

El Paso County MS4 Post Construction Detention / Water Quality Facility Documentation Form

This document **must be completed and submitted** with required attachments to the County for projects requiring a detention and/or a water quality facility. A separate completed form must be submitted for each facility.

Project name:

Owner name:

Location Address:

Latitude and Longitude:

Assessor's Parcel #: Section: Township: Range:

Expected Completion date:

Project acreage: Design Ponding Acres: Design Storm:

Design Engineer Email Address:

To ensure compliance with C.R.S. 37-92-602(8), the completed Stormwater Detention and Infiltration Design Data Sheet **must be attached**. The form can be found here:
<https://maperture.digitaldataservices.com/gvh/?viewer=cswdif#> (click on Download SDI Design Data Sheet)

List all permanent water quality control measure(s) (EDBs, rain gardens, etc):

For all projects for which the constrained redevelopment sites standard is applied, provide an explanation of why it is not practicable to meet the full design standards.

Attach Operations and Maintenance (O&M) Plan describing the operation and maintenance procedures that ensure the long-term observation, maintenance, and operation of control measure(s), including routine inspection frequencies and maintenance activities. If multiple, different water quality control measures are used at the same location, a separate O & M Plan must be provided for each facility.

Attach Private Detention Basin / Stormwater Quality Best Management Practice Maintenance Agreement and Easement addressing maintenance of BMPs that shall be binding on all subsequent owners of the permanent BMPs.

Attachments:

Stormwater Detention and Infiltration Design Data Sheet
O & M Plan

Review Engineer

EPC Project File No.



El Paso County MS4 Post Construction Detention / Water Quality Facility Documentation Form

Maintenance and Access Agreement

Operations and Maintenance Manual
For
Extended Detention Basin
The Glen at Widefield Filing No. 10
Colorado Springs, Colorado

Prepared for:
Glen Development Company
c/o Widefield Investment Group
3 Widefield Boulevard
Colorado Springs, CO 80911
Phone: (719) 392-0194

Prepared by:



1604 South 21st Street
Colorado Springs, Colorado 80904
(719) 630-7342

Kiowa Project No. 19016

September 2019

Extended Detention Basin

Maintenance Recommendations

An Extended Detention Basin (EDB) is a sedimentation basin designed to totally empty out sometime after stormwater runoff ends. Compared to a flood control detention basin, the extended basin uses a much smaller outlet that extends the emptying time for the more frequently occurring runoff events to facilitate pollutant removal. The basins are considered to be "dry" because they are designed not to have a significant permanent pool of water remaining between storm runoff events. However, EDBs may develop wetland vegetation and sometimes shallow pools in the bottom portions of the facilities.

Extended detention basins have low to moderate maintenance requirements. Routine and nonroutine maintenance is necessary to assure performance, enhance aesthetics, and protect structural integrity. The dry basins can result in nuisance complaints if not properly designed or maintained. Bio-degradable pesticides may be required to limit insect problems. Frequent debris removal and grass-mowing can reduce aesthetic complaints. If a shallow wetland or marshy area is included, mosquito breeding and nuisance odors could occur if the water becomes stagnant. Access to critical elements of the pond (inlet, outlet, spillway, and sediment collection areas) must be provided. The basic elements of the maintenance requirements are presented in Table EDB-1.

Table EDB-1

Extended Detention Basin Maintenance Considerations

Required Action	Maintenance Objective	Frequency of Action
Mowing	Occasional mowing to limit unwanted Vegetation. Maintain irrigated turf grass As 2 to 4 inches tall and nonirrigated native Turf grasses at 4 to 6 inches.	Routine – Depending on aesthetic requirements.
Debris and litter removal	Remove debris and litter from the entire Pond to minimize outlet clogging and And improve aesthetics. Outlet structure Trash racks should be clear of any blockage.	Routine – including just before annual storm seasons (that is, April and May) and Following significant rainfall Events.
Erosion and sediment control	Repair and revegetate eroded areas on slopes.	Nonroutine – Periodic and Repair as necessary based on Inspection.
Structural	Repair pond inlets, outlets, forebays, Low flow channel liners, and energy Dissipators whenever damage is discovered.	Nonroutine- Repair as needed based on regular inspections.
Inspections	Inspect basins to insure that the basin Continues to function as initially intended. Examine the outlet for clogging, erosion, Slumping, excessive sedimentation Levels, overgrowth, embankment and Spillway integrity, and damage to any Structural element.	Routine – Annual inspection Hydraulic and structural facilities. Also check for obvious problems during routine maintenance visits, especially for plugging of Outlets.
Nuisance control	Address odor, insects, and overgrowth Issues associated with stagnant or Standing water in the bottom zone.	Nonroutine- Handle as necessary per inspection Or local complaints.

