

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

DEPARTMENT: Development Services

AGENDA DATE: September 9, 2008

CONTACT PERSON/PHONE: Larry F. Nichols, Deputy Director, Building Permits & Inspections Ext. 4557

DISTRICT(S) AFFECTED: 5

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.

Tierra Del Este Unit 50 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 Ranchos Real XII, LTD., owner and developer for Tierra Del Este Unit 50 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: _____

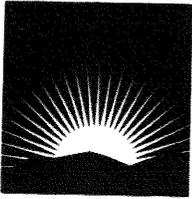
Victor Q. Torres, Development Services Director
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

CITY CLERK DEPT.
08 AUG 28 AM 8:58



RANCHOS REAL XII, LTD.

CITY CLERK DEPT.

08 AUG 28 AM 8:58

August 27, 2008

Omar K. Soueidan
Civil Engineer II
Development Division
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

Dear Mr. Soueidan,

Ranchos Real XII, Ltd., the owner and developer of Tierra Del Este Unit 50 is respectfully requesting the approval of Conditional "B" building permit for this subdivision.

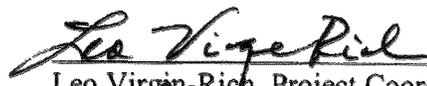
Permits under the 25% Unconditional as well as Conditional "A" building permits have been released.

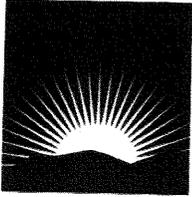
All of the subdivision improvements are complete. The request for street improvements acceptance is being submitted to the City by the first week in September. Development agreements for this subdivision are filed with the County Clerk's office and enclosed with the request.

The need for requesting Conditional "B" permits is to allow the home builders to fulfill contract obligations for pre-sale contracts signed for this subdivision. Not meeting the delivery dates set on the contracts would constitute a hardship to the home builder due to breach of contract.

Please call us should you have any questions.

Respectfully,
Ranchos Real XII, Ltd.


Leo Virgin-Rich, Project Coordinator



RANCHOS REAL XII, LTD.

CITY CLERK DEPT.

08 AUG 28 AM 8:58

August 27, 2008

Omar Soueidan
Development Services
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

Dear Mr. Soueidan:

The following is the list of builders participating in Tierra Del Este Unit 50 and the status of their development agreements.

Amigos Custom Homes	In Process
Border Homes	In Process
CJ Homes	Enclosed
Desert Agave Builders	Enclosed
Diamond Homes	In Process
Direct Home Sales	In Process
E&V Development	Enclosed
Edward's Homes	In Process
El Paso Accent Homes	In Process
Elite Star Homes	In Process
INOVA	In Process
Mega Con	In Process
Mencer Homes	Enclosed
Mountain Vista Builders	In Process
Pacifica Homes	In Process
Phillips Homes	In Process
RAKMR	Enclosed
Southwestern Classic	In Process
Xavier Homes	In Process
Zia Homes	In Process

#106.
3pg. DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 3rd day of March, 2008, by and between **RANCHOS REAL XII, LTD.**, a Texas limited partnership, hereinafter referred as "Developer", and **CJ HOMES, LLC** hereinafter referred to as "Applicant", for the purpose of complying with Section 18.04.035 of the El Paso City Code (Building and Construction).

WHEREAS, Developer is the owner and developer of **TIERRA DEL ESTE UNIT FIFTY** subdivision in the City of El Paso, El Paso County, Texas (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 City Code (Building and Construction) (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 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 Section 18.04.035 of the 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 City Engineer 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 (i) water and sewer service, (ii) curbing conforming with the appropriate street design cross-section, (iii) any drainage facility, and (iv) any other remaining public improvement required by the City Engineer in order to adequately provide for construction on the lot (collectively referred to herein 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) Conditional "B" Building Permit may be issued for the remaining lots within the Subdivision if, in addition to 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 sub-divider, and the Declarant and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas.

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 hold 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 Subdivision improvements.

CITY CLERK DEPT.
08 AUG 28 AM 8:58

CITY CLERK DEPT.
08 AUG 28 AM 8:50

4. Development Work Delays Caused By Applicant. In order to efficiently continue development of the subdivision, all Applicants taking an Early Start MUST place all building materials, signs, vehicles, construction equipment and/or trailers or any other similar items that might obstruct or interfere with developers continuing work behind the parkway of any and all lots. The parkway is defined as the area in front of the lot, or adjacent lot, 15 feet behind the back of the curb. Should any development delays be incurred due to the non-compliance of this requirement, the Applicant will be held responsible for any and all delays in Developer's work and or Developer's subcontractors or Utility Companies work including, but not limited to, all costs of said delays and rescheduling of the work in progress.

