

Subdivision Regulations And Platting Requirements



Nueces County, Texas

Effective Date: December 13, 2006

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CHAPTER I INTRODUCTION

DIVISION 1. AUTHORITY & REFERENCES

The Subdivision Regulations and Platting Requirements (hereinafter referred to as "Rules") are adopted by Nueces County, Texas, under the constitution and laws of the State of Texas, including in particular, but not limited to, the following:

Texas Local Government Code

- Chapter 42 – Extraterritorial Jurisdiction of Municipalities
- Chapter 232 – County Regulation of Subdivisions
- Chapter 233 – County Regulation of Housing and Other Structures

Texas Property Code

- Chapter 12 – Recording of Instruments

Texas Water Code

- Chapter 16 – Provisions Generally Applicable to Water Development

Texas Transportation Code

- Chapter 253 – County Improvement of Subdivision Roads

Texas Health & Safety Code

- Chapter 366 – On-Site Sewage Disposal

Texas Administrative Code

- Title 30, Part 1, Chapter 230 – Environmental Quality, TCEQ, Groundwater Availability Certification for Platting
- Title 30, Part 1, Chapter 285 – Environmental Quality, TCEQ, On-Site Sewage Facilities

All subdivision and platting within the unincorporated areas of Nueces County is prohibited without first securing approval of plans or plat in accordance with these Rules and, if required, obtaining a Floodplain Development Permit issued under the Nueces County Flood Damage Prevention Ordinance.

DIVISION 2. DEFINITIONS

Certain words and terms associated with the Rules are outlined and defined in Appendix A, and shall have said meaning, unless the context of the Rules clearly indicates otherwise. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in governmental planning and engineering practices.

DIVISION 3. UTILIZATION OF RULES

Depending on the location and the nature of the division of the land, either the General Platting Requirements, Model Subdivision Rules, or both may apply. For any development, the owner or owners and their agents shall comply with the requirements of these Rules and applicable state and federal laws.

I – 3.1 **Model Subdivision Rules** apply when the tract of land being divided into two (2) or more parts, creates two (2) or more lots of five (5) acres or less intended for residential purposes. **Lots of five (5) acres or less are presumed to be intended for residential purposes** unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

I – 3.2 **General Platting Requirements** apply when the tract of land being divided creates two (2) or more lots greater than (5) five acres. Additional platting criteria and exceptions are contained in **Chapter III**.

DIVISION 4. GENERAL ENFORCEMENT AUTHORITY UNDER TEXAS LOCAL GOVERNMENT CODE §232.005(a) & (b)

I – 4.1 A person commits an offense if the person knowingly or intentionally violates a requirement established by, or adopted by the Commissioners Court. An offense under this section is a Class B misdemeanor.

I – 4.2 Subject to the exemptions in these rules, no land shall be divided and sold or conveyed until the subdivider;

(a) Has received approval of a Final Plat of the trace; and

(b) Has filed with the County Clerk, a legally approved plat for recordation on County Records.

I – 4.3 At the request of the Commissioners Court, the County Attorney or other prosecuting attorney representing the County may file an action in a court of competent jurisdiction to:

(a) Enjoin the violation or threatened violation of a requirement established by, or adopted by the Commissioner's Court, or

(b) Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by, or adopted by the Commissioners Court.

DIVISION 5. EFFECTIVE DATE, REPEALER, SEVERABILITY

These rules become effective on the **13th** day of **December, 2006**. The Nueces County Subdivision Rules adopted on the 27th day of September, 1983, and amended in March 2000 and August 2000, are hereby repealed, except as to such sections which are retained herein, but they remain in effect for the purpose of prosecuting a civil or criminal suit for a violation or offense that occurred thereunder. If any part or provision of these rules or application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these Rules or the application thereof to other persons or circumstances. The Nueces County Commissioners Court hereby declares that it would have enacted the remainder of these regulations without any such part, provision or application.

DIVISION 6. AMENDMENTS

The Nueces County Commissioners Court as provided by law may amend these Rules from time to time. A reference to each order amending these Rules shall be listed in this division, and these Rules restated to include the amendment in its correct location.

DIVISION 7. ACCEPTANCE OF DEDICATION

Approval of a plat by the Commissioners Court shall not be deemed an acceptance of the proposed dedications, if any, shown thereon, and shall not impose any duty upon the County concerning maintenance or improvements of any such dedications. The Commissioners Court will determine which dedications will be accepted for county maintenance.

The County will accept no responsibility for drainageways other than those drainageways running along and within the street and road rights-of-way.

The enforcement of any plat or deed restrictions is the responsibility of the Subdivider and property owners in the subdivision.

DIVISION 8. REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION

I – 8.1 The extraterritorial jurisdiction (ETJ) of a municipality (reference Local Government Code Chapter 42) generally extends for a distance beyond the city's limits that can vary from one-half (½) mile up to five (5) miles. Municipalities are required by §41.001 of the Local Government Code to maintain current maps of their boundaries and extraterritorial jurisdictions.

I – 8.2 Interlocal Agreements. Pursuant to Section 232.022(c-1) of the Local Government Code, if a municipality and Nueces County have entered into a written agreement under Section 242.001 of the Local Government Code that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction, the land in the extraterritorial jurisdiction is not considered to be in the jurisdiction of the County.

DIVISION 9. INSPECTION FEE

I – 9.1 The Nueces County Commissioners Court may impose an inspection fee to cover the cost of the County's inspection of street, road, and drainage improvements described by the plat. The fee may vary based on the number of proposed lots in the subdivision, the acreage described by the plat, the type or extent of proposed street and drainage improvements, or any other reasonable criteria as determined by the Nueces County Commissioners Court. The owner of the tract to be subdivided must pay the fee at the time directed by the County before the County conducts a review of the plat.

I – 9.2 If the plat includes drainage or roadways to be constructed as part of the subdivision, then the following fees apply:

	Inspection Fee
Subdivision Less Than or Equal to 10 Lots	\$200 per submission
Subdivision More Than 10 Lots	\$500 per submission

DIVISION 10. PRIVATELY MAINTAINED ROADS

I – 10.1 Roads. If a street or road in a subdivision is to be privately maintained the following criteria must be satisfied.

- (a) The following note shall be conspicuously displayed on the plat:
By filing this Plat [Owner], and all future owners of property within this subdivision, by purchasing such property acknowledge and agree that the County shall have no obligation whatsoever to repair or accept maintenance of the roads in this subdivision unless and until the roadways have been improved to the current standards required by Nueces County, the roadways with all required right-of-way have been dedicated as a public street by the owners thereof, and the roads have been accepted by formal action of the Commissioners Court.
- (b) Restrictive covenants establishing a homeowners association, whose purpose shall be, but not limited to, the maintenance and repair of roads in the subdivision shall be placed on record concurrently with the recording of the Plat.

I – 10.2 Vehicular or Pedestrian Gates

- (a) Each vehicular gate to a gated community or multi-unit housing project shall have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, or code to open the gate or a key switch or cable mechanism that overrides the key, card, or code that normally opens the gate and allows the gate to be opened manually.
- (b) In a gated community or multi-housing project that has one or more vehicular gates:
 - (1) at least one vehicular gate must be wide enough for fire-fighting vehicles, fire-fighting equipment, emergency medical services vehicles, or law enforcement vehicles to enter; and
 - (2) at least one driveway apron or entrance from the public right-of-way must be free of permanent obstacles that might impede entry by a vehicle or equipment listed above.
- (c) If there are one or more pedestrian gates, at least one pedestrian gate must have a lockbox within sight of the gate and in close proximity outside the gate. The lockbox at all times must contain a key, card, code, key switch, or cable mechanism to open the gate.
- (d) If different pedestrian gates are operated by different keys, cards, or codes, the lockbox must contain:
 - (1) each key, card, or code, properly labeled for its respective gate; or
 - (2) a single master key, card, or code or a key switch or cable mechanism that will open every gate.
- (e) A pedestrian gate in a gated community or multi-unit housing project must be located so as to provide firefighters, law enforcement officers, and other emergency personnel reasonable access to each building.
- (f) Access to a lockbox shall be limited to a person or agency providing fire-fighting or emergency medical services or law enforcement for the County.

- (g) If a gate is powered by electricity, it must be possible to open the gate without a key, card, code, or key switch if the gate loses electrical power.

DIVISION 11. SUBMISSION PROCEDURES

I – 11.1 These Rules and applicable appendices shall constitute a written list of the documentation and other information that must be submitted with a plat application. An application submitted to the Nueces County Department of Public Works that contains the documents and other information required in these Rules and the applicable appendices is considered complete.

I – 11.2 General Procedure. The general procedure ultimately leading to the recording of a subdivision plat is the following sequence of steps:

- (a) Preliminary conference (optional but highly recommended) with conceptual plat.
- (b) Submission of pre-application variance request (optional and only if information on the preliminary plat is not required for determination of variance).
- (c) Submission, review, and approval of final plat (with concurrent consideration of variance request or requests).
- (d) Posting of bonds or other financial guarantees.
- (e) Release of final plat for recording.
- (f) Recording of final plat in the map records of Nueces County.

I – 11.3 Preliminary Conference. The owner and/or the owner's engineer is strongly urged to meet with the Nueces County Department of Public Works to present a conceptual plat and discuss any proposed subdivision or development. In this manner, certain concerns and requirements can be addressed prior to expending time and money on property, which cannot be developed in compliance with these Rules or, for which it is uneconomical to do so. A preliminary conference is not required, and any agreement reached with staff personnel is not binding upon the Nueces County Commissioners Court.

I – 11.4 Application for Plat Approval. The application for approval of a plat shall be filed with the Nueces County Department of Public Works by the record owner of the property to be subdivided or the owner's duly authorized agent. If the application is submitted by the owner's agent, then the agent shall submit such information as is necessary to verify that the agent has the authority to submit for and bind the owner by his actions. The application shall have attached a copy of the deed or deeds showing the ownership of the land.

I – 11.5 Preliminary Plats.

- 11.5.1 Preliminary Plat Processing.** The Nueces County Department of Public Works will review preliminary plat applications as submitted for completeness within ten (10) business days following filing of the plat application. The applicant shall prepare and submit a Preliminary Plat Checklist on a form as shown in Appendix B. (form available from the Nueces County Department of Public Works) If the submission is substantially complete and a recommendation can be made to the Nueces County Commissioners Court based on the information

contained therein, the preliminary plat will be put on the desired agenda date for action by the Nueces County Commissioners Court. If the submission is not complete, then a letter detailing the required additional information will be sent to the developer, owner or owners within ten (10) business days following the filing of the plat application. Once the requested information is provided, the preliminary plat will be processed in the same manner as an original submission, and this procedure shall continue until such time as a recommendation can be made to the Nueces County Commissioners Court for its consideration.

- 11.5.1(a) Preliminary plats may be approved as submitted, approved conditionally, or disapproved. If approved conditionally or disapproved, the reasons for such conditional approval or disapproval shall be stated in a letter from the Nueces County Department of Public Works to the subdivider or his agent of record.
- 11.5.1(b) The approval of a preliminary plat shall be good for a period of twelve (12) months from the date of Commissioners Court action. If eleven (11) months after approval, the County has not received information which would necessitate revision of a preliminary plat, then upon written application by the owner before the end of the twelve (12) month period, the Commissioners Court may extend the approval for an additional period of six (6) months.
- 11.5.1(c) Preliminary plats which expire due to inactivity within the twelve (12) or six (6) month period noted above shall be required to be resubmitted as a new subdivision.

11.5.2 Preliminary Plat Submission Requirements

- 11.5.2(a) **Form.** The preliminary plat shall be drawn to a minimum scale of one (1) inch = one hundred (100) feet. The preliminary plat shall be drawn on sheets twenty-two (22) inches wide and thirty-four (34) inches long, with a binding margin of not less than two (2) inches on the left side of the sheet and margins on the other three sides of not less than one-half ($\frac{1}{2}$) inch. A three (3) inch by five (5) inch area on each page, within the margins and in the lower right-hand corner, shall be enclosed by a heavy line and be left blank in order to allow space for officials to note approvals or other actions on the plat. Where more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The use of sticky backs, press on lettering, or transfer lettering which may lift, separate, or be removed from the original plat over a period of time shall not be accepted. Sepias or other diazo process reproducibles, which may fade, are also not acceptable.
- 11.5.2(b) **Coverage.** The preliminary plat shall include topographic information on all land within five hundred (500) feet of the proposed subdivision.
- 11.5.2(c) **Quantity.** The applicant must submit four (4) blue-or-black-line copies of the complete set of the preliminary plat and its supporting information.
- 11.5.2(d) **Required Supporting Information.** The following information shall be provided with or upon the preliminary plat. Proposed topographic and utility details may be shown on the preliminary plat or on a separate plat for clarity. All work by an engineer or a surveyor must be signed, sealed, and dated.
 - (1) Legal description. The legal description of the land to be subdivided shall be sufficient for the requirements of title examination.

- (2) Statement of conformance or list of variances. The statement of conformance shall declare that the preliminary plat (including its supporting information) conforms to these Rules (including the associated Appendices) or shall list the instances in which it does not comply with these Rules, the reason for each such non-compliance, and whether a variance is requested.
- (3) Location Map. A location map or sketch at a scale of not more than four thousand (4,000) feet to one (1) inch shall show the proposed subdivision, existing adjacent subdivisions, school district lines, and roads in the vicinity.
- (4) Vicinity Map. A vicinity sketch or map at approximately one (1) inch = four hundred (400) feet scale shall show existing subdivisions, streets, easements, right-of-way, parks and public facilities, tracts of acreage in the vicinity, the general drainage plan and ultimate destination of water, and possible storm sewer, water, gas, electric, and sanitary sewer connections by arrows.
- (5) Location with respect to any municipal ETJ line. A statement of the whether any part of the proposed subdivision lies within any extraterritorial jurisdiction of a municipality (under Texas Local Govt. Code §42.021 or 212.001) shall be provided. If an ETJ line traverses the subdivision, it shall be delineated and identified upon the preliminary plat.
- (6) Map of earlier plat. If the subdivision is part of a previously filed subdivision plat, a map shall be provided showing the portion of the earlier-filed plat that is owned by the applicant and included in the preliminary plat.
- (7) Restrictive covenant. Any restrictive covenants proposed to be imposed for the subdivision should be attached for reference. It should be noted whether these are existing or proposed and if proposed, at what time they will be recorded, prior to or subsequent to the recording of the final plat.
- (8) Certification by the owner of conformance or submittal for review. The owner shall certify that the preliminary plat has been reviewed and conforms to the requirements of the school district, the gas, electricity, water, telephone, and television cable companies, irrigation or water control and improvement districts and the U.S. Post Office; or that the agencies mentioned in the preceding paragraph were given at least ten (10) working days to review the proposed preliminary plat. This certification shall be in letter form and shall include the name, title, address, and telephone number of the person to whom the applicant delivered the preliminary plat for review.
- (9) The preliminary plat shall include the name, address, and telephone number of the record owner(s) of lands being subdivided, and of the engineer, the surveyor, and any other persons responsible for the preparation of the data and information being submitted.
- (10) The preliminary plat shall include the subdivision name, which shall not duplicate the spelling or the pronunciation of any existing subdivision in the County.
- (11) The preliminary plat shall delineate the boundary of the subdivision by metes and bounds sufficiently for the requirements of title examination. Subdivision boundaries shall be indicated by a heavy line at least one sixteenth (1/16) inch wide. The total acreage in the subdivision shall be noted.
- (12) The preliminary plat shall locate the subdivision with respect to an original corner of an original survey of which it is a part.

- (13) The preliminary plat shall show the primary control points or description used to establish the subdivision. The description, location, and tie to such control points, including all dimensions, angles, bearings, block numbers, and summary data, shall be noted.
- (14) The preliminary plat shall note the existing conditions within or immediately adjacent to the subdivision, including the location, dimension, name, and description of each existing or recorded street; alley, reservation, easement, or other public rights-of-way or visible private encumbrance upon the land within or adjacent to the subdivision, intersecting or contiguous with its boundaries, or forming such boundaries (include the name of the subdivisions in which a street, alley, etc. is located); location, dimension, description, and flow line of any existing watercourses, drainage structures, or irrigation structures within the subdivision or within one hundred and fifty feet (150 feet) of the boundary of the subdivision; location, dimension, description, and name of all existing or recorded lots and blocks, parks, public areas, or permanent structures within the subdivision or contiguous with the subdivision; and, location, dimension, description, and name of all existing water, sewer, electric, gas, telephone, television cable, irrigation or other utilities.
- (15) The preliminary plat shall show the adjoining property owners' names and references to the deeds under which they hold ownership, or if the adjoining property is within a recorded subdivision, state the subdivision's name and provide the reference for where its plat is recorded in the Map Records of Nueces County.
- (16) The preliminary plat shall note the date of preparation, date of survey, the scale of the plat, and North arrow.
- (17) The preliminary plat shall include topographic information, including contour lines for every one vertical foot. The information shall include the flow lines of existing gutters and drainage ways. It shall be sufficiently detailed to determine the existing drainage to and from the proposed subdivision and to determine the adequacy of the proposed drainage plan. Elevations shall be based on published U.S.C. & G. S. datum and the benchmark used shall be noted on the plat.
- (18) The preliminary plat shall show the proposed general plan for storm water drainage in sufficient detail to indicate the location of drainage ditches or structures and the direction of flow.
- (19) The preliminary plat shall show the approximate location, dimensions, and description of all proposed street rights-of-way, alleys, drainage structures, parks, squares, other public areas, reservations, easements, other rights-of-way, blocks, lots (lettered or numbered consecutively), permanent survey monuments, and other sites within the subdivision. The proposed width of each proposed street shall be measured at right angles, or radially where curved.
- (20) The preliminary plat shall name the proposed streets. The name of a proposed street shall conform to the name of an existing street of which it may become an extension but otherwise shall not duplicate or conflict with the recognized name of any other street located in the area subject to these Rules.
- (21) The preliminary plat shall show building setback lines (front, side, and rear).

(22) The preliminary plat shall show the net area contained within each lot or tract to the nearest one-tenth (1/10) of an acre.

(23) The preliminary plat shall show the limits of any flood hazard areas and the proposed finish floor elevation of any building within these flood hazard areas.

I – 11.6 Final Plats.

11.6.1 Final Plat Processing.

11.6.1(a) Application. The applicant shall prepare a Final Plat Checklist on a form as shown in Appendix B. (form available from the Nueces County Department of Public Works) On the application the Subdivider shall fully describe all infrastructure (streets, drainage facilities, water facilities, wastewater facilities, etc.) that has been completed or installed to serve the subdivision as of the date of an application for final plat approval. As part of the application, the Subdivider shall also sign and list all the documents accompanying or attached to the final plat. A set of these documents shall be kept together during the review and approval process and through the recordation of the plat and the identified documents. Any substitutions or additions to the documents to be recorded shall be noted and dated on an addendum to the application form.

11.6.1(b) The final plat and its accompanying data shall be reviewed by the Nueces County Department of Public Works and the Commissioners Court within the sixty (60) day period following submission of the complete application. If all required information is contained within the submission and the final plat is complete in every respect, the plat shall be presented to the Commissioners Court for its approval. If the application is incomplete, the Nueces County Department of Public Works shall make note of such requirements in a letter to the Subdivider and the engineer or surveyor of record within ten (10) business days of the date of the application.

11.6.1(c) Upon submission of the requested additional information, the process of review will continue, and this process of review and resubmission shall continue until the application is complete in every respect. The final plat shall be placed before the Commissioners Court for approval or disapproval. No conditional approval of the final plat shall be granted.

