pursuant to ORS 279C.817, has divided the PROJECT into parts that are public works from parts of the PROJECT that are not public works, the foregoing provisions shall apply only to that portion of the PROJECT that the commissioner shall have determined to be "public works".

    Any and all cost estimates shall be prepared on the basis of prevailing rates of wage regardless of whether the PROJECT is determined to be "public works".

26. This PERMIT shall be binding upon the undersigned and shall bind them and each of their heirs, executors, administrators, assigns or successors in interest.

27. This PERMIT must be signed by all responsible parties to this Agreement.

This section to be completed by the ENGINEER:

As an authorized representative of the ENGINEER, by signing below I bind the ENGINEER to all terms of this PERMIT and agree that the ENGINEER will furnish complete engineering services, as required by the City of Springfield, Oregon, to accomplish the completion of the PROJECT. The professional engineer who will certify all design, construction and as-builts for the PROJECT is

_____.

I, the undersigned, concur with the terms of this PERMIT.

ENGINEER's Authorized Representative Signature

ENGINEER's Authorized Representative Name *(Please Print)*

ENGINEER's Authorized Representative Title *(Please Print)*

ENGINEER's Firm Name *(Please Print)*

Address *(Please Print)*

Business Phone Number

City, State, Zip *(Please Print)*

Cell Phone Number

E-mail Address

Date

Fax Number

Affix Engineer's Seal Here

ENGINEER OF RECORD Signature

ENGINEER OF RECORD Name *(Please Print)*

ENGINEER OF RECORD Title *(Please Print)*

ENGINEER's Firm Name *(Please Print)*

Address *(Please Print)*

City, State, Zip *(Please Print)*

Date

This section to be completed by the DEVELOPER(s):

I, the undersigned agree to conform to the conditions and requirements of the foregoing PERMIT and accept the responsibilities as set forth herein. In so doing, I (we) name the ENGINEER identified in the preceding section, to act in all matters pertaining to this PERMIT, perform the required engineering work, assure that all requirements of the City of Springfield have been met, and certify that the PROJECT is ready for final acceptance by the City of Springfield. Furthermore, I agree to fully compensate the ENGINEER for providing these services.

I understand that this PERMIT and the interests therein are not transferable to any other party or parties without the prior written consent of the CITY. In case of such attempted transfer without permission, the CITY may refuse to carry out the PERMIT either with the transferor or the transferee, but all rights of action for any breach of Contract by said DEVELOPER are reserved to the CITY. No officer of the CITY, or any person employed in its service is or shall be permitted any share or part of the PERMIT or is or shall be entitled to any benefit which may arise therefrom. The DEVELOPER shall not assign any of the monies payable under the PERMIT or claims thereto without the prior written approval of CITY.

Any assignment of money shall be subject to all proper setoffs and withholdings in favor of the CITY and to all deductions provided for in the PERMIT, and particularly all money withheld, whether assigned or not, shall be subject to being used by CITY for completion of the work in the event the DEVELOPER should be in default therein.

I (we), the undersigned, concur in this PERMIT.

DEVELOPER Signature	DEVELOPER Signature
DEVELOPER Name *(Please Print)*	DEVELOPER Name *(Please Print)*
DEVELOPER Title *(Please Print)*	DEVELOPER Title *(Please Print)*
Company Name *(Please Print)*	Company Name *(Please Print)*
Address *(Please Print)*	Address *(Please Print)*
City, State, Zip *(Please Print)*	City, State, Zip *(Please Print)*
Date	Date

Phone Number	Phone Number
Cell Phone Number	Cell Phone Number
E-mail Address	E-mail Address
Fax Number	Fax Number

This section to be completed by the CITY:

I, the undersigned, hereby accept the above signed PERMIT. As of my signing on this date all provisions of this PERMIT are effective; however, this signature does not in any way authorize the DEVELOPER to proceed with construction of the project.

Date	Jeff A. Paschall, P. E. CITY ENGINEER Signature

I, the undersigned, hereby authorize the DEVELOPER and ENGINEER to proceed with the work in accordance therewith. When the completed PROJECT meets the stated CITY requirements, I will then recommend same for acceptance by the City of Springfield.

Date	Jeff A. Paschall, P.E. CITY ENGINEER Signature

End of Agreement