

**DEVELOPMENT AGREEMENT
THE SHOPS AT MERIDIAN RANCH – TRAFFIC SIGNAL**

This Development Agreement (“Agreement”) is entered into this ____ day of _____, 2024 by and between El Paso County, by and through the Board of County Commissioner of El Paso County, Colorado (“Board”), whose address is 200 South Cascade Avenue, Colorado Springs, CO 80920, and The Shops at Meridian Ranch, LLC (“Developer”), whose address is 3575 Kenyon Street, Suite 200, San Diego, CA 92110. The Board and Developer may be referred to herein individually as a “Party” and collectively as “Parties.”

Recitals

- A. Developer owns a commercial development known as The Shops Filing No. 1 at Meridian Ranch (“Development”) located on the northeast corner of the intersection of Meridian Road and Stapleton Drive.
- B. The final plat for the Development was approved by the Board on October 14, 2014, under El Paso County Planning and Community Development (“PCD”) File No. SF147 and pursuant to Resolution No. 14-389. A traffic study completed in connection with the Development anticipated that the intersection of Stapleton Drive and the unnamed access road into the Development east of Meridian Road (“Intersection”) would ultimately require a traffic signal.
- C. A commercial site development plan for a lot within the Development is currently under review in PCD File No. PPR2322. The traffic study prepared for this project indicates that warrants for a traffic signal are close to being met.
- D. Developer wishes to commit to constructing the traffic signal at the Intersection at such time as warrants for the signal are met.
- E. The Parties wish to memorialize their mutual understandings regarding construction of a traffic signal at the Intersection.

Agreement

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1. Incorporation of Recitals. The Parties hereby incorporate by reference the above-stated Recitals into this Agreement as if fully set forth herein.
2. No Guarantee of County Approvals. Developer understands and agrees that by executing this Agreement, there is no assurance that the Board will execute the same. If El Paso County (“County”) does not execute this Agreement, this Agreement shall be of no effect. Developer further understands and agrees that this Agreement does not assure Developer that the County will approve, either administratively or through the Board, any future land use or

development applications within the Development, and that the Board, by executing this Agreement, makes no express or implied promises or representations that it will do so.

3. Intersection Improvements. Developer shall construct a traffic signal at the Intersection, along with related improvements (together, "Intersection Improvements"), in accordance with the following provisions.

- a. Upon receipt and approval of a traffic study that is submitted in connection with an application for a site development plan, vacation and replat, or other development approval within the Development and that shows that warrants for the Intersection Improvements have been met, the County Engineer may request in writing that Developer construct the Intersection Improvements.
- b. Developer shall submit all required plans, specifications, construction drawings, and other documents for the Intersection Improvements within six (6) months of receiving a request pursuant to paragraph 3.a. above. Developer shall work diligently with County staff to address any comments and requested revisions and obtain all necessary approvals and permits for construction.
- c. Upon issuance by the County of a Notice to Proceed with construction, Developer shall complete construction of the Intersection Improvements within one year.
- d. Construction of the Intersection Improvements, and the posting and release of collateral therefor, shall be in accordance with approved plans and specifications, all permit conditions, and the El Paso County Engineering Criteria Manual.

4. Authority. The undersigned hereby acknowledge and represent that they have the legal authority to bind their respective Party to this Agreement.

5. Entire Agreement. This Agreement represents the complete integration of all understandings between the Parties, is the entire agreement between the Parties, and no additional or different oral representations, promises, or agreements shall be binding on any of the Parties with respect to the subject matter of this Agreement, unless set forth in writing and signed by the affected Parties.

6. Changes or Modifications. No modification, amendment, novation, change or other alteration of this Agreement shall be valid unless agreed to by the affected Parties in writing and executed as an addendum to this Agreement.

7. Severability. If any paragraph, section, subsection, clause or phrase of this Agreement is, for any reason, held to be invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Agreement.

8. Waiver. The waiver of a breach of any of the provisions of this Agreement by any Party shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or other provision of this Agreement.

9. No Third-Party Beneficiaries. This Agreement does not and shall not be deemed to confer on any third party the right to the performance of or proceeds under this Agreement, to claim any damages or to bring any legal action or other proceeding against the Board or Developer for any breach or other failure to perform this Agreement.

10. Applicable Law. This Agreement shall be interpreted and enforced in accordance with the laws, rules and regulations of the State of Colorado and El Paso County. Venue shall be in the El Paso County District Court.

11. Recording. This Agreement shall be recorded by the County in the records of the El Paso County Clerk and Recorder's Office.

12. Force Majeure. Developer shall not be liable or responsible to the County, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from events or circumstances beyond Developer's control, including, without limitation, the following force majeure events ("**Force Majeure Events**"): (a) acts of God; (b) flood, fire, earthquake, pandemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) embargoes, or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) any other events or circumstances beyond the control of Developer, whether or not similar to the events and circumstances listed in this section. Developer shall give notice within ten (10) business days of the Force Majeure Event to the County, stating the period of time the occurrence is expected to continue. Developer shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. Developer shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

IN WITNESS WHEREOF, the Parties affix their signatures below.

THE SHOPS AT MERIDIAN RANCH, LLC.

By:


Raul Guzman, Member

Date:

10/2/2024

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY COLORADO

By: _____ Date: _____
Cami Bremer, Chair

Attest:

Steve Schleiker
County Clerk & Recorder

Date: _____

Approved as to form:

County Attorney's Office