11.6.2 Final Plat Submission Requirements

11.6.2(a) Form. The final plat shall be drawn to a minimum scale of one (1) inch = one hundred (100) feet. The final plat shall be drawn on sheets twenty-two (22) inches wide and thirty-four (34) inches long, with a binding margin of not less than two (2) inches on the left side of the sheet and margins on the other three sides of not less than one-half (½) inch. A three (3) inch x five (5) inch area on each page, within the margins and preferably in the lower right-hand corner, shall be enclosed by a heavy line and be left blank except for notations by officials of approvals or other actions on the plat. Where more than one (1) sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The documents attached to or accompanying the final plat that are required to be recorded shall likewise be placed on a sheet or sheets twenty-two (22) inches wide and thirty-four (34) inches long. The use of sticky backs, press on lettering, or transfer lettering which may lift, separate, or be removed from the original plat over a period of time shall not be accepted. Sepias or other diazo process reproductions, which may fade, are also not acceptable.

- 11.6.2(b) General Content.** The final plat and its accompanying information shall be complete and in conformance with the approved preliminary plat and its conditions of approval, and shall incorporate all changes, corrections, and conditions required during the preliminary plat approval process. The topography shown on the final plat shall be the post-development topography.
- 11.6.2(c) Quantity.** Four (4) copies of the final plat and its required supporting information shall be submitted, along with one (1) reproducible original of the final plat itself.
- 11.6.2(d) Required Supporting Information.** The following information shall be provided with or upon the final plat. All work by an engineer or a surveyor must be signed, sealed, and dated.
- (1) Statement of conformance or list of variances. The statement shall declare that the final plat (including its supporting information) conforms to these Rules (including the associated Appendices) or shall list the instances in which it does not comply with these Rules, the reason for each such non-compliance, and whether a variance is required.
 - (2) Utility provider letters. Letters from utility providers including irrigation or water control and improvement districts, other than water and sewer, shall be submitted showing that the utility has reviewed the proposed subdivision, that easements shown on the proposed plat are adequate, and that the Subdivider has made all arrangements necessary for the utility company to service the subdivision. All approvals must be dated not more than six (6) months prior to the date the final plat application is received. The approval may be noted on the face of the plat in lieu of a letter being provided.
 - (3) Street and drainage plans. Four (4) sets of construction plans and specifications for streets and drainage improvements and the associated construction cost estimates shall be provided. The plans and specifications shall conform to these Rules.
 - (4) Water and sewage plans. When necessitated by the Model Subdivision Rules, six (6) sets of construction plans and specifications for water and sewer improvements and the associated construction cost estimates shall be provided. The plans and specifications shall conform to these Rules.
 - (5) Tax certificates. Tax certificates from the school district, the county, and any other taxing district stating that all taxes have been paid shall be provided.
- 11.6.2(e) The final plat shall:**
- (1) Be certified by a surveyor and engineer licensed to practice in this state.
 - (2) Define the subdivision by metes and bounds.
 - (3) Locate the subdivision with respect to an original corner of an original survey of which it is a part.
 - (4) Describe each lot, number each lot in progression, and give the dimensions of each lot.

- (5) State the dimensions of and accurately describe each already existing or recorded lot, street, alley, square, park, reservation, easement, or other right-of-way or encumbrance within the land being subdivided.
- (6) State the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.
- (7) Note the type and location of all monuments and whether each was found or set.
- (8) Describe the general drainage pattern for the area and note all drainage easements, channels, and structures.
- (9) Identify and describe all easements for utilities and irrigation facilities.
- (10) Note on the face of the plat any variance already granted by the Commissioners Court, along with the date such variance was granted.
- (11) Note on the face of the plat the requirement that each purchase contract made between a Subdivider and a purchaser of the land in the subdivision contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when.
- (12) Note minimum floor elevations on each lot, depicting the minimum finished habitable floor elevation which shall be not less than twelve (12) inches above the center line of the street the lot faces, unless otherwise noted by the engineer of record and approved by the county in accordance with FEMA maps.
- (13) Various certifications and dedications shall be shown on the plat as listed below (sample plat notes are included in **Appendix C**)
 - (a) A certificate of dedication, duly acknowledged, on all road or streets, public highways, utility easements, parks, drainage easements, and all other land intended for public use shall be shown on the plat.
 - (b) A certificate of ownership in fee of all land embraced in the subdivision, and of the authenticity of the plat and dedication, signed and acknowledged by all owners of any interest in said land. The acknowledgement shall be in the form required in the conveyance of real estate. Approval and acceptance of all lien holders shall be included.
 - (c) If the subdivision is located in an area not served by a sanitary sewer system and septic tanks are to be used, a certificate of approval from the City-County Health Department shall be required.
 - (d) Certificate of approval by the County Engineer shall appear on the plat.
 - (e) Certificate of County Clerk indicating the approval and acceptance of the Commissioners Court.

- (14) Comply with various requirements of Chapter II, if the subdivision falls within the scope of the Model Subdivision Rules, including requirements relating to:
- (a) The minimum standards set out in Chapter II, Division 2 regarding water, wastewater, greywater, sludge, disposal, setbacks, and the number of dwelling units per lot.
 - (b) The final engineering report described in Chapter II, **Section 3.2**.
 - (c) The execution of an agreement with Nueces County for the provision of certain improvements and a bond or other financial guarantee (such as cash deposit or a letter of credit) securing the agreement, as described in Chapter II, **Section 3.3**.
 - (d) Include or have attached a document containing a description in English and Spanish of the water and sewer facilities dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which facilities will be fully operable;
 - (e) Have a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities are in compliance with the Model Subdivision Rules adopted under Section 16.343 of the Texas Water Code and a certified estimate of the cost to install water and sewer service facilities.
 - (f) Provide for drainage in the subdivision to:
 - (1) Avoid concentration of storm drainage water from each lot to adjacent lots;
 - (2) Provide positive drainage away from all buildings; and
 - (3) Coordinate individual lot drainage with the general storm drainage pattern for the area
 - (g) Include a description of the drainage requirements as provided in subsection (f);
 - (h) Identify the topography in the area;
 - (i) include a certification by a surveyor or engineer registered to practice in the State of Texas describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; and
 - (j) Include certification that the subdivider has complied with the requirements of Section 232.032 of the Local Government Code and that:
 - (A) The water quality and connection to the lots meet, or will meet, the minimum state standards;
 - (B) The sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;

- (C) Electrical connection provided to the lot meet, or will meet, the minimum state standard; and
- (D) Gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

- (k) A Subdivider may meet the requirements of Subsection (14) (j)(B) through the use of a certificate issued by the appropriate county or state official having jurisdiction over the approval of septic systems stating that the lots in the subdivision can be adequately and legally served by septic systems.
- (l) The Subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.

11.6.2(f) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

11.6.3 Approval of Final Plats by Commissioners Court.

11.6.3(a) **Scope of Review.** The Nueces County Department of Public Works will review the final plat (and its supporting information) to determine whether it meets the requirements of these Rules and state law.

11.6.3(b) **Disapproval.** The Nueces County Commissioners Court shall refuse to approve a plat if it does not meet the requirements prescribed by under these Rules or state law. Disapproval of any preliminary plat or final plat by the Nueces County Commissioners Court shall be deemed a refusal by the County to accept the offered dedications, if any, shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the County concerning the maintenance or improvements of any such dedicated parts until the proper authorities of the County have actually appropriated the same by an Order of the Nueces County Commissioners Court, or by entry, use, or improvement.

11.6.3(c) **Financial Guarantees.** The Nueces County Commissioners Court may require the owner to execute a bond or other financial guarantee as discussed in **Chapter II, Division 3**.

11.6.3(d) **Plat Approval.** On the approval of a plat by the Commissioners Court, the Commissioners Court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the Commissioners Court.

11.6.4 Release of Approved Final Plat For Recording.

11.6.4(a) Any variance granted by the Commissioners Court shall be noted on the face of the plat, along with the date such variance was granted, prior to release of the plat for recording.

11.6.4(b) Upon submission to the Nueces County Department of Public Works of all required bonds and other financial guarantees, and the tender of the recording fee as required by the County Clerk, the Nueces County Department of Public Works will release the plat for recording. The plat (with its required

attachments) must be filed and recorded with the County Clerk. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

I – 11.7 Construction Plans. All construction plans, drawings and calculations shall be sealed by a professional engineer registered in the State of Texas.

11.7.1(a) Four (4) sets of all construction plans must be submitted to and approved by the Nueces County Department of Public Works, unless a waiver is granted prior to the start of any construction. The construction plans shall consist of:

- (1) Street plans;
- (2) Drainage plans, including outfall channels, storm sewers and inlet designs;
- (3) Plans for water system, if any;
- (4) Plans for wastewater system, if applicable;
- (5) Plans for adjustment of utility lines and pipelines; and,
- (6) Location and description of all easements.

11.7.1(b) Street construction plans shall show:

- (1) The plan of the street, in no larger than a one (1) inch = fifty (50) feet scale, showing the location of the proposed pavement, ditches and drainage structures within the street right-of-way;
- (2) The profile of the street in no larger than a one (1) inch = fifty (50) feet scale horizontal and a one (1) inch = five (5) feet scale vertical;
- (3) The street grades and elevations;
- (4) Vertical and Horizontal curve information;
- (5) The ditch grades, design flow of water, design depth of water and design velocity of water;
- (6) Typical street sections; and,
- (7) The seal, signature, and date of the engineer responsible for the design on all sheets.

11.7.1(c) Drainage construction plans shall show:

- (1) The plan of the drainage ditches in no larger than a one (1) inch = fifty (50) feet scale;
- (2) The profile of the drainage ditches in no larger than a one (1) inch = fifty (50) feet scale horizontal and a one (1) inch = five (5) feet scale vertical;

- (3) The ditch grades, design frequency, design flow of water, design depth of water and design velocity of water;
- (4) A plan and profile of all culverts under any street with the design flow of water, headwater and tailwater depths and the tailwater velocity;
- (5) The size of all driveway culverts to carry the design flow of water at each lot in the subdivision;
- (6) Typical ditch sections;
- (7) The size of each lot that is indicated on the final plat in square feet and in acres; and,
- (8) The seal, date, and signature of the engineer responsible for the design on all sheets.

11.7.1(d) Water construction plans shall show:

- (1) The location and size of all proposed water lines in relation to the right-of-way or easements in which the lines are to be located;
- (2) The location of all appurtenances proposed to be installed;
- (3) The minimum depth to which the water lines are to be installed; and,
- (4) The seal, date, and signature of the engineer responsible for the design on all sheets.

11.7.1(e) Wastewater construction plans shall show:

- (1) The plan of the sanitary sewer line in no larger than a one (1) inch = (50) feet scale, showing the location and size of all proposed sanitary sewer lines in relation to the right-of-way or easements in which the lines are to be located;
- (2) The profile of the sanitary sewer lines in no larger than a one (1) inch = fifty (50) feet scale horizontal, and a one (1) inch = five (5) feet scale vertical;
- (3) The location of all appurtenances proposed to be installed;
- (4) The sanitary sewer line grades and elevations at all junction points; and,
- (5) The seal, date, and signature of the engineer responsible for the design on all sheets.

11.7.1(f) All construction plans shall be submitted with the final plat.

11.7.1(g) The Nueces County Department of Public Works will review the construction plans and return one (1) set of the construction plans to the Owner or Developer stating:

- (1) That the plans have been approved; or
- (2) That the plans are not in conformance with the Rules and that changes will need to be made before the plans will be approved.

If any changes are required, the Owner or Developer shall correct the construction plans and submit two (2) copies of the corrected plans to the Nueces County Department of Public Works. If all necessary changes have been made, the Nueces County Department of Public Works will return one (1) set of the corrected plans to the Owner or Developer stating that the plans have been approved.

CHAPTER II MODEL SUBDIVISION RULES

DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS

II – 1.1 Authority and Scope of Model Rules. These rules are adopted by Nueces County, Texas under the authority of the Local Government Code, Chapter 232 and Water Code, §16.350. Notwithstanding any provision to the contrary, the rules under this chapter apply only to a subdivision which creates two (2) or more lots of five (5) acres or less intended for residential purposes. Lots of five (5) acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

II – 1.2 Purpose. It is the purpose of the rules under this chapter to promote the public health of the county residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the jurisdiction of Nueces County, and to apply the minimum state standards for water and wastewater facilities to these subdivisions.

II – 1.3 Plat Required.

1.3.1 The owner of a tract of land located outside the corporate limits of a municipality that divides the tract in any manner that creates two (2) or more lots of five (5) acres or less intended for residential purposes must have a plat of the subdivision prepared. Lots of five (5) acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.

1.3.2 No subdivided land in Nueces County shall be sold or conveyed until the subdivider:

(a) has received approval of a final plat of the tract of land; and,

(b) has filed and recorded a legally approved plat with the County Clerk of Nueces County

1.3.3 A division of a tract is defined as including a metes and bounds description, or any description of less than a whole parcel, in a deed of conveyance or in a contract for a deed, using a contract of sale or other executory contract, lease/purchase agreement, or using any other method to convey property.

II – 1.4 Definitions. Certain words and terms associated with the Rules are outlined and defined in Appendix A, and shall have said meaning, unless the context of the Rules clearly indicates otherwise.

DIVISION 2. MINIMUM STANDARDS

II – 2.1 Scope of Standards. The establishment of a residential development with two (2) or more lots of five (5) acres or less where the water supply and sewer services do not meet the minimum standards of this Chapter is prohibited. A subdivision with lots of five (5) acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the final plat and all deeds and contracts for deeds.

II – 2.2 Water Facilities Development. The following provides minimum standards for the development of water facilities.

2.2.1 Public Water Systems.

- (a) Subdividers who propose to supply drinking water by connecting to any existing public water system must provide a written agreement with the retail public utility in substantially the form attached in Appendix D. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years. The agreement must reflect that the Subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat.
- (b) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the Subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC §§290.38-290.51 and §§290.101-290.120. If groundwater is to be the source of the water supply, the Subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the Subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty (30) years.

2.2.2 Non-Public Water Systems. Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the Subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The Subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC §290.103, 290.105, 290.106 and 290.110, either:

- (1) without any treatment to the water; or
- (2) with treatment by an identified and commercially available water treatment system.

2.2.3 Transportation of Potable Water. The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the Subdivider does not constitute an emergency.

II – 2.3 Wastewater Disposal. The following provides minimum standards for the development of wastewater disposal.

2.3.1 Organized Sewerage Facilities.

- (a) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the Texas Commission on Environmental Quality in accordance with 30 TAC Chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC Chapter 317 from the Texas Commission on Environmental Quality.
- (b) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form attached in Appendix D with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of 30 years. The agreement must reflect that the Subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat. Engineering plans, signed and sealed by a professional engineer registered in the State of Texas, for the proposed wastewater collection lines must comply with 30 TAC Chapter 317.

2.3.2 On-site Sewerage Facilities.

- (a) On-site sewerage facilities, which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than five thousand (5,000) gallons per day, must comply with 30 TAC Chapter 285.
- (b) Proposals for sewerage facilities for the disposal of sewage in the amount of five thousand (5,000) gallons per day or greater must comply with 30 TAC Chapter 317.
- (c) The Texas Commission on Environmental Quality or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in particular §§285.4, 285.5 and 285.30-285.39 and the County OSSF Order. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC §285.3(b), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

2.3.3 Greywater Systems for Reuse of Treated Wastewater.

- (a) **Organized or municipal sewerage systems.** Any proposal for sewage collection, treatment and disposal, which includes greywater reuse, shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by the Texas Commission on Environmental Quality.
- (b) **On-site sewerage facilities.** Any proposal for on-site sewage disposal, which includes provisions for greywater use, shall meet the minimum criteria of 30 TAC Chapter 285.

2.3.4 Sludge Disposal.

The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC Chapter 312 and Chapter 317.

II – 2.4 Other Standards.

- 2.4.1 **Setbacks.** In areas that lack a nationally recognized fire code as listed in Local Government Code, §235.00(b)(2) and lack water lines sized for fire protection, setbacks from roads and rights-of-way shall be a minimum of ten (10) feet, setbacks from adjacent property lines shall be a minimum of five (5) feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the Order or Rules of the County shall control to the extent greater setbacks are therein required.
- 2.4.2 **Number of Dwellings Per Lot.** No more than one (1) single family detached dwelling shall be located on each lot. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Proposals, which include multi-family residential, shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.

DIVISION 3. PLAT APPROVAL

II – 3.1 Applications for Plat Approval.

- (a) **Owner Representation.** An application for approval of a plat shall be filed with the County by the record owner of the property to be subdivided or the duly authorized agent of the record owner.
- (b) **Standards.** Every plat creating two (2) or more lots of five (5) acres or less for residential use shall comply with the standards of **Division 2** and the requirements of **Division 3** of this Chapter.

II – 3.2 Final Engineering Report. The final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the County shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under of this Chapter, the schedule shall include the start dates and completion dates.

3.2.1 Public Water Systems.

- (a) *Where water supplies are to be provided by an existing public water system*, the Subdivider shall furnish an executed contractual agreement between the Subdivider and the retail public utility in substantially the form attached in Appendix D and referenced in 30 TAC §364.32(a)(1). Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed subdivision which may include, in addition to the Nueces County Department of Public Works, the Texas Commission on Environmental Quality and the city or county health department. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include comments regarding the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision.

(b) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the Subdivider shall establish a retail public utility and obtain a Certificate of Convenience and Necessity (CCN) from the TNRCC and include evidence of the CCN issuance with the plat. Before the final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study which shall include an analysis of the long term (30 years) quantity and quality of the available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty (30) years.

3.2.2 Non-Public Water Systems. Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with 30 TAC §364.32. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to 30 TAC §364.32(b) does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one (1) commercial establishment within the County at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The engineer shall issue a statement concerning the availability of groundwater supplies to serve the fully developed subdivision over the next thirty (30) years. Such statement may be based on information available from the Texas Water Development Board's Office of Planning. The description of the required sanitary control easement shall be included.

3.2.3 Organized Sewerage Facilities.

(a) *Where wastewater treatment is to be provided by an existing retail public utility*, the Subdivider shall furnish evidence of a contractual agreement between the Subdivider and the retail public utility in substantially the form attached in Appendix D and referenced in 30 TAC §§364.33(a)(2). Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the Texas Commission on Environmental Quality and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the subdivision.

(b) *Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities*, the Subdivider shall establish a retail public utility and obtain a CCN from the Texas Commission on Environmental Quality. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the Texas Commission on Environmental Quality and plans and specification for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the subdivision.

3.2.4 On-Site Sewerage Facilities (OSSF). Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC §§285.4(c), including the site evaluation described in 30 TAC §§285.30 and all other information required by the County's OSSF regulations.

3.2.5 Additional Information. Additional information to be included in the final engineering report, in order to determine the adequacy of proposed water and wastewater improvements as part of the plat approval process, shall include, but is not limited to:

- (1) layout of proposed street and drainage work;
- (2) legal description of the property;
- (3) existing area features;
- (4) topography;
- (5) floodplains;
- (6) description of existing easements;
- (7) layout of other utilities;
- (8) notation of deed restrictions
- (9) public use areas; and
- (10) proposed area features.

II – 3.3 Financial Guarantees for Improvements. If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the Subdivider, to serve lots intended for residential purposes of five (5) acres or less at the time final plat approval is sought, then the Nueces County Department of Public Works shall require the owner of the subdivided tract to execute an agreement with Nueces County utilizing the form attached in Appendix D secured by a bond, irrevocable letter of credit or other alternative financial guarantee such as a cash deposit which meet the requirements set forth below.

