

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

**DEPARTMENT:** Engineering and Construction Management

**AGENDA DATE:** August 30, 2011

**CONTACT PERSON NAME AND PHONE NUMBER:** R. Alan Shubert, P.E., City Engineer X4423

**DISTRICT(S) AFFECTED:** 4

**SUBJECT:**

That the City Manager be authorized to sign a Consent to Assignment of the Developer Participation Agreement by and between the City of El Paso and Northeast 58 THB/IT, LLC, dated March 1, 2011, assigning all duties, obligations and responsibilities under the Agreement from Northeast 58 THB/IT, LLC, to Paisano Housing Redevelopment Corporation.

**BACKGROUND / DISCUSSION:**

On March 1, 2011, the City entered into a Developer Participation Agreement with Northeast 58 THB/IT, LLC, the Assignor, to construct two points of access, those being a roadway bridge over the Northgate Outlet Channel and right-of-way improvements on Stahala Drive from Diana Drive to the lot 2 boundary line. After entering into the Agreement, the Assignor sold the property to Paisano Housing Redevelopment Corporation with the condition that they assume all of the Assignor's obligations under the Agreement.

**PRIOR COUNCIL ACTION:**

City Council approved the original Developer Participation Agreement on March 1, 2011.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

On January 27, 2011, the City Plan Commission recommended approval of re-zoning provided that the developer provides two points of access to the property.

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

**DEPARTMENT HEAD:**

*for* 

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

**RESOLUTION**

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

**THAT** the City Manager be authorized to sign a Consent to Assignment of the Developer Participation Agreement by and between the **City of El Paso and Northeast 58 THB/IT, LLC**, dated March 1, 2011, assigning all duties, obligations and responsibilities under the Agreement from **Northeast 58 THB/IT, LLC**, to **Paisano Housing Redevelopment Corporation**.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda D. Momsen  
Municipal Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
R. Alan Shubert, P.E.  
City Engineer

STATE OF TEXAS     )  
                                  )  
COUNTY OF EL PASO )

CONSENT TO ASSIGNMENT OF  
DEVELOPER PARTICIPATION AGREEMENT

This Consent to Assignment is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the **City of El Paso** (the "City"), **Northeast 58 THB/IT, LLC**, a Texas limited liability company ("Assignor") and **Paisano Housing Redevelopment Corporation**, a Texas nonprofit corporation ("Assignee").

**WHEREAS**, Northeast 58 THB/IT, LLC, purchased the property described as Lot 2, Block 6, Castner Range Unit One, hereinafter referred to as "Property" for purposes of development by it or a successor in interest; and,

**WHEREAS**, in order to develop the property in the manner Assignor or its successor wishes to develop, it is necessary for Assignor or its successor in interest to provide and construct two points of access to the development; and,

**WHEREAS**, on March 1, 2011, the City entered into Developer Participation Agreement with Assignor, hereinafter referred to as "Agreement" to construct the two points of access, those being a roadway bridge over the Northgate Outlet Channel and right-of-way improvements on Stahala Drive, from Diana Drive to the lot 2 boundary line; and,

**WHEREAS**, after entering into the Agreement, Assignor sold the property to Assignee with the condition that Assignee assume all Assignor's obligations under the Agreement; and,

**WHEREAS**, Assignee has accepted Assignor's assignment of its rights and obligations under the Agreement; and,

**WHEREAS**, Assignor has requested that the City consent to an assignment of the Agreement to Assignee; and,

**WHEREAS**, Assignee has agreed to be responsible for all duties and obligations under the Agreement and to indemnify and hold Assignor and City harmless from any claims arising under the Agreement; and

**WHEREAS**, the City consents to the assignment of all rights, duties and obligations encompassed in the Agreement from Assignor to Assignee;

**NOW, THEREFORE, IT IS HEREBY AGREED** as follows:

1. The City consents to the assignment of the rights, duties and obligations under the Developer Participation Agreement dated March 1, 2011, between the City and Northeast 58 THB/IT, LLC, hereinafter referred to as "Agreement".
2. Assignee, Paisano Housing Redevelopment Corporation, agrees to assume and perform all duties, obligations and responsibilities of the Assignor under the Agreement.

3. All terms and conditions of the Agreement shall remain in full force and effect.

4. Assignee agrees to indemnify, defend and hold harmless the City and Assignor from and against any and all claims, demands, causes of action, court costs, expenses, and attorney's fees which are connected with or arise from the assignment of the Agreement or the City's acceptance and recognition of the assignment of the Agreement.

5. The City releases Assignor in full from all duties, obligations and responsibilities under the Agreement.

**IN WITNESS WHEREOF**, this Approval of Assignment has been executed by the parties hereto as of the date above written.

THE CITY OF EL PASO

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
R. Alan Shubert, P.E.  
City Engineer

**ACKNOWLEDGMENTS**

**THE STATE OF TEXAS** )  
**COUNTY OF EL PASO** )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2011, by Joyce Wilson, as the City Manager of the City of El Paso.

\_\_\_\_\_  
**Notary Public, State of Texas**

**ASSIGNOR: Northeast 58 THB/IT, LLC**, a  
Texas limited liability corporation

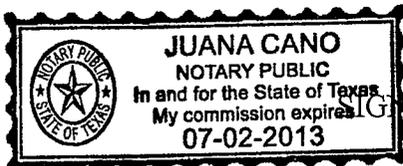
By: \_\_\_\_\_

*MANAGER*

Title: \_\_\_\_\_

This instrument was acknowledged before me on this 9 day of June, 2011, by Chris Charon, as MANAGER and on behalf of Northeast 58 THB/IT, LLC, a Texas limited liability corporation.

\_\_\_\_\_  
**Notary Public, State of Texas**



SIGNATURES CONTINUE ON FOLLOWING PAGE

ASSIGNEE: Paisano Housing  
Redevelopment Corporation

By: *Gerald Cichon*

CEO

Title:

This instrument was acknowledged before me on this 10 day of JUNE,  
2011, by GERALD CICHON, as CEO and on behalf of Paisano  
Housing Redevelopment Corporation, a Texas nonprofit corporation.

*Aracely Saenz*  
Notary Public, State of Texas

