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

DEPARTMENT: Engineering

AGENDA DATE: May 17, 2005

CONTACT PERSON/PHONE: Rick Conner, P.E., City Engineer Ext. 4423/Bashar Abugalyon, P.E., Chief Development Engineer Ext. 4157

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 27 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 IX, Ltd., owner and developer for Tierra Del Este Unit 27 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:

N/A

BOARD / COMMISSION ACTION:
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:** _____

Date: May 5, 2005

TO: City Clerk

FROM: Lucy L. McGee

Please place the following item on the Regular Agenda for the Council Meeting of: May 17, 2005.

Item should read as follows:
Discussion and action on approval of Conditional "B" building permits for:
Tierra Del Este Unit 27 Subdivision (District 5)

Special Instructions: ENGINEERING DEPARTMENT FOR INFORMATION CONTACT BASHAR ABUGALYON, P.E., CHIEF DEVELOPMENT ENGINEER EXT. AT 541-4157.

City Clerk's Use

Action Taken: _____ Item No. _____

ENGINEERING DEPARTMENT

Development Division

DATE: May 4, 2005

TO: Mayor & City Council

FROM: Bashar Abugalyon, P. E., Chief Development Engineer BA .

SUBJECT: Conditional "B" Building Permits
Tierra Del Este Unit 27 (District 5)

The above referenced request is scheduled for City Council Regular Agenda on May 17, 2005. The purpose of this memorandum is to provide you with general information concerning this request.

Under the City Building and Administrative Code, Section 18.02.103.1.1.6, developer may obtain building permits for up to 25% of the lots before all of the required subdivision improvements have been completed and accepted by the City. These are commonly called, "unconditional permits". "Conditional A" permits are permitted for the next 25% (up to 50% of the total) of lots. To obtain "Conditional A" permits, the developer must provide water and sewer service, curbing (but not street paving), drainage facilities, etc., necessary for the site in question. The developer must additionally provide a signed acknowledgment by the permit applicant that the certificate of occupancy for that lot will not be signed acknowledgment by the permit applicant that the certificate of occupancy for that lot will not be issued until all of the improvements affecting that lot have been completed and approved by the City.

Lastly, "Conditional B" permits may be issued if the developer complies with all of the "Conditional A" requirements <u>and</u> obtains permission from the City Council. In order for the City Council to grant such permission, the Council must make a finding, "...that additional permits should be issued based upon economic hardship or public benefit demonstrated by the sub-divider".

At this hearing, then, the City Council should hear testimony or other evidence from the developer that justifies allowing more permits to be issued before all of the needed improvements have been accomplished, before deciding the issue.

If I can be of any further assistance regarding this matter, please don't hesitate to contact me at extension 4157.

RANCHOS REAL IX, LTD.

April 21, 2005

Bashar Abugalyon, P.E.
Engineering Section Chief
City of El Paso Engineering Dept.
2 Civic Center Plaza
El Paso, Texas 79901

Re: Tierra Del Este Unit 27

Dear Bashar:

Ranchos Real IX, Ltd., the owner and developer of Tierra Del Este Unit 27 is respectfully requesting the approval of Condition "B" building permits for this subdivision.

All of the subdivision improvements have been completed except for paving on Pebble Hills Blvd. Request for street improvement acceptance is being prepared and is expected to be submitted to the City of El Paso by May. Development agreements for this subdivision are filed with the County Clerk's Office and enclosed with this request.

The need for requesting Conditional "B" Permits is to allow the home builder 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 homebuilder due to breach of contract.

Please call us should you have any questions.

Respectfully,

RANCHOS REAL IX, LTD.

By: Leo Virgen-Rich
Leo Virgen-Rich
Project Coordinator

sm

Enclosures

1790 Lee Trevino, Suite 601 • El Paso, Texas 79936 • 915/592-0290 • Fax: 915/590-8127

Arath Homes, Inc. – No Agreement
Lots 5, 6, 7, Block 117

BIC Homes, LLC – Agreement in Process
Lot 1-4, Block 117
Lot 1, Block 118

Diamond Homes – No Agreement
Lots 30 & 31, Block 112

Direct Home Sales, Inc. – Attached
Lots 2, 3, 23-37, Block 110
Lots 1-5, 30-43, Block 115
Lots 1-24, Block 116

Edward's Homes, Inc. – Agreement in Process
Lots 5-9, Block 118

CJ Homes, LLC – Agreement in Process
Lots 1-11, Block 117

Mencer Homes, Inc. – Attached
Lots 10-12, 26 & 27, Block 112

Mountain Vista Builders, Inc. – Attached
Lots 4-10, Block 110
Lots 1-18, Block 111
Lots 16-25, Block 112

