



City of El Paso – City Plan Commission Staff Report

Case No: SUAX14-00003
Application Type: Annexation and Service Plan
CPC Hearing Date: February 12, 2015
Staff Planner: Kimberly Forsyth, forsythkl@elpasotexas.gov

Location: South of Montwood Drive and East of Rich Beem Blvd.
Legal Description: A portion of Section 2, Block 79, Township 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas
Acreage: 310.604 acres
Rep District: ETJ - Adjacent to District 5
Existing Use: Vacant
Existing Zoning: N/A
Proposed Zoning: R-5 (Residential) and C-2 (Commercial)

Property Owner: Ranchos Real IV, LTD
Applicant: Ranchos Real IV, LTD
Representative: Conde, Inc.

Distance to Park: Proposed within annexed area
Distance to School: El Dorado 9th Grade Academy (1.48 miles)
Impact Fee Area: This property is within the impact fee area and is subject to impact fees.

SURROUNDING ZONING AND LAND USE

North: R-5 (Residential) and C-2/c (Commercial/conditions) / Residential and vacant
South: ETJ / Vacant
East: ETJ / Vacant
West: ETJ / Vacant

THE PLAN FOR EL PASO DESIGNATION: G4 – Suburban (Walkable)

General Information:

The applicant is requesting annexation of land within the City of El Paso's Extra Territorial Jurisdiction (ETJ) and approval of a service plan in conjunction with a Development Agreement approved by City Council on Nov. 18, 2014. Under the terms of the agreement, a portion of the subject property will be acquired and developed by the city for use as proposed sports complex and the remainder will be developed in accordance with the approved development plan.

Neighborhood Input:

Notice of the public hearings were mailed to all property owners within 300 feet of this proposed annexation and published in the El Paso Times in accordance with the Texas Local Government Code. Planning staff did receive several calls requesting information, but no calls or letters in support or opposition to this request.

DCC Recommendation:

The Development Coordinating Committee recommends **approval** and provides the following comments:

Planning & Inspections Department - Planning Division:

The applicant proposes to annex approximately 310.6 acres, of which 78.979 acres shall be donated to the City and dedicated as parkland for future development as a sports complex, and 1.191 acres shall be donated to the city for a future hike and bike trail abutting the sports complex.

The private development includes approximately 199 acres for residential use, 16 acres for commercial use, a pond, a 1.562 acre neighborhood park and 4.622 acres of hike and bike trails. A rezoning application is being processed concurrently with the annexation. The Service Plan will be approved with the ordinance approving the annexation in accordance with the Texas Local Government Code 43.056. Planning recommends **approval** of this request.

El Paso Water Utilities:

The EPWU does not object to this request. Note our previous comments on the development agreement for this property.

El Paso Police Department:

We do not foresee any conflicts from this.

Planning & Inspections Department - Land Development

We have reviewed the application and have no comments.

Sun Metro:

Recommends that the applicant coordinate with staff to identify a potential location for the placement and construction of a future bus stop.

County of El Paso:

The County has no objections to the proposed annexation.

EP Department of Transportation:

No comments received.

Fire Department:

No comments received.

Parks and Recreation Department:

No additional comments received. The development agreement sets the terms and conditions of the annexation.

Environmental Services:

No comments received.

Attachments

Attachment 1: Location Map

Attachment 2: Aerial

Attachment 3: Approved Development Plan

Attachment 4: Annexation Ordinance & Service Plan

Attachment 5: Application

Tierra Del Este Phase IV Land Study



Attachment 4: Annexation Ordinance & Service Plan

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THE FOLLOWING REAL PROPERTY DESCRIBED AS A PORTION OF SECTION 2, BLOCK 79, TOWNSHIP 3, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, EL PASO COUNTY, TEXAS.

WHEREAS, Ranchos Real IV, LTD (owner of record), is the owner of approximately 310.60 acres lying in the City of El Paso's East Extraterritorial Jurisdiction; the property more fully described in the attached metes and bounds description, identified as Exhibit "A", and survey of the property, identified as Exhibit "B" and made a part hereof by reference, and both Ranchos Real IV, LTD and the City of El Paso request that this area be annexed into the El Paso City Limits; and,

WHEREAS, the City of El Paso and the Owner have entered into an Annexation Agreement on November 18, 2014, attached as Exhibit "C", which governs the development of the property after the annexation; and,

WHEREAS, the attached Service Plan, identified as Exhibit "D", identifies the municipal services to be extended to this annexed area and adopted as part of this ordinance; and,

WHEREAS, public hearings were held on February 9, 2015 and February 12, 2015 at which persons interested in the annexation were given the opportunity to be heard; and that no person voiced opposition to the annexation or Service Plan described as Exhibit "D"; and,

WHEREAS, the City Plan Commission reviewed and recommended approval of the Annexation and Service Plan at their public hearing meeting held on February 12, 2015; and,

WHEREAS, the City Council of the City of El Paso finds that approval of this Annexation is in the best interest, health, safety and welfare of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the boundaries of the CITY OF EL PASO are hereby extended so as to include a portion of Section 2, Block 79, Township 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas, more particularly described in Exhibit "A" and Exhibit "B".

Further, that the City of El Paso adopts the Service Plan described as Exhibit "D"; and that the annexation is subject to all terms and conditions of the Annexation Agreement, entered into on November 18, 2014.

ADOPTED this ____ day of _____, 2015.

ORDINANCE NO. _____

SUAX14-00003

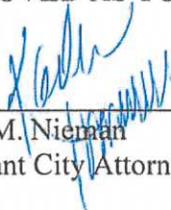
THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy, Director
Planning and Inspections Department

ORDINANCE NO. _____

SUAX14-00003

Exhibit "A"

Prepared For: Southwest Land Development Services
December 12, 2014
(PARCEL 1)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 2, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City Of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Commencing for reference at an existing city monument at the centerline intersection of Montwood Drive Tim Foster Street from which an existing city monument at the centerline intersection of Montwood Drive and Honour Point Place bears South 89°59'32" West a distance of 1208.05 feet; Thence South 88°34'56" East to a distance of 2612.60 feet to a set ½" rebar with cap marked TX 5152 on the southerly right of way line of Montwood Drive for the "TRUE POINT OF BEGINNING".

Thence, South 00°36'06" East a distance of 2544.56 feet to a set ½" rebar with cap marked TX 5152;

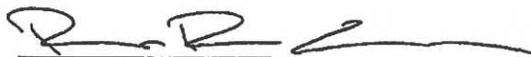
Thence, South 89°59'11" West a distance of 5317.61 feet to a set ½" rebar with cap marked TX 5152 on the common line of sections 2 and 3, Block 79, Township 3, Texas and Pacific Railway Company Surveys;

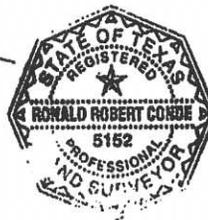
Thence along said line, North 00°34'13" West a distance of 2545.09 feet to a set ½" rebar with cap marked TX 5152 on the southerly right of way line of Montwood Drive;

Thence along said right of way line, North 89°59'32" East a distance of 5316.22 feet to the "TRUE POINT OF BEGINNING" and containing 310.60 acres of land more or less.

