

DEPARTMENT OF PUBLIC WORKS & ENGINEERING
Developer Participation Contracts



DPC Project Management Manual

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A. Introduction:

This manual has been created in an effort to standardize recurring procedures and provide guidance to developers and engineers, who are contracted by developers, to provide services under Developer Participation Contracts (DPCs) with the City of Houston. There are three types of DPCs and all three are covered in City of Houston Code of Ordinances, Chapter 47, Article IV beginning with Section 47-161.

30-70 DPCs: are mainly intended for reimbursement of new water and wastewater infrastructure construction only. Housing is not associated with these type projects and there is no provision for reimbursement of storm sewer costs. The cap on reimbursement is limited to \$1,000,000 but only includes construction costs.

50-50 DPCs: are also mainly intended for reimbursement of new water and wastewater infrastructure construction only. Housing is not associated with these type projects and there is no provision for reimbursement of storm sewer costs. The cap on reimbursement is limited to \$50,000 and includes construction and engineering costs.

70-30 DPCs: are principally for water and wastewater infrastructure construction in new residential subdivisions. The Department of Public Works and Engineering is principally responsible for reimbursements involving water and wastewater funds. If applied for, some developers will receive funds from the Department of Housing and Community Development for Storm Sewer infrastructure construction on affordable housing development. The cap on reimbursements for these type projects is \$1,000,000 and includes construction and engineering costs.

All three types of DPCs require permits from the City for construction of water, wastewater and storm infrastructure. If any other work is included in the construction contract that would require separate permitting, permits would have to be secured for that work also (e.g. electrical, paving, etc.).

City Inspectors will inspect the work covered by permits, during construction. All DPCs must be approved by the City when completed and before any reimbursement can occur. The developer/engineer is required to maintain sufficient documentation during construction to prove to the City that the project was completed in accordance with City standards and the City-approved design.

For 70%, Developer must comply with the bidding requirements of chapter 252 of the Texas Local Government code.

For 30% and 50%, Developer must obtain 3 informal bids.

DPC manual, checklists, contract documents, bonds, certificates and letters for use on DPC projects can be found at:

<http://documents.publicworks.houstontx.gov/document-center/developers-participation-contract-dpc/index.htm>

B. DPC Submittal & Process

1. Submittal

- A. 30-70 & 50-50 DPC** - Developer wants to construct new main (water or wastewater) in the City's right-of-way/utility easement or new proposed right-of-way/ utility easement, and be reimbursed by the City for a portion of the infrastructure that is built. Developer hires an engineering firm to design and oversee the construction of the Work, and applies to the City for a DPC.

The Developer shall deliver to the City the following:

1. DPC Application Fee. Cashier Check only. See page 11 for the fee.
2. Developer Participation Contracts (two originals, one copy)
3. Certificates of Insurance (one original and two copies)
4. If applicable, City's Performance Bonds, Payment Bonds, Power of Attorney, one-year Maintenance and Surface Restoration Bonds (two originals and one copy)
5. If applicable, Certificate of Incorporation, Joint Venture, Partnership, etc
6. A company vendor code. If you are first time to enter an agreement with the City, (a) register your company at <http://purchasing.houstontx.gov/>. (b) Fax a W-9 Form to Esmeralda Lopez at 713.247.1255, and (c) call her at 713.247.1744 to get the vendor code or if you need assistance.
7. City of Houston Acknowledgement Form
8. Affidavit of Ownership or Control - notarized.
9. Water and/or wastewater capacity reservation letters (one copy)
10. Proof that the Developer has acquired all lands and right-of-way necessary for construction (one copy)
11. A copy of the project drawing no larger than 8 ½ by 11.
12. A copy of the vicinity map no larger than 8 ½ by 11.
13. Approved construction plans and drawings as required by Engineering Review Section (one copy)
14. At least one (1) formal or three (3) informal itemized bidding documents showing the bid cost for the water and/or sanitary sewer construction (one copy)
15. Cost Allocation Requested Calculation

B. 70-30 DPC

Developer wants to develop a new subdivision in the City limits boundary, acquires the property and all needed rights-of-way, hires an engineering firm to plan, design and oversee the construction of the Work, and applies to the City for a DPC.

