

SUBDIVISION IMPROVEMENTS AGREEMENT

owner is not the same

THIS AGREEMENT, made between Richmond American Homes of Colorado, Inc., a Delaware corporation, hereinafter called the "Subdivider," and El Paso County by and through the Board of County Commissioners of El Paso County, Colorado, hereinafter called the "County," shall become effective the date of approval of the Final Plat by the Board of County Commissioners.

WITNESSETH:

WHEREAS, the Subdivider, as a condition of approval of the final plat of Urban Collection at Palmer Village subdivision wishes to enter into a Subdivision Improvements Agreement, as provided for by Section 30-28-137 (C.R.S.), Chapter 5 of the El Paso County Engineering Criteria Manual and Chapter 8 of the El Paso County Land Development Code incorporated herein; and

WHEREAS, pursuant to the same authority, the Subdivider is obligated to provide security or collateral sufficient in the judgment of the Board of County Commissioners to make reasonable provision for completion of certain public improvements set forth on Exhibit(s) [redacted] attached hereto and incorporated herein; and

WHEREAS, the Subdivider wishes to provide collateral to guarantee performance of this Agreement including construction of the above-referenced improvements by means of plat restriction on plat which may be substituted by Subdivider at any time for a performance or property bond.

NOW, THEREFORE, in consideration of the following mutual covenants and agreements, the Subdivider and the County agree as follows:

landscape is required to be collateralized and thats installed after building permits are at C/O typically...

1. The Subdivider agrees to construct and install, at his sole expense, all of those improvements as set forth on Exhibit(s) [redacted] attached hereto. To secure and guarantee performance of its obligations as set forth herein, the Subdivider agrees to provide collateral to remain in effect at all times until the improvements are completed and accepted in accordance with Chapter 5 of the ECM. Security and collateral shall be posted in the form of a plat restriction appearing on the face of the plat which reads as follows:

NO LOT OR INTEREST THERIN, SHALL BE SOLD, CONVEYED, OR TRANSFERRED WHETHER BY DEED OR BY CONTRACT, NOR SHALL BUILDING PERMITS BE ISSUED, UNTIL AND UNLESS EITHER THE REQUIRED PUBLIC AND COMMON DEVELOPMENT IMPROVEMENTS HAVE BEEN CONSTRUCTED AND COMPLETED AND PRELIMINARY ACCEPTED IN ACCORDANCE WITH THE SUBDIVISION IMPROVEMENTS AGREEMENT BETWEEN THE APPLICANT/OWNER AND EL PASO COUNTY AS RECORDED UNDER RECEPTION NUMBUER _____ IN THE OFFICE OF THE CLERK AND RECORDER OF EL PASO COUNTY, COLORADO OR, IN THE ALTERNATIVE, OTHER COLLATERAL IS PROVIDED TO MAKE PROVISION FOR THE COMPLETION OF SAID IMPROVEMENTS IN ACCORDANCE WITH THE EL PASO COUNTY LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL. ANY SUCH ALTERNATIVE COLLATERAL MUST BE APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OR, IF PERMITTED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT, BY THE DEVELOPMENT SERVICES DEPARTMENT DIRECTOR AND MEET THE POLICY AND PROCEDURE REQUIREMENTS OF EL PASO COUNTY PRIOR TO THE

GEC section 1 of FAE is needed to get a precon.

maybe you have two forms of collateral?

PCD

RELEASE BY THE COUNTY OF ANY LOTS FOR SALE, CONVEYANCE OR TRANSFER.

THE PLAT RESTRICTION MAY BE REMOVED OR RESCINDED BY THE BOARD OF COUNTY COMMISSIONERS OR, IF PERMITTED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT, BY THE DEVELOPMENT SERVICES DEPARTMENT DIRECTOR UPON EITHER APPROVAL OF AN ALTERNATIVE FORM OF COLLATERAL OR COMPLETION AND PRELIMINARY ACCEPTANCE BY THE EL PASO BOARD OF COUNTY COMMISSIONERS OF ALL IMPROVEMENTS REQUIRED TO BE CONSTRUCTED AND COMPLETED IN ACCORDANCE WITH SAID SUBDIVISION IMPROVEMENTS AGREEMENT. THE PARTIAL RELEASE OF LOTS FOR SALE, CONVEYANCE OR TRANSFER MAY ONLY BE GRANTED IN ACCORDANCE WITH ANY PLANNED PARTIAL RELEASE OF LOTS AUTHORIZED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT.

models would not be permitted than based on this language...

If Subdivider chooses to construct the subdivision in phases, the ECM Administrator may require an increase in the amount of security for an individual phase prior to notice to proceed for that phase, to take into account any increase in cost due to inflation.