3.3.1 Bonds. If a bond is submitted as a financial guarantee, it shall meet the following requirements:

- (a) The bond or financial guarantee shall be payable to the Nueces County Judge, in his official capacity, or the Judge's successor in office.
- (b) The bond or financial guarantee shall be in an amount determined by the Commissioners Court to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.
- (c) The bond shall be executed with sureties as may be approved by the Commissioners Court. The criteria for acceptability of the surety companies issuing bond includes the following:
 - (1) Registration with the Secretary of State and be authorized to do business in Texas;
 - (2) Authorization to issue bonds in the amount required by the Commissioners Court;
 - (3) Rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.

- (d) The bond shall be conditional upon construction or installation of water and wastewater facilities meeting the criteria established under this Chapter and upon construction of facilities within the time stated in the final engineering report, or within any extension of time granted by the Commissioners Court.

3.3.2 Letter of Credit. If a letter of credit is submitted as a financial guarantee, it shall meet the following requirements:

- (a) Any letter of credit submitted as a financial guarantee *for combined amounts greater than \$10,000 and less than \$250,000* must be from financial institutions that meets the following qualifications:

- (1) Bank Qualifications – Must be federally insured; Sheshunoff rating must be 10 or better and primary capital must be at least 6% of total assets; and, total assets must be at least \$25 million.
- (2) Savings and Loan Associations Qualifications – Must be federally insured; tangible capital must be at least 1.5% of total assets and total assets must be greater than \$25 million or tangible capital must be at least 3% of total assets if total assets are less than \$25 million; and, Sheshunoff rating must be 30 or better.
- (3) Other Financial Institutions Qualifications – The letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a Nueces County investment; and, the investment instrument must be registered in Nueces County's name and Nueces County must receive safekeeping receipts for all collateral before the letter of credit is accepted.

- (b) Any letter of credit submitted as a financial guarantee *for combined amounts greater than \$250,000* must be from financial institutions which meet the following qualifications:

- (1) Bank Qualifications – Must be federally insured; Sheshunoff rating must be 30 or better and primary capital must be at least 7% of total assets; and, total assets must be at least \$75 million.
- (2) Savings and Loan Associations Qualifications – Must be federally insured; tangible capital must be at least 3% of total assets and total assets must be greater than \$75 million or tangible capital must be at least 5% of total assets if total assets are less than \$75 million; and, Sheshunoff rating must be 30 or better.
- (3) Other Financial Institutions Qualifications – The letter of credit must be 110% collateralized by an investment instrument that would meet the qualifications for a Nueces County investment; and, the investment instrument must be registered in Nueces County's name and Nueces County must receive safekeeping receipts for all collateral before the letter of credit is accepted.

- (c) The letter of credit shall list as sole beneficiary the Nueces County Judge, in his official capacity, or the Judge's successor in office, and must be approved by the Nueces County Judge. The form of the letter of credit shall be in the format found in Appendix D.

- (d) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under the Rules within this Chapter and upon construction of facilities within

the time stated in the final engineering report or within any extension of time granted by the Commissioners Court.

3.3.3 Amount of Financial Guarantee. Nueces County will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities for the subdivision.

3.3.4 Alternative to Financial Guarantee. Nueces County may approve a final plat without receiving a financial guarantee in the name of the County if:

- (1) The property being subdivided lies wholly within the jurisdiction of the County;
- (2) The property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
- (3) The municipality has executed an interlocal agreement with the County that imposes the obligation on the municipality to accept the bonds, letters of credit, or other financial guarantees that meet the requirements as stated above; execute the construction agreement with the Subdivider; and, assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

II – 3.4 Review and Approval of Final Plats. The review procedures for plats under this Chapter shall be in accordance with those submission and review procedures outlined in **Chapter I** of these Rules. Special review requirements, applicable to plats under the Model Subdivision Regulations, are as follows:

3.4.1 Final Plat Approval. Final plat approval shall not be granted unless the Subdivider has accomplished the following:

- (a) Dedicated the sites for the adequate water and sewerage facilities identified in the final plat to the appropriate retail public utility responsible for operation and maintenance of the facilities; and
- (b) Provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these Rules and the approvals from the Texas Commission on Environmental Quality of the plans and specifications for such construction, including any change orders filed with these agencies; or
- (c) Obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with Nueces County secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in this Chapter.

II – 3.5 Time Extension for Providing Facilities.

3.5.1 Reasonableness. The Commissioners Court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if:

- (1) any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with §364.54 are submitted which will be effective for the period of the extension; and

(2) the Court finds the extension is reasonable and not contrary to the public interest.

3.5.2 Timeliness. If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.

3.5.3 Unreasonableness. An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of this Chapter.

II – 3.6 Criteria for Subdivisions that Occurred Prior to September 1, 1989

This section shall apply only to tracts of land that were divided into two or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded. This section is in addition to the authority of the County to grant a delay or variance pursuant to Local Government Code §232.043 or a rule of the County adopted pursuant to such provision.

3.6.1 Purpose. It is the purpose of this section to promote the public health of the County residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the jurisdiction of this County, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the County.

3.6.2 Required Plat. In the event that the owner of tract of land located outside the limits of a municipality who subdivided the tract into two or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the Commissioners Court, and filed, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the Commissioners Court as provided in this section in lieu of the filing of a plat of the subdivision.

3.6.3 Special Criteria. The Commissioners Court may approve the plat of a residential lot which does not comply with the provisions under this Chapter as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of these Rules so that the public health, safety, and welfare may be secured and substantial justice done.

(a) Owners of individual lots in a single un-platted subdivision may file a joint request for approval of their respective individual residential lots.

(b) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the chapter, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation, which supports the requested approval. The applicant shall also provide such additional documentation as the Commissioners Court may request to support the application, including:

- (1) a copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
- (2) the name and address of the original Subdivider or the Subdivider's authorized agent, if known;
- (3) a survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and

- (4) a deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.
- (c) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the Commissioners Court that:
- (1) the lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original Subdivider;
 - (2) a plat was required for the subdivision, but has not been filed with the County by the Subdivider legally obligated to file it;
 - (3) an existing, currently occupied residential dwelling is located on the lot;
 - (4) existing water and sewer services which comply with the minimum standards set forth herein are available to the lot; and
 - (5) the request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.

3.6.4 Final Determination. The Commissioners Court shall make the final decision on an application for a waiver, following review and recommendation by the Nueces County Department of Public Works. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved by the Commissioners Court, the County shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

DIVISION 4. ENFORCEMENT

II – 4.1 Oversight. The Owner, by submitting a plat, acknowledges the authority of the County and state agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the Owner from any obligation to comply with the requirements of these Rules.

II – 4.2 General Enforcement Authority of County. The provisions of this Chapter are enforceable pursuant to the specific provisions hereof related to enforcement and state law including Water Code, Chapter 7 and §§16.352, 16.353, 16.3535, 16.354, and 16.3545, and Local Government Code, §232.037. Pursuant to Section 232.037 of the Local Government Code:

- (a) The Attorney General, the District Attorney, or County Attorney may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:
 - (1) enjoin the violation or threatened violation of the Model Subdivision Rules adopted under Section 16.343, Water Code;
 - (2) enjoin the violation or threatened violation of a requirement of rules adopted by the Commissioners Court;
 - (3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs, and;
 - (4) require platting or replatting under Section 232.040 of the Local Government Code.
- (b) The Attorney General, at the request of the District or County Attorney with jurisdiction, may conduct a criminal prosecution under Section 232.033(h) or 232.036 of the Local Government Code.

- (c) Criminal penalties begin as Class A Misdemeanors. Civil penalties include fines of not less the \$500.00 or more than \$1000.00 for each violation for each day of a continuing violation.

CHAPTER III GENERAL PLATTING REQUIREMENTS

DIVISION 1. PLAT REQUIRED

III – 1.1 The owner of a tract of land located outside the limits of a municipality *must have a plat of the subdivision prepared and recorded* if the owner divides the tract into two (2) or more parts to lay out:

- (a) A subdivision of the tract, including an addition;
- (b) Lots; or
- (c) Streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

III – 1.2 A division of a tract of land as described above includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey or by using any other method.

III – 1.3 To be filed and recorded in Nueces County, the plat must be prepared in accordance with these Rules, and must describe the subdivision metes and bounds; locate the subdivision with respect to an original corner of the original survey of which it is a part; and, state the dimensions of the subdivision and of each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

III – 1.4 The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

DIVISION 2. EXCEPTIONS TO PLAT REQUIREMENTS

In accordance with Local Government Code, a Subdivision Plat is not required if the owner of a tract of land divides the tract into two (2) or more parts and does not lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, and:

- (a) The land is used primarily for agricultural use as defined by Section 1-d, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use, within the meaning of Section 1-d-1, Article VIII, Texas Constitution; or
- (b) The tract is divided into four (4) or fewer parts and the parts are sold, given, or otherwise transferred to an individual who is related to the owner within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code; or
- (c) All of the lots of the subdivision are more than ten (10) acres in area; or
- (d) All of the lots are sold to veterans through the Veteran's Land Board program; or

- (e) The tract is owned by the State or other state agency, board, or commission or owned by the Permanent School Fund or any other dedicated funds of the State; or
- (f) The owner of the land is a political subdivision of the State, the land is situated in a flood plain, and the lots are sold to adjacent landowners; or
- (g) One new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of these regulations; or
- (h) All parts of the tract are transferred to persons who owned an undivided interest in the original tract, and a plat is filed before any other development of any part of the tract.

If the tract described in Sections 2(a), (b), (c), (d), (e), (f), (g), or (h) ceases to meet the exemption described therein, then platting requirements shall immediately apply.

DIVISION 3. TIMELY APPROVAL OF PLATS

The Plat approval timeline shall be in accordance with Local Government Code §232.0025, and is summarized as follows:

- (a) If an application submission for a Plat is incomplete, the Nueces County Department of Public Works, not later than the tenth (10th) business day from receiving the plat application submission, shall notify the applicant of the missing documents or information. No further action will be taken on the application until all documentation or other information contained in the notice is submitted to the Nueces County Department of Public Works.
- (b) Acceptance by the Nueces County Department of Public Works of a complete plat application shall not be construed as approval of the application or the information or documentation contained therein.
- (c) Except as noted in (e) below, the Nueces County Commissioners Court shall take final action on a plat application, including the resolution of all appeals, not later than the sixtieth (60th) day after receiving a complete plat application submission. (An application submission is considered complete when it contains all information required by these Rules.)
- (d) If the Nueces County Department of Public Works or the Nueces County Commissioners Court disapproves an application submission for a plat, the applicant shall be given a complete list of reasons for disapproval.
- (e) The sixty (60) day period under (c) above:
 - (1) May be extended for a reasonable period, if agreed to in writing by the applicant and approved by the Nueces County Department of Public Works or the Nueces County Commissioners Court;
 - (2) May be extended sixty (60) additional days if Chapter 2007, Government Code, requires the County to perform a takings impact assessment in connection with the plat application; and,
 - (3) Applies only to a decision wholly within the control of the Nueces County Department of Public Works or the Nueces County Commissioners Court.

- (f) The Nueces County Department of Public Works or the Nueces County Commissioners Court shall make the decision under (e)(2) of whether the sixty (60) day period will be extended not later than the twentieth (20th) day after the date a completed plat application is received by the Nueces County Department of Public Works.
- (g) If the Nueces County Department of Public Works or the Nueces County Commissioners Court fails to take final action on the plat as required in (c) above:
 - (1) The Nueces County Commissioners Court shall refund the greater of the unexpended portion of any plat application fee or deposit or fifty (50) percent of a plat application fee or deposit that has been paid;
 - (2) The plat application is granted by operation of law; and;
 - (3) The applicant may apply to a District Court in the County where the tract of land is located for a writ of mandamus to compel the Nueces County Commissioners Court to issue documents recognizing the plat's approval.

DIVISION 4. WATER AND WASTEWATER FACILITIES DEVELOPMENT

III – 4.1 Use of Groundwater

If groundwater is to be the source of the water supply for a public water system, individual wells, or other non-public water systems, a test well or wells located so as to be representative of the quantity and quality of water generally available from the supplying aquifer shall be drilled by the Subdivider and the produced waters sampled and submitted to a private laboratory for a complete chemical and bacteriological analysis of the parameters on which there are drinking water standards. The Subdivider shall have prepared and provide a copy of a groundwater availability study which shall include an analysis of the long term (30 years) quantity of the available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC §290.103, 290.105, 290.106, and 290.110, either:

- (1) without any treatment to the water; or
- (2) with treatment by an identified and commercially available water treatment system.

III – 4.2 On-site Sewerage Facilities (OSSF)

- (a) On-site sewerage facilities, which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than five thousand (5,000) gallons per day, must comply with 30 TAC Chapter 285.
- (b) Proposals for sewerage facilities for the disposal of sewage in the amount of five thousand (5,000) gallons per day or greater must comply with 30 TAC Chapter 317.
- (c) The Texas Commission on Environmental Quality or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366 and rules in 30 TAC Chapter 285, and in

particular §285.4, 285.5 and 285.30-285.39 and the County OSSF Order. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC §285.3(b), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these Rules.

III – 4.3 Final Engineering Report

The final plat shall be accompanied by an engineering report bearing the signed and dated seal of a professional engineer registered in the State of Texas. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision. A detailed cost estimate per lot shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision.

CHAPTER IV CANCELLATION OF SUBDIVISIONS

DIVISION 1. SUBDIVISIONS PLATTED UNDER SUBCHAPTER B

IV – 1.1 If Subchapter B (Model Subdivision Rules) applies, a Subdivider of land will follow the procedure in **Division 2** and provide notice and hearing consistent with the following:

- (a) Notice must be published in Spanish in the newspaper of highest circulation and in a Spanish-language newspaper in the County, if available.
- (b) Not later than the fourteenth (14th) day before the date of the hearing, the county chief appraiser shall by regular and certified mail provide notice containing the information described in IV-2.2 to:
 - (1) each person who pays property taxes in the subdivision, as determined by the most recent tax roll; and
 - (2) each person with an interest in the property.
- (c) The Commissioners Court may require a Subdivider to provide the Court with the name and last known address of each person with an interest in the property. For purposes of the subsection, a person residing on a lot purchased through an executory contract has an interest in the property.

IV – 1.2 A person who fails to provide information requested under Section (c) above before the thirty-first (31st) day after the date the request is made is liable to the State for a penalty of \$500 for each week the person fails to provide the information.

IV – 1.3 A resident of a subdivision for which the Subdivider has applied for cancellation has the same rights as a purchaser of land under this Chapter.

IV – 1.4 The Commissioners Court may cancel a subdivision only after a public hearing. At the hearing, the Commissioners Court shall permit any interested person to be heard. At the conclusion of the hearing, the Commissioners Court shall adopt an order on whether to cancel the subdivision.

DIVISION 2. ALL OTHER SUBDIVISIONS

IV – 2.1 A person owning real property that has been subdivided in this County into lots and blocks or into small subdivisions may apply to the Nueces County Commissioners Court for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the Nueces County Commissioners Court by order shall authorize the Owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must describe the subdivision or the part of it that is cancelled. The Nueces County Commissioners Court shall enter the Order in its Minutes. After the cancellation instrument is filed and recorded in the deed records of the County, the County Tax Assessor-Collector shall assess the property as if it had never been subdivided.

IV – 2.2 The Nueces County Commissioners Court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the County for at least three weeks before the date on which action is taken on the application. The Nueces County Commissioners Court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

IV – 2.3 If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this Division, the Owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the County Tax Assessor-Collector shall back assess the tract on an acreage basis.

IV – 2.4 On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of seventy-five (75) percent of the property included in the subdivision, phase, or identifiable part, the Nueces County Commissioners Court by Order shall authorize the cancellation in the manner and after notice as provided by **IV-2.1** and **IV-2.2** above. However, if the Owners of at least ten (10) percent of the property affected by the proposed cancellation file written objections to the cancellation with the Nueces County Commissioners Court, the grant of an order of cancellation is at the discretion of the Nueces County Commissioners Court.

IV – 2.5 To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:

- (a) abuts directly on the part of the roadway or easement to be canceled or closed; or
- (b) is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to (1) the nearest remaining public highway, county road, or access road to the public highway or county road; or (2) any un-canceled common amenity of the subdivision.

IV – 2.6 A person who appears before the Nueces County Commissioners Court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the Nueces County Commissioners Court Order granting the cancellation.

IV – 2.7 The Nueces County Commissioners Court may deny a cancellation under this section if the Nueces County Commissioners Court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.

CHAPTER V VARIANCES

DIVISION 1. CRITERIA FOR VARIANCE

The Commissioners Court shall have the authority to grant variances from these Regulations when the public interest or the requirements of justice demands relaxation of the strict requirements of these Rules. Factors to be considered by the Court in evaluating a request for variance shall include:

- (a) The actual situation of the property in question in relation to the neighboring or similar properties, such that no special privilege not enjoyed by other similarly situated properties may be granted;
- (b) Whether strict enforcement of the Regulations would deny the Applicant the privileges of safety of similarly situated property with similarly timed development.
- (c) That the granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property or will not prevent the orderly subdivision of the land in the area in accordance with these Regulations; and
- (d) Whether there are special circumstances or conditions affecting the land or proposed development involved such that strict application of the provisions of these Regulations would deprive the applicant the reasonable use of his land and that failure to approve the variance would result in undue hardship to the applicant. Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship.

DIVISION 2. LIMITATIONS UNDER STATE LAW

Except as provided by Section 16.350(d), Texas Water Code, or Section §232.042 or §232.043, Texas Local Government Code, the Commissioners Court may not grant a variance or adopt any regulations that waive any requirements of Subchapter B of chapter 232 of the Texas Local Government Code.

A variance or delay from compliance with the requirements of Texas Local Government Code §232.040 may be granted as provided by Texas Local Government Code §232.042.

DIVISION 3. APPLICATION FOR VARIANCE

An application for a variance shall be made in writing to the Nueces County Department of Public Works. The application shall state specifically which chapter, section, or subsection from which a variance is being requested and shall contain all information which the Subdivider feels supports the requested variance. The applicant may withdraw a request for a variance at any point in the process.

DIVISION 4. DISCRETION TO GRANT VARIANCES

The decision of the Commissioners Court whether to grant or deny a variance is at its complete discretion, and will be final. The full extent of the reasons for such a variance, when granted, shall be duly recorded in the Minutes of the Commissioners Court.

DIVISION 5. NOTATION OF VARIANCE ON PLAT

Any variance granted shall be noted on the face of the plat, along with the date such variance was granted, prior to the recording of the plat.

CHAPTER VI

ENGINEERING GUIDELINES

DIVISION 1. INTRODUCTION

VI – 1.1 General Principles and Criteria.

- 1.1.1 For tracts of land located within the ETJ of an incorporated city or town and subject to the jurisdiction of the governing body of that city or town, general subdivision and layout requirements as established by the applicable governing body shall apply. In the circumstance where any rule, regulation, procedure or policy lawfully or officially adopted by the governing body of any city or town exercising jurisdiction within its ETJ is less restrictive than that contained herein, the standards adopted by these Rules and applicable State law shall apply.
- 1.1.2 For all other tracts not located within a municipality's ETJ or for which the municipality has issued a written certification stating that a plat is not required to be filed for that subdivision of land in accordance with Chapter 212 of the Texas Local Government Code, the following rules and design requirements shall apply:
- (a) The subdivision layout shall make reasonable provisions for development of adjacent land.
 - (b) Duplication of subdivision names is prohibited.
 - (c) The names of proposed streets shall conform to the names of existing streets of which they may be, or become extensions of, and shall not duplicate or conflict with the recognized name of any other street located in the area subject to these regulations.
- 1.1.3 All material used and construction methods employed in the construction of the subdivision shall conform to the Texas Department of Transportation Standard Specifications For Construction And Maintenance Of Highways, Streets & Bridges, latest edition.