Developer shall deliver to the City of the followings:

1. DPC Application Fee. Cashier Check only. See page 12 for the price.
 2. Developer Participation Contracts (two originals, one copy).
 3. A company vendor code. If you are a first time to apply for a contract, please register your company at <http://purchasing.houstontx.gov/>. Call Esmeralda Lopez 713.247.1744 for assistance.
 4. Certificate of Incorporation, Joint Venture, Partnership, etc. (1 copy)
 5. Letter from IRS showing tax I.D. Number.
 6. Notarized copy of Affidavit of Ownership or Control.
 7. Water and/or wastewater capacity reservation letters (one copy).
 8. One copy of vicinity map 8 ½ by 11 (1 copy).
 9. Developer must submit approved preliminary plat within 120 days of contract countersignature date or the contract will be terminated (1 copy).
 10. One copy of a one-line drawing showing the streets, lots and utility lines. This drawing must show surrounding streets to identify the subdivision location.
 10. Final CPC 101 Form.
 11. Engineer's estimate construction costs with quantities.
 12. Reimbursement Calculation.
 13. Exhibit A – A narrative describing of the project includes lines to be built
 14. Exhibit B
2. DPC Award Process
1. Program Manager prepares memo and routing, obtains required signatures and initials from Public Works authorities.
 2. Affidavit submitted to Director's office for checking tax.
 3. Contracts submitted to Resource Management to allocate funds from appropriation, and set up an account.

4. Program Manager delivers contract package to Director's office for approval.
5. After Director signs, Program Manager sends contracts to Legal Department for signature; Legal then forwards contracts to City Controller for countersignature.
6. Developer has 120 days to submit approved preliminary plat from the contract countersignature date or the contract will be terminated.
7. Developer obtains the copy of the DPC ensuring that it has the contract number written on the front page in the upper right-hand corner.
8. Developer has 18 months from the date of City Controller countersignature to issue a Notice to Proceed or contract will be terminated.

A request for an extension of an existing contract should be mailed to Program Manager at least 6 months in advance from the expiration date.

END OF PROCEDURE

C. Construction

Developer cannot issue the Notice to Proceed and construction cannot begin until the DPC contract is countersigned by the City Controller or the DPC will be terminated.

30-70 & 50-50: Developer has secured a contract with the City to construct new main (water and wastewater lines), obtained permits required to construct the project, and give Contractor a Notice to Proceed

70-30 Only:

- Developer has secured a contract with the City to develop a City subdivision by providing water and wastewater infrastructure and possibly storm sewer as well. Developer has already entered into a contract with a Professional Engineer to prepare documents for platting, bidding construction of these improvements and managing the construction of the project.
- Developer or Engineer on behalf of the Developer shall bid the project in accordance with State competitive bid laws.
- Engineer shall inform and forward all pertinent information to OCE Project Manager for all routine matters dealing with receiving bids, evaluating bids, post bid procedures, construction contract award and Notice to Proceed (NTP).

Preparing B&I Package

70-30 only: Engineer prepares and forwards one set of original copies of the following documents to City Legal for review prior to the award of construction contract to the contractor. The City Legal has ten working days to review the package.

- A. Bonds & Insurance (B&I) Package Cover Page
- B. Performance Bond
- C. Statutory Payment Bond
- D. One-year Maintenance Bond
- E. One-year Surface Correction Bond
- F. Power of Attorney for Surety on Bonds
- G. Insurance Certificates

Construction Contract Award

1. Engineer prepares and distribute to all interested parties Notice to Proceed letter with Date of Commencement of the Work. *Please note that the Date of Commencement of the Work must be within 18 months of the Controller's countersignature on the original Developer Participation Contract to be eligible for reimbursement.*
2. Developer or Engineer on behalf of the Developer shall award the construction contract in accordance with State competitive bid laws
3. Contractor is required to pull permits for all the utility construction for all DPC projects.
4. Contractor notifies Engineer and OCE Inspector 48 hours prior to commencing work.
5. Contractor proceeds with construction on Date of Commencement of the Work specified in Doc. 00551 - Notice to Proceed. *NOTE: Developer must complete 100% of the facilities described in the DPC and 25% of the number of housing units required in the DPC to be eligible for water and wastewater reimbursement, and sold all houses within three years from the Date of Commencement of the Work to be eligible for fully storm reimbursement.*