Pacifica Homes, Inc. – Attached
Lots 1-6, Block 113

Peinado Family Limited Partnership d/b/a Quality Craft Homes – Attached
Lots 4-6, Block 114
Lots 2 & 3, Block 118

RAKMR I, Ltd. – Agreement in Process
Lots 12-20, Block 109
Lots 11-22, Block 110
Lots 1-9, 13-15 and 32-41, Block 112
Lots 14-21, Block 113
Lots 6-14, Block 115

Southwestern Classic Homes, Inc. – Agreement in Process
Lots 28 & 29, Block 112
Lots 2 & 3, Block 114

Taylor Homes, Inc. – No Agreement
Lot 7, Block 113
Lot 7, Block 114
Lots 12 & 13, Block 117
Lot 4, Block 118

Xavier Homes, Inc. – Attached
Lots 38-41, Block 110

Zia Homes, Inc. – Attached
Lots 1-11, Block 109
Lots 8-13 & 22-24, Block 113
Lots 15-29, Block 115

400819
105/MB
3 pgs

Doc# 20050007177

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 20th day of January, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to as "Developer", and **DIRECT HOME SALES, 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 TWENTY SEVEN** a 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.

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

By: Timothy C. Foster
Timothy C. Foster, Vice President

APPLICANT:

DIRECT HOME SALES, INC.

By: J Sorenson Jr
James J. Sorenson, Jr., President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 20th day of January, 2005, by TIMOTHY C. FOSTER, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

Susan McMillan
NOTARY PUBLIC FOR THE STATE OF TEXAS

NOTARY PUBLIC STATE OF TEXAS
SUSAN McMILLAN
NOTARY PUBLIC
My commission expires
MARCH 16, 2005

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 25th day of January, 2005, by JAMES P. SORENSON, JR., President of DIRECT HOME SALES, INC., a Texas corporation, on behalf of said corporation.

MELISSA G. WALKER
NOTARY PUBLIC
In and for the State of Texas
My commission expires
August 2, 2008

Melissa G. Walker
NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

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

500486 105 DF
3pgs

Do 20050014251

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 21st day of January, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to 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 TWENTY SEVEN** a 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.

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

By: _____
Timothy C. Foster, Vice President

APPLICANT:

MENCER HOMES, INC.

By: _____
Alberto Rojas, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 21st day of January, 2005, by TIMOTHY C. FOSTER, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

JACKIE BOUTWELL
NOTARY PUBLIC
In and for the State of Texas
My commission expires
August 12, 2008

_____
NOTARY PUBLIC FOR THE STATE OF TEXAS

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 27 day of January, 2005, by ALBERTO ROJAS, President of MENCER HOMES, INC., a Texas corporation, on behalf of said corporation.

D.L. FLORES
NOTARY PUBLIC
In and for the State of Texas
My commission expires
March 14, 2006

NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

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

US-US56-ME
#106 3pages

(3)

Doc# 20050010313

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 31st day of January, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to as "Developer", and **MOUNTAIN VISTA BUILDERS, 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 TWENTY SEVEN** a 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

ORIGINAL

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:

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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:

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

By: Timothy C. Foster
Timothy C. Foster, Vice President

APPLICANT:

MOUNTIAN VISTA BUILDERS, INC.

By:
Ed Santamaria, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 31st day of January, 2005, by TIMOTHY C. FOSTER, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

Susan McMillan
NOTARY PUBLIC FOR THE STATE OF TEXAS

NOTARY PUBLIC STATE OF TEXAS
SUSAN McMILLAN
NOTARY PUBLIC
My commission expires
MARCH 16, 2005

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 31st day of JANUARY, 2005, by ED SANTAMARIA, President of MOUNTAIN VISTA BUILDERS, INC., a Texas corporation, on behalf of said corporation.

MARISSA M. ESPINOZA
NOTARY PUBLIC
In and for the State of Texas
My commission expires
October 10, 2005

NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

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

3pgs.

Doc# 20050005554

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 17th day of January, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to as "Developer", and **PACIFICA 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 TWENTY SEVEN** a subdivision in the City of El Paso, El Paso County, Texas (the "Subdivision"); and

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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:

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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.

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

By: Timothy C. Foster
Timothy C. Foster, Vice President

APPLICANT:

PACIFICA HOMES, INC.

By:
Juan Jose Vasquez, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 17th day of January, 2005, by TIMOTHY C. FOSTER, Vice President of RANCHOS REAL DEVELOPERS, INC., a Texas corporation, on behalf of said corporation.