VI – 1.2 Classification of Roadways. Streets are classified as follows:

- 1.2.1 **Arterial Road or Street** – A principal traffic artery, carrying higher volumes of traffic, more or less continuously, which is intended to connect remote parts of the area adjacent thereto and to act as a principal connecting street with state highways.
- 1.2.2 **Collector Road or Street** – A street or road providing for travel between local streets and the arterial street network, or serving multi-family development or neighborhood centers or services such as schools, parks or fire stations.
- 1.2.3 **Local Road or Street** - A street or road used primarily for access and circulation to abutting residential properties and which is intended to serve traffic within a limited area.
- 1.2.4 **Alley** - A joint use access which is used only for secondary access to individual properties which otherwise have primary access from an adjacent public street or approved common open space or courtyard which is adjacent to a common street.

1.2.5 **Cul-de-sac** – A short public street having only one opening or access to another public street and which is terminated by a permanent vehicular turnaround.

1.2.6 **Dead-End Road or Street** - That portion of a public street which initially has only one opening or access to another public street, but which will be extended at a later date.

DIVISION 2. LOTS

VI – 2.1 In general, the lot design shall provide for lots of adequate width, depth, and shape to provide open area, to eliminate over-crowding, and to be appropriate for the location of the subdivision and for the type of development and use contemplated.

VI – 2.2 Other specifics required include the following:

- (a) Lots shall have the side lot lines at right angles to the roads or streets on which the lot faces, or radial to curved street lines.
- (b) Lots shall be a minimum of five thousand (5,000) square feet and of sufficient acreage to meet minimum requirements for on-site sewer service; if applicable.
- (c) For lots which are in a floodplain, the floodplain area of each lot shall be subtracted from the overall lot size to determine minimum lot size.

VI – 2.3 Lots shall have the following minimum building or set-back lines:

- (a) Arterial roads and state highways – 50 feet
- (b) Collector and Local roads – 25 feet
- (c) Cul-de-sacs and street knuckles – 20 feet
- (d) Adjacent property lines – 5 feet

The above distances are not intended to allow the encroachment of buildings within drainage, utility, or other easements.

DIVISION 3. ROADWAY GEOMETRICS

VI – 3.1 Road and Streets

3.1.1 **Street Layouts and Geometrics.** The street pattern of a neighborhood shall provide adequate circulation within the subdivision and yet discourage excessive through traffic on minor or local streets. The arrangement, character, extent, width, grade, and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience, and to the proposed uses of the land to be served by such streets.

- 3.1.1(a) If any portion of a collector or arterial street traverses any part of the land being subdivided, that portion of the arterial or collector street, as planned at the proposed right-of-way width, shall be incorporated in the subdivision plat and shall be dedicated to the appropriate governmental entity.
- 3.1.1(b) The street layout shall be designed for the most advantageous development of the entire neighborhood and shall conform to connecting streets in land adjacent to the new subdivision. Provisions shall be made within the subdivision to provide street access to adjacent undeveloped acreage in such a way as to assure adequate circulation for future development.
- 3.1.1(c) Dead-end streets and those which do not conform to adjacent streets are to be avoided whenever possible.
- 3.1.1(d) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
- 3.1.1(e) The street layout shall be so designed, insofar as practicable, to preserve natural features such as trees, brooks, hilltops, scenic views and other such features.
- 3.1.1(f) The street layout shall provide for the acceptable disposal of storm water, and provision shall be made by the Developer to plan for drainage in accordance with the rules and procedures herein stated (see **Division 4**, this chapter).
- 3.1.1(g) **Road Right-of-Way Widths.** Minimum right-of-way widths for public roads applicable to the subdivision are identified in Table VI-1.

Where proposed streets are extensions of existing or planned streets having a right-of-way width greater than that specified herein, the proposed streets shall be the same width as the existing or planned streets. Where the proposed subdivision abuts upon an existing street that does not conform to these width requirements, the Subdivider shall dedicate right-of-way sufficient to provide for the full right-of-way width. Alleys are not permitted, unless required by a municipality exercising jurisdiction over the subdivision within its ETJ. Where required by a municipality, alleys shall conform to the municipality's requirements.

Table VI-1 – Minimum Public Road Right-of-Way	
Road Classification	Width
Arterial	100 ft
Collector	80 ft
Local	60 ft

3.1.1(h) **Curves.** The minimum centerline radius on curves applicable to the proposed subdivision are shown in Table V1-2:

Table V1-2 – Minimum Radius on Curves	
Road Classification	Minimum Radius
Arterial	As approved by Nueces County Department of Public Works
Collector	800 ft
Local	100 ft

The minimum tangent distance between reverse curves shall be designed to AASHTO criteria.

3.1.1(i) **Centerline Grade.** The minimum grade of a street shall be 0.5% and the maximum grade of a street shall be 5.0% unless otherwise approved by the Nueces County Department of Public Works.

3.1.1(j) **Offsets.** Street centerlines, if offset, must be offset a minimum distance of one hundred and twenty-five (125) feet on centerline. Offset distances shall be indicated on the final plat.

3.1.1(k) **Intersections** - All streets and alleys are to intersect at a ninety (90) degree angle, with departures of more than twenty (20) degrees subject to approval by the Nueces County Department of Public Works upon evidence of good cause. Corners are to have a corner clip or radius as shown in Table VI-3.

Acute angle intersections, as may be approved, are to have thirty (30) foot additional radii at acute corners. A street or alley intersecting with or extending to meet an existing street or alley, will be tied to the existing street or alley on centerline, with dimensions and bearings to show the relationship.

Table VI-3 – Minimum Corner Clip or Radius	
Road Classification	Length
Arterial	50 ft
Collector	25 ft
Local	25 ft

3.1.1(l) **Cul-De-Sac Streets.** Specific requirements for cul-de-sac streets include the following:

- (1) Turn-arounds are to have a minimum right-of-way radius of fifty (50) feet for single family use where curbed and guttered; a radius of sixty (60) feet for single family use where a rural section is utilized; and a one hundred (100) feet radius for apartment, commercial, or other uses.

- (2) Temporary turn-arounds, conforming to the minimum radii requirements, are to be used where improvements are not installed at the end of a street that will be extended in the future. The following note shall be provided on the Final Plat when a temporary turn-around is used: "*Cross-hatched area is temporary easement for turn-around until street is extended (direction) in a recorded plat.*"

3.1.1(m) Street Knuckles. Where an intersection between two streets occurs to form an approximately ninety (90) degree intersection, and where there are no future plans to extend the street or streets to form a tee intersection or a four-way intersection, the intersection shall be designed with a street knuckle.

The use of street knuckles shall be limited to use on local streets.

The minimum radius of the paved area of a street knuckle shall be forty (40) feet.

3.1.1(n) Pavement Width. The minimum pavement widths are listed in Table VI-4.

Table VI-4 – Minimum Pavement Widths	
Road Classification	Width
Arterial	48 ft
Collector	30 ft
Local	24 ft

3.1.2 Blocks. The minimum and maximum block length are three hundred (300) feet and one thousand six hundred (1,600) feet respectively, as measured along the center of the block street.

3.1.3 Pavement Structure. The minimum pavement structure is shown in Table VI-5.

Table VI-5 – Minimum Pavement Structure			
Road Classification	Subgrade	Base	Surface
Arterial	Design based upon anticipated traffic type and volume.		
Collector	8" Lime-treated or Geogrid	10" Crushed limestone (TyAGR1)	Two course surface treatment
Local	6" Lime – treated or Geogrid	8" Crushed limestone (TyAGR1)	Two course surface treatment

The subgrade shall be scarified and compacted (including any stabilization treatment) a minimum of two (2) feet beyond the edge of pavement or two (2) feet behind any curb and gutter, whichever is greater.

The Base material shall extend a minimum of one (1) foot beyond the edge of pavement or one (1) foot behind any curb and gutter, whichever is greater.

The pavement cross slope shall be 2.0%.

3.1.4 Signing. Signing for streets shall be in accordance with the following:

3.1.4(a) Street Signs. The developer, owner or owners shall provide and erect two (2) street or road name signs at each road intersection. The signs, posts, and mounting hardware shall be in conformance with the Texas Manual on Uniform Traffic Control Devices (latest edition).

3.1.4 (b) Traffic Control Signs. The developer, owner or owners shall provide temporary (during construction) and permanent traffic control devices (signs, signals, pavement markings and delineation) in accordance with the Texas Manual on Uniform Traffic Control Devices (latest edition). A traffic control plan and permanent traffic control devices layout signed and sealed by a registered professional engineer in the State of Texas, shall be provided by the developer, owner or owners.

VI – 3.2 Access Driveways

3.2.1 Access Driveways. The design and installation of access driveways connecting to roads which are, or will be, maintained by Nueces County will be the responsibility of the subdivision developer. The location and design of access driveways, including the sizing of culverts, shall be shown on the roadway plans, or as a separate design document if no roads are to be built. The subdivision developer shall provide for the installation of access driveways during the construction of the subdivision infrastructure. Alternatively, if access driveways are not constructed during the construction of the subdivision infrastructure the developer shall provide the driveway design to the purchasers of the subdivision lots, along with instructions to contact the Nueces County Department of Public Works for approval of the proposed driveway location.

3.2.2 Location of Access Driveways. The location of access driveways shall be selected to provide maximum safety for both roadway traffic and users of the driveway. The location of access driveways shall be determined based upon traffic volume, speed limit, turning volume, presence or absence of paved shoulders, roadway geometrics, and sight distance. All parts of access driveways, including the radii, shall be confined within the lot's property frontage. Access driveways shall not be installed near the intersection of two public roads. The minimum distance from the radius return should be twenty-five (25) feet. The angle of access driveways from the roadway should be ninety (90) degrees.

3.2.3 Maintenance of Access Driveways. Maintenance of access driveways is the responsibility of the property owners; however Nueces County may assist with the maintenance of private, access driveways when performing maintenance or repair on the adjacent roadway. Any driveway facility which is destroyed or removed by Nueces County due to maintenance or reconstruction of the adjacent roadway will be replaced or reconstructed to a condition equal to, or better than, the original facility. This work will be done at no cost to the property owner. Nueces County reserves the right to perform any operation, on that portion of an access driveway within the County right-of-way, that is necessary to protect the safety of the public and/or preserve the integrity of the roadway.

- 3.2.4 Driveway Width.** The width of private driveways should not exceed twenty-four (24) feet, measured at right angles to the centerline of the driveway, except as increased by permissible radii. The width of commercial driveways should not exceed forty-five (45) feet, measured at right angles to the centerline of the driveway, except as increased by permissible radii.
- 3.2.5 Driveway Drainage Structures.** All culvert pipe shall be constructed of reinforced concrete pipe and shall be circular in cross section. The minimum diameter of pipe shall be eighteen (18) inches. The minimum height of cover for driveway pipe culverts shall be six (6) inches. The length of pipe shall be adequate to allow the front slope of the driveway to have a 6:1 slope. Where two or more driveways are located adjacent to each other it is desirable to place a continuous run of pipe under and between the driveways to eliminate the depression between the driveways. Separation of the driveways must be maintained by means of unpaved areas or other means. When the total length of pipe is one hundred and twenty (120) feet or greater the installation of a cleanout (manhole or drop inlet) is required. If the drainage structure is to be constructed using box culverts the same requirements for front slopes and installation of cleanouts, as shown for pipes, will apply.
- 3.2.6 Placement of Driveway Drainage Structures.** Pipe or box culverts shall be placed in line with the flow line of the roadway ditch. The flow line of the pipe or box culvert shall be placed four (4) inches below the flow line of the ditch.
- 3.2.7 Driveway Pavement.** A Typical Section for driveways shall be included in the roadway construction plans if driveways are to be constructed at the time the roadway is constructed. Driveways may be paved with a two (2) course surface treatment, hot mix asphalt concrete, or reinforced Portland cement concrete. If reinforced Portland cement concrete is to be used the concrete shall not be placed closer than eight (8) feet from the edge of the roadway pavement. At the right-of-way line there shall be a pre-mold or board joint. The driveway pavement between the concrete driveway and the edge of pavement should be constructed to match the cross section of the roadway.

DIVISION 4. DRAINAGE

VI – 4.1 General. Storm water drainage facilities shall be designed and constructed to accommodate the design storm event shown in Table VI-6.

Table VI-6 – Minimum Drainage Standards	
DRAINAGE COMPONENT	DESIGN STORM EVENT FREQUENCY (Years)
ARTERIAL ROAD	
Storm water contained within adjacent ditch	25
Storm Water below adjacent habitable structures	100
Drainage Structures/Channels	25
COLLECTOR ROAD	
Storm water contained within adjacent ditch	10
Storm Water below adjacent habitable structures	100
Drainage Structures/Channels	25
LOCAL ROAD	
Storm water contained within adjacent ditch	5
Storm Water below adjacent habitable structures	100
Drainage Structures/Channels	25

The storm water drainage facilities shall be designed to:

- (a) Account for both on-site and off-site storm water, including water entering the subdivision.
- (b) Honor natural drainage divides.
- (c) Convey storm water to a stream, channel, or drainageway.
- (d) Discharge the design flow into an existing facility of sufficient capacity to receive the discharge.
- (e) Convey the design flow without overtopping or eroding the channel.

- (f) Not adversely affect adjacent or downstream properties.
- (g) Must conform to applicable County regulations concerning storm water discharge and quality.
- (h) If the subdivision will include the construction of a dam, or the inclusion of an existing dam, the Subdivider must adhere to the current State regulations and requirements for dam safety.

VI – 4.2 Off-site Storm Water Management. The following minimum criteria shall apply to protect drainageways and property downstream of the subdivision due to increases in the volume, velocity, or peak flow rate of storm water runoff.

- (a) Concentrated storm water runoff leaving the subdivision must be discharged directly into a well-defined receiving channel.
- (b) Unconcentrated sheet flow which may cause erosion or sedimentation shall be diverted to a stable outlet or detention facility.
- (c) Existing receiving channels will be considered adequate where:
 - (1) The total contributing drainage area to the receiving channel at the point of access is at least one hundred (100) times greater than the drainage area of the subdivision; or
 - (2) The peak rate of runoff from the subdivision will not increase after the site is developed.
 - (3) The design storm can be adequately conveyed by the receiving channel.
- (d) In the event a receiving channel does not conform to the above requirements the Subdivider shall:
 - (1) Improve the downstream receiving channel or channels, extending downstream until an adequate channel section is reached; or
 - (2) Develop a site design that will not cause an increase in the existing predevelopment peak runoff; or
 - (3) Provide a combination of channel improvements and storm water detention.

VI – 4.3 Floodplains. If any portion of the subdivision contains an area which is within a floodplain, as designated on the FEMA Flood Insurance Rate Map for Nueces County, the following requirements will apply.

- (a) Permanent type benchmarks shall be set in appropriate locations with the description and elevation shown on the plat. The elevation of the benchmark shall be tied to a benchmark shown on the FIRM panel.
- (b) A note shall be placed on the plat stating, "A floodplain development permit will be required from the Nueces County Department of Public Works for any construction in the floodplain."
- (c) The subdivision construction and development shall be consistent with the latest Nueces County regulations for development within floodplains.

- (d) Contours at one (1) foot intervals shall be shown on the plat.
- (e) For lots which are in a floodplain see Section VI-2.2 (c).
- (f) The finished floor elevation must be shown for each lot located in the floodplain.
- (g) Streets and utilities shall be located to eliminate or minimize encroachment in floodplains and not restrict the conveyance of flood waters.

VI – 4.4 Drainage Easements. Drainage easements shall be shown along all natural drainageways and along drainageways constructed in conjunction with the subdivision, including outfall channels constructed outside of the subdivision. The following requirements shall apply:

- (a) Drainage easements shall be a minimum of thirty (30) feet in width, fifteen (15) feet each side of the centerline of the drainageway.
- (b) Restrictions on the use of the drainage easements shall be noted on the Final Plat as follows:

“This easement shall be kept clear of fences, buildings, plantings, and other obstructions to the operation and maintenance of the drainage facility.”

VI – 4.5 Drainage Plan. A detailed hydrologic and hydraulic analysis/design shall be prepared, signed and sealed by an engineer registered to practice in Texas. The Drainage Plan shall include:

- (a) Documentation and calculations of the quantity of runoff for the subdivision.
- (b) A topographic map showing contours within the subdivision.
- (c) All drainage areas which will contribute runoff into the subdivision.
- (d) A drainage layout depicting the proposed finished elevations of roadway centerlines, edge of pavement, drainageway flow lines, and edge of right-of-way of all roads and drainageways.
- (e) The one hundred (100) year contour elevation if any portion of the subdivision is in a floodplain.

VI – 4.6 Bridge Class Structures. Any bridge class structure (20 feet or more between abutments, backwalls, or extreme ends of openings) shall have a minimum clear roadway width of twenty-eight (28) feet, measured at right angles to the roadway centerline. For bridges which will be maintained by Nueces County a separate set of bridge plans shall be prepared. Upon completion of construction a set of Final Plans shall be prepared showing the structure as actually built, including the depth of the drill shafts, piling, footings, etc. The Final Plans shall be signed and sealed by a professional engineer registered in the State of Texas and furnished to the Nueces County Department of Public Works.

VI – 4.7 Pipe Culverts. All pipe culverts shall be constructed of reinforced concrete pipe meeting ASTM C76, Class III. The minimum pipe diameter shall be eighteen (18) inches.

VI – 4.8 Open Channels. The channels shall be designed to provide a minimum of six (6) inches of freeboard when conveying the design storm. The channel side slopes should be sloped at 3:1 (Horizontal to Vertical) or flatter. For grass-lined channels the maximum design velocity shall be four (4) feet per second unless erosion control methods are incorporated into the design of the channel.

VI – 4.9 Hydrology. The Rational Method shall be used to determine storm water runoff.

The Rational Method equation is:

$$Q = CIA$$

Where Q = amount of runoff in cubic feet per second (cfs)

C = Runoff Coefficient

I = rainfall intensity in inches per hour, for a duration equal to the time of concentration.

A = drainage area in acres

Suggested Values of Coefficients of Runoff (c)	
Type of Drainage Area	Coefficients of Runoff, c
Paved surfaces	0.8 - 0.9
Bare earth	0.2 - 0.8
Turf meadows	0.1 - 0.4
Cultivated fields	0.2 - 0.4
Forested areas	0.1 - 0.2

DIVISION 5. MISCELLANEOUS

VI – 5.1 Utilities. Any utility installation placed within either road rights-of-way or drainage easements shall be installed in conformance to the Nueces County regulations for Accommodation of Utility Facilities Within County Rights-of-Way. Any utilities which are installed contemporaneously with the roadways and drainage channels shall be shown on the developer's infrastructure construction plans. The plans shall indicate the exact location of the utilities by showing depth, distance from the right-of-way line, length of casing, etc.

5.1.1 Easements. The location and width of utility easements shall be determined by the public and private utility companies and shall connect with easements established in adjoining properties. Easements shall not be less than fifteen (15) feet in width. There also shall be shown on the plat and dedicated for utilities, unobstructed aerial

easements and guy wire easements as may be required for overhead facilities. Easements as set forth in any applicable County or regional plan for the location of future sewerage or utility facilities shall be provided and indicated upon the plat.