2. Subdivider is responsible for providing any renewals of collateral to ensure that there is never a lapse in security coverage. Subdivider shall procure renewal/extension/replacement collateral at least fifteen (15) days prior to the expiration of the original or renewal/extension/replacement collateral then in effect. Failure to procure renewal/extension/replacement collateral within this time limit shall be a default under this Agreement and shall allow the County to execute on the collateral. In addition, if Subdivider allows collateral to lapse at any time, no lots in the subdivision may be sold, conveyed or transferred, whether by Deed or Contract, after the expiration date of such collateral until the improvements identified on Exhibit A have been completed and final acceptance is received from the County. If replacement collateral is used for renewal, approval by Board of County Commissioners is required.
3. No lots in the subdivision or, if constructed in phases, in any phase thereof, shall be sold, conveyed or transferred, whether by Deed or by Contract, nor shall building permits be issued until and unless the required improvements for the subdivision or the particular phase thereof have been constructed and completed in accordance with the approved construction plans and preliminary acceptance is received from the County. In the alternative, lots within the subdivision or, if constructed in phases, in any phase thereof, may be sold, conveyed or transferred and / or have building permits issued upon receipt of collateral acceptable to the County, pursuant to this Agreement, which is sufficient to guarantee construction of the improvements, identified by phase if applicable, in the attached Exhibit A.
 - a. Notwithstanding the foregoing, the Subdivider may obtain up to six (6) building permits for model homes prior to preliminary acceptance of improvements provided there is adequate fire protection and all weather emergency access(es) available to the site on which the model homes are to be constructed, in the County's sole discretion. In the event that Subdivider receives building permit(s) for model homes prior to preliminary acceptance of public improvements, the Subdivider shall (i) not convey title to such model home until such preliminary acceptance; and (ii) agree to indemnify and hold harmless the County, and its officers, employees, and agents, from any and all claims, damages, injuries, losses and expenses, including reasonable attorney's fees, arising out of or resulting from the building, showing, or any use of the model homes.

4. The Subdivider agrees that all of those certain public improvements to be completed as identified on Exhibit A shall be constructed in compliance with the following:
 - a. All laws, resolutions and regulations of the United States, State of Colorado, El Paso County and its various agencies, affected special districts and/or servicing authorities.
 - b. Such other designs, drawings, maps, specifications, sketches and other matter submitted to and approved by any of the above-stated governmental entities.
5. All improvements shall be completed by the Subdivider, meeting all applicable standards for preliminary acceptance, within 24 (twenty four) months from the date of notice to proceed in the Construction Permit for the Subdivision, or Phase of the Subdivision. If the Subdivider determines that the completion date needs to be extended, the Subdivider shall submit a written request for a change in the completion date to the ECM Administrator at least 90 days in advance of the required completion date. The request shall include the reasons for the requested change in completion date, the proposed new completion date, and prove collateral is in place to cover the extension time requested. The completion date for the Subdivision or Subdivision Phase may be extended one time, for a period no longer than 6 months at the discretion of the ECM Administrator. Any additional requests for extension of the completion date will be scheduled for hearing by the Board of County Commissioners. The ECM Administrator or the Board of County Commissioners may require an adjustment in the amount of collateral to take into account any increase in cost due to the delay including inflation.
6. It is mutually agreed pursuant to the provisions of Section 30-28-137 (3) C.R.S. that the County or any purchaser of any lot, lots, tract or tracts of land subject to a plat restriction which is the security portion of a Subdivision Improvements Agreement shall have the authority to bring an action in any District Court to compel the enforcement of any Subdivision Improvements Agreement on the sale, conveyance, or transfer of any such lot, lots, tract or tracts of land or of any other provision of this article. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of any lot, lots, tract or tracts of land contrary to the provisions of any such restrictions set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of a building permit by the County where so required or otherwise prior to commencement of construction on any such lot, lots, tract or tracts of land.
7. It is further mutually agreed that, pursuant to the provisions of Section 30-28-137 (2) C.R.S., and Chapter 5 of the County's Engineering Criteria Manual, as improvements are completed, the Subdivider may apply to the Board of County Commissioners for a release of part or all of the collateral deposited with said Board. Upon inspection and approval, the Board shall release said collateral. The County agrees to respond to an inspection request in a reasonable time upon receipt of the request. If the Board determines that any of such improvements are not constructed in substantial compliance with specifications it shall furnish the Subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications, the Board of County Commissioners may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications.
8. The Subdivider agrees, and both parties acknowledge that the construction of the improvements identified and guaranteed through this Subdivision Improvements Agreement shall follow the inspection, collateral, and acceptance process that is identified in Chapter 5 of the County's Engineering Criteria Manual. This is to include among other things, a Preliminary Acceptance process, replacement of performance collateral with appropriate Warranty collateral at that time,

and a 2 year warranty period prior to final acceptance. Where any inconsistency exists between Chapter 5 of the Engineering Criteria Manual and the Land Development Code with respect to these inspections, collateral and acceptance processes, the Engineering Criteria Manual is the controlling document.

