

EL PASO COUNTY



Planning & Community Development
2880 International Circle, Colorado Springs, CO 80910
Phone (719) 520-6300 Fax (719) 520-6695 www.elpasoco.com

DRIVEWAY ACCESS PERMIT / WAIVER APPLICATION

File No. APIG 783
Office Use Only

Please note: All Permits issued are for SINGLE ACCESS POINT to a specific roadway unless otherwise expressly indicated by the permit issued. Permits expire within 90 days of issue; drainage construction must be substantially complete. Monuments within the ROW are not included with this permit; an EPC DOT *Encroachment Permit* may be required. Please call 520-6460 for information.

AT THE TIME OF ACCESS PERMIT APPLICATION, THE PROPOSED DRIVEWAY MUST BE LOCATED AND STAKED
PLEASE PROVIDE ALL INFORMATION, INCOMPLETE APPLICATIONS WILL DELAY PROCESS.

Date: 6-4-2019

Name of Applicant: Ken Barker

Company Name: El Paso Co. Con. District

Mailing Address: 5610 Industrial Pl #100
CS, Co 80916

Phone Number(s): _____

ACCESS APPLICATION ADDRESS: 10760 Eastonville Rd

SUBDIVISION, LOT AND BLOCK: Secs 20+21-12-64

PROPERTY TAX SCHEDULE NUMBER: 4200000400

(Information may be obtained by clicking on the Assessor's Real Estate Parcel Search on the county website or calling 520-6600.)

☒ OPEN-DITCH DRIVEWAY PRIMARY ACCESS:

☐ SECONDARY ACCESS

Proposed single access point onto an El Paso County public road constructed with open ditch drainage (NOT curb and gutter).
Re-inspection of the completed driveway platform and applicable culver installation must be scheduled within 90 days of permit issue by calling (719) 520-6819.

☐ CURB AND GUTTER PRIMARY DRIVEWAY ACCESS:

☐ SECONDARY ACCESS

Proposed single access point onto an El Paso County Public road constructed with curb and gutter drainage (not open-ditch).

☐ COMMERCIAL DRIVEWAY ACCESS:

(Submit a copy to the El Paso County Planning & Community Development approved Site Development or Site Plan with your application. The submitted copy will remain on file and will not be returned to the applicant).

☐ DRIVEWAY ACCESS WAIVER:

A Driveway Access Waiver will be issued for access onto a road not platted as El Paso County right-of-way within unincorporated El Paso Count subsequent to county confirmation. The applicant may be required to submit additional documentation.

Below this line is for Office Use Only

Drainage Requirements: _____

Reviewed by: _____ Date: _____

Additional Comments: _____

Processed by PJ # 30625

Date 6/4/19

PHD 223.43 acres

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
EL PASO COUNTY
AND
THE EL PASO COUNTY CONSERVATION DISTRICT**

This Intergovernmental Agreement ("Agreement") is made and entered into this 31st day of May, 2018 ("Effective Date") by and between the Board of County Commissioners of El Paso County Colorado, a political subdivision of the State of Colorado ("County") and the El Paso County Conservation District, a political subdivision of the State of Colorado ("District"). The County and the District may be referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, the County acquired through donation a parcel of property known as Falcon Regional Park; and

WHEREAS, the District desires to use a portion of Falcon Regional Park to conduct its activities to further its statutory purposes, and to that end participated in the process for development of the Falcon Regional Park Master Plan that was approved by the Board of County Commissioners in February, 2015; and

WHEREAS, the County consents to allow the District to use a portion of Falcon Regional Park subject to the terms and condition of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the sufficiency of which are acknowledged, the Parties agree as follows.

1. Description of Premises. The County hereby agrees to allow the District to occupy and use a 45-acre portion of the vacant, unimproved land owned by the County and known as Falcon Regional Park, which portion is legally described in Exhibit A, attached hereto and incorporated herein by this reference, and shall be referred to herein as the "Premises."

2. Use of Premises.

- a. The District's use of the Premises shall be limited to the following: office space, public meeting space, classroom space, parking, and conservation education and activities. The District shall make available to the County any public meeting or classroom space constructed on the Premises at no charge to the County. The District may make such space available to other users for a reasonable fee.
- b. The District's use of the Premises shall be consistent with this Agreement, the Falcon Regional Park Master Plan, Park Rules and Regulations (including but not limited to hours of operation), the Development and Park Lands Agreement – Meridian Ranch approved pursuant to County Resolution No. 14-313 ("Park Lands Agreement"), and all applicable federal, state and local rules and regulations. The District shall be responsible for obtaining all necessary permits and land use approvals, including but not limited to County driveway permits and County approvals of location.