Note: Bearings based on plat of Montwood Street Subdivision as recorded in Clerk's file no. 20110065750, Real property records of El Paso County, Texas.

Note: A drawing of even date accompanies this description.


Ron R. Conde
R.P.L.S. No. 5152



CONDE INC
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE / SUITE 100 / EL PASO, TEXAS 79905
(915) 592-0283 FAX (915) 592-0286

ORDINANCE NO. _____

SUAX14-00003

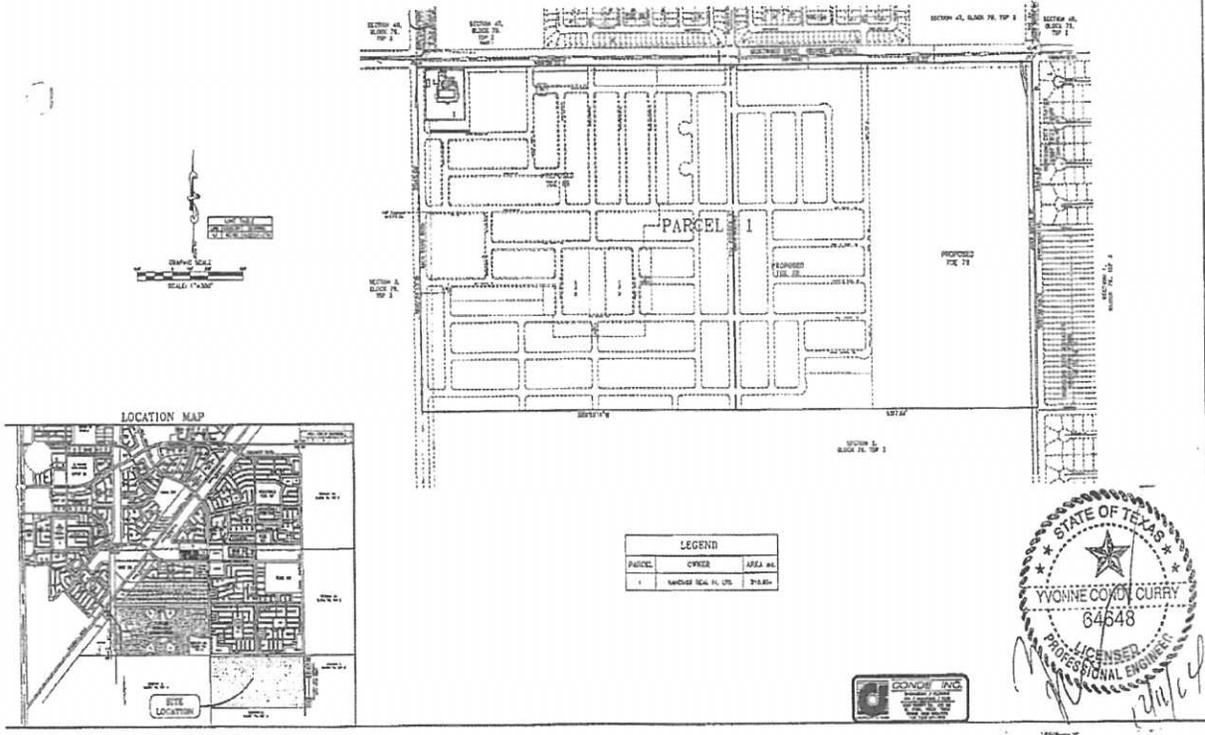
#371378 / 15-1007-1312 / TDE IV Annexation Ordinance

KMN

EXHIBIT "A"

Exhibit "B"

TIERRA DEL ESTE III PHASE IV
ANNEXATION PLAN
BEING PORTION OF SECTION 2, BLOCK 79, TOWNSHIP 3,
TEXAS AND PACIFIC RAILWAY Co. SURVEYS,
EL PASO COUNTY, TEXAS
CONTAINING: 310.6042 ACRES



S:\CEVERO\DATA\CIT\DE EAST-ZARAGOZA-PH-IV-SEC-2-DEVEL.dwg, ANNEX-8x11, 12/11/2014 12:00:47 PM, C.CORTEZ

ORDINANCE NO. _____

SUAX14-00003

#371378 / 15-1007-1312 / TDE IV Annexation Ordinance
KMN

EXHIBIT "B"

Exhibit "C"
Development Agreement

ORDINANCE NO. _____

SUAX14-00003

#371378 / 15-1007-1312 / TDE IV Annexation Ordinance

KMN

EXHIBIT "C"

Exhibit "C"
CITY CLERK DEPT.

2014 NOV 11 AM 9:46

THE STATE OF TEXAS)
COUNTY OF EL PASO)

DEVELOPMENT AGREEMENT

^{18th} THIS DEVELOPMENT AGREEMENT (the "Agreement") made and entered into this day of November, 2014 (the "Effective Date") by and between the CITY OF EL PASO, TEXAS, a municipal corporation, of the County of El Paso in the State of Texas (hereinafter referred to as "City"), acting through the City Council of the City, RANCHOS REAL XV, LLC, a Texas limited liability company (hereinafter referred to as the "Owner") and EL PASO DESERT EAST INVESTMENTS VI, LTD., a Texas limited partnership and THE MESA GROUP V, LTD., a Texas limited partnership (collectively with Owner, the "Donors");

RECITALS

WHEREAS, Owner is the Owner of record of the Property, which is not within the corporate limits of any municipality but is contiguous to the corporate limits of the City; and,

WHEREAS, the City's Annexation Plan states that all annexations will be voluntary and initiated by the property Owner; and

WHEREAS, the Owner desires to voluntarily annex the Property into the City limits on the terms and conditions of this Agreement; and

WHEREAS, the Parties agree that the Property should be annexed into the corporate limits of City on the terms and conditions of this Agreement; and

WHEREAS, Donors have agreed to collectively donate to the City the Sports Complex Parcel and the Hike and Bike Parcel which are part of the Property and the City has agreed to construct and make all improvements to each of these two parcels as required by the El Paso City Code; and

WHEREAS, the Owner has agreed that the Development Parcel will be developed, constructed, and improved by the Owner as required herein; and

WHEREAS, the Texas Local Government Code Chapter 212 Subchapter C authorizes the City to enter into a written agreement with the developer to participate in the construction costs, in an amount not to exceed thirty percent (30%) of the total contract price of improvements, without a competitive bidding procedure; and