9. The Subdivider(s) agrees to provide the County with a title insurance commitment at time of final platting evidencing that fee simple title of all lands in the subdivision is vested with the subdivider(s).
10. The County agrees to approval of the final plat of Urban Collection at Palmer Village subdivision subject to the terms and conditions of this Agreement.
11. Parties hereto mutually agree that this Agreement may be amended from time to time provided that such amendment be in writing and signed by all parties hereto.
12. This Agreement shall take effect on the date of approval of the Final Plat by the Board of County Commissioners.
13. The Subdivider(s) agrees for itself and its successors and assigns that Subdivider and/or its said successors and assigns shall be required to pay road impact fees in accordance with the El Paso County Road Impact Fee Program at or prior to the time of building permit submittals.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year below written.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____
Craig Dossey, Executive Director
Planning and Community Development Department
Authorized signatory pursuant to LDC

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____, Executive Director of El Paso County Planning and Community Development Department.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Subdivision Improvement Agreement V1 redlines.pdf Markup Summary 1-5-2021

dsdparsons (6)

APPROVED BY THE BOARD OF COUNTY DEVELOPMENT SERVICES DEPARTMENT AND PRODUCED UNDER REQUIREMENTS

PCD

Subject: Callout
Page Label: 1
Author: dsdparsons
Date: 1/5/2021 12:32:14 PM
Status:
Color: ■
Layer:
Space:

PCD

GEC section 1 of FAE is needed to get a precon.

NO. 1 TRAN BUILT PUBLIC CONSTRUCTION BETWEEN AND ALTERNATE

Subject: Callout
Page Label: 1
Author: dsdparsons
Date: 1/5/2021 12:34:43 PM
Status:
Color: ■
Layer:
Space:

GEC section 1 of FAE is needed to get a precon.

maybe you have two forms of collateral?

APPROVED BY THE DEVELOPER AND PROJECT

Subject: Callout
Page Label: 1
Author: dsdparsons
Date: 1/5/2021 12:34:57 PM
Status:
Color: ■
Layer:
Space:

maybe you have two forms of collateral?

THE CITY OF PASO COUNTY, TEXAS, HAS ADOPTED THE FOLLOWING ORDINANCE TO AMEND THE SUBDIVISION IMPROVEMENT AGREEMENT ACT TO REQUIRE THE SUBDIVIDER TO PROVIDE COLLATERAL TO THE CITY OF PASO COUNTY, TEXAS, IN THE FORM OF A LETTER OF CREDIT OR OTHER FINANCIAL INSTRUMENT TO BE HELD BY THE CITY OF PASO COUNTY, TEXAS, AS A CONDITION OF THE ISSUANCE OF A SUBDIVISION IMPROVEMENT AGREEMENT TO THE SUBDIVIDER.

Subject: Callout
Page Label: 2
Author: dsdparsons
Date: 1/5/2021 12:36:24 PM
Status:
Color: ■
Layer:
Space:

models would not be permitted than based on this language...

THE CITY OF PASO COUNTY, TEXAS, HAS ADOPTED THE FOLLOWING ORDINANCE TO AMEND THE SUBDIVISION IMPROVEMENT AGREEMENT ACT TO REQUIRE THE SUBDIVIDER TO PROVIDE COLLATERAL TO THE CITY OF PASO COUNTY, TEXAS, IN THE FORM OF A LETTER OF CREDIT OR OTHER FINANCIAL INSTRUMENT TO BE HELD BY THE CITY OF PASO COUNTY, TEXAS, AS A CONDITION OF THE ISSUANCE OF A SUBDIVISION IMPROVEMENT AGREEMENT TO THE SUBDIVIDER.

Subject: Callout
Page Label: 1
Author: dsdparsons
Date: 1/5/2021 12:36:40 PM
Status:
Color: ■
Layer:
Space:

landscape is required to be collateralized and that installed after building permits are at C/O typically...

AGREEMENT
owner is not the same
and Authority from the City of Del Rio, Paso County by and through the Board of County Commissioners shall become effective upon the date of the City of Del Rio, Paso County, Texas, Ordinance No. 10, 2021.

Subject: Callout
Page Label: 1
Author: dsdparsons
Date: 1/5/2021 12:36:58 PM
Status:
Color: ■
Layer:
Space:

owner is not the same