5. 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 City Engineer, and with respect to Conditional "B" Building Permits, the Subdivision has been accepted for maintenance by the City of El Paso.

6. 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 City Engineer is authorized by the Code to execute a formal release, which may be filed of record by the Developer or the Applicant.

7. 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 date and year first set forth above.

DEVELOPER:

RANCHOS REAL XII, LTD.
BY: RANCHOS REAL DEVELOPERS, INC.
ITS GENERAL PARTNER

APPLICANT:

CJ HOMES, LLC

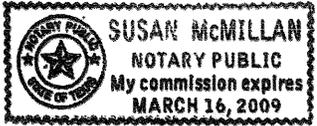
By: [Signature]
Douglas A. Schwartz, Vice President

By: [Signature]
Carlos Juárez, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 3rd day of March, 2008, by DOUGLAS A. SCHWARTZ, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

[Signature]
NOTARY PUBLIC FOR THE STATE OF TEXAS



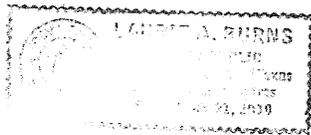
STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 13th day of March 2008, by CARLOS JUAREZ, President of CJ HOMES, LLC, a Texas corporation, on behalf of said corporation.



NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:
RANCHOS REAL XII, LTD.
1790 LEE TREVINO, SUITE 601
EL PASO, TEXAS 79936



CITY CLERK DEPT.
08 AUG 28 AM 8:59

EC/110
4P66.

DEVELOPMENT AGREEMENT Doc# 20080030228

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 3rd day of April, 2008, by and between RANCHOS REAL XII, LTD., a Texas limited partnership, hereinafter referred as "Developer", and DESERT AGAVE BUILDERS, LLC hereinafter referred to as "Applicant", for the purpose of complying with Section 18.04.035 of the El Paso City Code (Building and Construction).

WHEREAS, Developer is the owner and developer of TIERRA DEL ESTE UNIT FIFTY subdivision in the City of El Paso, El Paso County, Texas (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 City Code (Building and Construction) (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 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 Section 18.04.035 of the 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 City Engineer 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 (i) water and sewer service, (ii) curbing conforming with the appropriate street design cross-section, (iii) any drainage facility, and (iv) any other remaining public improvement required by the City Engineer in order to adequately provide for construction on the lot (collectively referred to herein 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

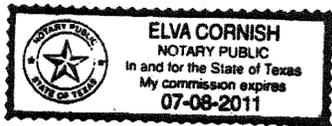
(c) Conditional "B" Building Permit may be issued for the remaining lots within the Subdivision if, in addition to construction and installation of the Minimum Improvements, the City Council finds that additional permits should be issued based on economic hardship or public benefit demonstrated by the sub-divider, and the Declarant and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas.

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 hold 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 Subdivision improvements.

CITY CLERK DEPT.
08 AUG 28 AM 8:59

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 9 day of April, 2008, by Daniel B. Gerard of DESERT AGAVE BUILDERS, LLC., a Texas corporation, on behalf of said corporation.



[Handwritten Signature]

NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:
RANCHOS REAL XII, LTD.
1790 LEE TREVINO, SUITE 601
EL PASO, TEXAS 79936

CITY CLERK DEPT.
08 AUG 28 AM 8:59

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 28th day of March, 2008, by KELLY J. PEINADO of E & V DEVELOPMENT, LLC., a Texas corporation, on behalf of said corporation.



NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

**RANCHOS REAL XII, LTD.
1790 LEE TREVINO, SUITE 601
EL PASO, TEXAS 79936**



CITY CLERK DEPT.
08 AUG 28 AM 8:59

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 3rd day of April, 2008, by and between RANCHOS REAL XII, LTD., a Texas limited partnership, hereinafter referred as "Developer", and INOVA CUSTOM HOMES, LLC hereinafter referred to as "Applicant", for the purpose of complying with Section 18.04.035 of the El Paso City Code (Building and Construction).

WHEREAS, Developer is the owner and developer of TIERRA DEL ESTE UNIT FIFTY subdivision in the City of El Paso, El Paso County, Texas (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

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NOW, THEREFORE, for good and valuable consideration, and in accordance with the provisions of Section 18.04.035 of the 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 City Engineer 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 (i) water and sewer service, (ii) curbing conforming with the appropriate street design cross-section, (iii) any drainage facility, and (iv) any other remaining public improvement required by the City Engineer in order to adequately provide for construction on the lot (collectively referred to herein 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) Conditional "B" Building Permit may be issued for the remaining lots within the Subdivision if, in addition to 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 sub-divider, and the Declarant and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas.