- c. No open storage of construction materials or operational supplies by the District shall be permitted after initial construction of improvements. Materials and supplies shall be enclosed in the primary building, in an accessory structure, or in a bermed and landscaped exterior storage area.
- d. Access to the Premises shall be from Eastonville Road and may cross the portion of Falcon Regional Park not subject to this Agreement necessary for such access.

3. Improvements to Premises. In furtherance of the uses identified above, the District may construct at its sole expense the following improvements to the Premises.

- a. A primary building used for District office space, a public meeting room, classroom space, restroom facilities, and a kitchen. The building shall also include separate restroom facilities for men and women that open to the outside and are available for public use.
- b. A parking lot.
- c. Accessory storage structures of the same quality and visual character as the primary building.
- d. A tree farm, which may be fenced.
- e. Demonstration gardens and experimental crop cultivation plots, which may be individually fenced.
- f. A solar array for the purpose of generating electricity for the District's operations on the Premises. The District may, on terms mutually agreeable with the County and recorded as an addendum to this Agreement, construct sufficient solar facilities to support County operations in Falcon Regional Park

The District may not construct a fence of any type around the perimeter of the Premises.

4. County Use of Premises. The County reserves the right to construct and maintain trails and recreational facilities on the Premises and to open such trails and facilities to the public. The County shall consult with the District prior to such construction to ensure compatibility with the District's use of the Premises. The Parties may also cooperatively construct, use and maintain facilities including, but not limited to, parking or storage areas and service access.

5. Utilities. The District shall be responsible for all costs to install, maintain, repair and use all electric, water and wastewater utilities on or provided to the Premises. The District shall also be responsible for all costs to provide and maintain telephone and internet service, trash removal, janitorial services and snow and ice removal services for the Premises.

6. Construction of Improvements and Utilities.

- a. Prior to commencing the construction of any improvements to or the installation of any utilities upon the Premises, the District shall submit plans and specifications identifying the type, location and extent of all uses, permanent and non-permanent improvements, and utilities to the County for approval, which approval shall not be unreasonably withheld. Such plans may add to or amend the uses or improvements identified in Sections 2 and 3 above but shall not be inconsistent with the Falcon Regional Park Master Plan, the Park Lands Agreement, or local, state and federal regulations. The final site plan and any supporting plans and specifications shall be approved by the El Paso County Community Services Department Director and recorded as an addendum to this Agreement.
- b. The District shall commence construction of the improvements identified in Sections 3.a and 3.b above within three (3) years and complete such construction and occupy the building within five (5) years of the Effective Date of this Agreement.
- c. The Park Lands Agreement allows the County to install up to two (2) engineered evaporative septic systems within Falcon Regional Park and use each septic system until such time as a sanitary sewer line is installed within four hundred (400) feet thereof. The County hereby expressly assigns to the District the right to install and use one (1) engineered evaporative septic system subject to the terms of the Park Lands Agreement. The District shall connect to central sanitary sewer service pursuant to the Park Lands Agreement when available, at its sole expense.
- d. Prior to commencing the construction of any improvements to or the installation of any utilities upon the Premises, the Parties shall discuss the rights and restrictions contained in the Park Lands Agreement regarding water and sanitary sewer service and use of the Dawson Well in Falcon Regional Park. Any mutual agreement reached by the Parties regarding assignment to the District of any of those rights and restrictions shall be approved and recorded as addendum to this Agreement.
- e. Construction and installation of all improvements and utilities on or within the Premises shall comply with all applicable federal, state and local rules and regulations.
- f. Design, construction and installation of any structure, fencing or other improvements, whether of a permanent or non-permanent nature, shall comply with the Falcon Regional Park Master Plan and any other applicable County Parks policies or planning documents and must be approved by the County, which approval shall not be unreasonably withheld. The District may submit a request for a waiver of or deviation from such policies and planning documents to the County for approval, which approval shall not be unreasonably withheld.

7. Maintenance of Premises. The District shall be responsible for maintaining the Premises and any of its improvements thereon in good repair and in a clean and safe condition. The

District shall not alter the existing drainage of the Premises without the prior written consent of the County. The District shall employ best management practices to mitigate impacts of its operations on surface and groundwater quality.

8. Acceptance of Premises. The District agrees that, upon taking possession of the Premises, the District shall be deemed to have accepted the Premises "as is" and subject to existing covenants, conditions, restrictions, easements and encumbrances affecting the Premises. Upon possession of the Premises, the District shall be deemed to have waived any warranties of habitability, suitability for habitation, fitness for a particular purpose or merchantability, express or implied, related to the Premises.