END OF PROCEDURE

D. City Final Acceptance

Situation:

30-70 & 50-50: Developer is administering the construction contract and is ensuring that all documentation and testing required by the City is created and maintained for subsequent approval of the Work by the City and the reimbursement process.

70-30 Requirement: Engineer, privately contracted by the Developer, is fully managing the construction of the Project, acting as Design Consultant, Project Manager, Inspector and City Engineer. It is assumed that these services are part of the Engineer's contract with the Developer. All documentation and testing required by the City and the Contract documents is being created and maintained by the Engineer for subsequent approval of the Work by the City and the reimbursement process.

This procedure was written primarily for 70-30 DPC Projects. However, the Developer should review these steps to see the type and extent of documentation the City requires during construction, because the requirements are similar for 30-70 and 50-50 approval and reimbursement.

Engineer Duties during Construction

1. Engineer performs all duties of the Inspector during the Construction Phase, except those specifically outlined in this document for the OCE Inspector.
2. Engineer ensures Contractor/ Builder does not make any service ties to utilities until system (water and wastewater) has been thoroughly tested and approved by City authorities for use.
3. Engineer ensures no paving is constructed over unapproved utilities.
4. If streets are part of the Contractor's work, Engineer shall ensure sidewalks (if included) and handicapped ramps are in compliance with Texas Accessibility Standards (TAS) and arrange for TDLR inspection prior to substantial completion.
5. Engineer shall be the approval authority for Changes in the Work during construction or Changes in the Work in its capacity as City Engineer, up to and including the Date of Substantial Completion.

Substantial Completion

1. Contractor declares that he is substantially complete.
2. The contractor shall require submitting post construction internal inspection DVDs for storm and sanitary sewer, and full size as-built drawings, each page needs as-built stamped, signed and dated, to the Engineer at the time of inspection. Engineer reviews the post construction DVDs and As-built drawings after the inspection. After review, Engineer submits Certificate of Substantial Completion, punch list, DVDs, full size copy of as-built drawings, each page needs as-built

stamped, signed and dated, and transmittal forms (water, wastewater, Storm water & GIMS) to OCE Managing Engineer for processing.

Final Completion & Acceptance Package

1. Contractor completes all Punch List items and certifies that the Work is complete by executing Document 00641 – Contractor’s Certification of Final Completion, and delivering it to Engineer.
2. Developer or Engineer confirms completion of Punch List and the Work.
3. Developer or Engineer ensures Contractor has paid any fines or fees owed the City in connection with the Project.
4. Developer or Engineer schedules final completion after notifying all the interested parties with 7 calendar days notice. After final completion inspection Engineer submits following to OCE for final acceptance:
 - Certificate of Final Completion
 - Acceptance letters
 - Test Results for all Underground Utilities
 - Approved Permits and test results
 - Copy of completed Punch List
 - Copy of executed Certificate of Substantial Completion
 - Final Payment Estimate

City Acceptance

1. City Engineer verifies that Contractor has paid any outstanding fees, charges or fines associated with the Project.
2. City Engineer signs and sends certificate of final completion and final acceptance letters of the Project to Developer or Engineer for processing. Developer gets original and all others get copies. Engineer makes distribution of this document.

END OF PROCEDURE

E. Reimbursement

30-70 & 50-50: To obtain reimbursement from the City in accordance with the DPC requirement.

70-30 Only: To build at least 25% of the homes in order to claim reimbursement from the City for 70% of the water and wastewater costs and 100% of design cost; and each home sells under the median price to claim reimbursement from the City for up to \$3,000 per lot for storm sewer costs.

