

THREE-PARTY CONTRACT FORM INSTRUCTIONS **FOR PUBLIC IMPROVEMENTS**

GENERAL INFORMATION:

- A minimum of three (3) fully completed sets of the contract with original signatures shall be submitted to the Community Development Director at the pre-construction meeting.
- The contractor must be pre-qualified with the Department of Public Works for the type of construction to be performed. Contact the Department of Public Works (817-790-3351) for additional information concerning pre-qualification. Pre-qualification may take up to 30 calendar days to complete.
- All blanks must be completed in typewritten or printed format.
- The owner and contractor shall sign the contract form and have the signatures notarized prior to the pre-construction meeting.
- After contracts are executed by the City, contact Justin French, Community Development Director, at frenchj@alvarado.org or 817-240-9585 at least 48 hours prior to beginning construction.
- Any questions concerning these contracts can be directed to the Community Development Director.

INSTRUCTIONS FOR COMPLETING THIS FORM:

1. Prior to submitting contract documents to the Community Development Director, an itemized proposal must be approved. A copy of the proposal containing an itemized breakdown of quantities and unit prices and total cost of the public improvements must be submitted. **Do not include private facilities.** When applicable, the proposal shall include an item for trench safety protection specified in linear feet and a statement that a safety program will be implemented by the contractor. Requirements concerning trench safety must comply with House Bills 665 and 662. The proposal can be emailed to Justin French at frenchj@cityofalvarado.org.
2. Once the proposal has been approved the remaining contract documents can be submitted.
3. The project name is the name of the subdivision, including phase or section, lot and block.
4. The contract number will be filled in by the Community Development Director.
5. Section I: Identify the type of construction such as concrete or HMA Paving, deceleration lane, median opening, left turn lane, storm drainage, concrete lined channel, water line, sanitary sewer, fire hydrant installation, meter vault, sanitary sewer manhole.
6. Section IV: Execute and submit Maintenance Bonds on all projects.
7. Section V and VI: Performance Bonds or an equivalent are required if the plat will be recorded prior to installation of public improvements and passage of final subdivision construction.
8. Power of Attorney must be submitted with the Bonds.

9. Section VII: The amount of the contract must be included in this space. Payment shall be made as designated between the owner and contractor. For example: payment upon completion of construction or payment on monthly basis.
10. Section XII: Insurance requirements must be met in accordance with Section XII. Three (3) original Certificates of Insurance (Accord Form) shall be included with the contracts. The Insurance Certificate shall be written with the City of Alvarado as an additional insured on all policies except workers compensation with a waiver of subrogation on all policies. The certificate must identify the project name and the type of construction.
11. The subdivision plat and/or easements need to be filed with Plat/Deed Records, Johnson County, Texas prior to execution of contracts.
12. The Administration and Inspection Fee needs to be paid prior to the contracts being signed by the City. The fee is \$650.00 to the City of Alvarado.
13. Submit two (2) copies of a traffic control plan and the completed Traffic Control Plan Checklist prior to the City executing the contract. The plan should be signed and dated by the responsible entity. A copy will be forwarded to the City Engineer for review and acceptance. State on the document that the plan is in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices (TMUTCD).
14. Submit three (3) copies of a Trench Safety Plan for water, sanitary sewer and storm drainage improvements, if applicable. The plan shall be sealed by a licensed engineer.

Contact Justin French with the Community Development Department at 817-240-9585 if you have questions regarding the Three-Party Contract.

THREE PARTY CONTRACT
FOR PUBLIC IMPROVEMENTS

Legal Description _____
Project Name _____
Contract No. _____

THE STATE OF TEXAS §

COUNTY OF JOHNSON §

KNOW ALL BY THESE PRESENTS:

This contract is made and entered into on this _____ day of _____, _____ by and between _____ hereinafter referred to as OWNER, _____ hereinafter referred to as GENERAL CONTRACTOR (if applicable), and _____ hereinafter referred to as CONTRACTOR.

WITNESSETH:

I.

CONTRACTOR hereby agrees to furnish all labor, materials, tools and the necessary equipment for the construction and installation ("work") of the following:

_____ (hereafter "Public
Improvements")

II.

Construction and installation of Public Improvements and the location thereof shall be approved by the CITY OF ALVARADO Community Development Director or their designee, prior to beginning work. The construction and installation of paving, drainage, water, fire hydrants, sanitary sewer, street lights and street markers shall be performed according to the current Standard Specifications for Public Works Construction as issued by the North Central Texas Council of Governments, as it may be amended from time to time; and current CITY OF ALVARADO Design Standards, as it may be amended, both of

which are incorporated herein as if written word for word. Where any discrepancies occur between the Design Standards and the Standard Specifications, the Design Standards shall govern.