WHEREAS, City is authorized to make a written agreement with the Owner of land within the extraterritorial jurisdiction of the City for the purposes set forth in Subchapter G, Chapter 212, Local Government Code; and

WHEREAS, the Parties desire to utilize the aforementioned provisions of the Texas Local Government Code in order to agree on the matters set forth in this Agreement; and

WHEREAS, a public hearing regarding this Agreement was held before the City Plan Commission, and the Commission recommended approval of this Agreement; and,

WHEREAS, City and Owner find it to be to their mutual advantage to enter into this Agreement regarding the matters set forth herein; and,

WHEREAS, Owner, after full consideration, accepts the terms and conditions cited in this Agreement due to the advantages and benefits resulting from the annexation of the Property and the development of the Property in accordance with the terms of this Agreement; and,

WHEREAS, the City, after due and careful consideration, has concluded that the annexation of the Property and the Owner's development of the Development Parcel and the City's development of the Sports Complex Parcel and the Hike and Bike Parcel on the terms and conditions hereinafter set forth is in the best interest of the City to protect and provide for the public health, safety, morals and general welfare of the City.,

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

1. **Definitions.** Unless the context requires otherwise, the following terms and phrases used in this Agreement shall have the meanings set out below:

"Agreement" means this Development Agreement by and between the City and the Owner.

"Application for Annexation" means the Application for Annexation in the form attached hereto as Exhibit "H".

"City" means the City of El Paso, Texas, a home rule municipality situated in El Paso County, Texas.

"City Council" means the elected body that governs the City of El Paso under state law and charter.

"City Park" means the 1.5 acre portion of the Development Parcel as shown on the Development Plan to be dedicated to the City.

"City Regulations" shall mean all duly enacted ordinances, rules, and regulations of the City, including the Code and the Subdivision Regulations, in effect on the Vesting Date.

"City's Project Costs" shall mean the costs listed on Exhibit "F," to be paid by the City to the Owner, as set forth herein.

"Code" shall mean the El Paso City Code, in effect on the Vesting Date.

"Cost Estimates" shall have the meaning ascribed thereto in Exhibit "F".

"CPC" means the City Plan Commission for the City.

"Cure Period" shall have the meaning ascribed thereto in Section 9(a).

"Density" means the number of dwelling units that may be constructed per acre, calculated by dividing the site area by the minimum required lot area in the underlying zoning district.

"Developer" means a person or entity undertaking the division or improvement of land and other activities covered by this title, including the preparation of a plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the terms "subdivider" and, when submitting platting documents, "applicant."

"Developer participation agreement" means an agreement between the city and a property Owner through which the city or property Owner agrees to pay a proportional percentage of a required public improvement or public amenity or for a portion of improvements in excess of those required under current ordinance.

"Development" means initiation of any activities related to the platting or subdivision of land or construction, reconstruction, conversion, or enlargement of buildings or structures, the construction of impervious surfaces (e.g., parking lots), the installation of utilities, roadways, drainage facilities or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including without limitation removal of vegetation, grading, paving, clearing, filling, or removal of soil, and any mining, dredging, excavation or drilling operations.

"Development agreement" means an agreement authorized and in accordance with Section 212.172 of the Texas Local Government Code between a city and a property Owner in the extra-territorial jurisdiction.

"Development application" either a petition for a legislative decision, such as a zoning amendment, or an application for a development permit, such as a plat or a building permit.

"Development Parcel" shall mean the property described by metes and bounds in Exhibit "B-2".

"Development Plan" shall mean the plan for development of the project attached hereto as Exhibit "A", as same may hereafter be amended, modified or supplemented.

"Defaulting Party" shall have the meaning ascribed thereto in Section 9(a).

"Donors" means Ranchos Real XV, LLC, El Paso Desert East Investments VI, LTD., and The Mesa Group V, LTD., and its successors and assigns of all or any part of the Property.

"Donation Deeds" shall mean the deeds in the forms attached hereto as Exhibits "E" and "E-1" to be executed by Donors, collectively conveying the Sports Complex Parcel and the Hike and Bike Parcel to the City.

"Effective Date" means the date to be inserted in the first paragraph of this Agreement, which shall be the date when City Council approves this Agreement.

"Force majeure" shall have the meaning ascribed thereto in Section 13(b).

"Hike and Bike Parcel" shall mean the real property described by metes and bounds in Exhibit "B-4" attached hereto immediately abutting the Sports Complex Parcel.

"Hike and Bike Parcel Improvements" shall have the meaning ascribed thereto in Section 3(c)(1)(v).

"Honey Dew Street Improvements" shall have the meaning ascribed thereto in Section 3(c)(1)(iv).

"John Hayes Improvements" shall have the meaning ascribed thereto in Section 3(c)(1)(iii).

"Land study" means the Tierra Del Este III Land Study approved by the CPC on October 7, 2010.

"Non-Defaulting Party" shall have the meaning ascribed thereto in Section 9(a).

"Owner" means Ranchos Real XV, LLC, and its successors and assigns of all or any part of the Property.

"Party" or "Parties" means a party or the parties to this Agreement, being the City and the Owner, Donors, and their respective successors and assigns.

"Project" shall mean the development of the Property for the purposes shown on the Development Plan. A change that does not change, density by more than ten percent (10%), location of specific commercial or residential uses, lot sizes or street widths and locations shall not constitute a change in the Project under the Vesting Statute.

"Project Costs" shall have the meaning ascribed thereto in Section 3(c)(2).

"Property" shall mean the real property described by metes and bounds in Exhibit "B-1" attached hereto.

"Rich Beem Improvements" shall have the meaning ascribed thereto in Section 3(c)(1)(ii).

"Sports Complex Parcel" shall mean the real property described by metes and bounds on Exhibit "B-3".

"Subdivision Regulations" shall mean the regulations in Title 19 of the Code in effect on the Vesting Date as same may be amended.

"Term" shall have the meaning ascribed thereto in Section 11.

"Vesting Date" shall mean August 8, 2008.

"Vesting Statute" shall mean Chapter 245, Texas Local Government Code.

2. **Agreement of the Parties as to the Procedures and Chronology of Events Necessary for the Commencement and Implementation of the Project.**

- (a) The parties agree that that this agreement will be implemented as follows:
1. City staff will present the development agreement to the City Planning Commission for review and recommendation.
 2. City staff will post this agreement on a City Council meeting agenda for consideration by the Council.
 3. After the effective date of the agreement, but within 30 days thereof, the Owner will submit applications for the annexation, rezoning, and platting of the Property.
 4. The City will process the annexation and rezoning applications for the property pursuant to State law and the City Codes and Regulations. The hearings for the Annexation proceedings and the Rezoning application shall be held at the same City Planning Commission meeting and at the same City Council meeting.
 5. Once the City has adopted ordinances for the annexation and rezoning of the property Donors, shall execute and deliver to the City the Donation Deeds, in accordance with Section 8,

3. **Development of the Property.**

(a) **Development Plan.** The parties hereby agree that the Property will be developed according to the terms described herein. The City hereby approves the Development Plan. Owner shall have the right to make modifications to the Development Plan, including the proposed arrangement of land uses, lot sizes, number of units, the locations of roadways and open spaces, as long as those modifications are substantially consistent with the Development Plan (substantially consistent means it does not increase density by more than ten percent (10%)).