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CITY CLERK DEPT.
08 AUG 28 AM 8:59

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08 AUG 28 AM 8:59

4. Development Work Delays Caused By Applicant. In order to efficiently continue development of the subdivision, all Applicants taking an Early Start MUST place all building materials, signs, vehicles, construction equipment and/or trailers or any other similar items that might obstruct or interfere with developers continuing work behind the parkway of any and all lots. The parkway is defined as the area in front of the lot, or adjacent lot, 15 feet behind the back of the curb. Should any development delays be incurred due to the non-compliance of this requirement, the Applicant will be held responsible for any and all delays in Developer's work and or Developer's subcontractors or Utility Companies work including, but not limited to, all costs of said delays and rescheduling of the work in progress.

5. 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 City Engineer, and with respect to Conditional "B" Building Permits, the Subdivision has been accepted for maintenance by the City of El Paso.

6. 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 City Engineer is authorized by the Code to execute a formal release, which may be filed of record by the Developer or the Applicant.

7. 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 date and year first set forth above.

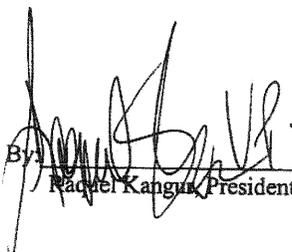
DEVELOPER:

APPLICANT:

RANCHOS REAL XII, LTD.
BY: RANCHOS REAL DEVELOPERS, INC.
ITS GENERAL PARTNER

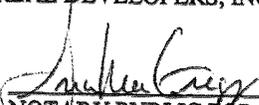
INOVA CUSTOM HOMES, LLC

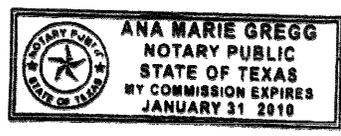
By: 
Robert F. Foster, President

By: 
Rachel Kangas, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

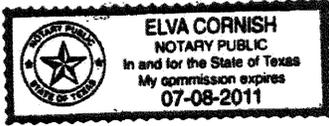
This instrument was acknowledged before me on this 3rd day of April, 2008, by Robert F. Foster, President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

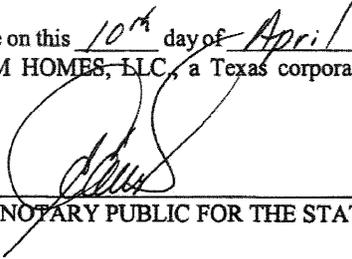

NOTARY PUBLIC FOR THE STATE OF TEXAS



STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 10th day of April, 2008, by RAQUEL KANGER, President of INOVA CUSTOM HOMES, LLC, a Texas corporation, on behalf of said corporation.





NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

**RANCHOS REAL XII, LTD.
1790 LEE TREVINO, SUITE 601
EL PASO, TEXAS 79936**

CITY CLERK DEPT.
08 AUG 28 AM 8:59

AMED

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 21st day of May, 2008, by and between RANCHOS REAL XII, LTD., a Texas limited partnership, hereinafter referred as "Developer", and MENCER HOMES, INC. hereinafter referred to as "Applicant", for the purpose of complying with Section 18.04.035 of the El Paso City Code (Building and Construction).

WHEREAS, Developer is the owner and developer of TIERRA DEL ESTE UNIT FIFTY subdivision in the City of El Paso, El Paso County, Texas (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 City Code (Building and Construction) (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 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 Section 18.04.035 of the 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 City Engineer 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 (i) water and sewer service, (ii) curbing conforming with the appropriate street design cross-section, (iii) any drainage facility, and (iv) any other remaining public improvement required by the City Engineer in order to adequately provide for construction on the lot (collectively referred to herein 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) Conditional "B" Building Permit may be issued for the remaining lots within the Subdivision if, in addition to 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 sub-divider, and the Declarant and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas.

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 hold 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 Subdivision improvements.

CITY CLERK DEPT.
08 AUG 28 AM 8:59

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08 AUG 28 AM 8:59

4. Development Work Delays Caused By Applicant. In order to efficiently continue development of the subdivision, all Applicants taking an Early Start MUST place all building materials, signs, vehicles, construction equipment and/or trailers or any other similar items that might obstruct or interfere with developers continuing work behind the parkway of any and all lots. The parkway is defined as the area in front of the lot, or adjacent lot, 15 feet behind the back of the curb. Should any development delays be incurred due to the non-compliance of this requirement, the Applicant will be held responsible for any and all delays in Developer's work and or Developer's subcontractors or Utility Companies work including, but not limited to, all costs of said delays and rescheduling of the work in progress.