**PRIVATE DETENTION BASIN/
STORMWATER QUALITY BEST MANAGEMENT PRACTICE
MAINTENANCE AGREEMENT AND EASEMENT**

This PRIVATE DETENTION BASIN / STORMWATER QUALITY BEST MANAGEMENT PRACTICE MAINTENANCE AGREEMENT AND EASEMENT ("Agreement") is made by and between EL PASO COUNTY by and through THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO ("Board" or "County") and GLEN DEVELOPMENT COMPANY, a Colorado corporation ("Developer") and Glen Metropolitan District #3 ("Metro District" or "District"), a Colorado quasi government entity. The above may occasionally be referred to herein singularly as "Party" and collectively as "Parties."

Recitals

1. WHEREAS, Developer is the owner of certain real estate (the "Property" or "Subdivision") in El Paso County, Colorado, which Property is legally described as follows:

See Exhibit A for entire subdivision.

2. WHEREAS, Developer desires to plat and develop on the Property a subdivision to be known as Glen at Widefield Filing No. 10 Subdivision; and

3. WHEREAS, the development of this subdivision may substantially increase the volume of water runoff and may decrease the quality of the stormwater runoff from the Property, and, therefore, it is in the interest of public health, safety and welfare for the County to condition approval of this subdivision on Developer's promise to construct adequate drainage, water runoff control facilities, and stormwater quality structural Best Management Practices ("BMPs") for the subdivision; and

4. WHEREAS, Chapter 8, Section 8.4.5 of the El Paso County Land Development Code, as periodically amended, promulgated pursuant to Section 30-28-133(1), Colorado Revised Statutes ("C.R.S."), requires the County to condition approval of all subdivisions on a Developer's promise to so construct adequate drainage, water runoff control facilities, and BMPs in subdivisions; and

5. WHEREAS, the Drainage Criteria Manual, Volume 2, as amended by Appendix I of the El Paso County Engineering Criteria Manual (ECM), as each may be periodically amended, promulgated pursuant to the County's Colorado Discharge Permit System General Permit (MS4 Permit) as required by Phase II of the National Pollutant Discharge Elimination System (NPDES), which MS4 Permit requires that the County take measures to protect the quality of stormwater from contaminants, including sediment, requires subdividers, developers, Developers, and owners of facilities located in the County's rights-of-way or easements to provide adequate permanent stormwater quality BMPs with new development or significant redevelopment; and

6. WHEREAS, Section 2.9 of the El Paso County Drainage Criteria Manual provides for a Developer's promise to maintain a subdivision's drainage facility in the event the County does not assume such responsibility; and

8. WHEREAS, Developers in El Paso County have historically chosen water runoff detention basins as a means to provide adequate drainage and water runoff control in subdivisions, which basins, while effective, are less expensive for Developers to construct than other methods of providing drainage and water runoff control; and

8. WHEREAS, Developer desires to construct for the subdivision one or more detention basin/stormwater quality BMP(s) as the means for providing adequate drainage and stormwater runoff control and to meet requirements of the County's MS4 Permit. Henceforth in this Agreement, the detention basin/stormwater quality BMP(s) are referred to as "Detention Basin/BMP(s)"; and

9. WHEREAS, Developer desires to construct the Detention Basin/BMP(s) on property identified in Exhibit B attached hereto and incorporated herein by this reference and as further discussed in note 26 on the final plat of the subdivision; and

10. WHEREAS, Developer shall be charged with the duty of constructing the Detention Basin/BMP(s) and the District shall be charged with the duty of operating, maintaining and repairing all the Detention Basin/BMP(s) on the Property described above in Paragraph 9; and

11. WHEREAS, it is the County's experience that subdivision developers historically have not properly cleaned and otherwise not properly maintained and repaired these detention basins/BMP(s), and that these detention basins/BMP's, when not so properly cleaned, maintained, and repaired, threaten the public health, safety and welfare; and

12. WHEREAS, the County, in order to so protect the public health, safety and welfare, has historically expended valuable and limited public resources to so properly clean, maintain, and repair these detention basins/BMPs when Developers and Districts have failed in their responsibilities, and therefore, the County desires the means to recover its costs incurred in the event the burden falls on the County to so clean, maintain and repair the Detention Basin/BMP(s) serving this Subdivision; and

13. WHEREAS, the County conditions approval of this Subdivision on the Developer's promise to so construct this Detention Basin/BMP(s), and conditions approval on the District's promise to reimburse the County in the event the burden falls upon the County to so clean, maintain and/or repair the Detention Basin/BMP(s) serving this Subdivision; and