Reimbursement Procedures: 70-30, 30-70, 50-50

Water and Wastewater :

1. Invoice from the Developer to the City for payment of amount owed under this Participation Contract.
2. Itemized invoice showing breakdown of costs for determination of reimbursable expenses.
3. Notice to Proceed
4. Permit to construct the utilities lines
5. 00650 - Certificate of Final Completion (1 original)
6. 00651 - Certificate of Payment (1 original)
7. Letters of Acceptance from City Engineer (1 copy each).
8. Itemized invoice showing breakdown of costs for determination of reimbursable expenses.
9. Provide records and vouchers for allowable cost of water and/or sanitary sewer lines and appurtenances (itemized final invoice signed by Contractor or Engineer, and copies of payment check(s) to contractor).
10. If applicable, all documents necessary to vest title to the Project to the City free and clear of any encumbrances as required by the City Legal Department (easement grants, etc...)
11. Recorded Plats of the Project.

Storm Sewer Reimbursement - 70-30 Only

1. Required proof, a closing statement, that the house sold for below the median price as set by TAMU.
2. A copy of signed impact fee waiver statement with median price for each house (must have this for reimbursement)
3. Invoice for eligible storm sewer costs (i.e. design costs, testing costs, construction costs, percentage of water detention facility or portion of required flood control fee, and interest on loan).
4. Fill-out the Request for Storm Payment form. Obtain the form from DPC website.

F. APPENDICES

Application Fee

The PWE Department shall charge each developer requesting a developer contract application fees as provided below. Provided, however, the Department shall refund the application fee if the developer has submitted a complete application as required by the Department and funds are not available within 30 days of the developer's application. No refund shall be given for any other reason.

a. 70% DPC

<i>Number of lots</i>	<i>fee</i>
40 or fewer	\$300.00
41 to 50	\$350.00
51 to 60	\$400.00
61 to 70	\$450.00
71 to 80	\$500.00
81 to 90	\$550.00
91 to 100	\$600.00
101 to 110	\$650.00
111 to 120	\$700.00
121 to 130	\$750.00
131 to 140	\$800.00
More than 140 . .	\$900.00

b. For 30% and 50% developer contracts: \$800

c. For applications to extend the term of a developer contract: \$500

These application fees shall be adjusted by the department each year effective on the first of April. the adjustment shall be based on the percentage change in the U.S. Consumer Price Index for all Urban Consumers for the Houston-Galveston-Brazoria Texas Metropolitan Area rounded up to the next ten dollar increment.

Key Personnel

<u>Name</u>	<u>Position / Location</u>	<u>Telephone</u>	<u>Facsimile</u>	<u>Email</u>
Dale A. Rudick, P.E.	PWE Director 611 Walker St., 25 th	832- 395-2500		Dale.Rudick@houstontx.gov
Tim Lincoln, P.E.	City Engineer 1002 Washington, 2 nd	832- 394-9140		Tim.Lincoln@houstontx.gov
Jason A. Iken, P.E.	Wastewater Operations, 4545 Grove way	832-395-4989		Jason.Iken@houstontx.gov
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Rudy Moreno, Jr.	PDS Deputy Assistant Director 1002 Washington, 3 rd	832-394-8986		Rudy.Moreno@houstontx.gov
Ann Marie Stone Sheridan, P.E.	PDS Supervising Engineer 1002 Washington, 3 rd	832-394-8997		AnnMarie.Sheridan@houstontx.gov
Shailesh Patel	OCE Asst. Chief Inspector 1002 Washington, 2 nd	832-394-9098		Shailesh.Patel@houstontx.gov
Lin Shih	Program Manager 1002 Washington, 3 rd	832- 394-8998		Lin.Shih@houstontx.gov
Rod Pinheiro, P.E.	Storm Sewer 611 Walker, 20 th	832-395-2274		Rod.Pinheiro@houstontx.gov
Yvonne Forrest, P.E.	Drinking Water Operations 611 Walker St., 21 st	832-395-2847		Yvonne.Forrest@houstontx.gov
Lagnesh Varshney, P.E.	OCE Managing Engineer 1002 Washington, 2 nd	832 394-9100	832 394-9620	Lagnes.Varshney@houstontx.gov