

## ACCESS EASEMENT MAINTENANCE AGREEMENT

This ACCESS EASEMENT MAINTENANCE AGREEMENT (“Agreement”) dated this 24th day of March, 2022, is made by and among the owners of Lots 1, 2, and 3, Treasured Acres, El Paso County, Colorado together with their respective successors in interest in the Properties as hereafter defined (collectively the “Owners”). Lots 1, 2, and 3, Treasured Acres, El Paso County, Colorado according to the Plat [recording information] are herein referred to as the “Property”. The Owners are individually a “Party”.

### RECITALS:

- A. Jerry and Sharon Lomax, are the title owner of the Property whose address is 11750 Green Acres Lane, Colorado Springs, CO 80908-4122.
- B. The Property was platted as evidenced by the Plat.
- C. The Plat provides access to and from Burgess Road over Green Acres Lane which is a private easement for access from Green Acres Lane to its point of terminus per Plat.
- D. The Owners wish to provide for the construction and maintenance of a roadway (“Roadway”) for access over the Access Easement from Lot 1 to Lots 2 and 3.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Design and Construction of Roadway.** The Owners of the Property are responsible to construct the Roadway to El Paso County standards.
2. **Maintenance of Roadway.** It shall be the duty and obligation of each Owner of a Lot within the Subdivision to maintain the shared access driveway. The shared access driveway shall be equally maintained by the Lot owners benefiting from, and sharing, the respective driveway and shall each pay an equal portion of maintenance and repair costs, unless the expense to repair is attributable to a specific lot owner. “Maintenance” or “repair” includes, but is not limited to, graveling, paving, draining, removing snow, clearing, or providing any other maintenance or repair-type service however defined, on the shared access driveway. If a Lot Owner does not utilize or benefit from the shared access driveway, then the Lot Owner is not responsible for maintenance and repair and associated costs. The driveway shall, at a minimum, meet current county standards for gravel or paved roads, as applicable. The driveway will, at all times, be kept in passable condition without potholes, sinkholes, obstructions, or other unstable or unpassable conditions. The shared access driveway may be paved if the sharing parties agree to share the cost of paving, or if one party agrees to bear the total cost for the pavement. In no case shall the paved access driveway fall below the county standard for access drives.
2. **Run with the Land.** The rights and obligations granted herein and the provisions hereof shall run with the land, shall be appurtenant to the Property, shall be binding upon the Owners and Property and all present and future owners of the Property, and shall inure to the benefit of the Owners and Property and all present and future owners of the Property.

3. **Enforcement.**

A. This Agreement may be enforced as provided hereinafter by each Owner of a Lot in the Property. Each Owner of a Lot, by acquiring an interest in the Lot, shall automatically become vested with the rights and obligations provided under this Agreement. Violation of any condition, covenant, restriction, or reservation contained herein by any party shall, after providing thirty (30) days' written notice to the party responsible in violation of this Agreement, give to said owner of a Lot the right to bring suit in law or equity against the party or parties violating any such condition, covenant, restriction, and/or reservation to enjoin them from so violating, to cause such violation to be remedied, and to recover damages resulting from such violation.

B. In any legal or equitable proceeding for the enforcement of this Agreement, or any provision hereof, whether it be an action for damage, declaratory relief, injunctive relief, or any other action, the prevailing party in such action shall be entitled to recover from the non-prevailing party all of its costs incurred in such action, including court costs and reasonable attorneys' fees. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

C. The failure of any owner or owners of a Lot to enforce any of the conditions, covenants, restrictions, or reservations contained herein shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, covenants, restrictions, or reservations contained herein.

4. **Miscellaneous.**

a. Severability. In the event any Court of competent jurisdiction declares any portion of this document to be unenforceable, such declaration shall not affect the enforceability of the remaining parts of this document.

b. Third Parties. This document does not and shall not be deemed to confer upon or grant to any third party any right to claim damages or to bring any lawsuit, action or other proceeding against any of the parties hereto or their respective successors and assigns, including any individual Lot Owners, because of any breach hereof or because of any terms, covenants, agreements or conditions contained herein.

c. Applicable Law and Venue. The laws, rules, and regulations of the State of Colorado and El Paso County shall be applicable in the enforcement, interpretation, and execution of this document. Venue shall be in the El Paso County District Court

f. Modification. No breach of this Agreement shall entitle any Party to cancel, rescind or terminate the Agreement or any rights granted herein. This Agreement may be modified or terminated only by recording a written modification or termination agreement executed by the then present owner or owners of all of the Properties.

h. Notices. All notices required or permitted to be given or delivered hereunder shall be in writing and be hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the Party intended at its address as set forth above or to such other address as indicated on title transfer documents filed with the El Paso County, Colorado real property records. All such notices shall be deemed to have been given and delivered when hand delivered or seventy-two (72) hours after deposit in the United States Mail in the manner provided unless the return receipt shall show earlier delivery.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first set forth above.

Lot 1:

Jerry L Lomax Sharon K Lomax  
By: Jerry and Sharon Lomax

Lot 2:

Jerry L Lomax Sharon K Lomax  
By: Jerry and Sharon Lomax

Lot 3:

Jerry L Lomax Sharon K Lomax  
By: Jerry and Sharon Lomax

STATE OF COLORADO )

)ss.

COUNTY OF EL PASO )

The foregoing was acknowledged before me this 24 day of March, 2022, by Jerry and Sharon Lomax

WITNESS my hand and official seal.

My Commission expires: 10/12/2025

Robin Carden

Notary Public