In rural areas where the future utility needs have not yet been established, easements will be dedicated along all rear lot lines and along side lot lines as deemed necessary.

IV – 5.2 Survey Monuments. Monuments shall be permanent in nature and suitable for the purpose intended. Concrete monuments are recommended at subdivision corners, and each lot and block corner shall be marked by not less than one-half (1/2) inch in diameter by twenty-four (24) inches long reinforcing rod set at or below the existing ground level. At least two (2) concrete monuments shall be located at readily accessible sites within each subdivision. In the event that a roadway is to cover an original survey corner, a marker shall be set on an offset at the right-of-way line. Such marker to be made of six (6) inch diameter concrete and three (3) feet long. The top of the marker shall be flush with the ground and have a brass plate with an "X" on it. In addition to this a three (3) foot pipe with a minimum diameter of one (1) inch shall be set six (6) inches below the ground in the right-of-way line and approximately twenty (20) feet from the concrete marker. These markers shall be shown on the plat with the angle and distance to the original survey corner. Monuments shall be set by or under the supervision of a registered professional land surveyor prior to presentation of the Final Plat.

DIVISION 6. CONSTRUCTION

VI – 6.1 Preconstruction

- 6.1.1 Prior to the beginning of construction the Nueces County Department of Public Works shall be provided with a listing of the source of base material, asphalt, aggregate, concrete pipe, and any other material to be incorporated into the roadways or drainageways.
- 6.1.2 The listing of material sources shall be accompanied by test results or certifications showing that the material meets the pertinent specifications. The Subdivider shall bear the costs of these tests.
- 6.1.3 The material shall not be incorporated into the work until written approval is issued by the Nueces County Department of Public Works.

VI – 6.2 Construction Testing and Inspection

- 6.2.1 During construction the Subdivider shall employ an independent testing laboratory that normally performs tests on road and street construction to sample and conduct tests as required by the specifications and/or as shown in Table VI-7, Schedule of Sampling and Testing.

The Frequency of Testing in Table VI-7 shall govern over any testing frequency in the specifications.

The Subdivider shall bear the cost of the testing required by Table VI-7 and the specifications.

- 6.2.2 The test results shall be furnished to the Nueces County Department of Public Works.
- 6.2.3 The County reserves the right to inspect any and all portions of the work.

- 6.2.4 The County, at its entire discretion and expense, may conduct sampling and testing of the material to be incorporated into the work or to the completed work.
- 6.2.5 The County, at its entire discretion and expense, may check elevations, lines, or grades of the roadways and drainageways.
- 6.2.6 The Subdivider shall address, in a timely manner, any failing test or inspection finding which significantly deviates from the plans and specifications, unless otherwise approved by the County Engineer.

Table VI-7 – Schedule of Sampling and Testing		
Material	Test For	Frequency of Testing
Tested or Untreated Subgrade	Compaction	Each 1000 L.F.
	Thickness	Each 1000 L.F.
Treated or Untreated Base	Gradation	Each 1000 C.Y.
	Compaction	Each 1000 L.F.
	Thickness	Each 1000 L.F.
Aggregate for Surface Treatment	Gradation	Each 200 C.Y.

VI – 6.3 Construction Operations

- 6.3.1 Prior to the beginning of construction the Subdivider shall provide written notice to the Nueces County Department of Public Works. The notice shall include:
 - (a) The anticipated date of beginning of construction,
 - (b) The anticipated duration of construction,
 - (c) The source of all material to be incorporated into the work,
 - (d) The name, address, and telephone number of the engineer, and
 - (e) The name, address, and telephone number of the contractor.

- 6.3.2 All omissions, discrepancies, or variations from the plans and specifications shall be corrected, unless otherwise approved by the County Engineer.
- 6.3.3 The County Engineer will decide all questions as to quality and acceptability of the work. The County Engineer's decision will be final.
- 6.3.4 Upon completion of the work a written request for final inspection shall be sent to the Nueces County Department of Public Works. A final inspection will be conducted as soon as possible, but not later than twenty (20) calendar days after receipt of the written request.

After final inspection, if the work is satisfactory, the County Engineer will notify the Subdivider in writing. If the final inspection finds any work to be unsatisfactory, the County Engineer will identify in writing all deficiencies in the work requiring correction. Upon correction, the County Engineer will make an inspection to verify that all deficiencies were corrected satisfactorily and provide written notice to the Subdivider.

VI – 6.4 Final Plans

- 6.4.1 Upon completion of construction the Subdivider shall furnish the Nueces County Department of Public Works a certification, signed and sealed by the Subdivider's engineer, that the work was performed under his direction and is in conformance to the plans and specifications.
- 6.4.2 The Subdivider shall furnish the Nueces County Department of Public Works a set of Final Plans which show the work as actually constructed, signed and sealed by the Subdivider's engineer.

DIVISION 7. ACCEPTANCE OF ROADWAYS

- VI – 7.1 The acceptance of roadways for maintenance by the County will occur only upon an affirmative vote of the Commissioners Court.
- VI – 7.2 The Commissioners Court will consider the acceptance of roadways for maintenance only when the following conditions have been met:
 - (1) The roads and drainageways have been constructed in accordance with the approved plans and specifications,
 - (2) The Final Plans, certifications and other reports and agreements required by these rules have been furnished to the Nueces County Department of Public Works,
 - (3) The construction has been inspected and approved by the County Engineer,
 - (4) The Subdivider has submitted a letter to the Nueces County Department of Public Works requesting the County acceptance of the roadways for maintenance.
- VI – 7.3 The Subdivider shall remain responsible for all maintenance and repair of the streets and roads constructed as part of the subdivision until the date designated in formal action by Commissioners Court.

CHAPTER VII

DIVISION OF LAND FOR MANUFACTURED HOME RENTAL COMMUNITY

DIVISION 1. GENERAL AND ADMINISTRATIVE PROVISIONS

VII-1.1 Applicability. In accordance with Local Government Code §232.007, no formal plat shall be required for a manufactured home rental community. For the purposes of these Rules, a “manufactured home rental community” (MHRC) means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, exclusively for the installation of manufactured homes for use and occupancy as residences.

VII-1.2 General Requirements. The developer, owner or owners of a tract of land proposed to be developed as a MHRC shall prepare an Infrastructure Development Plan (IDP) and associated Engineering Report prepared by a professional engineer registered in the State of Texas to be submitted to the Nueces County Department of Public Works. Review and approval of the MHRC IDP shall be timely and in accordance with **Section 3.3** below.

DIVISION 2 – MINIMUM STANDARDS

VII-2.1 MHRC IDP Design Standards. Development of the MHRC IDP shall include, at a minimum, the following design standards:

- 2.1.1 Streets.** There shall be a minimum sixty (60) feet fronting a street or roadway which has been previously dedicated to the public for the public’s use and benefit as a street or roadway. Access roads to the individual rental spaces must be constructed and paved to a minimum width of twenty (20) feet. The pavement structure shall include:
- (a) One and one-half inches (1-1/2 in) thick hot mix asphaltic concrete (HMAC) paved surface, eight inches (8 in) thick crushed stone base, and if located in clay or sandy soils, a ten inch (10 in) thick treated subgrade; or
 - (b) An alternative pavement structure as designed by a professional engineer registered in the State of Texas.
- 2.1.2 Rental Space.** No space may contain more than one (1) single family residential unit. Each space shall have separate and individual access; no common driveways will be allowed.
- 2.1.3 Emergency Access.** Layout and design of access roadways shall accommodate fire and emergency vehicles.
- 2.1.4 Traffic Control Devices.** All traffic control (signing, markings, etc.) shall be prepared by a professional engineer registered in the State of Texas, and shall be in accordance with the Texas Manual on Uniform Traffic Control Devices.

- 2.1.5 **Drainage.** An adequate drainage plan shall be designed and prepared by a professional engineer registered in the State of Texas, including the design of drainage facilities, culverts, and/or systems using a minimum ten (10) year storm frequency (unless otherwise directed by the Nueces County Department of Public Works), such that the drainage out of the MHRC does not have a negative drainage impact on neighboring properties.
- 2.1.6 **County Road Right of Way.** If the MHRC is adjacent to a County road, and if additional right-of-way is required for an existing County road for drainage and access as determined by the County Engineer, the owner shall dedicate these rights-of-way to the County.
- 2.1.7 **Water and Wastewater.** All water and wastewater design shall be prepared by a professional engineer registered in the State of Texas, and shall be in accordance with industry standards and the Texas Commission on Environmental Quality.

DIVISION 3 – STANDARD SUBMISSION AND REVIEW PROCEDURES

VII-3.1 MHRC IDP Submittal Package Requirements. The MHRC IDP shall include the following minimum requirements.

3.1.1 MHRC IDP Preliminary Submittals. Preliminary submittals shall include the following:

- (a) A survey of the property shall be submitted to the Nueces County Department of Public Works prior to the request by the owner or occupier of the lot for any permit and/or utility services.
- (b) The owner shall submit a letter of application, signed by the owner, that stipulates the intention of the owner; name, address, phone number of the owner; names of water and electricity providers; and name of wastewater provider or type and usage of on-site sewerage facility.

3.1.2 MHRC IDP Layouts. The drawings associated with the MHRC IDP shall include, at a minimum, the following:

- (a) The drawings shall be on eighteen (18) inches x twenty-four (24) inches plan sheets at a maximum scale of one (1) inch = one hundred (100) feet.
- (b) If more than two (2) sheets are needed, an index of sheets shall be provided on the first sheet.
- (c) Names, locations, dimensions (bearings and distances), and layouts of existing and proposed streets, alleys, easements, and other public rights-of-way and public / private encumbrances (deed restrictions, etc.) on the property and any proposed street right-of-way, easement, alley, park, or other public dedication.
- (d) Dimensions, bearings and distances, of the proposed rental spaces.
- (e) Signatures and date of approval and certifications as required under these Rules. These approval signatures shall be not more than six (6) months prior to the submission. Examples of the required acknowledgments and certifications are as contained in Appendix C.

- (f) Legal description, acreage, and name of the proposed MHRC. The proposed MHRC's name shall not be spelled or pronounced similarly to the name of any existing MHRC or subdivision located within Nueces County.
- (g) The boundary of the MHRC shall be indicated by a heavy line and described by bearings and distances.
- (h) The scale, legend, north arrow, spot elevations on one hundred (100) feet or an appropriate grid, with two (2.0) foot contour lines. Alternate contour intervals may be submitted, based on terrain, with approval from the Nueces County Department of Public Works.
- (i) Deed record, name of owner, volume and page number of adjoining properties.
- (j) Dates of survey and preparation of MHRC IDP.
- (k) Identification code, location, description, and elevation of USGS or appropriate benchmark used in the survey.
- (l) Front building setback lines; back and side building setback lines by note.
- (m) Location of any City's corporate limit line or ETJ line.
- (n) Vicinity map with streets, ditches, general drainage flow directions to the ultimate outfall, city limits and ETJ's, and other major land features.
- (o) Net area (gross area less easements) of rental spaces to the nearest one hundredth (1/100th) of an acre for lots using OSSF and / or well water.
- (p) Limits of flood hazard areas as defined by the appropriate FEMA FIRM panel and the proposed finished floor elevation of buildings within these flood hazard areas on each space.
- (q) A certification by a surveyor or engineer describing any area of the MHRC that is in a flood plain or stating that no area is in a flood plain, as delineated by the appropriate FEMA FIRM panel and date.
- (r) A surveyor's signature and seal on the MHRC IDP for certification.
- (s) The description of the water and sewer facilities, electricity and gas utilities, and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to serve the MHRC and a statement of the date by which the facilities will be fully operable, prepared by an engineer (may be included in an attached document). A certification must be included that the water and sewer facilities described by the MHRC IDP, or document attached to the MHRC IDP, are in compliance with these Rules.
- (t) Approvals by other regulatory and governing bodies, as required

3.1.3 MHRC IDP Attachments. The MHRC IDP submittal shall also include the following documents:

- (a) Letters signed and dated from water, wastewater, and electric utilities of service commitment and availability and statement of approval of existing and proposed utility easements.
- (b) A tax certificate showing that all taxes currently due with respect to the original tract have been paid.
- (c) Results of a soils analysis certified by a qualified site evaluator (as defined by 30 TAC Chapter 285) for on-site sewage facilities.
- (d) Engineering plans, specifications and estimates for construction of proposed water and wastewater facilities.
- (e) Engineering plans, specifications and estimates for construction of roadway access to each rental space for fire and emergency vehicles.
- (f) Engineering plans, specifications and estimates for construction of proposed street improvements and associated traffic control and signing.
- (g) Engineering plans, specifications and estimates for construction of adequate drainage off of the rental spaces to drainage channels and out of the MHRC, including the design and construction of drainage facilities, culverts, and/or systems using a ten (10) year storm frequency, such that the drainage out of the MHRC does not have a negative drainage impact on neighboring properties.
- (h) An Engineering Report, as described in **Section 3.2** below.
- (i) An electronic submission, in the form of a computer disk or CD-ROM with a file in AutoCAD format (.dwg) of the layout of the lots and streets (to scale and with state plane coordinates) within the MHRC shall be submitted for incorporation into the County-wide map.

VII-3.2 MHRC Engineering Report Submittal Package Requirements. The MHRC Engineering Report shall be signed, dated, and sealed by a professional engineer registered in the State of Texas, and shall contain detailed and definitive information on the following:

3.2.1 Water Supply

3.2.1(a) Water Supply – Public Water Systems. If the water supplier is a political subdivision of the state: a city, municipality, utility district, water control and improvement district, nonprofit water supply corporation, etc., the developer, owner or owners shall furnish a signed letter of service availability from the water supplier to provide the State's minimum requirements of quality and quantity of water to the proposed MHRC.

Where there is no existing facility or owner intending to construct and maintain the proposed water supply facilities, the developer, owner or owners may establish an investor-owned utility or create a municipal utility

district and obtain a Certificate of Convenience and Necessity (CCN) from the Texas Commission on Environmental Quality and include evidence of the CCN issuance for the MHRC. Prior to IDP approval, plans and specifications for the construction of the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed MHRC and facilities, including the Texas Commission on Environmental Quality.

Water service must be extended into the MHRC to each lot or rental space if the existing water lines are located within three hundred (300) feet of the MHRC and if there is sufficient water available by the water supplier.

3.2.1(b) Water Supply – Private Wells or Non-Public Water Systems. Quantitative and qualitative results of sampling test wells in accordance with requirements promulgated by the Texas Commission on Environmental Quality and the Texas Department of Health shall be included where individual wells are proposed for the supply of drinking water to residences and other establishments. The results of the analyses shall be made available to the prospective property owners or renters.

3.2.1(c) Water Supply - Other Approvals. Prior to IDP approval, plans and specifications for the construction of the proposed water facilities system shall have been approved by all entities having jurisdiction over the proposed MHRC, including the Texas Commission on Environmental Quality. Evidence of the approvals shall be included in the MHRC Engineering Report.

3.2.2 Wastewater Disposal Facilities

3.2.2(a) Wastewater Disposal Facilities – Centralized Sewerage Facilities. If wastewater treatment is provided by a political subdivision of the State: city, municipality, utility district, water control and improvement district, nonprofit water supply corporation or an existing investor-owned water supply corporation, etc., the developer, owner or owners shall furnish a signed letter of service availability to provide the State's minimum wastewater treatment standard for the proposed MHRC from the utility. Where there is no existing entity or owner to build or maintain the proposed wastewater treatment and collection facilities, the developer, owner or owners may establish an investor-owned utility or a municipal utility district by obtaining a CCN from the Texas Commission on Environmental Quality. Prior to IDP approval, an appropriate permit to treat and/or dispose of wastes for the ultimate build-out of the MHRC shall have been obtained from the Texas Commission on Environmental Quality and plans and specifications for the construction of the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed MHRC, including the Texas Commission on Environmental Quality. Evidence of the approvals shall be included in the MHRC Engineering Report. Wastewater disposal service must be extended into the development to each lot or rental space if the existing wastewater lines are within two hundred (200) feet of the MHRC and there is sufficient wastewater capacity available from the wastewater service provider.

3.2.2(b) Wastewater Disposal Facilities – On-site Sewerage Facilities. A soils analysis shall be prepared with results as required under the Nueces County Regulations for On-Site Sewerage Facilities and the rules of the Texas Commission on Environmental Quality governing the use of on-site sewerage facilities.

- 3.2.3 **Streets and Roadways.** The MHRC Engineering Report shall include a description of the streets and roadways within the MHRC, and include information on the roadway cross section, pavement width and thickness, base thickness, subgrade treatment, material specifications, and other information as required in these Rules.
- 3.2.4 **Traffic Control Devices Plan.** A traffic control devices plan for the streets to be constructed, if any, is to be included that complies with **Chapter VI Engineering Guidelines**.
- 3.2.5 **Traffic Impact Study.** For an MHRC of one hundred (100) spaces of greater, the MHRC Engineering Report may, at the request of the Nueces County Department of Public Works, be required to include a Traffic Impact Study in accordance with the requirements of the City of Corpus Christi to assess the effects of additional traffic on the existing and proposed transportation system.
- 3.2.6 **Drainage.** The MHRC Engineering Report shall include information regarding drainage, culverts, conveyances, outfalls, and other information as required to properly convey storm water within and away from the MHRC.

VII-3.3 Timely Approval of MHRC IDP. The MHRC IDP approval timeline is summarized as follows:

- (a) If an application submission for a MHRC IDP is incomplete, the Nueces County Department of Public Works, not later than the tenth (10th) business day from receiving the MHRC IDP application submission, shall notify the applicant of the missing documents or information. No further action will be taken on the application until all documentation or other information contained in the notice is submitted to the Nueces County Department of Public Works.
- (b) Acceptance by the Nueces County Department of Public Works of a complete MHRC IDP application shall not be construed as approval of the application or the information or documentation contained therein.
- (c) Except as noted in (e) below, the Nueces County Commissioners Court shall take final action on a MHRC IDP application, including the resolution of all appeals, not later than the sixtieth (60th) day after receiving a complete MHRC IDP application submission. (An application submission is considered complete when it contains all information required by these Rules.)
- (d) If the Nueces County Department of Public Works or the Nueces County Commissioners Court disapproves an application submission for a MHRC IDP, the applicant shall be given a complete list of reasons for disapproval.
- (e) The sixty (60) day period under (c) above:
 - (1) May be extended for a reasonable period, if agreed to in writing by the applicant and approved by the Nueces County Department of Public Works or the Nueces County Commissioners Court;
 - (2) May be extended sixty (60) additional days if Chapter 2007, Government Code, requires the County to perform a takings impact assessment in connection with the MHRC IDP application; and,
 - (3) Applies only to a decision wholly within the control of the Nueces County Department of Public Works or the Nueces County Commissioners Court.

- (f) The Nueces County Department of Public Works or the Nueces County Commissioners Court shall make the decision under (e)(2) of whether the sixty (60) day period will be extended not later than the twentieth (20th) day after the date a completed MHRC IDP application is received by the Nueces County Department of Public Works.
- (g) If the Nueces County Department of Public Works or the Nueces County Commissioners Court fails to take final action on the MHRC IDP as required in (c) above:
 - (1) The Nueces County Commissioners Court shall refund the greater of the unexpended portion of any MHRC IDP application fee or deposit or fifty (50) percent of a MHRC IDP application fee or deposit that has been paid;
 - (2) The MHRC IDP application is granted by operation of law; and,
 - (3) The applicant may apply to a District Court in the County where the tract of land is located for a writ of mandamus to compel the Nueces County Commissioners Court to issue documents recognizing the MHRC ID's approval.