14. WHEREAS, the County could condition subdivision approval on the Developer's promise to construct a different and more expensive drainage, water runoff control system and BMPs than those proposed herein, which more expensive system would not create the possibility of the burden of cleaning, maintenance and repair expenses falling on the County; however, the County is willing to forego such right upon the performance of Developer's and the District's promises contained herein;

15. WHEREAS, the County, in order to secure performance of the promises contained herein, conditions approval of this Subdivision upon the Developer's grant herein of a perpetual Easement over a portion of the Subdivision for the purpose of allowing the County to periodically access, inspect, and, when so necessary, to clean, maintain and/or repair the Detention Basin/BMP(s); and

16. WHEREAS, given that the District could potentially avoid liability hereunder by dissolving and reforming as a different entity, and given the difficulties inherent in collecting an

unsecured promise, the County, in order to secure performance of the promises contained herein, conditions approval of this Subdivision upon the Developer's creation, by and through this Agreement, of a covenant running with the land upon each and every lot in the Subdivision.

Agreement

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

1. Incorporation of Recitals: The Parties incorporate the Recitals above into this Agreement.

2. Covenants Running with the Land and Pro Rata Liability upon Individual Lot Owners: Developer and the District agree that this entire Agreement and the performance thereof shall become a covenant running with the land, which land is legally described in Paragraph One (1) of the Recitals set forth above, and that this entire Agreement and the performance thereof shall be binding upon themselves, their respective successors and assigns, including individual lot owners within the Subdivision.

However, any liability imposed under this Agreement against an individual lot owner shall not be joint and several with the Developer and the District, but shall be pro rated on a per-lot basis as determined by the following formula and illustration: each individual lot owner(s) shall be liable for no more than the total monetary amount of liability multiplied by a fraction in which the numerator is the number of lots in the Subdivision owned by a particular lot owner, and the denominator is the total number of lots in the Subdivision. As to any lot(s) owned by more than one person or entity, the liability among co-owners shall be joint and several for the pro rata obligation of that lot. The application of this Paragraph is best illustrated by the following example. Assume the following parameters: total liability is \$10,000; total number of lots in the Subdivision is 100; Lot 1 is owned by persons A and B; person B also owns Lot 2. Liability is as follows: the Developer, \$10,000; the District, \$10,000; Lot 1 is \$100.00, joint and several as to A and B, Lot 2 is \$100.00 owed solely by B. Thus person A's total liability is \$100.00 and person B's is \$200.00. Applying the principle that the County cannot collect more than it is owed, and assuming that the County cannot collect anything from the Developer and the District, if the County collected the whole \$200.00 from B, then it could not collect the \$100.00 from A. Likewise, if the County collected the \$100.00 from A, then it could only collect \$100.00 from B.

3. Construction: Developer shall construct the Detention Basin/BMP(s) on property identified in Exhibit B attached hereto. Developer shall not commence construction of the Detention Basin/BMP(s) until the El Paso County Development Services Department (DSD) has approved in writing the plans and specifications for the Detention Basin/BMP(s) and this Agreement has been signed and returned to the DSD. Developer shall complete construction of the Detention Basin/BMP(s) in substantial compliance with the signed plans and specifications for the Detention Basin/BMP(s). Failure to meet these requirements shall be a material breach of this Agreement, and shall entitle the County to pursue any remedies available to it at law or in equity to enforce the same. Construction of the Detention Basin/BMP(s) shall be substantially completed within one (1) year (defined as 365 days), which one year period will commence to run on the date on which the approved plat of this Subdivision is recorded in the records of the El Paso County Clerk and Recorder. Rough grading of the Detention Basin/BMP(s) must be completed and inspected by the El Paso County Development Services Department prior to commencing road construction.

In the event construction is not so substantially completed within the one (1) year period stated above, then the County may exercise its discretion to complete the project, and shall have the right to seek reimbursement from the Developer and the District and their respective successors and assigns, including individual lot owners in the Subdivision, for its actual costs and expenses incurred in the process of completing construction. The term actual costs and expenses shall be liberally construed in favor of the County, and shall include, but shall not be limited to, labor costs, tool and equipment costs, supply costs, and engineering and design costs, regardless of whether the County uses its own personnel, tools, equipment and supplies, etc. to correct the matter. In the event the County initiates any litigation or engages the services of legal counsel in order to enforce the Provisions arising herein, the County shall be entitled to its damages and costs, including reasonable attorney fees, regardless of whether the County contracts with outside legal counsel or utilizes in-house legal counsel for the same. The scope of liability therefor of the Developer, the District, and the individual lot owners shall be as set forth in this Agreement.