(b) **Applicable Law.** City acknowledges that the entire Property was vested under Texas Local Government Code Section 245 on the Vesting Date. The Parties agree that all permits or approvals by the City for the development of the Development Parcel shall be approved in accordance with the City Regulations as modified by the Development Plan and this Agreement. The Owner has express authority to develop the Development Parcel in accordance with this Agreement. It is the intent of the City and Owner that the vesting of development rights in and to the Owner and its successors and assigns, to develop the Development Parcel in accordance with this Agreement shall include, but not be limited to, preliminary plats, final plats, minor plats and revisions to recorded plats, the character of land uses, street widths, lot sizes, number of units, zoning designations of all or any part of the Development Parcel, landscape requirements, street lighting requirements, park requirements and locations, traffic control devices and the general locations of roadways as shown in the Development Plan and in this Agreement and that changes thereto shall not affect or impair any of Owner's vested rights hereunder.

Owner acknowledges that the annexed land is in an impact fee service area and agrees to pay impact fees in order to get water and wastewater service for the annexed land.

(c) **Public Improvements.**

(1) **Construction.** Owner shall construct all of the public improvements as depicted in the Development Plan, pursuant to the Code except as follows:

(i) **City Park Site:** Owner shall only be obligated to provide turf and irrigation improvements to the City Park and a five foot (5') sidewalk within the City Park. Owner shall not be obligated to dedicate or provide any other amenities to the City Park or to construct any other parks within the Development Parcel or to pay any fees in lieu thereof.

Homes fronting the City Park shall, however, be required to construct a five foot (5') high wall as depicted on Exhibit "M."

(ii) **Rich Beem Boulevard.** Notwithstanding anything in the Code to the contrary, Owner shall only be obligated to construct (i) the easterly fifty-five feet (55') of Rich Beem Boulevard, as reflected in the cross-section thereof in the Development Plan and (ii) street lights in Rich Beem Boulevard not to exceed one (1) light per three hundred (300) lineal feet (the "Rich Beem Improvements").

Additional Street Lights: At the City's expense, additional street lights may be installed in Rich Beem Boulevard per an illumination plan approved by the City.

(iii) **John Hayes:** Notwithstanding anything in the Code to the contrary, Owner shall only be obligated to develop and build the required street improvements for the westerly fifty-five (55) foot width of John Hayes Street, as reflected in the cross-section thereof in the Development Plan (the "John Hayes Improvements"), street light designs will comply with the City's Design Standards for Construction and Title 19 requirements. Owner agrees to build John Hayes within two (2) years of the effective date of this agreement.

(iv) **Honey Dew:** Owner shall develop and build the required street improvements for the entire width of Honey Dew Street, as reflected in the cross-section thereof in the Development Plan (the "Honey Dew Improvements").

(v) **Hike and Bike Parcel.** Owner shall develop and build the required improvements for the hike and bike trail upon the Hike and Bike Parcel as reflected on the Development Plan (the "Hike and Bike Parcel Improvements"). The improvements for this parcel will be substantially similar to the hike and bike trail improvements that will be developed and built along Rich Beem and Montwood, as reflected on the Development Plan.

(vi) **Sports Complex Fencing.** Owner shall build a wall on the western boundary of the Sports Complex. The design and location of such wall is depicted on Exhibit O, for illustrative purposes only. The parties agree to coordinate the timing of the construction of this wall as well as the exact location

and length of each of the individual walls.

(vii) **Right of Entry/License Agreement.** The parties agree that on a mutually agreed date they will execute a Right of Entry Agreement for the construction of the Hike and Bike Parcel and the Sports Complex Fencing, in a substantially similar form to the document attached hereto as Exhibit P.

(2) **Public Improvement Costs.** Owner further agrees that it shall be solely responsible for payment of any and all costs, including but not limited to design and construction costs arising from the construction of required public improvements, except as provided herein (the "Project Costs").

(3) **City's Project Costs.** Upon completion of the public improvements, the Owner shall submit to the City an invoice for the City's Project Costs. Within thirty (30) days of receipt of such invoice, City shall inspect the improvements. The City will pay the Owner the City's Project Costs, as listed in Exhibit "F," when the public improvements listed in Subsections 3(c)(1)(ii) Additional Street Lights, (iii) John Hayes, (iv) Honey Dew (v) Hike and Bike Parcel, and the (vi) Sports Complex Fencing, have been completed by the Owner in accordance with the terms of this Agreement and accepted for maintenance by the City. Upon acceptance of these public improvements, the City will also reimburse the Owner for the costs to obtain security in the form of performance bonds for completion, maintenance, and warranty of improvements, for the public improvements.

(4) **Compliance with Law.** The Owner shall comply with the City Regulations and all applicable federal and state law, except as otherwise set forth herein. Failure to do so in any material manner shall constitute a material breach of this Agreement.

(5) **Project Construction Contracts.** Owner agrees to furnish the City with a copy of each written agreement entered into with a contractor or consultant retained to complete the construction of the public improvements for the Project. All of the books and records related to the construction of the public improvements for the Project shall be available for inspection by the City upon request. Any work performed by a contractor or consultant of the Owner will not, under any circumstances, relieve Owner of its responsibilities and obligations under this Agreement.

(6) **Construction Standards.** All work performed by the Owner or its agents shall be done in a good and workmanlike manner in accordance with the Code, except as otherwise set forth herein. Any contractor or consultant hired by Owner shall have sufficient skills and experience to properly perform its work and shall provide adequate supervision to assure competent performance of the work.

(7) **Security for Completion of Improvements.** If the Owner chooses to defer the installation of public improvements to serve the Development Parcel until after recordation of a final plat, the Owner will guarantee proper construction of any remaining public subdivision improvements by obtaining a bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City of El Paso, as depicted on Exhibit J, in an amount equal to one hundred twenty-five percent

(125%) of the costs of public improvements remaining to be installed as required by City regulations. The performance bond shall be approved as to form by the City Attorney.

Maintenance and Warranty of Improvements. The Owner hereby covenants to warranty the required public improvements for a period of one year for defective material, construction or workmanship following acceptance by the city of all required public improvements and shall provide a maintenance bond, as depicted in Exhibit K, in the amount of fifty percent (50%) of the costs of the improvements for such period.