9. Compliance with Laws. The District shall be responsible for obtaining at its sole expense all necessary permits and other approvals for any of its activities on or within the Premises. The District shall not make or permit any use of the Premises that is unlawful or contrary to any applicable local government resolution, regulation or ordinance, including without limitation any and all zoning, building or sanitary statutes, codes, rules, regulations, resolutions or ordinances

10. Agreement Subject to Park Lands Agreement and Master Plan. The District understands and agrees that the provisions of this Agreement are subject to the Park Lands Agreement and that the County can grant no rights to the District which it does not hold under the Park Lands Agreement. In the event of a conflict between the terms of this Agreement and the provisions of the Park Lands Agreement, the Park Lands Agreement shall control.

11. Insurance. The District shall carry at all times sufficient casualty and property insurance to cover the cost of rebuilding or repairing the Premises and any of the District's improvements thereon in the event of partial or total destruction thereof. The District shall also carry at all times comprehensive general liability insurance in the total aggregate sum of at least \$1,000,000 with the County named as an additional insured, and the District shall provide the County with a certificate of insurance so indicating. The County shall have the right to require that it receive notice of any termination of the District's insurance policies. The District may meet the insurance requirements contained in this paragraph through self-insurance. The District shall provide to the County, upon request, written evidence of the insurance required.

12. Limitation of Liability. The County shall not be liable for loss or damage to property or injuries or death to persons which may arise from or are incidental to the District's use and occupation of the Premises, or injuries or death to the District's officers, employees, agents and representatives, or third parties, including the public, who may on the Premises unless caused by or attributable to the willful misconduct of the County, its officers, directors, employees or agents. Nothing in this Agreement shall limit or prevent the protections afforded to the County or the District under the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.*

13. Assignment. The District may not assign any of its rights or obligations under this Agreement without the prior written consent of the County.

14. County's Access to Premises. The County shall have the right at any time to enter the Premises or any improvements thereon to examine and inspect the same.

15. Mechanics' Liens/Other Liens and Encumbrances. The Premises are publicly owned property. Therefore, it is the County's position that neither the District nor anyone claiming by or through the District shall have the right to file a mechanic's lien or any other kind of lien or encumbrance on the Premises or Falcon Regional Park. The District shall keep the Premises free and clear of any and all mechanics', materialmens', and other liens arising out of or in connection with work or labor done, services performed or materials or appliances furnished for the District, and the District shall at all times shall fully pay and discharge any and all claims on which any such lien may or could be based, and shall indemnify, defend and hold harmless the County against all such liens and claims of liens, and suits or other proceedings pertaining thereto.

16. Termination. This Agreement shall terminate and all rights of the District shall cease if one or more of the following occurs:

- a. The District's default of any of the terms of this Agreement, which default is not cured within thirty (30) days following the County's written notice of the default. The 30-day period may be extended by the County for good cause. If such default is not corrected to the satisfaction of the County, the Agreement shall terminate on the 31st day following notice or such later date as provided by the County. In the event of termination pursuant to this paragraph 16.a, the District shall have ninety (90) days to vacate the Premises and to remove all personal property and non-permanent improvements and restore the Premises to its original condition on the Effective Date, ordinary wear and tear excepted. The County may waive the requirement to remove personal property and non-permanent improvements or agree to accept the Premises in a different condition, in its sole discretion.
- b. Abandonment of the Premises by the District. The District shall be deemed to have abandoned the Premises if it does not acknowledge its intent to continue use of the Premises within thirty (30) days of receipt of written notice by the County, which notice the County may send at any time after the District has failed to use the Premises for a period of sixty (60) days.
- c. Written notice of termination by the District at least ninety (90) days in advance without cause. The District shall vacate the Premises on or before the expiration of the 90-day notice period and shall remove all personal property and non-permanent improvements and shall restore the Premises to its original condition on the Effective Date, ordinary wear and tear excepted. The County may waive the requirement to remove personal property and non-permanent improvements or agree to accept the Premises in a different condition, in its sole discretion.
- d. Written notice of termination by the County at least twelve (12) months in advance without cause. The District shall vacate the Premises on or before the expiration of the 12-month notice period and shall remove all personal property and non-permanent improvements and shall restore the Premises to its original condition on the Effective Date, ordinary wear and tear excepted. The County may waive the requirement to remove personal property and non-permanent improvements or agree to accept the Premises in a different condition, in its sole discretion. In the event of termination pursuant to this paragraph 16.d, the

County shall reimburse the District for the primary building on the Premises. The amount of reimbursement shall be equal to fair market value of the primary building as determined by a mutually acceptable third-party appraisal.