III.

It is agreed by and between the parties that the CITY OF ALVARADO has an interest in the proper performance of any contract relating to or arising out of the work described above, and that the CITY OF ALVARADO may bring suit for failure to comply with any terms of this contract.

IV.

It is agreed by and between the parties that a **Maintenance Bond** in the amount of One Hundred Percent (100%) of the contract price for work on Public Improvements shall be furnished by CONTRACTOR(S) in favor of OWNER and CITY OF ALVARADO for a period of two (2) years from the date of acceptance for the public construction and shall be executed by an approved surety company authorized to do business in the State of Texas and shall be approved by the Community Development Director or their designee prior to beginning work.

V.

In the event the developer intends to record the final plat prior to installation of all Public Improvements and their date of acceptance, a **Performance Bond** in the amount of One Hundred Percent (100%) of the contract price for work on Public Improvements shall be furnished by Contractor and shall be approved by **the** Community Development Director or their designee prior to beginning work.

VI.

In the event the developer intends to record the final plat after installation of all Public Improvements and their date of acceptance, no Performance Bond is required.

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VII.

OWNER or GENERAL CONTRACTOR (if applicable) hereby agrees to pay CONTRACTOR for the work on Public Improvements performed hereunder on the following basis: _____

VIII.

A copy of the Standard Specifications for Public Works Construction can be obtained by the CONTRACTOR through the North Central Texas Council of Governments. Alvarado Design Standards Manual for Public Works is available here: <http://www.cityofalvarado.org/304/Design-Standards-Manual-for-Public-Works>.

IX.

This contract shall bind the parties, their heirs, successors, assigns and representatives for the full and faithful performance of the terms hereof, jointly and severally.

X.

It is understood and agreed that all installations of whatever kind made under the terms of this contract shall, upon acceptance by the CITY OF ALVARADO, immediately become the property of the CITY OF ALVARADO, subject only to such reimbursement to OWNER as provided by the ordinances of the CITY OF ARLINGTON or by separate agreement.

XI.

CONTRACTOR, OWNER and GENERAL CONTRACTOR (if signatory hereto) do hereby covenant and agree to, and do hereby agree to waive all claims, release, indemnify, defend and hold harmless the CITY OF ALVARADO and all of its officials, officers, agents, employees and invitees, in both their public and private capacities, from any and all liability, claims, suits, demands or causes of action, including all expenses of litigation and/or settlement which may arise by reason of injury to or death or debt of any person, or for loss of, damage to, or loss of use of any property arising out of or in connection with this contract or the work. Such indemnity will apply whether the claims, suits, losses, damages,

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causes of action or liability, arise in whole or in part from the negligence of the CITY OF ALVARADO or any of its officers, officials, agents, employees or invitees, in both their public and private capacities whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence, joint negligence, gross negligence, active negligence, passive negligence or any other form of negligence. It is the express intention of the parties hereto that the indemnity provided for in this paragraph is indemnity by OWNER, GENERAL CONTRACTOR (if signatory hereto) and CONTRACTOR to indemnify and protect the CITY OF ALVARADO from the consequences of the CITY OF ALVARADO'S own negligence, whether that negligence is the sole or concurring cause of the injury, death or damage or whether said negligence is sole negligence, contractual comparative negligence, concurrent negligence, joint negligence, gross negligence, active negligence, passive negligence or any other form of negligence. Also, it is understood by OWNER, GENERAL CONTRACTOR (if signatory hereto) and CONTRACTOR that such indemnity is indemnity by OWNER GENERAL CONTRACTOR (if signatory hereto) and CONTRACTOR to indemnify and protect the CITY OF ALVARADO from any liability, claims, suits, losses, damages or causes of action due to OWNER'S, GENERAL CONTRACTOR'S and/or CONTRACTOR'S negligence, error or omission, or the negligence, error or omission of any other person(s).

XII.

CONTRACTOR shall, at his own expense, purchase, maintain and keep in force during the term of this contract such insurance as set forth below. CONTRACTOR shall not commence work under this contract until it has obtained all the insurance required under the contract and such insurance has been approved by the CITY OF ALVARADO; nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all similar insurance of the subcontractor has been obtained. All insurance policies provided under this contract shall be written on an "occurrence" basis.

CONTRACTOR SHALL INCLUDE, IN ANY AND ALL SUBCONTRACTOR AGREEMENTS RELATED TO THE PUBLIC IMPROVMENTS OR THIS CONTRACT, LANGUAGE THAT REQUIRES SUBCONTRACTOR TO NAME THE CITY OF ARLINGTON AS AN ADDITIONAL INSURED ON GENERAL, AUTOMOBILE AND UMBRELLA LIABILITY POLICIES, AND TO PROVIDE A WAIVER OF SUBROGATION FOR THE BENEFIT OF THE CITY OF ALVARADO ON ALL POLICIES.