Performance Bond. Owner must execute and deliver to City, or cause its contractor to execute and deliver, a performance bond for one hundred percent (100%) of the City's Project Costs to secure fulfillment of Owner's obligations. The bond must be in the form attached hereto as Exhibit "L". The bond must be executed by a corporate surety in accordance with Chapter 2253, Texas Government Code. The bond shall identify the City as an additional named obligee.

(8) **Increased Costs.** In the event additional costs arise with respect to the items set forth on Exhibit F, the Owner agrees that it will be solely responsible for all increased costs and City's Project Costs shall not be increased.

(d) **City's Obligations.**

(1) **Payment of City's Project Costs.** The City shall pay the Owner the City's Project Costs as set forth in Section 3(c)(3) herein.

(2) **Traffic Impact Analysis.** The City has approved the traffic impact analysis conducted under the Land Study. Owner shall not be obligated to submit a traffic impact analysis with respect to any plat or other development application with respect to the Property.

(3) **Offsite Mitigation.** The City agrees to waive the Owner's percentage of the off-site traffic signal mitigation as required under the Land Study, which was approximately \$125,000.

(4) **City Fees.** The City agrees to waive the Owner's obligation to pay any and all permit fees for the following development applications: city annexation application fees and the required annexation fee per dwelling unit, rezoning, subdivision plats, Chapter 18.44 grading, and permit fees for the review of the required subdivision improvement plans. All other fees not specifically waived in the preceding sentence must be paid in order to develop the Property.

(5) **Development of the Sports Complex Parcel.** Within ten (10) years from the date of annexation of the Property, City shall, at its sole cost and expense, develop a minimum of twenty (20) acres, except as herein agreed to, on the Sports Complex Parcel in accordance with Title 19 of the El Paso City Code. The Owner shall have no obligation to pay for any improvements to the Sports Complex Parcel.

(6) **Cemex Surface Lease.** City acknowledges that the John Hayes Improvements are to be constructed on a portion of property currently subject to

Surface Lease No. 970025 of record under County Clerk's File No. 96075861, Real Property Records of El Paso County, Texas (the "Surface Lease"). Owner and Cemex Materials Pacific, LLC, a Delaware limited liability company ("Cemex"), are the current lessor and lessee under the Surface Lease and have entered into agreements whereby Cemex has agreed to terminate the Surface Lease to the extent, and only to the extent, that the Surface Lease pertains to the N ½ of Section 2, Block 78, Township 3, T&P RR Surveys, El Paso County, Texas, subject to the City's agreement to (a) permit Cemex street legal trucks to use the John Hayes Improvements following construction and acceptance of John Hayes Improvements by the City, and (b) not construct or require the construction of any barricades on the John Hayes Improvements that would obstruct Cemex access to its leased premises under the Surface Lease at the southerly end of John Hayes Improvements or at the easterly side of the intersection of the John Hayes Improvements and Montwood Drive, (collectively, the "Cemex Conditions"). Provided that appropriate grade transitions are maintained between the Cemex Surface Lease premises abutting the John Hayes Improvements and Montwood Drive, and as long as the Surface Lease remains in effect, the City agrees for the benefit of the Owner, Cemex and its successors and assigns of its interest under the Surface Lease, to the Cemex Conditions and further agrees that it will neither take any action nor adopt any ordinance or resolution contrary to the Cemex Conditions as long as the Surface Lease remains in effect.

Cemex and Owner have also entered into an easement agreement whereby Owner, at its sole cost and expense, will relocate an existing 4-inch waterline, which is currently located at the property also subject of Surface Lease No. 970025. The waterline will be relocated within the N 1/2 of Section 2 at the location described in Exhibit N. The location of the waterline is not under a roadway or proposed roadway and will reconnect the same to the existing waterline at the northerly and southerly boundaries of the Easement Property. The waterline will be relocated prior to the filing of a final plat map dedicating the right of way to the City and the acceptance of the public improvements by the City.

4. **New Regulations.** Notwithstanding anything herein to the contrary, the Parties agree that Owner may elect to apply the City Regulations in effect on the Vesting Date, or all or any portion of any New Regulations, to the development of the Development Parcel to the extent that Owner shall deem appropriate without forfeiting any rights under this Agreement.

5. **Moratorium.** During the Term of this Agreement, City agrees to not adopt a moratorium upon the Property that would prohibit the Owner from making applications to City related to the development of the Property for the uses generally described in the Development Plan.

6. **Annexation.** The Owner shall file an Application for Annexation of the Property with the City, within thirty (30) days after the Effective Date of this Agreement. Within one hundred one hundred eighty (180) days after receipt of the Application for Annexation, the City shall process the Application for Annexation in accordance with applicable state law provisions, and the provisions of the Code, including public notice and hearings with no condition or obligation on Owner except as set forth herein. If the City Council elects not to annex all or any

0014403-00101/JBIR/1161441.1

part of the Property, such action shall not constitute a breach of this Agreement, but such action shall not affect or impair any of the Owner's vested rights hereunder or relieve the City of any of its obligations hereunder and Owner shall be entitled to apply for plats and other development application and obtain approval thereof by the City in accordance with the terms of this Agreement. If the City Council adopts an annexation ordinance pursuant to this Agreement, City will adopt a service plan for the provision of municipal services required by Texas Local Government Code § 43.056 in the form attached hereto as Exhibit "D" and made a part hereof.

7. **Zoning.** On and after the Effective Date, the Property may be developed in a manner consistent with the zoning classifications as shown in the Development Plan. Owner acknowledges that under City Regulations, upon the annexation of the Property, the Property shall be classified as R-F (Ranch-Farm) for zoning purposes. Owner agrees that contemporaneous with the filing of the Application for Annexation, Owner will file applications for rezoning from the default R-F (Ranch-Farm) to the zoning classifications as shown on the Development Plan. In the event that the City does not approve the applications to rezone the Development Parcel or rezones the Development Parcel in a manner other than that shown on the Development Plan, such action shall not constitute a breach or default under this Agreement nor affect or impair any of the Owner's vested rights hereunder and Owner may develop the Development Parcel in accordance with the zoning classifications shown on the Development Plan, as same may be amended. The public hearing by the CPC on the zoning classifications for the Property shall be held jointly with the public hearing required for annexation. In addition, Owner may petition the City, at any time, for rezoning of the Property (or portion thereof) as provided in the City Regulations. Any zoning change shall not affect or impair any of Owner's vested rights hereunder. The City's election not to rezone shall not, however, relieve the City of any of its obligations hereunder.

8. **Donation Deeds.** Upon City Council's adoption of the ordinance for the annexation of the Property in accordance with Section 6 and the rezoning of the Property in accordance with Section 7, Donors shall execute and deliver to the City the Donation Deeds, substantially in the form attached hereto as Exhibits "E" and "E-1" and pursuant to the Closing procedures, attached hereto as Exhibit "G-1".

9. **Default and Remedies.**

(a) **Default.** In the event a Party (the "Defaulting Party") commits a breach of this Agreement, the other Party (the "Non-Defaulting Party"), shall, prior to bringing suit or pursuing any other remedy, provide written notice of such breach to the Defaulting Party. Following receipt of such notice, the Defaulting Party shall have thirty (30) days within which to cure the breach; provided, however, if the breach cannot be cured within the Cure Period, the Defaulting Party shall commence to cure such breach within said period and thereafter diligently continue such cure to completion (the "Cure Period").

(b) **Remedies.** In the event a default is not cured within the Cure Period, the Non-Defaulting Party shall have all rights and remedies which may be available under law or equity, including, without limitation, the right to specifically enforce the terms or provisions hereof and/or the right to institute an action for damages, declaratory judgment, injunctive relief or mandamus.

10. **Non-Conforming Structures/Uses.** The Parties acknowledge that the Property is currently vacant and, except for improvements to be constructed by Owner hereunder, there are no pre-existing non-conforming uses or structures on the Property.

0014403-00101/JBR/1161441.1

11. **Term.** The term of this Agreement shall be fifteen (15) years from the Effective Date.

12. **Notices.** Any formal notices or other communications required to be given by one Party to the other under this Agreement shall be given in writing, addressed to the Party to be notified at the address set forth below, by (a) delivering the same in person (b) depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid (c) depositing the same with Federal Express or with another nationally recognized courier service guaranteeing "next day delivery" or (d) sending the same by telefax with confirming copy sent by certified or registered mail. Notice shall be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties, until changed as provided below, shall be as follows:

(1) City: City of El Paso
Attn: City Manager

Mailing Address: P.O. Box 1890 79950-1890
Physical Address: 300 N. Campbell
El Paso, Texas 79901

AND

City of El Paso
Attn: Parks Director

Mailing Address: 801 Texas
El Paso, Texas 79902

Physical Address: Same as above

(2) Owner: Ranchos Real XV, LLC
El Paso Desert East Investments VI, Ltd.
The Mesa Group V, Ltd.
Attn: Douglas Schwartz

Mailing Address: 6080 Surety Drive, Suite 300
El Paso, Texas 79905

Physical Address: Same as above

The Parties shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by giving at least five days written notice to the other Party. If any date or any period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following such Saturday, Sunday, or legal holiday

13. Miscellaneous.

(a) Successors and Assigns. This Agreement is binding upon and inures to the benefit of the Parties hereto, and their respective successors and assigns for the Term of this Agreement. This Agreement is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the Property, except for land use regulations that may apply to a specific lot.

(b) Force Majeure. In the event any Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, it is agreed that on such Party's giving of notice and the full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied upon, then the obligations of the Party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability but for no longer period.

The term "force majeure" as used herein, shall include, but not be limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, war, terrorism, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of governments and people, explosions, breakage or damage to machines or pipelines and any other inability of either Party, whether similar to those enumerated or otherwise, and not within the reasonable control of the Party claiming such inability.

(c) Severability. If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised here from and the invalidity thereof shall not affect any of the other provisions contained herein, provided that any invalid provisions are not deemed by the City or the Owner to be material to the overall purpose and operation of this Agreement. If the City or the Owner determines that the invalid provision is material, then, if the City has made such determination, the City shall have the option to disannex the Property, and if the Owner has made such determination, the Owner shall have the option to terminate this Agreement. Such judgment or decree shall relieve the City and the Owner from performance under such invalid provision of this Agreement.

(d) Entire Agreement. This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties. By approving the execution of this Agreement, the City Council of the City delegates to the City Manager of the City, or his Designee the authority, without any further action being required of the City Council or the CPC to execute such amendments of or extensions to this Agreement, and to execute the required Right of Entry and such amendments of or extensions of the Right of Entry, as they may consider advisable, and consistent with the provisions of this Agreement.

(e) Governing Law, Jurisdiction & Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, as it applies to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The Parties acknowledge that this Agreement is performable in El Paso County, Texas and hereby submit to the jurisdiction of the state or federal courts situated in that County,

and hereby agree that any such Court shall be a proper forum for the determination of any dispute arising hereunder.

(f) Favored Nations. In the event that City enters into any contracts or adopts ordinances or regulations pertaining to or related to the agreements contained herein which are more favorable than the provisions contained herein, the parties agree to amend this Agreement effective as of the effective date of any such contract, ordinance or regulation to incorporate the more-favorable provision herein.

(g) No Third Party Beneficiary. This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.

(h) Waiver. Any failure by a Party hereto to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof or of any other provision hereof, and such Party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

(i) Further Documents. Each Party agrees that at any time after execution of this Agreement, it will, upon request of the other Party, execute and deliver such further documents and do such further acts and things as the other Party may reasonably request in order to effectuate the terms of this Agreement.

(j) Incorporation of Exhibits and Other Documents by Reference. All exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

(k) Headings. The headings as to contents of particular articles or sections herein are inserted only for convenience, and they are in no way to be construed as a limitation on the scope of the particular articles or sections to which they refer.

(l) Ambiguities. In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any Party on the basis that such Party did or did not author the same.

(m) Counterparts. It is understood and agreed that this Agreement may be executed in any number of counterparts, each which shall be deemed an original for all purposes.

(n) Authority for Execution. Each Party hereby certifies, represents, and warrants that the execution of this Agreement has been duly authorized.

(o) Conflict with City Regulations. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the City Regulations, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals and have caused this instrument to be executed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year first above written.

THE CITY OF EL PASO

By: [Signature]
Tomás González
City Manager

APPROVED AS TO FORM:

[Signature]
Karla M. Niebler
Assistant City Attorney

APPROVED AS TO CONTENT:

[Signature]
Mathew S. McElroy, Director
City Development Department

APPROVED AS TO CONTENT:

[Signature]
John Bailliew, President/CEO
EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

ACKNOWLEDGEMENT

STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the 19th day of November, 2014, by, Tomás González, as City Manager of the City of El Paso, Texas.



[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

4.1

ACCEPTANCE

The above Agreement, with all conditions thereof, is hereby accepted this 11th day of November, 2014.

EL PASO DESERT EAST INVESTMENTS VI, LTD.

By: EPDEVI Management Company, Inc.,
General Partner.

[Handwritten Signature]

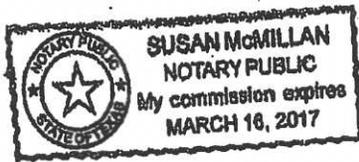
By: _____
Name: Robert Foster
Title: President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 11th day of November, 2014, by Robert Foster, President of EPDEVI Management Company, General Partner of El Paso Desert East Investment VI, Ltd., a Texas limited partnership, on behalf of said limited partnership.

Susan McMillan

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



CITY CLERK DEPT.
2014 NOV 11 AM 9:46

(Signatures Continued on Next Page)

ACCEPTANCE

The above Agreement, with all conditions thereof, is hereby accepted this 11th day of November, 2014.

THE MESA GROUP V, LTD.

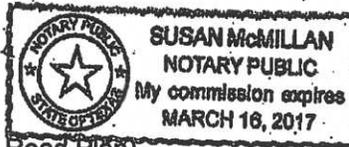
By: The Mesa Group, Inc., General Partner

By: [Signature]
Name: Scott Schwartz
Title: President

STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 11th day of November, 2014, by Scott Schwartz, President of The Mesa Group, Inc., General Partner of The Mesa Group V, Ltd., a Texas limited partnership, on behalf of said limited partnership.

[Signature: Susan McMillan]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



List of Exhibits

- A - Development Plan (Includes Phasing Plan & Road Plan)
- B - Parcel Map
- B-1- Property
- B-2- Development Parcel
- B-3- Sports Complex Parcel
- B-4- Hike & Bike Parcel
- B-5- John Hayes Street
- C - Donation Parcel Map
- C-1- Metes & Bounds of Donation Parcel from El Paso Desert East Investments VI, Ltd. & The Mesa Group V, Ltd.
- C-2- Metes & Bounds description of Donation Parcel from Ranchos Real XV, LLC
- D - Annexation Service Plan
- E - Donation Deed
- E-1- Donation Deed
- F - City's Project Cost
- G - Closing procedure

0014403-00101/JBIR/1161441.1

CITY CLERK DEPT.
2014 NOV 11 AM 9:46

- H - Application for Annexation
- I - Application for Zoning
- J - Performance Bond (Security for Improvements)
- K - Maintenance Bond
- L - Performance Bond (Security for City's Project Costs)
- M - Homes Fronting Park Wall Design/Sports Complex Fence
- N - Improvement Survey
- O - Sports Complex Fencing Proposed Design and Layout
- P - Right of Entry

**Exhibit “D”
CITY OF EL PASO
ANNEXATION SERVICE PLAN**

INTRODUCTION

This Service Plan (Plan) is made by the City of El Paso, Texas (City) pursuant to Chapter 43 Municipal Annexation of the Texas Local Government Code. This Plan is made specifically for a 310.60 -acre parcel of property located in the City’s East Extraterritorial Jurisdiction (ETJ), described by metes and bounds in Exhibit “A” of the Annexation Ordinance of which this Plan is a part (the “Property”).

EFFECTIVE TERM

This Plan shall be in effect for a ten-year period commencing on the effective date of the annexation, unless otherwise stated in this Plan. Renewal of the Plan shall be at the option of the City. Such option may be exercised by the adoption of an ordinance by the City Council, which refers to this Plan and specifically renews this Plan for a stated period of time.

INTENT

It is the intent of the City of El Paso that services under this Plan shall provide full municipal services in accordance with State law and the Development Agreement entered into by the Owner and the City, such agreement being identified as Exhibit “C” and is attached to the annexation ordinance.

The City reserves the right guaranteed to it under Section 43.056(k) Texas Local Government Code, to amend this Plan if the City Council determines that changed conditions or subsequent occurrence or any other legally sufficient circumstances exist under the Local Government Code, or other Texas laws to make this Plan unworkable or obsolete or unlawful.

SERVICE COMPONENTS

This Plan includes three service components: (1) Immediate Services Program, (2) Additional Services, and (3) a Capital Improvement Program.

As used in this Plan, providing services includes having services provided by any method or means by which the City extends municipal services to any other area of the City. This may include causing or allowing private utilities, governmental entities and other public service organizations to provide such services by contract, in whole or in part. It may also include separate agreements with associations or similar entities.

1. Immediate Services Program

The following services will be provided to the Property immediately upon the effective date of the annexation, unless otherwise noted.

ORDINANCE NO. _____

SUAX14-00003

a. Police Protection. The El Paso Police Department will provide protection and law enforcement services to the Property on the effective date of annexation. These services include:

- normal patrols and responses;
- handling of complaints and incident reports;
- special units, such as, traffic enforcement, criminal investigations, narcotics, gang suppressions, and special weapons and tactics team.

b. Fire Protection. The El Paso Fire Department will provide emergency medical services and fire protection services to the Property, on the effective date of annexation. These services include:

- fire suppression and rescue;
- emergency medical services;
- hazardous materials mitigation and regulation;
- emergency prevention and public education efforts;
- construction plan review;
- inspections.

c. Solid Waste Collection. The Environmental Services Department will provide solid waste collection services to the Property on the effective date of annexation. Services currently provided in the City for single-family residences include:

- Dead animal collection - dead animals are removed from roadways upon request.
- Residential garbage collection
- Residential recycling collection

Commercial garbage collection service for businesses, multi-family residences, and mobile home parks is available on a subscription basis from the City or private service providers.

d. Maintenance of Water and Wastewater Facilities. The City's Public Service Board/El Paso Water Utilities (EPWU) will maintain water and wastewater facilities serving the Property.

e. Maintenance of Roads and Streets, Including Street Lighting. The City's Department of Transportation will maintain public streets over which the City has jurisdiction. These services include:

- emergency pavement repair;
- ice and snow monitoring of major thoroughfares
- maintenance of public streets on as-needed basis and in accordance with established policies of the City.

ORDINANCE NO. _____

SUAX14-00003

#371378 / 15-1007-1312 / TDE IV Annexation Ordinance

KMN

EXHIBIT "D"

- f. Maintenance of Parks, Playgrounds, and Swimming Pools. There are no public recreation facilities currently in the Property requiring immediate services. As the site develops, per the Development Agreement, maintenance services will be provided for Park Capital improvements by the City, in the same manner that it maintains all City Parks & Facilities.

2. Additional Services

Certain services, in addition to the above services, will be provided to the Property. They are as follows:

- a. Drainage Services. The EPWU will provide drainage maintenance in the Property in accordance with established policies of the City and the EPWU. Services include:
- maintenance of existing public ponding areas and retention dams;
 - storm sewer maintenance;
 - emergency spills and pollution complaints response related to storm drainage systems;
- b. Watershed and Flood Plains. The City's Development Land Development Division shall provide:
- watershed development review and inspection;
 - flood plain office (information relating to flood plains).
- c. Library Department. All library services now provided to areas inside the City will be provided to the Property on the effective date of annexation in accordance with the City's existing policies and regulations.
- d. Inspection Services. All inspection services now provided within the City, including building, electrical, plumbing, gas, engineering, housing, and environmental will be extended to the Property on the effective date of annexation.
- e. Planning and Zoning. The planning and zoning jurisdiction of the City will be extended to the Property on the effective date of annexation.
- f. Other Services. The City will provide all other services, not specifically listed above, to the property according to established City policies and procedures.