VII-3.4 Construction and Inspection of MHRC Improvements.

- 3.4.1 Construction of Improvements.** Construction of a proposed MHRC may not begin before the date the Nueces County Commissioners Court approves the MHRC IDP.
- 3.4.2 Inspection of Improvements.** The Nueces County Department of Public Works reserves the right to perform periodic and final inspection of improvements. If the Nueces County Department of Public Works directs that a final inspection is required, it must be completed not later than the second (2nd) business day after the date the Nueces County Department of Public Works receives a written confirmation from the owner that the construction of the MHRC infrastructure is complete. If the inspector determines that the infrastructure improvements comply with the MHRC IDP, then the Nueces County Department of Public Works shall issue a Certificate of Compliance not later than the fifth (5th) business day after the date the Nueces County Department of Public Works receives written confirmation from the owner that the infrastructure has been completed and in compliance with the MHRC IDP.
- 3.4.3 Utilities.** A utility owner shall not provide utility services, including water, sewer, gas and electric services, to a MHRC subject to an IDP or to a manufactured home in the community unless the owner provides the utility with a copy of the Certificate of Compliance issued by the Nueces County Department of Public Works. This requirement applies to:
 - (a) A municipality that provides utility services;
 - (b) A municipally owned or municipally-operated utility that provides utility services;
 - (c) A public utility that provides utility services;
 - (d) A nonprofit water supply or sewer service corporation organized and operating under the Texas Water Code, Chapter 67 that provides utility services;

(e) A county that provides utility services; and

(f) A special district or authority created by State law that provides utility services.

VII-3.5 Responsibility for Costs. The developer, owner or owners of the MHRC shall be responsible for costs of improvements as required by these Rules.

APPENDIX A

DEFINITIONS OF ACRONYMS & TERMS

ACRONYMS

A2LA

- American Association for Laboratory Accreditation.

AASHTO

- American Association of State Highway and Transportation Officials.

ACI

- American Concrete Institute.

ACPA

- American Concrete Pipe Association.

ADT

- average daily traffic.

AI

- Asphalt Institute.

AMRL

- AASHTO Materials Reference Library.

ANSI

- American National Standards Institute.

APWA

- American Public Works Association.

ASCE

- American Society of Civil Engineers.

ASTM

- American Society for Testing and Materials.

AWWA

- American Water Works Association.

BFE

- base flood elevation.

BMP

- best management practices.

CAFRA

- Coastal Area Facility Review Act.

CFR

- Code of Federal Regulations.

CMP

- corrugated metal pipe.

COE (also USACE)

- United States Army Corps of Engineers.

DOT

- United States Department of Transportation.

EPA

- United States Environmental Protection Agency.

ETJ

- extraterritorial jurisdiction.

FEMA

- United States Federal Emergency Management Agency.

FHWA

- Federal Highway Administration, United States Department of Transportation.

FIRM

- Federal Insurance Rate Map.

FIS

- Flood Insurance Study.

GIS

- Geographic Information System.

GPD

- gallons per day.

GPS

- Global Positioning System.

HGL

- hydraulic grade line.

IEEE

- Institute of Electrical and Electronics Engineers.

IESNA

- Illuminating Engineering Society of North America.

ITE

- Institute of Transportation Engineers.

MLUL

- Municipal Land Use Law.

MUTCD

- Manual on Uniform Traffic Control Devices.

NEC

- National Electric Code.

NEMA

- National Electrical Manufacturers Association.

NEPA

- National Environmental Policy Act.

NFIP

- National Flood Insurance Program.

NRMCA

- National Ready Mixed Concrete Association.

OSSF

- On-site Sewage Facilities

PE

- Professional Engineer.

PCA

- Portland Concrete Association.

PPI

- Plastics Pipe Institute.

PS&E

- plans, specifications, and estimate.

PSI

- pounds per square inch.

PUD

- planned unit development;

PVC

- polyvinyl chloride;

RCP

- reinforced concrete pipe.

ROW

- right-of-way.

RPLS

- Registered Professional Land Surveyor.

SCS

- Soil Conservation Service;

SDR

- standard dimensional ratio.

SFHA

- Special Flood Hazard Areas.

SI

- International System of Units.

TAC

- Texas Administrative Code.

TCEQ

- Texas Commission on Environmental Quality.

TDLR

- Texas Department of Licensing and Regulation.

TMUTCD

- Texas Manual on Uniform Traffic Control Devices.

TNRCC

- Texas Natural Resources Conservation Commission.

TXDOT

- Texas Department of Transportation.

ULI

- Urban Land Institute.

USACE

- United States Army Corps of Engineers.

USC

- United States Code.

USCGS (also USC&G and USC&GS)

- United States Coast and Geodetic Survey.

TERMS

A

ACCREDITED LABORATORY - A laboratory, which is accredited by the American Association for Laboratory Accreditation (A2LA), or American Association of State Highway and Transportation Officials (AASHTO) in the field of construction materials testing.

AGGRESSIVE SOILS - Soils that may be corrosive to metallic pipe or tubing.

AISLE - The traveled way by which cars enter and depart parking spaces.

ALLEY - A joint use access which is used only for secondary access to individual properties which otherwise have primary access from an adjacent public street or approved common open space or courtyard which is adjacent to a common street.

APPLICANT - A Developer submitting an application for development.

APPLICATION FOR DEVELOPMENT - The application form and all accompanying documents required for approval of a subdivision plat, site plan, planned development, or the issuance of a permit pursuant to County Order and/or Texas Law.

ARCHITECT OF RECORD - A person registered as an architect or licensed as a landscape architect, in accordance with State law, exercising overall responsibility for an architectural design.

AREA OF SPECIAL FLOOD HAZARD – The land in a floodplain within a community subject to a one percent or greater chance of flooding in any given year.

ARTERIAL ROAD OR STREET – A principal traffic artery, carrying higher volumes of traffic, more or less continuously, which is intended to connect remote parts of the area adjacent thereto and to act as a principal connecting street with State highways.

AVERAGE DAILY TRAFFIC - The number of vehicles per day that pass over a given point, which has been factored to account for the day of the week and the time of the year.

B

BARRIER CURB - Curb specially designed to separate opposing traffic on roads or highways.

BASE FLOOD - The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - The calculated elevation or level above mean sea level that floodwaters may reach during the base flood.

BEDDING – Required material to be placed under pipes.

BERM - A mound of soil, either natural or constructed, used for one or more of the following purposes: screen, buffer, separator, landscape feature, noise attenuator, dam, or storm water control.

BLOCK – A tract of land identified within a subdivision which is surrounded by streets and may be further subdivided.

BUILDING LINE OR SET-BACK LINE – A line established, in general, parallel to the front street line. No building or structure may be permitted in the area between the building line and the street, road, or highway right-of-way.

BUSINESS DAY - A day other than a Saturday, Sunday, or holiday recognized by the County.

C

CENTERLINE OFFSET OF ADJACENT INTERSECTIONS - The gap between the centerline of roads intersecting a common road, as measured along the centerline of the intersected road.

CHANNEL - Any natural or man-made waterway or course through which to convey the constant or intermittent flow of water.

CHANNELIZATION - The straightening and deepening of channels, and/or the surfacing thereof, to permit water to move more rapidly or to redirect the flow of surface water.

COASTAL AREAS - Areas that border on bays or estuaries or other waterways subject to tidal action which are subject to possible flooding or increased flood levels because of tidal action, hurricane surge or rising water due to storms, hurricanes or tsunamis.

COLLECTOR ROAD OR STREET – A street or road providing for travel between local streets and the arterial street network, or serving multi-family development or neighborhood centers or services such as schools, parks or fire stations.

COLONIA – A geographic area that:

(A) is an economically distressed area as defined by Section 17.921, Water Code; and

(B) is:

(i) located in a county any part of which is within 50 miles of an international border; or

(ii) located in a county:

(a) any part of which is within 100 miles of an international border; and

(b) that contains the majority of the area of a municipality with a population of more than 250,000.

COMMISSIONERS COURT – The Commissioners Court of Nueces County, Texas.

COMMON CARRIER - A person who owns, operates, or manages a pipeline or any part of a pipeline in the State of Texas for the transportation of crude petroleum to or from the public for hire, or engages in the business of transporting crude petroleum by pipeline. A common carrier may transport oil, oil products, gas, salt brine, fuller's earth, sand, clay, liquefied minerals, or other mineral solutions.

COMMON LATERAL (WATER / SEWER) - A lateral serving more than one (1) dwelling unit.

COMMON OPEN SPACE - An open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use of residents and owners of the development.

CONCEPT OR CONCEPTUAL PLAN - A preliminary presentation and attendant documentation of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification during a concept conference prior to the Preliminary Plat.

CONDUIT - Any open or closed device for conveying flowing water.

COUNTY – Nueces County, Texas

COUNTY ENGINEER - The holder of the statutory office of the County Engineer for Nueces County or the employee designated by the County Engineer to perform a task required by these Rules. The County Engineer is the Director of the Nueces County Department of Public Works.

COUNTY ROAD – A roadway under the control and maintenance of the County.

CUL-DE-SAC - A short public street having only one opening or access to another public street and which is terminated by a permanent vehicular turnaround.

CULVERT - A closed or open conduit designed for the purpose of conveying an open channel watercourse under a road, highway, pedestrian walk, railroad embankment, or other type of overhead structure.

CURB - A stone, concrete, or other improved elevated boundary marking the edge of a roadway or paved area.

CURB AND GUTTER SECTION - A "Curb and Gutter Section" is a full width concrete pavement with curb, either doweled on six-inch (6") curbs or monolithic or doweled four-inch (4") by twelve-inch (12") curb or monolithic curb and gutter sections for asphalt concrete pavement.

D

DAM – Any barrier, including one for flood detention, designed to impound liquid volumes and which has a height of dam greater than six feet. This does not include highway, railroad, or other roadway embankments.

DAY - Calendar day.

DEAD-END-STREET (ROAD) – That portion of a public street which initially has only one opening or access to another public street, but which will be extended at a later date.

DEDICATION – The appropriation of land, or an easement therein, by the owner, for the use of the public.

DESIGN FLOOD - The magnitude of a flooding event that a facility is designed to accommodate. This event can also be used as the basis of a water surface elevation, or the delineation of a floodway and flood hazard area.

DESIGN STANDARDS - Standards that set forth specific requirements for design.

DESIGN STORM EVENT - The rainfall intensity upon which a drainage facility will be sized. References to rainfall conditions in these specifications shall apply to “Technical Paper No. 40, U.S. Weather Bureau”, published by the U.S. Department of Agriculture, Soil Conservation Service.

DESIGN VEHICLE LOAD (HS-20) - A design load designation used for bridge design analysis representing a three-axle truck loaded with four tons on the front axle and 16 tons on each of the other two axles. The HS-20 designation is one of many established by AASHTO for use in the structural design and analysis of bridges.

DETENTION BASIN - A storm water management basin or alternative structure designed to temporarily detain storm water runoff.

DEVELOPER – (see subdivider)

DIVIDED STREET – A street, road or highway having an island or other barrier separating opposing moving lanes.

DRAINAGE - The removal of surface water or ground water from land by drains, grading, or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen non-point pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

DRAINAGE AREA MAP - A map of a watershed which is delineated to show the area serviced by each drainage subsystem.

DRAINAGE FACILITY - Any component of the drainage system.

DRAINAGE SYSTEM - The natural and man-made components that contain, convey, absorb, store, treat, or dispose of surface water runoff or ground water.

DRINKING WATER – All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.

DRIVEWAY - A defined paved or unpaved surface providing vehicular access between a street, road, or highway and private property.

DWELLING DENSITY - The permitted number of dwelling units under gross area of land to be developed.

E

EASEMENT – A right given by the owner of a parcel of land to another person, public agency, or private corporation for specific and limited use of that parcel. A privilege or right of use or enjoyment granted on above, under or across a particular tract of land by one owner to another.

ELEVATION – The height above mean sea level. The vertical control system (benchmarks) referenced in the most current Flood Insurance Study shall be used except in coastal areas where subsidence has occurred. Any future studies changing the Flood Insurance Rate Map (FIRM), which is referenced to a later re-leveling of the vertical control system shall be used whenever a revised FIRM becomes effective.

EMERGENCY SPILLWAY – A supplemental spillway whose function is to pass the design storm flows in the event the principal spillway fails to operate as designed or is blocked.

ENGINEER - A person licensed and authorized to practice engineering in the State of Texas under the Texas Engineering Practice Act.

EROSION - The detachment and the movement of soil or rock fragments by water, wind, ice, or gravity.

ESCROW - A deed, bond, money, or piece of property delivered to a third person, to be delivered by him to the grantee only upon fulfillment of a condition.

EXTRATERRITORIAL JURISDICTION (ETJ) – The unincorporated area, not a part of any city, which is contiguous to the corporate limits of a city. The extraterritorial jurisdiction of the various population classes of cities (as defined in Chapter 42 of the Texas Local Government Code) is as follows:

- (1) The extraterritorial jurisdiction of any city having a population of less than five thousand (5,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one-half mile (1/2 mi) of the corporate limits of such city.
- (2) The extraterritorial jurisdiction of any city having a population of five thousand (5,000) or more inhabitants, but less than twenty-five thousand (25,000) inhabitants shall consist of all the contiguous

unincorporated area, not a part of any other city, within one mile (1 mi) of the corporate limits of such city.

- (3) The extraterritorial jurisdiction of any city having a population of twenty-five thousand (25,000) or more inhabitants, but less than fifty thousand (50,000) inhabitants, shall consist of all the contiguous unincorporated area, not a part of any other city within two miles (2 mi) of the corporate limits of such city.
- (4) The extraterritorial jurisdiction of any city having a population of fifty thousand (50,000) or more inhabitants, but less than one hundred thousand (100,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within three and one-half miles (3.5 mi) of the corporate limits of such city.
- (5) The extraterritorial jurisdiction of any city having a population of one hundred thousand (100,000) or more inhabitants shall consist of all the contiguous unincorporated area, not apart of any other city, within five miles (5 mi) of the corporate limits of such city.

EXTREME EVENT - A rainfall event which exceeds the Design Storm Event up-to and including the 100-year frequency resulting in surcharge of the drainage channels and systems.

F

FINAL APPROVAL - The official action of the Commissioners Court taken on a subdivision or site plan after all conditions, engineering plans, and other requirements have been completed or fulfilled and the required improvements have been installed, or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

FINAL PLAT – A map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the County records and prepared as described in these Rules.

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOODPLAIN – Any land area susceptible to being inundated by water from any source and as identified in the Flood Insurance Rate Map (FIRM) for Nueces County.

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation by more than a designated height.

FLUSHING - The cleaning out of debris and sediment from pipes by force of moving liquid, usually water.

G

GATED COMMUNITY – A residential subdivision or housing development with a vehicular or pedestrian gate that contains two or more dwellings not under common ownership. (The term does not include a multi-unit housing project.)

GEOTECHNICAL ENGINEER - A Texas-registered Professional Engineer who works for a company registered in the State of Texas that has been accredited by the American Association for Laboratory Accreditation (A2LA) in geotechnical testing.

GOVERNING BODY - The chief legislative body of the county.

GRADE - The inclination of a sloping surface, usually expressed in terms of percentage.

GROUNDWATER – Subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated either year-round or on a seasonal or intermittent basis.

GUTTER - A shallow channel, usually set along a curb or the pavement edge of a road, for purposes of collecting and carrying off runoff water.

H

HYDRAULIC GRADE LINE - The line representing the pressure head available at any given point within a drainage system.

I

IMPERVIOUS SURFACE - A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

IMPOUNDMENT - A body of water, such as a pond, confined by a dam, dike, floodgate, or other barrier.

INDIVIDUAL SEWAGE DISPOSAL SYSTEM - A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device serving a single unit.

INDIVIDUAL SUBSURFACE SEWAGE DISPOSAL SYSTEM - A system for disposal of sanitary sewage into the ground which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank, and to discharge the liquid effluent to a disposal field.

ISLAND - In street, road or highway design, a raised area, usually curbed, placed to guide traffic and separate lanes, or used for landscaping, signing or lighting.

L

LAND - Real property including improvements and fixtures on, above, or below the surface.

LATERALS (DRAINAGE) – Channels or pipes conducting storm water to primary channels.

LOCAL ROAD OR STREET – A street or road used primarily for access and circulation to abutting residential properties and which is intended to serve traffic within a limited area.

LOT – An undivided tract or parcel of land.

M

MAIN - In any system of continuous channels and/or piping, the principal artery of the system to which branches may be connected.

MANHOLE - An inspection chamber located at changes in horizontal and vertical directions for storm sewer and underground utility conduits whose dimensions allow entry, exit, and working room.

MANUFACTURED HOME RENTAL COMMUNITY - A plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, exclusively for the installation of manufactured homes for use and occupancy as residences.

MARGINAL ACCESS STREET - A service street that runs parallel to a higher-order street which provides access to abutting properties and separation from through traffic. It may be designed as a residential access street or minor collector as anticipated daily traffic dictates.

MASTER PLAN - A composite of one or more written or graphic proposals for planned development regarding roads, utilities, or other infrastructure, as set forth and adopted by a government entity.

MAY – A permissive condition. No requirement for design or application is intended.

MEAN SEA LEVEL - The average height of the surface of the sea for all states of the tide as was established by the United State Coastal and Geodetic Survey USCGS in 1929.

MEDIAN - That portion of a divided street, road, or highway separating the traveled ways of traffic proceeding in opposite directions.

MIXED USE - Two or more different uses of a subdivision, one of which is residential.

MOUNTABLE CURB - A low curb with a slope designed to be easily traversable by a vehicle.

MULTI-UNIT HOUSING PROJECT – An apartment, condominium, or townhome project that contains two or more dwelling units.

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) (see TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES)

N

NON-PUBLIC WATER SYSTEM – Any water system supplying water for domestic purposes which is not a public water system.

NONSTRUCTURAL BEST MANAGEMENT PRACTICES - Those controls of storm water runoff and non-point source pollution that are not structural in nature, such as landscaping techniques, source controls, zoning, setbacks, buffers, or clustering.

O

OFF-STREET PARKING SPACE - A storage area for a motor vehicle that is directly accessible to an access aisle and that is not located within a dedicated street right-of-way.

ON-SITE SEWAGE FACILITIES (OSSF) – On-site sewage facilities as that term is defined in rules and/or regulations adopted by the Texas Commission on Environmental Quality, including, but not limited to, 30 TAC Chapter 285.

ON-STREET PARKING SPACE - A storage area for a motor vehicle that is located within a dedicated street right-of-way.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those buildings, structures, streets, and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

OUTFALL CHANNEL – The receiving channel of any drainage associated with the subdivision improvements.

OWNER – The persons, corporations, organizations, government or governmental agency, estates, trust, partnerships, associates, incorporations or other entities that have clear title to a Lot.

P

PARKING LANE - A lane usually set on the sides of streets, designed to provide on-street parking.

PARKING LOT - A ground-level, generally open area that provides storage for motor vehicles that may provide access to dwelling units and which has aisles that carry traffic with destination or origin in the lot itself.

PARKING SPACE - A storage area provided for the parking of a motor vehicle.

PAVEMENT - A surface created to facilitate passage of people and/or vehicles, and usually constructed of brick, stone, concrete, or asphalt.

PAVEMENT STRUCTURE - The combination of the surface (see **PAVEMENT**), base course, subbase, and subgrade material, which supports the traffic load and distributes it to the roadbed.

PEDESTRIAN GENERATOR - A development that will realize high facility usage by persons arriving on foot.