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7. 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 date and year first set forth above.

DEVELOPER:

RANCHOS REAL XII, LTD.
BY: RANCHOS REAL DEVELOPERS, INC.
ITS GENERAL PARTNER

APPLICANT:

MENCER HOMES, INC.

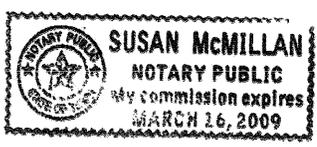
By: [Signature]
Douglas A. Schwartz, Vice President

By: [Signature]
Alberto Rojas

STATE OF TEXAS)
)
COUNTY OF EL PASO)

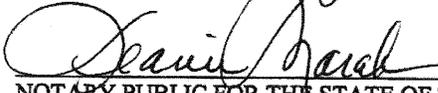
This instrument was acknowledged before me on this 27th day of May, 2008, by DOUGLAS A. SCHWARTZ, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

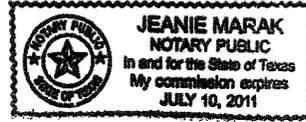
Susan McMILLAN
NOTARY PUBLIC FOR THE STATE OF TEXAS



STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 28th day of May, 2008, by ALBERTO ROJAS, President of MENCER HOMES, INC., a Texas corporation, on behalf of said corporation.


NOTARY PUBLIC FOR THE STATE OF TEXAS



AFTER RECORDING RETURN TO:

RANCHOS REAL XII, LTD.
1790 LEE TREVINO, SUITE 601
EL PASO, TEXAS 79936

DAMAGED

CITY CLERK DEPT.
08 AUG 28 AM 8:59

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 3rd day of March, 2008, by and between RANCHOS REAL XII, LTD., a Texas limited partnership, hereinafter referred as "Developer", and RAKMR I, LTD. hereinafter referred to as "Applicant", for the purpose of complying with Section 18.04.035 of the El Paso City Code (Building and Construction).

WHEREAS, Developer is the owner and developer of TIERRA DEL ESTE UNIT FIFTY subdivision in the City of El Paso, El Paso County, Texas (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 City Code (Building and Construction) (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 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 Section 18.04.035 of the 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 City Engineer 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 (i) water and sewer service, (ii) curbing conforming with the appropriate street design cross-section, (iii) any drainage facility, and (iv) any other remaining public improvement required by the City Engineer in order to adequately provide for construction on the lot (collectively referred to herein 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) Conditional "B" Building Permit may be issued for the remaining lots within the Subdivision if, in addition to 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 sub-divider, and the Declarant and the Applicant execute and file this Agreement with the Clerk of El Paso County, Texas.
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 hold 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 Subdivision improvements.

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08 AUG 28 AM 8:59

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4. Development Work Delays Caused By Applicant. In order to efficiently continue development of the subdivision, all Applicants taking an Early Start MUST place all building materials, signs, vehicles, construction equipment and/or trailers or any other similar items that might obstruct or interfere with developers continuing work behind the parkway of any and all lots. The parkway is defined as the area in front of the lot, or adjacent lot, 15 feet behind the back of the curb. Should any development delays be incurred due to the non-compliance of this requirement, the Applicant will be held responsible for any and all delays in Developer's work and or Developer's subcontractors or Utility Companies work including, but not limited to, all costs of said delays and rescheduling of the work in progress.

5. 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 City Engineer, and with respect to Conditional "B" Building Permits, the Subdivision has been accepted for maintenance by the City of El Paso.

6. 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 City Engineer is authorized by the Code to execute a formal release, which may be filed of record by the Developer or the Applicant.

7. 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 date and year first set forth above.

DEVELOPER:

APPLICANT:

RANCHOS REAL XII, LTD.
BY: RANCHOS REAL DEVELOPERS, INC.
ITS GENERAL PARTNER

RAKMR I, LTD.

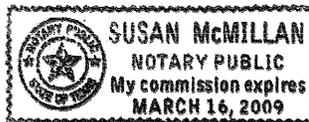
By: [Signature]
Douglas A. Schwartz, Vice President

By: [Signature]
Randal S. O'Leary, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 3rd day of March, 2008, by DOUGLAS A. SCHWARTZ, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

[Signature]
NOTARY PUBLIC FOR THE STATE OF TEXAS



STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 20th day of Mar., 2008, by RANAL S. O'LEARY of RAKMR I, LTD., a Texas corporation, on behalf of said corporation.



Irma Rivera
NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

**RANCHOS REAL XII, LTD.
1790 LEE TREVINO, SUITE 601
EL PASO, TEXAS 79936**

CITY CLERK DEPT.
08 AUG 28 AM 9:00