



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

DEPARTMENT: Development Services Department
AGENDA DATE: CCA Consent Agenda: 8/17/2010
CONTACT PERSON/PHONE: Michelle Padilla – (915) 541-4903
DISTRICT(S) AFFECTED: 6

SUBJECT:

A Resolution that the City Manager be authorized to sign a First Amendment to the following Development Agreements, passed and approved on July 24, 2007, between the City and GFA LIMITED PARTNERSHIP, a Texas Limited Partnership, to allow more time for the construction of the park improvements and to clarify the bond requirement provision.

Ventanas Unit One Off-Site Park Development Agreement
Ventanas Unit Two Off-Site Park Development Agreement
Ventanas Unit Three Off-Site Park Development Agreement
Ventanas Unit Four Off-Site Park Development Agreement

BACKGROUND / DISCUSSION:

See attached report.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Unanimous Approval
City Plan Commission (CPC) – Unanimous Approval

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Deputy Director – Planning

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a First Amendment to the following Development Agreements, passed and approved on July 24, 2007, between the City and GFA LIMITED PARTNERSHIP, a Texas Limited Partnership, to allow more time for the construction of the park improvements and to clarify the bond requirement provision.

Ventanas Unit One Off-Site Park Development Agreement
Ventanas Unit Two Off-Site Park Development Agreement
Ventanas Unit Three Off-Site Park Development Agreement
Ventanas Unit Four Off-Site Park Development Agreement

ADOPTED THIS _____ DAY OF _____, 2010.

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVE AS TO CONTENT

Mathew McElroy, Deputy Director
Development Services Department

APPROVE AS TO CONTENT:

Nanette Smejkal, Director
Parks and Recreation Department

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO)

FIRST AMENDMENT TO DEVELOPMENT
AGREEMENT

This First Amendment to a Development Agreement between GFA LIMITED PARTNERSHIP, A TEXAS LIMITED PARTNERSHIP, hereinafter referred to as the "Developer," and the CITY OF EL PASO, hereinafter referred to as the "City" is made this _____ day of _____ 2010.

WITNESSETH:

WHEREAS, Title 19 (Subdivisions) of the El Paso City Code permits a developer to provide for the off-site dedication of parkland provided that the developer enters into a Development Agreement with the City; and

WHEREAS, the City is not prohibited from entering into this agreement ("Agreement") by Texas Local Government Code Section 212.071; and

WHEREAS, on July 24, 2007, the Developer entered into a Development Agreement with the City to dedicate 4.864 acres of land to the City as off-site parkland for the Ventanas Unit One Land Study area in accordance with the El Paso City Code and specifying the terms of improvements to be made to the off-site parkland; and

WHEREAS, the Developer and the City now wish to amend the Development Agreement;

NOW, THEREFORE, the parties hereby agree to amend the Development Agreement as follows:

1. Paragraph 4, Park Improvements is amended as follows:

PARK IMPROVEMENTS: The Park Site shall be improved by the Developer in accordance with the requirements of Chapter 19.12.050(C) (Parkland Dedication) and all other applicable provisions of the El Paso City Code, the provisions of this Agreement and all directives of the City's Parks and Recreation Department (the "Department").

4.1 Developer is herein authorized to enter the Park Site at any time for the purpose of completing said improvements. The improvements, as set out in the Schedule of Improvements attached hereto as Exhibit "C", which is incorporated for all purposes must be completed by October 31, 2010, except that the lights will not be operable and functioning until December 31, 2011. A three-month extension may be granted by the City Manager or designee. It is understood by all parties that the lights to the park will not be turned on until December 31, 2011, however, the City will accept the park once the provisions of 4.2 have been complied with. Developer understands that Developer is responsible for insuring that the lighting is operable, functional and can be turned on by December 31, 2011. This Agreement will remain in effect until such time as the lighting is operable and functioning.

4.2 Upon completion of the improvements, which shall be considered to be accomplished when the last such improvement listed on Exhibit "C" which is incorporated for all purposes, is installed or planted in accordance with the City's Subdivision Ordinance and all directives of the City's Parks and Recreation Department (the "Department"), and the Park Design Guidelines and Standards of the City's Parks and Recreation Department at the Park Site, Developer shall provide a copy of the release of lien from the Developer. Developer's books and other records related to the improvements shall be available for inspection by the City upon written request. It is understood by all parties that the lights to the park will not be turned on until December 31, 2011.

2. Except as expressly herein amended, all other provisions, conditions and terms contained in the July 24, 2007 Development Agreement for Ventanas Unit One Development remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF EL PASO:

Joyce A. Wilson
City Manager

GFA LIMITED PARTNERSHIP:

Albert Gamboa, Manager & President

APPROVE AS TO CONTENT

Mathew McElroy, Deputy Director
Development Services Department

APPROVE AS TO CONTENT:

Nanette Smejkal, Director
Parks and Recreation Department

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2010, by JOYCE A. WILSON as City Manager of **THE CITY OF EL PASO**, a municipal corporation, on behalf of said corporation.