- e. If the Premises or the primary building constructed thereon by the District is destroyed or rendered uninhabitable by natural causes, through no act or failure of the District, either by fire, act of God or otherwise, then the District may forthwith terminate this Agreement. The District shall remove all personal property and non-permanent improvements and shall apply any available insurance proceeds or self-insurance funds first toward removing any health, safety or environmental hazards from the Premises, and second toward restoring the Premises to as near its original condition on the Effective Date as possible.

17. No Waiver. The failure of the County or the District to insist upon the strict performance of any provision of this Agreement, or the failure of the County or the District to exercise any right, option or remedy reserved shall not be construed as a waiver for the future of any such provision, right, option or remedy or as a waiver for the subsequent breach thereof. The District shall not construe the consent or approval by the County of any act by the District requiring the County's consent or approval to waive or render unnecessary the requirement for the County's consent or approval of any subsequent similar act.

18. Amendment or Modification. The County and the District acknowledge and agree that neither has relied upon any statements, representations, agreements or warranties, except such as are expressed herein, and that no amendment or modifications of this Agreement shall be valid or binding unless expressed in writing and executed by the Parties hereto in the same manner as the execution of this Agreement.

19. Binding Effect. It is agreed that this Agreement shall be binding upon the heirs, successors in interest and/or assigns of the Parties hereto.

20. Severability. The provisions of this Agreement are severable. Illegality or unenforceability of any provision herein shall not affect the validity or enforceability of the remaining provisions in this Agreement.

21. Relationship of Parties. Nothing contained in this Agreement shall be deemed to constitute or be construed or implied to create the relationship of principal and agent, partnership, joint venture or any other relationship between the Parties hereto.

22. Notices. Except as otherwise expressly provided, any notice or other communication given or made under this Agreement shall be in writing and sent by first class mail, and a copy thereof may also be sent by facsimile or other electronic means. Any such notice or other communication shall be addressed as follows and, if so addressed, shall be effective upon the postmark date.

TO COUNTY:

Director, El Paso County Community Services Department
2002 Creek Crossing
Colorado Springs, CO 80906

With a copy to:

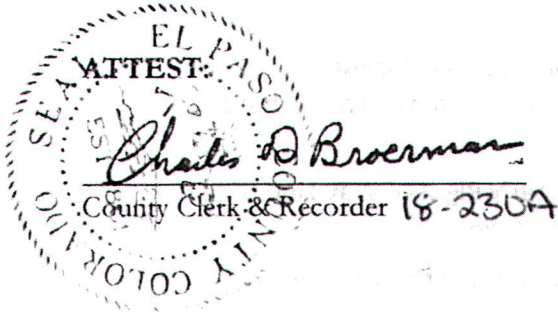
El Paso County Attorney's Office
200 S. Cascade Ave.
Colorado Springs, CO 80903

TO DISTRICT:

District Manager
El Paso County Conservation District
5610 Industrial Place, Suite 100
Colorado Springs, Colorado 80916

23. Governing Law; Venue. The Parties agree that this Agreement shall be construed in accordance with the laws of the State of Colorado. In the event of any dispute over the terms and conditions of this Agreement, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court for El Paso County, Colorado.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.



**BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO**

By: [Signature]
President

APPROVED AS TO FORM:

Lori L. Seago
County Attorney's Office

**EL PASO COUNTY CONSERVATION
DISTRICT**

By: [Signature]

EXHIBIT A

BOUNDARY DESCRIPTION

A tract of land located in the SE1/4 of Section 20 and in the SW1/4 of Section 21 all in T12S, R64W of the 6TH P.M., El Paso County, Colorado, described as follows:

BEGINNING at the Southeast corner of said Section 20 from which the Northeast corner of said Section 20 bears N00°13'03"W, 5,277.94 feet, thence N89°25'12"W, 1,318.95 feet along the South line of the SE1/4 of said Section 20 to the Southwest corner of that tract of land conveyed to El Paso County as described in Correction Special Warranty Deed recorded at Reception Number 214096227 of the records of El Paso County, Colorado;

Thence N00°11'44"W, 550.00 feet along the West line of that tract of land as described at said Reception Number 214096227;

Thence N45°14'56"E, 927.75 feet along the West line of that tract of land as described at said Reception Number 214096227;

Thence S89°25'12"E, 1,293.64 feet to a line 50.00 feet Westerly of, as measured at right angles from and parallel with, the Westerly Right of Way line of Eastonville Road;