PERVIOUS SURFACE - Any surface that permits a significant portion of surface water to be absorbed.

PLAT – A map depicting the division or subdivision of land into lots, blocks, parcels, tracts, or other portions.

PLAT, FINAL (see **FINAL PLAT**)

PLAT, PRELIMINARY (see **PRELIMINARY PLAT**)

PLATTED – Recorded with Nueces County in an official plat record.

POTABLE WATER SUPPLY – see Definition for Drinking Water

PRELIMINARY APPROVAL - The conferral of certain rights prior to final approval after specific elements of a development plan have been agreed upon by the Nueces County Department of Public Works.

PRELIMINARY PLANS AND ELEVATIONS - Drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form its scope, scale, and relationship to its site and immediate environs.

PRELIMINARY PLAT – One or more drawings showing the physical conditions of a tract and the surrounding area intended to be subdivided. This plat shall show the Developer's intended development program in order to assure that all Rules are complied with.

PROFESSIONAL ENGINEER (see **ENGINEER**)

R

RAINFALL FREQUENCY - the probability of a rainfall event of defined characteristics occurring in any given year. Information on rainfall frequency is published by the National Weather Service. For the purpose of drainage design, the following frequencies are applicable:

- (1) 2-year frequency – a rainfall intensity having a 50% probability of occurrence in any given year or nominally likely to occur once every two years.
- (2) 3-year frequency – a rainfall intensity having a 33% probability of occurrence in any given year or nominally likely to occur once every three years.
- (3) 5-year frequency – a rainfall intensity having a 20% probability of occurrence in any given year or nominally likely to occur once every five years.

- (4) 10-year frequency – a rainfall intensity having a 10% probability of occurrence in any given year or nominally likely to occur once every ten years.
- (5) 25-year frequency – a rainfall intensity having a 4% probability of occurrence in any given year or nominally likely to occur once every twenty-five years.
- (6) 100-year frequency – a rainfall intensity having a 1% probability of occurrence in any given year or nominally likely to occur once every one hundred years.

REGISTERED PROFESSIONAL LAND SURVEYOR (RPLS) – Any person licensed to practice surveying by the Texas Board of Professional Land Surveying.

RESIDENTIAL CLUSTER - An area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.

RESIDENTIAL DENSITY - The number of dwelling units per gross acre of residential land area including streets, easements, and open space portions of a development.

RESUBDIVISION - The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law; or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

RETAIL PUBLIC UTILITY – Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing portable water service or sewer service, or both, for compensation.

RETAINING WALL - A structure that is designed and constructed to stabilize two generally horizontal surfaces which are vertically displaced.

RETENTION BASIN - A storm water management basin designed to retain storm water on a permanent basis.

RIGHT-OF-WAY (ROW) - A strip of land owned by a government entity, and occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, or for another special use.

ROADSIDE DITCH SECTIONS – A street, road or highway cross-section with an adjacent / parallel open channel. (This is often referred to as a rural roadway section.) The cross-sectional elements include pavement width, front-slopes, distance from roadway to edge / center of ditch, ditch side-slopes, bottom of ditch dimension, and right-of-way width.

ROADWAY - The portion of a road that is improved, designed, or ordinarily used for vehicular traffic.

S

SANITARY SEWER - Any pipe conduit used to collect and carry away sewage from the generating

source to treatment plants.

SEDIMENTATION - The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a product of erosion.

SEPTIC SYSTEM - An underground system with a septic tank used for the decomposition of domestic wastes.

SEPTIC TANK - A watertight receptacle which receives the discharge of sanitary sewage from a building sewer or part thereof, and is designed and constructed so as to permit settling of settleable solids from the liquid, partial digestion of the organic matter, and discharge of the liquid portion into a disposal field.

SEWER - Any pipe conduit used to collect and carry away sewage (see **SANITARY SEWER**) or storm water runoff (see **STORM SEWER**) from the generating source to treatment plants or receiving streams.

SEWERAGE FACILITIES - The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these Rules.

SHALL - A mandatory condition.

SHEET FLOW - The overland storm water runoff that is not conveyed in a defined conduit and where a clearly defined channel does not exist.

SHOULD - An advisory condition, recommended but not mandatory.

SHOULDER - The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

SIDEWALK - An improved path for pedestrian use.

SIGHT TRIANGLE - A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SITE IMPROVEMENTS - Any construction work on, or improvement in connection with, residential development limited to streets, roads, parking facilities, sidewalks, drainage structures, and utilities.

SOIL - The arable layers of unmodified sediments beneath the surface material and above bedrock.

SOIL CEMENT - A mixture of portland cement and soil.

SOIL EROSION - The gradual alteration of soil by crustal movement or by processes of weathering, transportation, and sedimentation.

STABILIZATION - As it pertains to streets, roads, highways, the ability of a surface to resist deformation from imposed loads. Stabilization can be accomplished by adequate thicknesses of asphalt base and surface course, dense graded aggregates, cement-treated soil aggregates, or concrete or precast masonry units set on a base course.

STORM SEWER - Any pipe conduit used to collect and carry storm water runoff from the generating source to receiving streams.

STORMWATER DETENTION - A provision for temporary storage of storm water runoff, and the controlled release of such runoff during and after a flood or storm (see **DETENTION**).

STORMWATER MANAGEMENT MEASURES - A broad term for structural and nonstructural control of storm water runoff and non-point pollution.

STORMWATER RETENTION - A provision for the permanent storage of a fixed volume of water (see **RETENTION**).

STREET - Any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing State, County, or municipal roadway, or which is shown upon a plat heretofore approved pursuant to law, or which is approved by official action, or which is shown on a plat duly filed and recorded in the office of the county recording officer; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

STREET KNUCKLE – A bulbous widening of the pavement where the road makes an approximate 90 degree turn.

STATE PLANE COORDINATE SYSTEM – A coordinate system used by surveyors to locate special information with a high degree of accuracy.

SUBDIVIDER – Any owner of land or authorized agent thereof proposing to divide or dividing land so as to constitute a subdivision.

SUBDIVISION – An area of land that has been subdivided into lots for sale or lease.

SUBGRADE - The prepared surface upon which pavements and shoulders are constructed.

SURFACE COURSE - The placement of an asphalt concrete material on a previously prepared base course.

SURVEYOR (see **REGISTERED PROFESSIONAL LAND SURVEYOR**)

SWALE - A low-lying or depressed land area commonly wet or moist, which can function as an intermittent drainage way.

T

TEXAS ADMINISTRATIVE CODE (TAC) – As compiled, indexed and published by the Texas Secretary of State.

TEXAS MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (TMUTCD) - The most recent edition, including any additions or corrections, of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways.

TOPSOIL - Means (1) the natural, undisturbed surface layer of soil having more organic matter than subsequent layers, a pH of 5.0 to 7.5 and suitable for satisfactory growth and maintenance of permanent, locally adapted vegetation. (2) Where the original surface layer has been removed, the reapplication of soil material used to cover an area so as to improve soil conditions for establishment and maintenance of adapted vegetation. The reapplied material must be friable, loamy soil reasonably free of debris, objectionable weeds and stones; have a natural pH of 5.0 to 7.5; have an organic matter content greater than 2.00 percent; and contain no toxic substances which may be harmful to plant growth.

TRAVEL WAY – That portion of the roadway used for vehicular travel.

TRIP - A single or one-way vehicle movement to or from a property or study area.

U

UNINCORPORATED AREA - The area in Nueces County, Texas, which is not within an incorporated area of a city or town.

UTILITY AREA - A space within the right-of-way designated for the installation of utility lines and facilities.

V

VARIANCE – A grant of relief to a person from the requirement of these Rules when specific enforcement would result in undue hardship.

W

WATER FACILITIES – Any device and/or system which is used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

APPENDIX B CHECKLISTS

These checklists are to be used in conjunction with the Nueces County Subdivision Rules and Platting Requirements, and State statutes, to help keep track of whether a preliminary or final plat and its associated information and documents meet legal requirements.

PRELIMINARY PLAT CHECKLIST

Subdivision Name:	
-------------------	--

_____ Letter from Nueces County Health Department stating Preliminary Plat has been reviewed.
_____ Submittal date

1. SUBMISSION REQUIREMENT:

_____ Four (4) 22" X 34" blueline copies folded with title of plat appearing on outside,
_____ Schematic plans for water, wastewater, paving and drainage plus preliminary drainage
_____ calculations.
_____ A check payable to the Nueces County: _____ dollars (\$)
_____ A location map.

2. INFORMATION SHOWN ON PLAT:

_____ Title of the subdivision; title must include the word "Replat," if vacated and changed after
_____ recordation
_____ North arrow
_____ Scale: 1" = 100'min.
_____ The following information shall appear on the first sheet:

OWNERS: (if corporation, name of responsible individual)
ACREAGE:
SURVEY: (Legal Description)
DATE: (revision dates, if any)
SURVEYOR:
ENGINEER:
BENCHMARK DESCRIPTION & ELEVATION:

_____ Vicinity Map
_____ Boundary survey with bearings and distances
_____ Point of beginning labeled on plat and described in field notes
_____ Field notes; tie to corner of original survey; survey tie across adjacent streets to determine
_____ right-of-way width
_____ Monumentation as prescribed in the Rules

- _____ Topographic and planimetric features
- _____ Ownership boundaries in heavy lines
- _____ Lot and block lines
- _____ Numbers on all proposed lots and letters on blocks
- _____ Dimensions for front _____ rear _____ side _____ lot lines
- _____ Depiction of the 100 year flood plain, if the tract is not in the 100 year flood, a plat note stating such must be shown
- _____ Street, alleys, drainageways, parks and other public areas
- _____ Location, dimension, name and description of each existing or recorded street, alley, reservation, easement, or other right-of-way
- _____ Location, dimension,description, and name of any existing watercourse or drainage structure within 150' of the boundary of the subdivision.
- _____ Certification by owner of conformance to the requirements of the school district, gas, electricity,water,telephone and cable television and US Post Office review.
- _____ Certificate note stating approval from the City-County Health Department.
- _____ Certificate note stating ownership in fee of all land embraced in the subdivision. .
- _____ Certificate note approval by the County Engineer and the Commisioners Court.
- _____ Plat note stating building setbacks will be in accordance with the Nueces County Subdivision Regulations And Platting Requirements.
- _____ Plat note of existing or proposed restrictive covenants
- _____ Certificate dedicating all streets,public highways, utility easements, parks, drainage easements, and all other land intended for public use.

FINAL PLAT CHECKLIST

Subdivision Name:	
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NOTE: ALL ITEMS, EXCEPT THE MYLAR, MUST BE SUBMITTED TO THE NUECES COUNTY DEPARTMENT OF PUBLIC WORKS IN A LARGE CLASP ENVELOPE. PLEASE ROLL THE MYLAR. FINAL PLAT WILL NOT BE CONSIDERED "FILED" UNLESS ALL SUBMISSION REQUIREMENTS ARE MET.

_____ Submittal date

1. SUBMISSION REQUIREMENTS:

_____ One (1) Mylar reproducible - 22" x 34", complete with all required signatures, volume and page information, etc.

_____ Four (4) blueline copies folded with title of plat appearing on outside

_____ The developer must submit with the final plat one of the following:

_____ A statement stating that schematic plans and preliminary drainage calculations were submitted with the preliminary plat and no changes have occurred

_____ New schematic plans and outline specifications for water, wastewater, paving, and drainage plus calculations for drainage

_____ Four (4) sets of construction plans and specifications for water, wastewater, paving and drainage prepared by a registered professional engineer

_____ Letter of Intent for Utilities to explain how the tract will be served by electric, cable, water and wastewater, including commitments for oversize line construction and/or off-site requirements, if applicable. (A copy of the letter submitted with the preliminary plat must be submitted if no changes have occurred)

_____ Tax Certificates from the school district, county and other taxing districts.

_____ Copy of deed to show proof of ownership

_____ Check payable to Nueces County: _____ dollars (\$)

_____ The final plat or replat shall be accompanied by an abstractor's certificate which shall state the names and addresses of any and all current owners and current lien holders of the property described in the final plat. The abstractor's certificate shall be dated no sooner than ten (10) days prior to the submission of the final plat. The final plat shall not be reviewed or approved until the abstractor's certificate is received.

_____ **After plat approval and prior to recording:** Tax Certificates showing City, School, and County taxes have been paid

APPENDIX C
SAMPLE PLAT NOTES

If any subdivision or addition is located outside of the city limits of any incorporated city or town, but lies within the extraterritorial limits, the form of dedication, etc., must be secured from the city or town and said plat must be first approved by the appropriate governing body before the same will be approved by the Commissioners Court of Nueces County, Texas.

Any person dedicating such a map is to use such portion of the form as herein listed, which is the approval form for the Commissioners Court.

STATE OF TEXAS }
COUNTY OF NUECES }

BEFORE ME, the undersigned authority, on this day personally appeared _____,
President, and _____ Secretary of (Name of Company) known to me to be the
persons whose names are subscribed to the foregoing instrument, and acknowledged to me that
they executed the same for the purposes and considerations therein expressed, and in the capacity
stated, and as the act and deed of said corporation. Given under my hand and seal of office
at _____ this _____ day of _____, A.D. _____.

Notary Public in and for Nueces County, Texas

STATE OF TEXAS }
COUNTY OF NUECES }

I hereby certify that the foregoing map of _____ complies with all the regulations and requirements of the Commissioners Court of Nueces County, Texas, effective this date.
Dated this _____ day of _____, A.D. _____.

County Engineer

STATE OF TEXAS }
COUNTY OF NUECES }

I, _____, Clerk of the Commissioners Court of Nueces County, Texas hereby certify that the foregoing map was approved and accepted by said Court on the _____ day of _____, _____ as shown by order of record in the minutes of said Court in Volume _____, Page _____. Witness my hand and seal of said Court at office in Corpus Christi, Texas, this the _____ day of _____, _____.

By: _____ Deputy

STATE OF TEXAS }
COUNTY OF NUECES }

I, _____, Clerk of the County Court, in and for Nueces County, Texas hereby certify that the foregoing map of _____ dated the _____ day of _____, _____ with its certification of authentication was filed for record in my office this _____ day of _____, _____ at _____ o'clock _____ m and duly recorded in Volume _____, Page _____. Witness my hand and seal of office in Corpus Christi, Texas, this the _____ day of _____, _____.

By: _____ Deputy

STATE OF TEXAS }
COUNTY OF NUECES }

I, _____, Registered Professional Land Surveyor, hereby certify that this plat is true and correct, to the best of my knowledge and ability, and that it was prepared from a survey made on the ground in _____.

Registration Seal Date License No. _____

STATE OF TEXAS }
COUNTY OF NUECES }

I, _____ hereby certify that I am the owner of all the lands embraced within the bounds of _____ Nueces County, Texas subject to a lien held by _____; that I have had said land surveyed and subdivided as here shown, that all streets and alleys shown are dedicated to the use of the public; that all utility easements shown hereon are dedicated to the public for the installation, operation and use of the public utilities; that this map is made for the purposes of description and dedication, this the _____ day of _____.

STATE OF TEXAS }
COUNTY OF NUECES COUNTY }

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose is subscribed to the foregoing instrument of writing, and he acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity stated. Given under my hand and seal of office at _____ this _____ day of _____.

Notary Public in and for Nueces County, Texas

STATE OF TEXAS }
COUNTY OF NUECES COUNTY }

We, _____, hereby certify that we are the holders of a lien against the lands embraced within the bounds of _____, Nueces County, Texas, and that we approve the subdivision and dedications of same for the purpose therein expressed. This the _____ day of _____, _____.

STATE OF TEXAS }
COUNTY OF NUECES COUNTY }

This final plat of _____, Nueces County, Texas, approved by the Corpus Christi-Nueces County Health Unit. Any private water supply and/or sewage system shall be approved by the Corpus Christi-Nueces County Health Department prior to installation. Dated the _____ day of _____, _____.

Public Health Officer

APPENDIX D
SAMPLE AGREEMENT FORMS

WATER SERVICE AGREEMENT

AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED
_____ SUBDIVISION

PARTIES: This Agreement is by and between the Utility and the Subdivider, to wit:

The Utility is the governing board or owner of a retail public utility which supplies drinking water known as _____.

The Subdivider is _____ who is the owner, or the authorized agent of the owner, of a tract of land in Nueces County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as _____.

TERMS: This Agreement is entered into in partial satisfaction of requirements under Texas Water Development Board's Economically Distressed Area Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to Nueces County for its approval. The Subdivider plans to construct for the Subdivision a drinking water distribution system to be connected to the Utility's public water system. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the drinking water flow anticipated to be needed by the Subdivision under fully built-out conditions (the anticipated water flow) to be approximately _____ gallons daily.

The Utility covenants that it has or will have the ability to provide the anticipated water flow for at least thirty years, and that it will provide that water flow. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision's water distribution system has been connected to the Utility's water supply system.

The Subdivision covenants that the water distribution system will be constructed as shown in the Plans and as provided for through the plat-approval process so that the residents of the lots of the Subdivision may receive drinking water service from the Utility. Upon completion of the water distribution system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the water distribution system.

The Subdivider has paid the Utility the sum of \$_____ which sum represents the total costs of water meters, water rights acquisition fees, and all membership or other fees associated with connecting the individual lots in the Subdivision to the Utility's water supply system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by Nueces County or by a municipality whose approval is required.

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility. By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20____.

The Utility

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

The Subdivider:

By: _____

Printed Name: _____

Office or Position: _____

Date: _____

WASTEWATER SERVICE AGREEMENT

AGREEMENT REGARDING WASTERWATER SERVICE FOR THE PROPOSED
_____ SUBDIVISION

PARTIES: This Agreement is by and between the Utility and the Subdivider, to wit:

The Utility is the governing board or owner of a retail public utility which provides wastewater treatment and is known as _____.

The Subdivider is _____,
who is the owner, or the authorized agent of the owner, of a tract of land in Nueces County, Texas, that has been proposed to be divided into a subdivision (the Subdivision) known as _____.

TERMS: This Agreement is entered into in partial satisfaction of requirements under Texas Water Development Board's Economically Distressed Area Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to Nueces County for its approval. The Subdivider plans to construct for the Subdivision a wastewater collection system to be connected to the Utility's wastewater treatment system. Such wastewater will consist of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing, and food preparation. The Utility has reviewed the plans for the Subdivision (the Plans) and has estimated the wastewater flow projected from the Subdivision under fully built-out conditions (the projected wastewater flow) to be approximately _____ gallons daily.

The Utility covenants that it has or will have the capacity to treat the projected wastewater flow, and that it will treat that wastewater flow for at least thirty years. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision's wastewater collection system has been connected to the Utility's wastewater treatment plant.

The Subdivision covenants that the wastewater collection system will be constructed as shown in the Plans and as provided for through the plat approval process so that the residents of the lots of the Subdivision may receive wastewater treatment service from the Utility. Upon completion of the wastewater collection system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the wastewater collection system.

Insert the following paragraph if the Utility imposes any fees for connection of individual lots to the Utility's wastewater collection and treatment system:

The Subdivider has paid the Utility the sum of \$_____ which sum represents the total costs of tap fees, capital recovery charges, and other fees associated with connecting the individual lots of the Subdivision to the Utility's wastewater collection and treatment system.

The above provisions notwithstanding, this agreement shall no longer be in effect if the plat of the Subdivision is not approved by Nueces County or by a municipality whose approval is required.

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility. By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on _____, 20_____.