Developer's books and other records related to the improvements shall be available for inspection by the City upon written request.

3. Except as expressly herein amended, all other provisions, conditions and terms contained in the July 24, 2007 Development Agreement for Ventanas Unit Two Development remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF EL PASO:

Joyce A. Wilson
City Manager

GFA LIMITED PARTNERSHIP:

Albert Gamboa, Manager & President

APPROVE AS TO CONTENT

Mathew McElroy, Deputy Director
Development Services Department

APPROVE AS TO CONTENT:

Nanette Smejkal, Director
Parks and Recreation Department

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the ____ day of _____, 2010, by JOYCE A. WILSON as City Manager of **THE CITY OF EL PASO**, a municipal corporation, on behalf of said corporation.

My Commission Expires:

Notary Public, State of Texas
Notary's Printed or Typed Name:

ACKNOWLEDGEMENTS CONTINUE ON FOLLOWING PAGE

STATE OF TEXAS)

)

COUNTY OF EL PASO)

This instrument was acknowledged before me on the ____ day of _____, 2010,
by _____ as _____ on behalf of **GFA LIMITED
PARTNERSHIP.**

My Commission Expires:

Notary Public, State of Texas
Notary's Printed or Typed Name:

2. Paragraph 11, Bond Required is amended as follows

11. **BOND REQUIRED.** Prior to the recordation of any subdivision within the Ventanas Unit Three Land Study area, the Developer must provide a performance bond for the total improvement cost stated hereinabove to secure fulfillment of all of Developer's obligations under this Agreement. The bond shall be in a form approved by the City. The bond must be executed by a corporate surety in accordance with Texas Government Code Section 22.53. The bond shall identify the City as Owner and Obligee and shall bind both Developer's contractor and the Surety, their heirs, administrators, executors, successors and assignees, jointly and severally. The bond shall expressly provide that Developer's contractor shall faithfully render performance under this Agreement and shall remain in full force and effect until all requirements of the Agreement have been performed to the City's satisfaction.

3. Except as expressly herein amended, all other provisions, conditions and terms contained in the July 24, 2007 Development Agreement for Ventanas Unit Three Development remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF EL PASO:

Joyce A. Wilson
City Manager

GFA LIMITED PARTNERSHIP:

Albert Gamboa, Manager & President

APPROVE AS TO CONTENT

Mathew McElroy, Deputy Director
Development Services Department

APPROVE AS TO CONTENT:

Nanette Smejkal, Director
Parks and Recreation Department

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

ACKNOWLEDGEMENTS ON FOLLOWING PAGE

STATE OF TEXAS)
COUNTY OF EL PASO)

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My Commission Expires:

Notary Public, State of Texas
Notary's Printed or Typed Name:

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2010, by _____ as _____ on behalf of **GFA LIMITED PARTNERSHIP**.

My Commission Expires:

Notary Public, State of Texas
Notary's Printed or Typed Name:

Developer's books and other records related to the improvements shall be available for inspection by the City upon written request.

2. Paragraph 11, Bond Required is amended as follows

11. **BOND REQUIRED.** Prior to the recordation of any subdivision within the Ventanas Unit Four Land Study area, the Developer must provide a performance bond for the total improvement cost stated hereinabove to secure fulfillment of all of Developer's obligations under this Agreement. The bond shall be in a form approved by the City. The bond must be executed by a corporate surety in accordance with Texas Government Code Section 22.53. The bond shall identify the City as Owner and Obligee and shall bind both Developer's contractor and the Surety, their heirs, administrators, executors, successors and assignees, jointly and severally. The bond shall expressly provide that Developer's contractor shall faithfully render performance under this Agreement and shall remain in full force and effect until all requirements of the Agreement have been performed to the City's satisfaction.

3. Except as expressly herein amended, all other provisions, conditions and terms contained in the July 24, 2007 Development Agreement for Ventanas Unit Four Development remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF EL PASO:

Joyce A. Wilson
City Manager

GFA LIMITED PARTNERSHIP:

Albert Gamboa, Manager & President

APPROVE AS TO CONTENT

Mathew McElroy, Deputy Director
Development Services Department

APPROVE AS TO CONTENT:

Nanette Smejkal, Director
Parks and Recreation Department

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

ACKNOWLEDGEMENTS ON FOLLOWING PAGE



**DEVELOPMENT SERVICES
PLANNING DIVISION**

MEMORANDUM

DATE: August 5, 2010

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Michelle Padilla, Planner

SUBJECT: **First Amendment to Ventanas Off-Site Park Development Agreements**

The City Plan Commission (CPC) on May 6, 2010 **recommended approval of the amended off-site park development agreements for the Ventanas Land Study Area.**

The CPC determined that the amendments to the off-site park development agreements protects the best interest, health, safety and welfare of the public in general; and that the amendments will have no effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
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District 3
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