4. Maintenance: The Developer and the District agree for themselves, their respective successors and assigns, including individual lot owners within the Subdivision, that they will regularly and routinely inspect, clean and maintain the Detention Basin/BMP(s), and otherwise keep the same in good repair, all at their own cost and expense. No trees or shrubs that will impair the structural integrity of the Detention Basin/BMP(s) shall be planted or allowed to grow on the Detention Basin/BMP(s).

5. Creation of Easement: Developer and the District hereby grant the County non-exclusive perpetual easements upon the Properties described in the Final Plat of The Glen at Widefield Fil No. 10. The purpose of the easements are to allow the County to access, inspect, clean, repair and maintain the Detention Basin/BMP(s); however, the creation of the easements does not expressly or implicitly impose on the County a duty to so inspect, clean, repair or maintain the Detention Basin/BMP(s).

6. County's Rights and Obligations: Any time the County determines, in the reasonable exercise of its discretion, that the Detention Basin/BMP(s) is not properly cleaned, maintained and/or otherwise kept in good repair, the County shall give reasonable notice to the Developer, the District and their respective successors and assigns, including the individual lot owners within the Subdivision, that the Detention Basin/BMP(s) needs to be cleaned, maintained and/or otherwise repaired. The notice shall provide a reasonable time to correct the problem(s). Should the responsible parties fail to correct the specified problem(s), the County may enter upon the Property to so correct the specified problem(s). Notice shall be effective to the above by the County's deposit of the same into the regular United States mail, postage pre-paid. However, this Agreement does not expressly impose on the County a duty to so inspect, clean, repair or maintain the Detention Basin/BMP(s).

7. Reimbursement of County's Costs / Covenant Running With the Land: The Developer and the District agree and covenant, for themselves, their respective successors and assigns, including individual lot owners within the Subdivision, that they will reimburse the County for its costs and expenses incurred in the process of cleaning, maintaining, and/or repairing the Detention Basin/BMP(s). However, the obligation and liability of the Developer hereunder shall only continue until such time as the Developer transfers the entire management and operation of the District to the individual lot owners within the Subdivision and the Developer shall have no obligation or liability thereafter. Notwithstanding the previous sentence, the District and the individual lot owners within the Subdivision shall always remain obligated and liable hereunder, and as per the provisions of this Agreement.

The terms actual costs and expenses shall be liberally construed in favor of the County, and shall include, but shall not be limited to, labor costs, tools and equipment costs, supply costs, and engineering and design costs, regardless of whether the County uses its own personnel, tools, equipment and supplies, etc. to correct the matter. In the event the County initiates any litigation or engages the services of legal counsel in order to enforce the Provisions arising herein, the County shall be entitled to its damages and costs, including reasonable attorney's fees, regardless of whether the County contracts with outside legal counsel or utilizes in-house legal counsel for the same. The scope of liability therefor of the Developer, the District, and the individual lot owners shall be as set forth in this Agreement.

8. Contingencies of Subdivision Approval: Developer's and the District's execution of this Agreement is a condition of subdivision approval. Additional conditions of this Agreement include, but are not limited to, the following:

- a. The County's receipt of a copy of the Articles of Incorporation for the District, as filed with the Colorado Secretary of State; receipt of the Certificate of Incorporation or other comparable proof for the same from the Colorado Secretary of State; a copy of the Bylaws of the District; a copy of the organizational minutes or other appropriate document of the District, properly executed and attested, establishing that the District has adopted this Agreement as an obligation of the District; and
- b. A copy of the Covenants of the Subdivision establishing that the District is obligated to inspect, clean, maintain, and repair the Detention Basin/BMP(s); that the District has adopted this Agreement as an obligation of the District; and that a funding mechanism is in place whereby individual lot owners within the Subdivision pay a regular fee to the District for, among other matters, the inspection, cleaning, maintenance, and repair of the Detention Basin/BMP(s); and
- c. A copy of the Covenants of the Subdivision establishing that this Agreement is incorporated into the Covenants, and that such Agreement touches and concerns each and every lot within the Subdivision.

The County shall have the right, in the sole exercise of its discretion, to approve or disapprove any documentation submitted to it under the conditions of this Paragraph. The County's rejection of any documentation submitted hereunder shall mean that the appropriate condition of this Agreement has not been fulfilled.

9. Distribution to Lot Purchasers: Upon the initial sale of any lot within the Subdivision, prior to closing on such sale, the Developer shall give a copy of this Agreement to the potential Buyer.