The Utility

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

The Subdivider:

By: _____
Printed Name: _____
Office or Position: _____
Date: _____

SUBDIVISION CONSTRUCTION AGREEMENT

1. **Parties.** This Subdivision Construction Agreement (the Agreement) is by and between the County and the Subdivider. The County is Nueces County, Texas, acting by and through its Commissioners Court, or authorized representative as designated by the Commissioners Court. The Subdivider is _____, who is the owner, or the authorized agent of owner, of a tract of land located within the geographic area and jurisdiction of the County.
2. **Effective Date.** This Agreement is effective on the date the County approves the final plat for the subdivision described in Paragraph 3 of this agreement (the Effective Date).

Recitals

3. Subdivider is the owner of the land included in the proposed final subdivision plat of the _____ subdivision, (the Subdivision) and more particularly described by the metes and bounds description attached and incorporated into this Agreement as Exhibit A (the Property); and
4. Subdivider seeks authorization from the County to subdivide the Property in accordance with the requirements imposed by Texas statute and the County's orders, regulations, and other requirements; and
5. County orders require the completion of various improvements in connection with the development of the Subdivision to protect the health, safety, and general welfare of the community and to limit the harmful effects of substandard subdivisions; and
6. The purpose of this Agreement is to protect the County from the expense of completing subdivision improvements requirements to be installed by the Subdivider; and
7. This agreement is authorized by and consistent with state law and the County's orders, regulations, and other requirements governing development of a subdivision.

IN CONSIDERATION of the foregoing recitals and the mutual covenants, promises, and obligations by the parties set forth in this Agreement, the parties agree as follows:

Subdivider's Obligation

8. **Improvements.** The Subdivider agrees to construct and install, at Subdivider's expense, all subdivision improvements required to comply with County orders, regulations, and policies governing subdivision approval, specifically including without limitation those improvements listed on Exhibit B attached and incorporated by reference into this Agreement (collectively, the Improvements, any one of which is an Improvement). All Improvements shall be constructed in conformity to the County's requirement, procedures, and specifications, pursuant to construction plans, permits, and specifications approved by the County prior to commencement of construction, and subject to inspection, certification, and acceptance by the County.

9. **Completion.** Unless a different time period is specified for a particular Improvement in Exhibit B, construction of all the Improvements shall be completed no later than three (3) years after the Effective Date (the Completion Date); provided, however, that if the Subdivider or the Issuer delivers to the County no later than the Completion Date a substitute Letter of Credit satisfying the criteria established by Paragraph 11 and which has an expiration date no earlier than one year from the Completion Date, then the Completion Date shall be extended to the expiration date of that substitute Letter of Credit or any subsequent substitute Letter of Credit provided in accordance with this Paragraph. Upon completion of each of the Improvements, the Subdivider agrees to provide to the County a Complete set of construction plans for the Improvements, certified “as built” by the engineer responsible for preparing the approved construction plans and specifications.

10. **Warranty.** The Subdivider warrants the Improvements constructed by Subdivider or Subdivider’s agents, contractors, employees, tenants, or licensees will be free from defects for a period of one (1) year from the date the County accepts the dedication of a completed Improvement or group of Improvements (the Warranty Period), as such Improvement or group of Improvements is separately identified and listed on Exhibit B, except the Subdivider does not warrant the Improvements for defects caused by events outside the control of the Subdivider or the Subdividers’s agents, contractors, employees, tenants, or licensees. The Subdivider agrees to repair any damage to the Improvements before and during the Warranty Period due to private construction-related activities. As a condition of the County’s acceptance of dedication of any of the Improvements, the County may require the Subdivider to post a maintenance bond or other financial security acceptable to the County to secure the warranty established by this Agreement. If the Improvements have been completed but not accepted, and neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, at the written request of the Subdivider or the Issuer the County shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to an amount equal to the face amount of the maintenance bond or other financial security acceptable to the County.

11. **Security.** To secure the performance of Subdivider’s obligation under this Agreement, Subdivider agrees to provide adequate financial guarantees of performance in the form of a surety bond acceptable to the County, a cash deposit to be held by the County in escrow, or an irrevocable letter of credit in the amount of _____ Dollars (\$_____) (the Stated Amount), which amount is the estimated total cost of constructing each of the Improvements as shown on Exhibit B. If a letter of credit is provided pursuant to this Agreement, it shall be in a standard form acceptable to the County, shall have an expiration date no earlier than one year from the date of its issuance, and shall be issued by a financial institution having a rating equivalent to the minimum acceptable rating established under the County’s financial institution rating system in effect at the time the initial letter of credit is issued pursuant to this Agreement (the Issuer). During the term of this Agreement and subject to the terms of Paragraph 22 of this Agreement, the County may revise the standard form letter of credit it reasonably considers acceptable and necessary to secure the performance of Subdivider’s obligations under this Agreement. A letter of credit satisfying the criteria of this

Paragraph (and any substitute or confirming letter of credit) is referenced to in this Agreement as the "Letter of Credit."

12. **Reduction in Letter of Credit.** After the acceptance of any Improvement, the amount which the County is entitled to draw on the Letter of Credit shall be reduced by an amount equal to ninety percent (90%) of the Quoted cost of the accepted Improvement, as shown on Exhibit B. Upon completion of an Improvement, at the written request of Subdivider or Issuer, and if neither the Subdivider nor Issuer is then in default under this Agreement or the Letter of Credit, the County shall complete, execute, and deliver to the Issuer a reduction letter verifying the acceptance of the Improvement and documenting that the Stated Amount has been reduced by stating the balance of the Stated Amount remaining after the reduction required by the first sentence of this Paragraph. No later than sixty (60) days after its receipt of a written request to reduce the Stated Amount submitted by the Subdivider or the Issuer, the County shall determine the Estimated Remaining Cost and shall complete, execute, and deliver to the Issuer a reduction letter documenting that the Stated Amount has been reduced to the Estimated Remaining Cost if the County determines the Stated Amount exceeds the Estimated Remaining Cost. Notwithstanding the preceding sentence, the County shall not be required to authorize reductions in the Stated Amount more frequently than every ninety (90) days. As used in this Paragraph, "Estimated Remaining Cost" means the amount the County estimates to be the cost of completing all Improvements which are incomplete as of the time of such estimate.

County's Obligations

13. **Inspection and Certificate.** The County agrees to inspect Improvements during and at the completion of construction and, if completed in accordance with the standards and specifications for such Improvements, to certify the Improvements as being in compliance with County standards and specifications. The inspections and certifications will be conducted in accordance with standard County policies and requirements. The Subdivider grants the County, its agents, employees, officers, and contractors an easement and license to enter the property to perform such inspections as it deems appropriate.

14. **Notice of Defect.** The County will provide timely notice to the Subdivider whenever inspection reveals that an Improvement is not constructed or completed in accordance with the standards and specifications for health or safety, and if the notice of defect includes a statement explaining why the defect creates such immediate and substantial harm, the cure period may be shortened to no less than five (5) days and the County may declare a default under this Agreement if not satisfied that the defect is cured after the cure period. Any cure period should be reasonable in relation to the nature of the default.

15. **Use of Proceeds.** The County will disburse funds drawn under the Letter of Credit only for the purposes of completing the Improvements in conformance with the County's requirements and specifications for the Improvements, or to correct defects in or failures of the Improvements. The Subdivider has no claim or rights under this Agreement to funds drawn under the Letter of Credit or any accrued interest earned on the funds. All funds obtained by the County pursuant to one or more draws under the Letter of Credit shall be maintained by the County in an interest bearing account until such funds, together with accrued interest thereon

(the Escrowed Funds), are disbursed by the County. The County may disperse all or portions of the Escrowed Funds as Improvements are completed and accepted by the County, or in accordance with the terms of a written construction contract between the County and a third party for the construction of Improvements. Escrowed Funds not used or held by the County for the purpose of completing an Improvement or correcting defects in or failures of an Improvement, together with interest accrued thereon, shall be paid by the County to the Issuer of the Letter of Credit no later than sixty (60) days following the County's acceptance of the Improvement or its decision not to complete the Improvement using Escrowed Funds, whichever date is earlier.

16. **Return of Excess Escrowed Funds.** No later than sixty (60) days after its receipt of a written request from the Subdivider or the Issuer to return Excess Escrowed Funds to the Issuer, the County shall disburse to the Issuer from the Escrowed Funds all Excess Escrowed Funds. For purpose of this Paragraph, "Excess Escrowed Funds" means the amount of Escrowed Funds exceeding one hundred ten percent (110%) of the estimated cost of constructing Improvements the County intends to construct but which have not been accepted, as such cost is shown on Exhibit B. Notwithstanding the first sentence in this Paragraph, the County shall not be required to disburse Excess Escrowed Funds more frequently than every ninety (90) days.

17. **Cost Participation by County.** If the County and Subdivider agree the County will participate in the expense of installing any of the Improvements, the respective benefits and obligations of the parties shall be governed by the terms of a Community Facilities Construction Agreement executed by the parties thereto, and the terms of that Agreement shall control to the extent of any inconsistency with this Agreement.

18. **Conditions of Draw on Security.** The County may draw upon any financial guarantee posted in accordance with Paragraph 11 upon the occurrence of one or more of the following events:

- (a) Subdivider's failure to construct the Improvements in accordance with Paragraph 8 of this Agreement;
- (b) Subdivider's failure to renew or replace the Letter of Credit at least forty-five (45) days prior to the expiration date of the Letter of Credit;
- (c) Subdivider's failure to replace or confirm the Letter of Credit if the Issuer fails to maintain the minimum rating acceptable to the County, in Accordance with Paragraph 11 of this Agreement; or
- (d) Issuer's acquisition of the Property or a portion of the Property, through foreclosure or an assignment or conveyance in lieu of foreclosure.

The County shall provide written notice of the occurrence of one or more of the above events to the Subdivider, with a copy provided to the Issuer. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraph (a), the County shall provide notice to the Subdivider and the Issuer of the specific default and the notice shall

include a statement that the County intends to perform some or all of Subdivider's obligations under Paragraph 8 for specified Improvements if the failure is not cured. The notice with respect to a default under subparagraph (a) shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit, unless, in the reasonable opinion of the County, the failure creates an immediate and substantial harm to the public health or safety, in which case the notice shall state why the failure creates an immediate and substantial harm to the public health or safety, and shall be given no less than five (5) days before presentation of a draft on the Letter of Credit. In the event of a draw based on subparagraph (a), the County shall be entitled to draw in the amount it considers necessary to perform Subdivider's obligations under Paragraph 8, up to the amount allocated according to Exhibit B for any Improvement it states its intent to construct or complete in accordance with the standards and specifications for such improvement. The Subdivider hereby grants the County, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such Improvements. Where a Letter of Credit has been provided as the financial guarantee, with respect to an event described by subparagraphs (b), (c), or (d), the notice shall be given no less than twenty (20) days before presentation of a draft on the Letter of Credit. In lieu of honoring a draft based on an event described in subparagraph (b) or (c), the Issuer or the Subdivider may deliver to the County a substitute Letter of Credit if the event is described by subparagraph (b) or a substitute or confirming Letter of Credit if the event is described by subparagraph (c). If the Issuer has acquired all or a portion of the Property through foreclosure or an assignment or conveyance in lieu of foreclosure, in lieu of honoring a draft based on an event described in subparagraph (d), the Issuer may deliver to the County a substitute or confirming Letter of Credit.

19. Procedures for Drawing on the Letter of Credit. The County may draw upon the Letter of Credit in accordance with Paragraph 18 by submitting a draft to the Issuer in compliance with the terms of the Letter of Credit governing such draft. The Letter of Credit must be surrendered upon presentation of any draft which exhausts the Stated Amount of such Letter of Credit. The County may not draft under a Letter of Credit unless it has substantially complied with all its obligations to the Issuer under this Agreement and has properly completed and executed the draft in strict accordance with the terms of the Letter of Credit.

20. Measure of Damages. The measure of damages for breach of this Agreement by the Subdivider is the reasonable cost of completing the Improvements in conformance with the County's requirements, procedures, and specifications. For improvements upon which construction has not begun, the estimated cost of the Improvements shown on Exhibit B will be prima facie evidence of the minimum cost of completion; however, neither that amount or the amount of the Letter of Credit establishes the maximum amount of the Subdivider's liability.

21. Remedies. The remedies available to the County, the Subdivider, and Issuer under this Agreement and the laws of Texas are cumulative in nature.

22. Provisions for the Benefit of Issuer. The provisions of Paragraphs 9, 10, 11, 12, 15, 16, 18, 19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 32, and 36 of this Agreement for the benefit of the Issuer may not be modified, released, diminished, or impaired by the parties without the prior written consent of the Issuer.

23. **Third Party Rights.** No person or entity who or which is not a party to this Agreement shall have any right of action under this Agreement, nor shall any such person or entity other than the County (including without limitation a trustee in bankruptcy) have any interest in or claim to funds drawn on the Letter of Credit and held in escrow by the County in accordance with this Agreement. Notwithstanding the preceding sentence, the Issuer shall have a right of action to enforce any provision of this Agreement where the Issuer is specifically named as a beneficiary of such provision pursuant to Paragraph 22.

24. **Indemnification.** The Subdivider hereby expressly agrees to indemnify and hold the County harmless from and against all claims, demands, costs, and liability of every kind and nature, including reasonable attorney's fees for the defense of such claims and demands, arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act or negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements. The Subdivider further agrees to aid and defend the County if the County is named as a defendant in an action arising from any breach on the part of Subdivider of any provision in this Agreement, or from any act of negligence of Subdivider or Subdivider's agents, contractors, employees, tenants, or licensees in the construction of the Improvements, except where such suit is brought by the Subdivider. The Subdivider is not an employee or agent of the County. Notwithstanding anything to the contrary contained in this agreement, the Subdivider does not agree to indemnify and hold the County harmless from any claims, demands, costs, or liabilities arising from any act or negligence of the County, its agents, contractors, employees, tenants, or licensees.

25. **No Waiver.** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute continuing waiver unless expressly provided for by a written amendment to this Agreement; nor will the waiver of any default under this agreement be deemed a waiver of any subsequent defaults of the same type. The failure at any time to enforce this Agreement or covenant by the County, the Subdivider, or the Issuer, their heirs, successors or assigns, whether any violations thereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

26. **Attorney's Fees.** Should either party or Issuer, to the extent Issuer is named as specific beneficiary, be required to resort to litigation to enforce the terms of this agreement, the prevailing party, plaintiff or defendant, shall be entitled to recover its costs, including reasonable attorney's fees, court costs, and expert witness fees, from the other party. If the court awards relief to both parties, each will bear its own costs in their entirety.

27. **Assignability.** The benefit and burdens of this Agreement are personal obligations of the Subdivider and also are binding on the heirs, successors, and assigns of the Subdivider. The Subdivider's obligations under this Agreement may not be assigned without the express written approval of the County. The County's written approval may not be withheld if the Subdivider's assignee explicitly assumes all obligations of the Subdivider under this Agreement and has posted the required security. The County agrees to release or reduce, as appropriate, the Letter of Credit provided by the Subdivider if it accepts substitute security for all or any portion of the Improvements. The County, in its sole discretion, may assign some or all of its rights under this

Agreement, and any such assignment shall be effective upon notice to the Subdivider and the Issuer.

28. **Expiration.** This Agreement shall terminate upon the expiration of the approval of the proposed final plat of the Subdivision or if the Subdivision is vacated by the Subdivider.

29. **Notice.** Any notice required or permitted by this Agreement is effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to Subdivider:

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

if to County:

Attn: _____

Printed Name: _____

Office or Position: _____

Address: _____

if to the Issuer: at Issuer's address shown on the Letter of Credit.

The parties may, from time to time, change their respective addresses listed above to any other location in the United States for the purpose of notice under this Agreement. A party's change of address shall be effective when notice of the change is provided to the other party in accordance with the provisions of this Paragraph.

30. **Severability.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or enforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

31. **Personal Jurisdiction and Venue.** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement or the Issuer, whether arising out of or relating to the Agreement or the Letter of Credit, will be deemed to be proper only if such action is commenced in District Court for Nueces County, Texas, or the United States District Court for the Southern District of Texas, Corpus Christi Division. The Subdivider expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal. The Issuer, by providing a Letter of Credit pursuant to the terms of this Agreement, expressly waives any right to bring such an action in or to remove such an action to any other court, whether state or federal.

32. **Release Upon Completion.** Upon acceptance of all Improvements, the County agrees: (a) to complete, execute and deliver to the Subdivider and the Issuer a release in recordable form releasing the Subdivider and Subdivider's heirs, successors and assigns, and the Property from all provisions of this Agreement except those contained in Paragraph 10, and (b) to return to the Issuer the Letter of Credit and any Escrowed Funds not expended or obligated by the County for the completion of the Improvements.

33. **Captions Immaterial.** The numbering, order, and captions or headings of the paragraphs of this Agreement are for convenience only and shall not be considered in construing this agreement.

34. **Entire Agreement.** This Agreement contains the entire agreement between the parties and correctly sets forth the rights, duties, and obligations of each to the other as of the Effective Date. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent written modification executed by both parties.

35. **Authorization to Complete Blanks.** By signing and delivering this agreement to the appropriate official of the County, the Subdivider authorizes completion of this Agreement by filling in the Effective Date below.

36. **Binding Agreement.** The execution and delivery of this agreement and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate and governmental action of the County. This Agreement has been duly executed and delivered by each party, and constitutes a legal, valid, and binding obligation of each party enforceable in accordance with the terms as of the Effective Date. These representations and agreements are for the benefit of the Issuer, and have been relied on by the Issuer in issuing the Letter of Credit.

EXECUTED by the parties to be effective as of the _____ day of _____, 20__.

County Official

Subdivider

[SIGNATURES OF THE PARTIES TO BE ACKNOWLEDGED]

EXHIBIT A: METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT B: SUBDIVISION IMPROVEMENTS

Subdivision Improvements. Subdivider and County agree the following improvements are required in connection with the approval and development of the Subdivision (collectively, the Subdivision Improvements). Subdivider agrees to deliver a financial guarantee acceptable in form and substance to the County in an amount equal to the Estimated Cost of Completion listed below, as follows:

Description of Improvement(s)	Estimated Cost of Completion
-------------------------------	------------------------------

- a)
- b)
- c)

IRRECOVABLE LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT NO.

TO: _____, Texas

DATE: _____, 20__

We hereby authorize you to draw at sight on [NAME AND LOCATION OF BANK], for the account of [NAME OF CUSTOMER] (the Customer), up to the aggregate amount of _____ DOLLARS (\$_____) (the Stated Amount) available by our draft, accompanied by a certification by the County Judge, any County Commissioner, or the County Treasurer that the following condition exists:

“A Condition of Draw exists under Subdivision Construction Agreement dated _____, 20__, by and between Subdivider and the County of Nueces (the Agreement). County is in substantial compliance with the terms of said Agreement and has calculated the amount of this draft in accordance with the terms of the Agreement.”

Drafts must be drawn and presented by or on [EXPIRATION DATE] by the close of business of the Issuer of this credit and must specify the date and number of this credit. Drafts will be honored within five calendar days of presentment. We hereby engage all drawers that drafts drawn and presented in accordance with this credit shall be duly honored. Partial draws are permitted and the letter of credit shall be reduced by the amount of such partial draws as well as by any reduction letters authorized by the County. The sum of such partial draws shall on no account exceed the Stated Amount of this credit, and upon any draw or reduction letter which exhausts this credit, the original of this credit will be surrendered to us.

Except as expressly stated, this credit shall be subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce (Publication No. 500).

This credit is irrevocable prior to its expiration date unless both parties consent to revocation in writing.

Address of Issuer:

Signature of Issuer’s Authorized Officer

Printed Name:

Title: