

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:**     Development Services

**AGENDA DATE:**    August 14, 2007

**CONTACT PERSON/PHONE:**     R. Alan Shubert, City Engineer , Ext. 4428

**DISTRICT(S) AFFECTED:**   1  

**SUBJECT:**

**APPROVE** a resolution / ordinance / lease to do what? **OR AUTHORIZE** the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

**Artcraft Commercial Unit One Subdivision-obtain permission from the City Council for a Conditional "B" permit as per Section 18.02.103.1.1.6 Prerequisite to Issuance of Permits**

**BACKGROUND / DISCUSSION:**

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

**In accordance with Section 18.02.103.1.1.6 Prerequisite to Issuance of Permits, see attached Letter from CEA Engineering Group, owner and developer for Artcraft Commercial Unit One Subdivision.**

**PRIOR COUNCIL ACTION:**

Has the Council previously considered this item or a closely related one?

**Not for this subdivision**

**AMOUNT AND SOURCE OF FUNDING:**

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

**N/A**

**BOARD / COMMISSION ACTION:**

Enter appropriate comments or N/A

**N/A**

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:** \_\_\_\_\_  
(Example:     if RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_



engineering group

1204 Montana Ave.  
El Paso, TX 79902  
Office: 915.544.5232  
Fax: 915.544.5233  
web: www.ceagroup.net

July 24, 2007

City of El Paso-Development Services  
Two Civic Center-5<sup>th</sup> Floor  
El Paso, Texas 79901

Attention: Mr. Kareem Dallo, P.E.

Reference: Artcraft Commercial Unit One

Dear Mr. Dallo:

On behalf of the developer for the above referenced development, we are requesting Conditional "B" Building Permits. Our permit request is based on the economic hardship the developer will encounter. This development discharges its storm runoff water to an adjacent development (Artcraft Commercial Unit Two) that is currently under construction. All drainage, paving, water and sanitary sewer improvements have been constructed and installed to service the development area. The pending item is the 10-foot linear park from Artcraft Road to Borderland Road. It is anticipated that the park improvements will be completed within the next two weeks.

If you have any questions regarding this issue, please do not hesitate to contact me at office number 915.544.5232 or mobile number 915.355.0583.

Sincerely,  
CEA Group

Jorge L. Azcarate, P.E.  
Project Manager

I-2000-079lz.kd.24july07  
JLA/jla

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (hereinafter referred to as "Agreement") is entered into effective the 26<sup>th</sup> day of JULY, 2007, by and between TGK-ARTCRAFT, LLC (hereinafter referred to as "Developer"), a Texas corporation, and VISVAS II PARTNERSHIP (hereinafter referred to as "Applicant"), a Texas corporation, for the purpose of complying with Title 18 (Building and Construction) of the El Paso Municipal Code.

**WHEREAS**, Developer is the owner and developer of ARTCRAFT COMMERCIAL UNIT ONE SUBDIVISION, a subdivision in the City of El Paso, El Paso County, Texas (hereinafter referred to as the "Subdivision"); and

**WHEREAS**, the public improvements required to serve the Subdivision have not been constructed, installed and accepted for maintenance, but Applicant desires to obtain a building permit(s) for a single-family detached dwelling(s), single-family attached dwelling(s), or two-family dwelling(s) on a lot or lots within the Subdivision; and

**WHEREAS**, the El Paso Municipal Code (Building and Construction) (hereinafter referred to as the "Code"), provides that although the subdivision improvements have not been completed, building permits may be issued upon certain conditions, including without limitation, the requirement that the Developer and Applicant execute and file this Agreement in the office of the County Clerk of El Paso County, Texas;

**NOW, THEREFORE**, for good and valuable consideration, and in accordance with the provisions of Title 18 (Building and Construction) of the El Paso Municipal Code and any and all amendments, supplements, or successors thereto, Developer and Applicant understand and agree as follows:

1. **Incomplete Subdivision Improvements.** Developer and Applicant acknowledge that all subdivision improvements for the Subdivision have not been constructed, installed and accepted for maintenance by the City of El Paso, or approved by the Deputy Director for Engineering of the City of El Paso.
2. **Issuance of Building Permits.** Developer and Applicant acknowledge that building permits for a lot within the Subdivision may be issued for single-family detached dwellings, single-family attached dwellings, or two-family dwellings (if otherwise permitted by applicable zoning and restrictions) although the required subdivision improvements have not been completed, provided that (a) water and sewer service, (b) curbing conforming with the appropriate street design cross-section, (c) any drainage facility, and (d) any other remaining public improvement required by the Deputy Director for Engineering in order to adequately provide for construction on the lot (collectively hereinafter referred to as the "Minimum Improvements"), have been constructed and installed within the right-of-way servicing each such lot, and subject to the following additional conditions:
  - A. **an Unconditional Building Permit** may be issued for the first twenty-five percent (25%) of the lots in the Subdivision (rounded to the next whole lot);
  - B. **a Conditional "A" Building Permit** may be issued for the next twenty-five percent (25%) of the lots within the Subdivision (rounded to the next whole lot) if, in addition to the construction and installation of the Minimum Improvements, the Developer and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas; and
  - C. **a Conditional "B" Building Permit** may be issued for the remaining lots within the Subdivision if, in addition to the construction and installation of the Minimum Improvements, the City Council finds that additional permits should be issued based on economic hardship or public benefit demonstrated by the subdivider, and the Declarant and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas.

LAND DEVELOPMENT

JUL 31 2007

RECEIVED

3. **Risk of Commencement.** Although Developer will make every effort to complete the Subdivision improvements and have them accepted for maintenance by the City of El Paso, Applicant expressly assumes ALL RISKS for commencing construction of a dwelling unit(s) prior to completion and acceptance of all Subdivision improvements, and hereby releases and holds Declarant harmless from all claims, losses, damages and expenses (including court costs and attorney's fees) arising from the construction of a dwelling unit(s) prior to the full completion and acceptance of all Subdivision improvements by the City of El Paso. Declarant disclaims all representations and warranties with respect to the anticipated completion of the Subdivision improvements.
4. **Certificate of Occupancy.** Declarant and Applicant also acknowledge that a Certificate of Occupancy will not be issued for any lot unless the dwelling unit constructed thereon meets the Building and Zoning Codes of the City of El Paso and, with respect to Conditional "A" Building Permits, the Subdivision has been approved for acceptance by the Deputy Director for Engineering, and with respect to Conditional "B" Building Permits, the Subdivision has been accepted for maintenance by the City of El Paso.
5. **Release.** Upon satisfactory completion and acceptance of the required public improvements in the Subdivision by the City of El Paso, this Agreement shall terminate. The Deputy Director for Engineering is authorized by the Code to execute a formal release, which may be filed of record by the Developer or the Applicant.
6. **Binding Effect.** This Agreement shall be binding upon and enure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

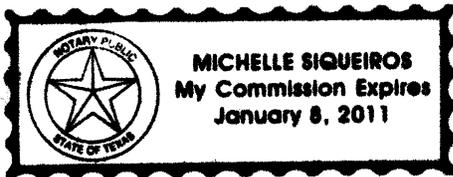
This Agreement is executed to be effective on the data and year first set forth above.

**DEVELOPER**

By: [Signature]  
 TKG-ARTCRAFT LLC

STATE OF TEXAS )  
 COUNTY OF EL PASO )

This instrument was acknowledged before me on this 27th day of July, 2007, by Pete Yeage of TGK, a State of Texas Company, on behalf of said Company.



STATE OF TEXAS )  
 COUNTY OF EL PASO )

This instrument was acknowledged before me on this 27th day of July, 2007, by Vipin Bhatta of Visvas II Partnership, a State of Texas Company, on behalf of said Company.



**APPLICANT:**

By: [Signature]  
 VISVAS II PARTNERSHIP

[Signature]  
 NOTARY PUBLIC FOR THE STATE OF TEXAS  
 Printed Name: Michelle Siqueiros  
 My Commission Expires: January 8, 2011

[Signature]  
 NOTARY PUBLIC FOR THE STATE OF TEXAS  
 Printed Name: Michelle Siqueiros  
 My Commission Expires: January 8, 2011