10. Agreement Monitored by El Paso County Development Services Department and/or El Paso County Department of Transportation: Any and all actions and decisions to be made hereunder by the County shall be made by the Director of the El Paso County Development Services Department and/or the Director of the El Paso County Department of Transportation. Accordingly, any and all documents, submissions, plan approval, inspections, etc. shall be submitted to and shall be made by the Director of the Development Services Department and/or the Director of the El Paso County Department of Transportation.

11. Indemnification and Hold Harmless: To the extent authorized by law, Developer and the District agree, for themselves, their respective successors and assigns, including the individual lot owners in the Subdivision, that they will indemnify, defend, and hold the County harmless from any and all loss, costs, damage, injury, liability, claim, lien, demand, action and causes of action whatsoever, whether at law or in equity, arising from or related to their respective intentional or negligent acts, errors or omissions or that of their agents, officers, servants, employees, invitees and licensees in the construction, operation, inspection, cleaning (including analyzing and disposing of any solid or hazardous wastes as defined by State and/or Federal environmental laws and regulations), maintenance, and repair of the Detention Basin/BMP(s), and such obligation arising under this Paragraph shall be joint and several. Nothing in this Paragraph shall be deemed to waive or otherwise limit the defense available to the County pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.* C.R.S., or as otherwise provided by law. However, the obligation and liability of the Developer hereunder shall only continue until such time as the Developer transfers the entire management and operation of the District to the individual lot owners within the Subdivision.

12. Severability: In the event any Court of competent jurisdiction declares any part of this Agreement to be unenforceable, such declaration shall not affect the enforceability of the remaining parts of this Agreement.

13. Third Parties: This Agreement 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 either the County, the Developer or the District, their respective successors and assigns, including any individual lot owners in the Subdivision, because of any breach hereof or because of any terms, covenants, agreements or conditions contained herein.

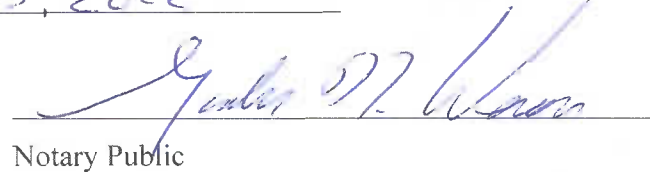
14. Solid or Hazardous Wastes: Should any refuse from the Detention Basin/BMP(s) be suspected or identified as solid waste and/or hazardous waste, the Developer and the District shall take all necessary and proper steps to characterize the waste and properly dispose of it in accordance with applicable State and/or Federal environmental laws and regulations, including, but not limited to, the following: Solid Wastes Disposal Sites and Facilities Acts, §§ 30-20-100.5 – 30-20-119, C.R.S., Colorado Regulations Pertaining to Solid Waste Disposal Sites and Facilities, 6 C.C.R. 1007-2, *et seq.*, Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992k, and Federal Solid Waste Regulations 40 CFR Ch. I. The County shall not be responsible or liable for identifying, characterizing, cleaning up, or disposing of such solid and/or hazardous waste. Notwithstanding the previous sentence, should any refuse cleaned up and disposed of by the County be determined to be solid and/or hazardous waste, the Developer and the District, but not the County, shall be responsible and liable as the owner, generator, and/or transporter of said solid and/or hazardous waste.

15. 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 Agreement, except that Federal law may be applicable regarding solid or hazardous wastes. Venue shall be in the El Paso County District Court.

Executed this 1 day of March, 2021, by:

By: 
Frank Watson
Vice President, Glen Development Company

My commission expires: July 23, 2022



8

_____, 20____, by:

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: _____

_____, Chair

Attest:

County Clerk and Recorder

STATE OF COLORADO)) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Dennis Hisey, Chair of the Board of County Commissioners of El Paso County, Colorado, as Attested to by _____, County Clerk and Recorder.

Witness my hand and official seal.