3. Capital Improvements Program

- a. Police Protection. No capital improvements are necessary to serve the annexed area.

ORDINANCE NO. _____

SUAX14-00003

- b. Fire Protection. No capital improvements are necessary to serve the annexed area. Fire services but may be necessary in the future. Fire Department coverage areas for the city are based on ISO standards that require a Fire Station to be a mile and a half (driving distance) from every facility and two and a half miles from a fire station with aerial capabilities.
- c. Solid Waste Collection. No capital improvements are necessary to serve the annexed area.
- d. Water and Wastewater Facilities. Water and wastewater service will be provided in accordance with the El Paso Water Utility's Rules and Regulations.
- e. Roads and Streets. The City shall share in the costs of public improvements as set forth in the Development Agreement. In general, the City will acquire control and jurisdiction of all public roads and public streets within the Property upon annexation. Future extensions of roads or streets and future installation of related facilities, such as traffic control devices, will be governed by the City's standard policies and procedures as modified by the Development Agreement.
- f. Parks, Playgrounds and Swimming Pools. No capital improvements or maintenance services are necessary at this time. As the site develops, per the Development Agreement, maintenance services will be provided for Park Capital improvements by the City, in the same manner that it maintains all City Parks & Facilities.
- g. Drainage Facilities. No capital improvements are necessary at this time to provide services but may be necessary in the future. The City will maintain any dedicated ponds.
- h. Street Lighting. It is anticipated that the developer of new subdivisions in the Property will install public street lighting in accordance with the City's standard policies and procedures as modified by the Development Agreement. In other cases, the City will install public street lighting in the Property upon request in accordance with established street lighting policies of the City.
- i. Other Publicly Owned Facilities, Building or Services. In general, other City functions and services, and the additional services described above can be provided for the Property by using existing capital improvements. Additional capital improvements are not necessary to provide City services.
- j. Capital Improvement Planning. The Property will be included in relevant capital improvement rules for new or expanded facilities, functions, and services in accordance with the Development Agreement and established policies of the City.

ORDINANCE NO. _____

SUAX14-00003

#371378 / 15-1007-1312 / TDE IV Annexation Ordinance

KMN

EXHIBIT "D"

AMENDMENT: GOVERNING LAW

This Plan may not be amended or repealed except as provided by the Texas Local Government Code or other controlling law. Neither changes in the methods or means of implementing any part of the service programs nor changes in the responsibilities of the various departments of the City shall constitute amendments to this Plan, and the City reserves the right to make such changes. This Plan is subject to and shall be interpreted in accordance with the Constitution and laws of the United States of America and the State of Texas, the Texas Local Government Code, and the orders, rules regulations of governmental bodies and officers having jurisdiction.

FORCE MAJEURE

In case of an emergency, such as force majeure as that term is defined in this Plan, in which the City is forced to temporarily divert its personnel and resources away from the Property for humanitarian purposes or protection of the general public, the City obligates itself to take all reasonable measures to restore services to the Property of the level described in this Plan as soon as possible. Force Majeure shall include, but not be limited to, acts of God, acts of the public enemy, war, blockages, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrest and restraint of government, explosions, collisions, and other inability of the City, whether similar to those enumerated or otherwise, which is not within the control of the City. Unavailability or shortage of funds shall not constitute Force Majeure.

CONFLICT

In the event of any conflict or inconsistency between the terms of this Annexation Service Plan and the Development Agreement, the terms of the Development Agreement shall control.

ORDINANCE NO. _____

SUAX14-00003

#371378 / 15-1007-1312 / TDE IV Annexation Ordinance

KMN

EXHIBIT "D"

Attachment 5: Application



**APPLICATION FOR ANNEXATION
DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION**

**CITY OF EL PASO, TEXAS
2 CIVIC CENTER PLAZA
EL PASO, TX 79901-1196
915-541-4024**

1. CONTACT INFORMATION

PROPERTY OWNER(S): RANCHOS REAL IV, LTD
 ADDRESS: 6080 Surety Drive, Ste. 300 ZIP CODE: 79905 PHONE: 592-0290
 APPLICANT(S): RANCHOS REAL IV, LTD
 ADDRESS: 6080 Surety Drive, Ste. 300 ZIP CODE: 79905 PHONE: 592-0290
 REPRESENTATIVE(S): Conde, Inc.
 ADDRESS: 6080 Surety Drive, Ste 100 ZIP CODE: 79905 PHONE: 592-0283
 E-MAIL ADDRESS: cconde@condeinc.com

2. PARCEL ONE INFORMATION

PROPERTY IDENTIFICATION NUMBER: X579-000-3020-0050
 LEGAL DESCRIPTION: Being a portion of Section 2, Block 79, Township 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas
 STREET ADDRESS OR LOCATION: Rich Beam & Montwood Drive REP DISTRICT: 5
 ACREAGE: 310.604 ac PRESENT ZONING: R-F PRESENT LAND USE: Vacant / Residential
 PROPOSED ZONING C-2 / R-5 PROPOSED LAND USE: As per Development Agreement

3. PARCEL TWO INFORMATION

PROPERTY IDENTIFICATION NUMBER: _____
 LEGAL DESCRIPTION: _____
 STREET ADDRESS OR LOCATION _____ REP DISTRICT: _____
 ACREAGE: _____ PRESENT ZONING: _____ PRESENT LAND USE: _____
 PROPOSED ZONING _____ PROPOSED LAND USE: _____

4. PARCEL THREE INFORMATION

PROPERTY IDENTIFICATION NUMBER: _____
 LEGAL DESCRIPTION: _____
 STREET ADDRESS OR LOCATION _____ REP DISTRICT: _____
 ACREAGE: _____ PRESENT ZONING: _____ PRESENT LAND USE: _____
 PROPOSED ZONING _____ PROPOSED LAND USE: _____

5. ADDITIONAL INFORMATION

OWNER (S) OF RECORD FOR THE ABOVE DESCRIBED PARCEL(S): _____
 Printed Name: Ranchos Real IV, LTD Signature: _____
 Printed Name: By: Ranchos Real Developers, Inc. Signature: _____
 Printed Name: ITS GENERAL PARTNER Signature: _____
Douglas A. Schwartz, Vice President

Note: Signatures are required for all owners of record for the property proposed for rezoning. Attach additional signatures on a separate sheet of paper.

**** OFFICE USE ONLY ****

~~SLAX 14-00003~~ RECEIVED DATE: 2/11/14 APPLICATION FEE: \$ _____

DCC REVIEW DATE: 1/1; 1ST Public Hearing: 2/9/15 (Location/Time to be announced)

CPC REVIEW DATE: 3/10/15 (1:30 pm, City Council Chambers, 2ND Floor, City Hall Building)

ACCEPTED BY: [Signature]

Revised 4/2007