Liability Insurance

Commercial General Liability	\$1,000,000 Per Occurrence/
(No standard coverages are to be excluded by endorsement. XCU and contractual liability are not to be excluded)	\$2,000,000 Aggregate

Automobile Liability Insurance

Commercial Auto Liability Policy \$ 1,000,000 Combined Single Limit
(Any Auto, including hired, and
non-owned autos)

Umbrella Liability

(Following Form and Drop Down \$2,000,000 Each Occurrence
Provisions Included)

Workers' Compensation Insurance

Workers' Compensation Statutory Limit
Employer's Liability \$1,000,000 Each Occurrence
\$1,000,000 Disease - Each Employee
\$1,000,000 Disease - Policy Limit

It is agreed by all parties to this contract that the insurance required under this contract shall:

- (A) Be written with the CITY OF ALVARADO as an additional insured on General, Automobile and Umbrella Liability Insurance policies.
- (B) Provide for thirty (30) days written notice to the CITY OF ALVARADO, before any insurance is canceled, non-renewed or material changed, or any other cause.
- (C) Be written through companies duly authorized to transact that class of insurance in the State of Texas. Companies shall have a minimum A.M. Best rating of A VII or better.
- (D) Waive subrogation rights for loss of damage so that insurers have no right to recover or subrogation against the CITY OF ALVARADO, it being the intention that all required insurance policies shall protect all parties to the contract and be primary coverage for all losses covered by the policies.
- (E) Provide Certificates of Insurance evidencing the required coverages as follows:

Three (3) Copies with Contracts to:

**City of Alvarado
Community Development
104 W. College Ave.
Alvarado, Texas 76009**

XIII.

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract are held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, or conditions of this contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

EXECUTED on the first date written above.

APPROVED:

CITY OF ALVARADO

OWNER

By: _____
Name

By: _____

Signature

Print Name and Title

Title
City Manager

Company Name

Address

City State Zip Code

GENERAL CONTRACTOR

CONTRACTOR

By: _____

By: _____

Print Name and Title

Print Name and Title

Company Name

Company Name

Address

Address

City State Zip Code

City State Zip Code

THE STATE OF TEXAS §

COMMUNITY DEVELOPMENT DEPARTMENT

COUNTY OF JOHNSON §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be a person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed same for and as the act of the City of Alvarado, Texas, a Texas Municipal Corporation, and as Community Development Department, thereof, and for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, _____.

Notary Public in and for the State of Texas

My Commission Expires: _____

Notary Printed Signature

THE STATE OF TEXAS §

OWNER

COUNTY OF JOHNSON §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who is known to me or who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of _____ a corporation of _____ County, Texas, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, _____.

Notary Public In and For the State of Texas

My Commission Expires: _____

Notary's Printed Signature

THE STATE OF TEXAS §

GENERAL CONTRACTOR

COUNTY OF JOHNSON §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who is known to me or who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of _____ a corporation of _____ County, Texas, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, _____.

Notary Public In and For the State of Texas

My Commission Expires: _____

Notary's Printed Signature

THE STATE OF TEXAS §

CONTRACTOR

COUNTY OF JOHNSON §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, who is known to me or who was proved to me on the oath of _____ (name of person identifying the acknowledging person) or who was proved to me through _____ (description of identity card or other document issued by the federal or state government containing the picture and signature of the acknowledging person) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of _____ a corporation of _____ County, Texas, and as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, _____.

Notary Public In and For the State of Texas

My Commission Expires: _____

Notary's Printed Signature

THE STATE OF TEXAS §

MAINTENANCE BOND

Bond No.

COUNTY OF JOHNSON §

KNOWALL MEN BY THESE PRESENTS:

That _____ of _____ County, Texas, hereinafter referred to as CONTRACTOR, and _____, a corporation organized under the laws of the State of _____ and authorized to do business in the State of Texas, hereinafter referred to as "SURETY", are held and firmly bound unto _____, hereinafter referred to as OWNER, and the CITY OF ALVARADO, a municipal corporation located in Johnson County, Texas, hereinafter referred to as CITY, in the penal sum of _____ DOLLARS (\$ _____), lawful money of the United States of America, to be paid in Alvarado, Johnson County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally; and firmly by these presents, the condition of this obligation is such that,

WHEREAS, CONTRACTOR entered into a certain contract with _____, dated the _____ day of _____, _____, in the proper performance of which the CITY has an interest, a copy of which is attached hereto and made a part hereof, for the construction of :