My commission expires: _____

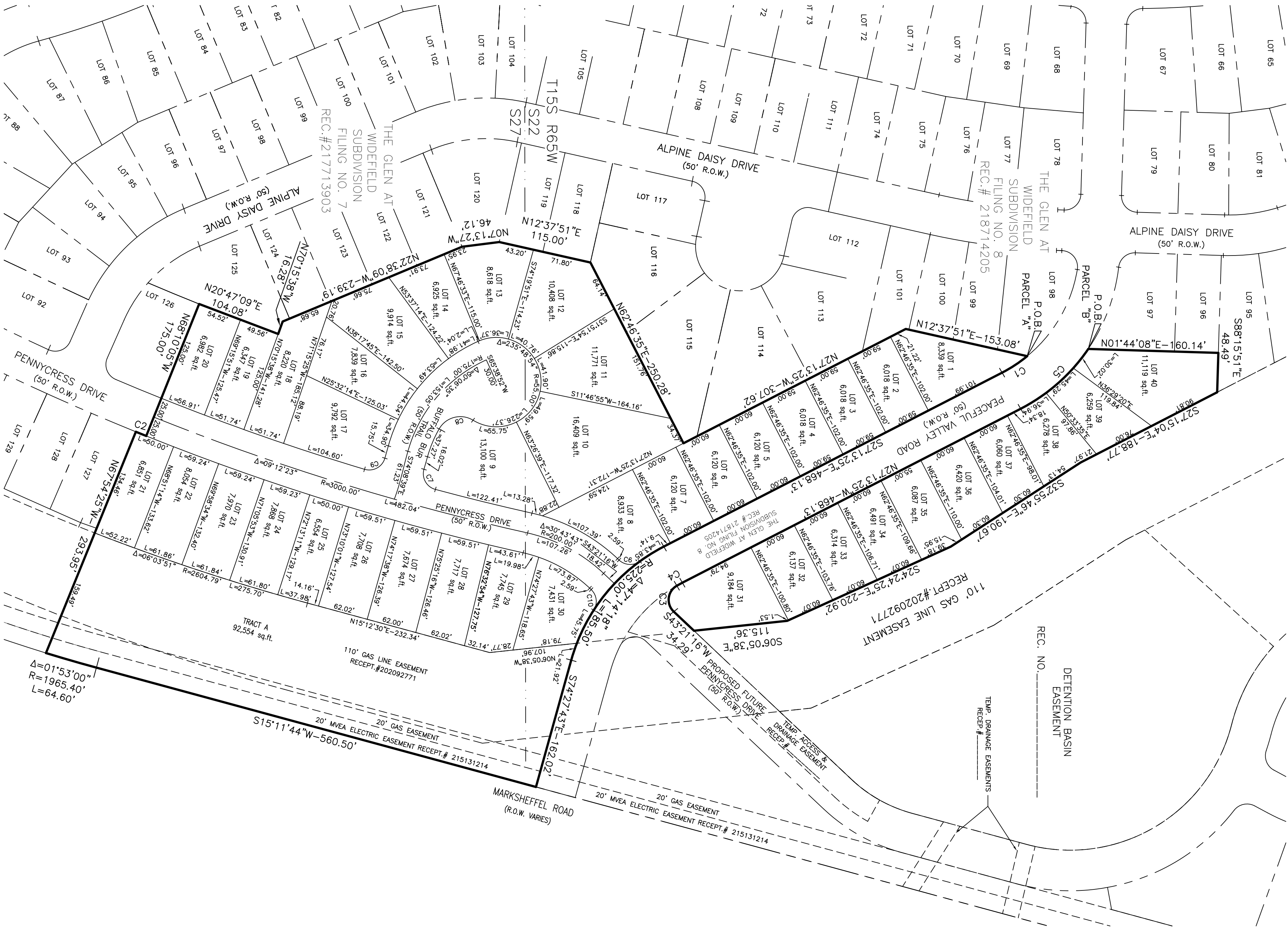
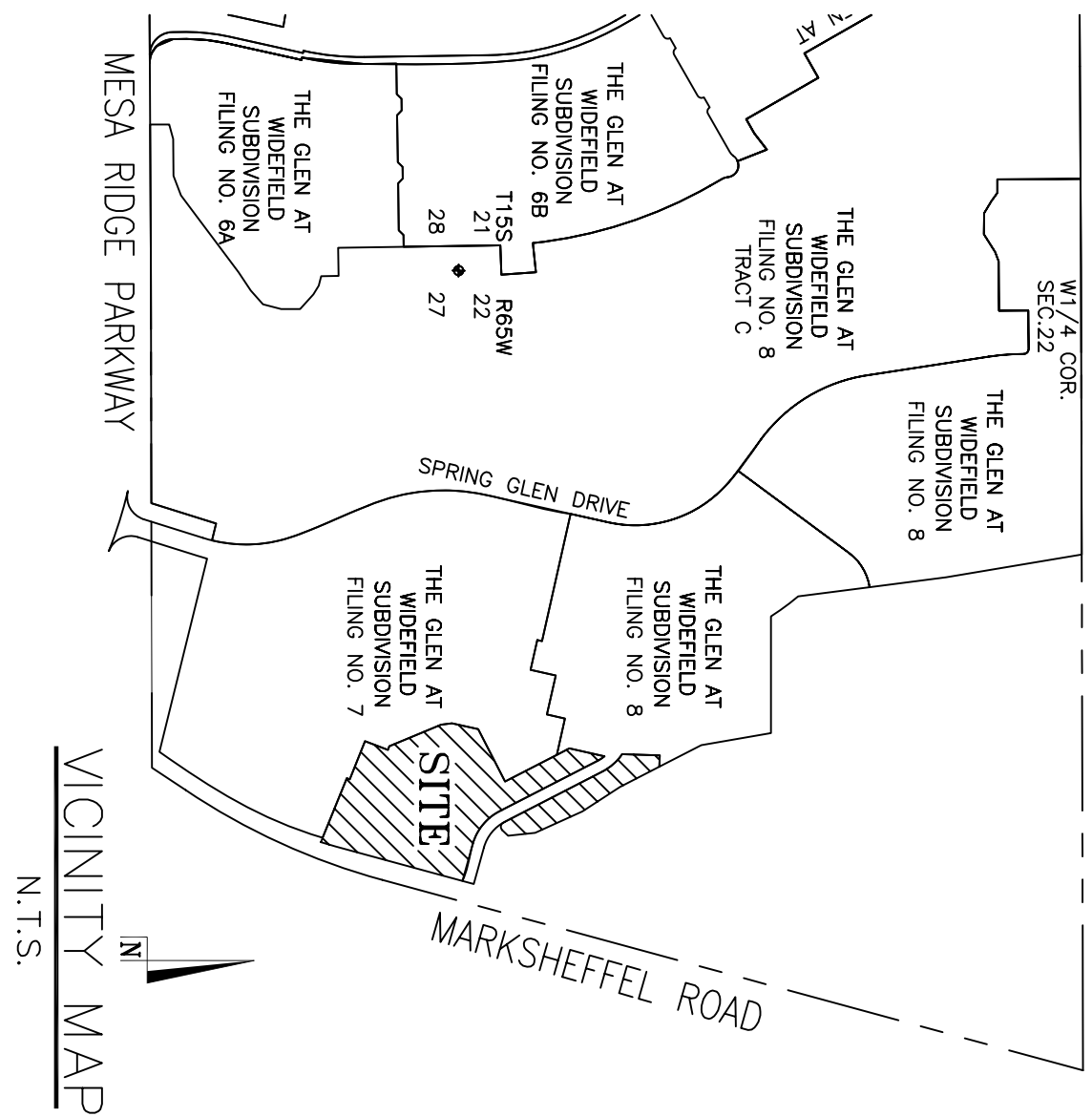
Notary Public