Susan McMillan
NOTARY PUBLIC FOR THE STATE OF TEXAS

NOTARY PUBLIC STATE OF TEXAS
SUSAN McMILLAN
NOTARY PUBLIC
My commission expires
MARCH 16, 2005

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 18 day of January, 2005, by JUAN JOSE VASQUEZ, President of PACIFICA HOMES, INC., a Texas corporation, on behalf of said corporation.

D. L. FLORES
NOTARY PUBLIC
In and for the State of Texas
My commission expires
March 14, 2006

NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

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

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Doc # 20050025705

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 14th day of March, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to as "Developer", and **PEINADO FAMILY LIMITED PARTNERSHIP d/b/a QUALITY CRAFT HOMES,** 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 TWENTY SEVEN** a 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.

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

By: _____
Timothy C. Foster, Vice President

APPLICANT:

PEINADO FAMILY LIMITED PARTNERSHI
d/b/a QUALITY CRAFT HOMES

By: _____
Kelly Peinado

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 14th day of March, 2005, by TIMOTHY C. FOSTER, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

Susan McMillan
NOTARY PUBLIC FOR THE STATE OF TEXAS

NOTARY PUBLIC STATE OF TEXAS
SUSAN McMILLAN
NOTARY PUBLIC
My commission expires
MARCH 16, 2005

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 21st day of March, 2005, by KELLY PEINADO of QUALITY CRAFT HOMES, for the purposes herein stated.

NOTARY PUBLIC FOR THE STATE OF TEXAS

OFFICIAL SEAL
LAURIE A. BURNS
NOTARY PUBLIC
In and for the State of Texas
My commission expires
February 14, 2006

AFTER RECORDING RETURN TO:

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

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 31st day of March, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to 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 TWENTY SEVEN** a 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.

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

By: _____
Douglas A. Schwartz, Vice President

APPLICANT:

RAKMR I, LTD.
A Texas Limited Partnership
BY: RAKMR TEXAS, INC.
A Texas Corporation
Its General Partner

By: _____
Randal S. O'Leary, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 31st day of March, 2005, 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

SUSAN McMILLAN
NOTARY PUBLIC
My commission expires
MARCH 16, 2009

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 31st day of March, 2005, by RANDAL S. O'LEARY, President of RAKMR TEXAS, INC., a Texas corporation, on behalf of said corporation.

HELEN LOPEZ
NOTARY PUBLIC
In and for the State of Texas
My commission expires
July 23, 2005

NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

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

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 1st day of April, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to as "Developer", and **XAVIER 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 TWENTY SEVEN** a 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.

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

By: Timothy C. Foster
Timothy C. Foster, Vice President

APPLICANT:

XAVIER HOMES, INC.

By: Javier S. Corral
Javier Corral, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 1st day of April, 2005, by TIMOTHY C. FOSTER, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

Susan McMillan
NOTARY PUBLIC FOR THE STATE OF TEXAS

NOTARY PUBLIC STATE OF TEXAS
SUSAN McMILLAN
NOTARY PUBLIC
My commission expires
MARCH 16, 2009

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 14 day of April, 2005, by JAVIER CORRAL, President of XAVIER HOMES, INC., a Texas corporation, on behalf of said corporation.

NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

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

NOTARY PUBLIC STATE OF TEXAS
TERRY A. DELAO
NOTARY PUBLIC
In and for the State of Texas
My commission expires
April 28, 2006

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Doc# 20050033867

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into effective the 18th day of April, 2005, by and between **RANCHOS REAL IX, LTD.**, a Texas limited partnership, hereinafter referred to as "Developer", and **ZIA 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 TWENTY SEVEN** a 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.

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

By: Timothy C. Foster
Timothy C. Foster, Vice President

APPLICANT:

ZIA HOMES, INC.

By: _____
Ronald D. Costa, President

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 18th day of April, 2005, by TIMOTHY C. FOSTER, Vice President of RANCHOS REAL DEVELOPERS, INC. a Texas corporation, on behalf of said corporation.

Susan McMillan
NOTARY PUBLIC FOR THE STATE OF TEXAS

NOTARY PUBLIC STATE OF TEXAS
SUSAN McMILLAN
NOTARY PUBLIC
My commission expires
MARCH 16, 2009

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 19th day of April, 2005, by RONALD D. COSTA, President of ZIA HOMES, INC., a Texas corporation, on behalf of said corporation.

Evelyn Sims
NOTARY PUBLIC
In and for the State of Texas
My commission expires
February 27, 2008

NOTARY PUBLIC FOR THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

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