NOW THEREFORE, if CONTRACTOR will maintain and keep in good repair the work herein contracted to be done and performed for a period of two (2) years from the date of acceptance by CITY and do all necessary backfilling that may arise on account of sunken conditions in ditches, or otherwise, and do and perform all necessary work and repair any defective condition growing out of or arising from the improper joining of same, or on account of any breaking of same caused by said CONTRACTOR in laying or building same, or on account of any defect arising in any of said work laid or constructed by said CONTRACTOR, or on account of improper excavation or backfilling, it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by said CONTRACTOR, then this obligation shall be void, otherwise to remain in full force and effect; and in case said CONTRACTOR shall fail to do so, it is agreed that CITY may do said work and supply such materials and charge the same against said CONTRACTOR and

SURETY on this obligation, and said CONTRACTOR and SURETY herein shall be subject to any liquidated damages mentioned in said contract for each days' failure on its part to comply with the terms of said provisions of said contract.

Provided, further, that if any legal action is filed on this Bond, venue shall lie in Johnson County, Texas.

And, that said SURETY for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work performed thereunder, or the plans, specifications, drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder.

The undersigned and designated agent is hereby designated by SURETY herein as the resident agent in either Johnson, Tarrant or Dallas Counties to whom any requisite notice may be delivered and on whom service of process may be had in matters arising out of such suretyship.

IN WITNESS WHEREOF, this instrument is executed on this the ____ day of _____, _____.

WITNESS

CONTRACTOR

Signature

Print Name and Title

Company Name

Address

City State Zip Code

Signature

Print Name and Title

Company Name

Address

City State Zip Code

WITNESS

SURETY

Signature

Print Name and Title

Company Name

Address

City State Zip Code

Signature

Print Name and Title

Company Name

Address

City State Zip Code

The Resident Agent of the SURETY in either Johnson, Tarrant or Dallas County, Texas, for delivery of notice and service of process is:

Name _____
Address _____

Note: Date of Bond must not be prior to date of contract. The effective date of this Bond shall be the date of acceptance of said public improvements by the Community Development Department of the City of Alvarado.

THE STATE OF TEXAS §

PERFORMANCE BOND

Bond No.

COUNTY OF JOHNSON §

KNOW ALL MEN BY THESE PRESENTS:

That _____ of _____ County, Texas, hereinafter referred to as CONTRACTOR, and _____

_____ , a corporation organized under the laws of the State of _____ and authorized to do business in the State of Texas, hereinafter referred to as "SURETY", are held and firmly bound unto _____ , hereinafter referred to as OWNER and the CITY OF ALVARADO, a municipal corporation located in Johnson County, Texas, hereinafter referred to as CITY, in the penal sum of _____

_____ DOLLARS (\$ _____), lawful money of the United States of America, to be paid in Arlington, Tarrant County Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally; and firmly by these presents, the condition of this obligation is such that,

WHEREAS, CONTRACTOR entered into a certain contract with _____ , dated the _____ day of _____ , _____ , in the proper performance of which the CITY has an interest, a copy of which is attached hereto and made a part hereof, for the construction of:

NOW THEREFORE, if CONTRACTOR shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said contract in accordance with the plans, specifications and contract documents during the original term thereof, and any extension thereof which may be granted with or without notice to SURETY, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the covenants, terms, conditions and agreements of any and all authorized modifications of said contract that may hereafter be made, notice of which modifications to SURETY being hereby waived, then this obligation shall be void, otherwise to remain in full force and effect; and in case said CONTRACTOR shall fail to do so, it is agreed that CITY may do said work and supply such materials and charge the same against said CONTRACTOR and SURETY on this obligation, and said CONTRACTOR and SURETY hereon shall be subject to the liquidated

damages mentioned in said contract for each days' failure on its part to comply with the terms of said provisions of said contract.

Provided, further, that if any legal action is filed on this Bond, venue shall lie in Johnson County, Texas.

And, that said SURETY, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work performed thereunder, or the plans, specifications, drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder.

The undersigned and designated agent is hereby designated by SURETY herein as the resident agent in either Johnson, Tarrant or Dallas Counties to whom any requisite notice may be delivered and on whom service or process may be had in matters arising out of such suretyship.

IN WITNESS WHEREOF, this instrument is executed on this the ____ day of _____, _____.

WITNESS

CONTRACTOR

Signature

Signature

Print Name and Title

Print Name and Title

Company Name

Company Name

Address

Address

City State Zip Code

City State Zip Code

WITNESS

SURETY

Signature

Signature

Print Name and Title

Print Name and Title

Company Name

Company Name

Address

Address

City State Zip Code

City State Zip Code

The Resident Agent of the SURETY in either Johnson, Tarrant or Dallas County, Texas, for delivery of notice and service of process is:

Name _____
Address _____

Note: Date of Bond must not be prior to date of contract.