Approved as to Content and Form:

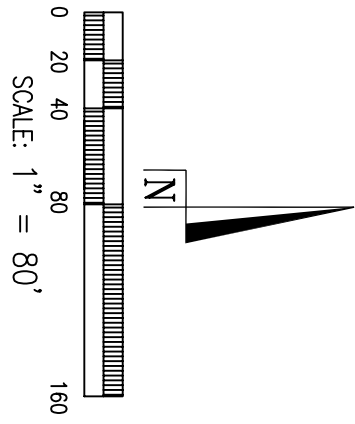
Assistant County Attorney

THE GLEN AT WIDEFIELD SUBDIVISION FILING NO. 10

A portion of the Southwest One-quarter (SW1/4) of Section 22 and the Northwest One-quarter (NW1/4) of Section 27 Township 15 South (T15S), Range 65 West (R65W) of the 6TH P.M. County of El Paso, State of Colorado



GLEN 10—BOUNDARY CURVE TABLE			
CURVE	DELTA	RADIUS LENGTH	CHORD BEARING
C1	120°10'	125.00'	S33°17'00"E
C2	02°19'46"	3025.00'	N41°53'25"E
C3	05°53'45"	20.00'	N82°42'50"W
C4	05°53'45"	20.00'	N82°42'50"W
C5	08°30'06"	225.00'	N41°50'39"W
LOT CURVE TABLE			
C6	79°24'56"	20.00'	N60°28'47"E
C7	85°29'21"	20.00'	N66°23'11"E
C8	85°29'21"	20.00'	N66°23'11"E
C9	85°29'21"	20.00'	N66°23'11"E
C10	79°24'56"	20.00'	S83°03'45"W