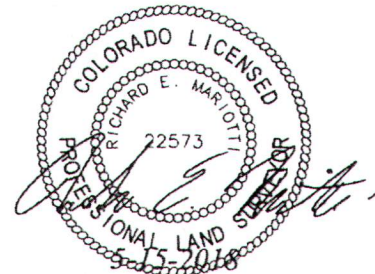
Thence Southerly, 1,115.09 feet along the arc of a curve concave to the East and parallel with Westerly Right of Way Line of said Eastonville Road, said arc having a radius of 1,880.00 feet, a central angle of 33°59'02" and being subtended by a chord that bears S09°47'52"W, 1,098.82 feet;

Thence S07°10'13"E, 127.24 feet parallel with the Westerly Right of Way Line of said Eastonville Road to the South line of the SW1/4 of said Section 21;

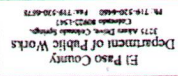
Thence N89°17'55"W, 460.61 feet along the South line of the SW1/4 of said Section 21 to the POINT OF BEGINNING.

Area = 45.000 Acres, more or less.

Bearings are based on the East line of said Section 20 as bearing N00°13'03"W, 5,277.94 feet, monumented on the South end by a 3-1/4 inch aluminum cap marked "PS INC. PLS 30087" and properly stamped and on the North end by a 3-1/4 inch aluminum cap marked "URS PLS 24964" and properly stamped.



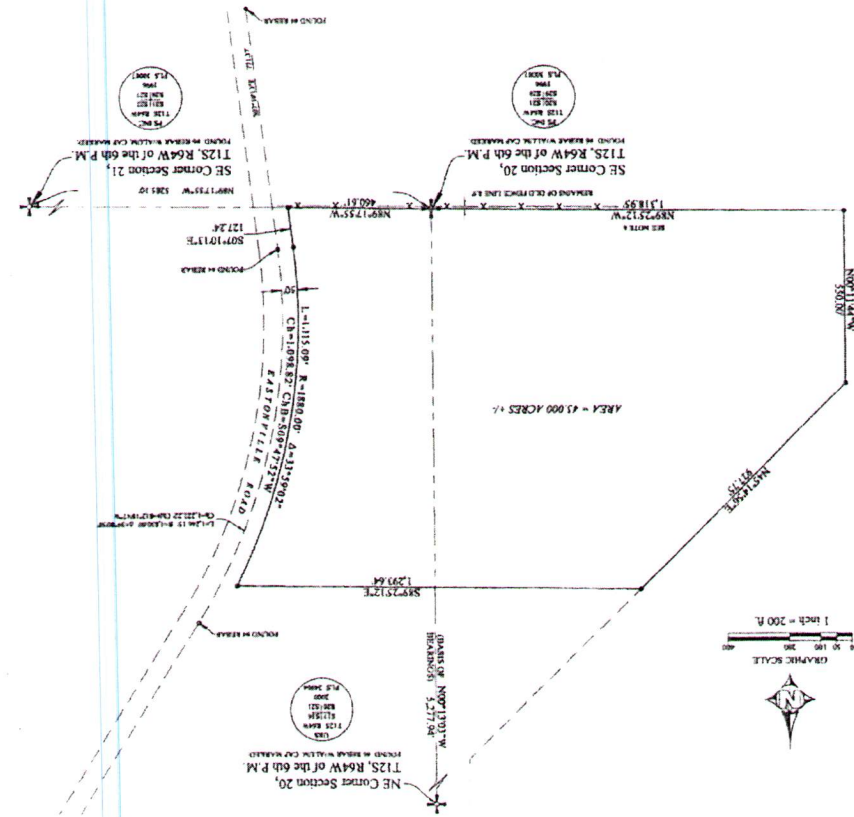
for and on behalf of
El Paso County, CO



***NOTICE:** According to Colorado law you must commence any legal action based upon any defects in this survey within three years after you first discover such defects. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein.

OF A TRACT OF LAND LOCATED IN THE SE1/4 OF SECTION 20 AND IN THE SW1/4 OF SECTION 21, T12S, R64W OF THE 6TH P.M., EL PASO COUNTY, COLORADO.

Land Survey Plot
1314 Avenue 20 and 20th Avenue 21, T125, Block of the 4th M
Drawing the Name: Future Highway Project
Project No.
By: EBN
Date of Preparation: 06/16/2018
Sheet 1 of 1

[illegible]

A graphic scale bar is shown with markings at 0, 50, 100, 200, and 400 feet. Above the bar, it says "1 inch = 200 ft.". Below the bar, it says "GRAPHIC SCALE". To the right of the scale is a north arrow pointing upwards, with the letter "N" at the top.