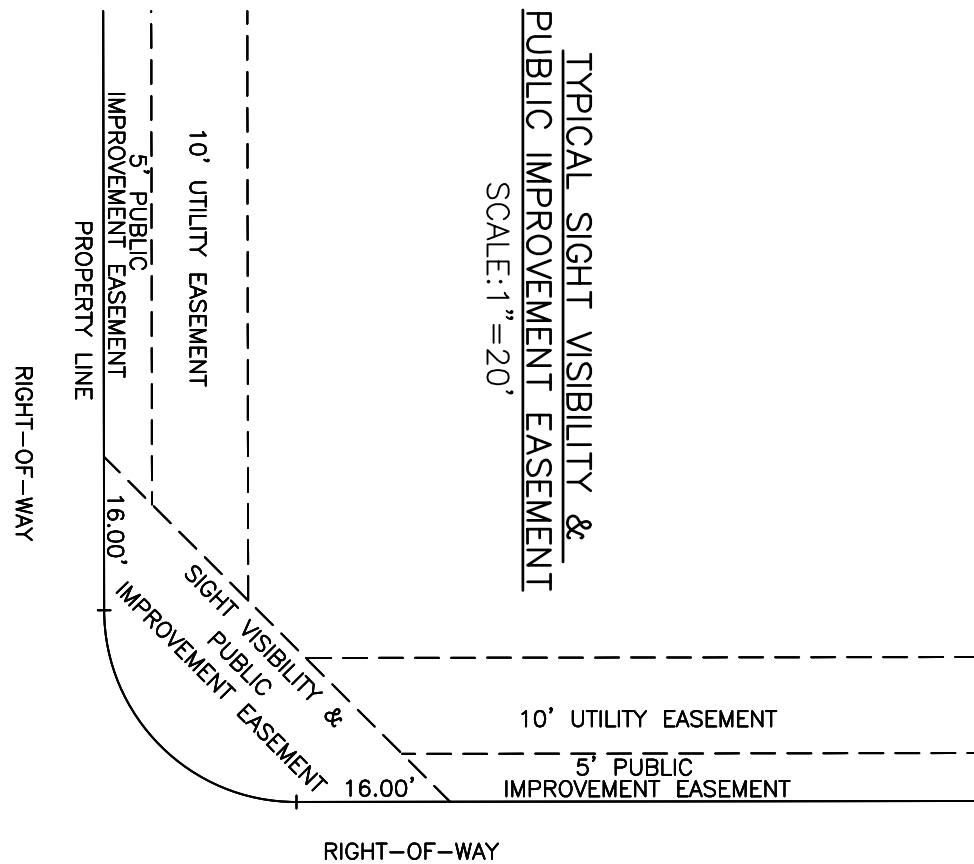


PINNACLE LAND SURVEYING COMPANY, INC.
121 COUNTY ROAD 5, DIVIDE, CO 687-7360

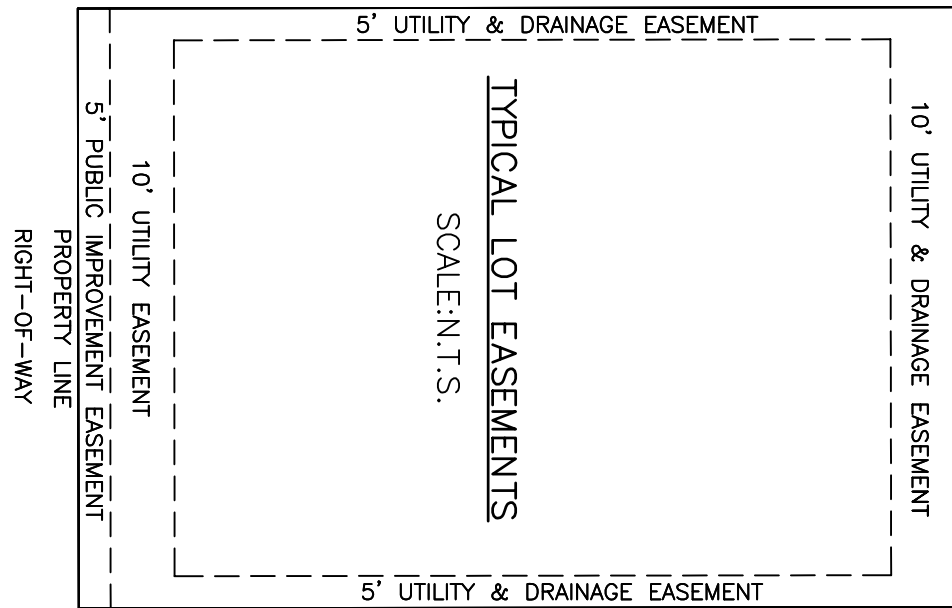
NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER THE DATE OF FILING OF THIS INSTRUMENT. ANY DEFECT IN THIS SURVEY BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

THE GLEN AT WIDEFIELD SUBDIVISION FILING NO.10
DRAWN BY:MMW
JOB NO.:19001600
CHECKED BY: JMT
DATE: 04/14/20
DWG: 19001600-FP-DWG
SHEET 2 OF 2

TYPICAL SIGHT VISIBILITY & PUBLIC IMPROVEMENT EASEMENT
SCALE:1"=20'



TYPICAL LOT EASEMENTS
SCALE:N.T.S.



SF-19-021