

After Recording Return to:  
Altitude Community Law, P.C.  
555 Zang Street, Suite 100  
Lakewood, Colorado 80228

## EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“**Agreement**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between Courtyards at Woodmen Hills West Homeowners Association, a Colorado nonprofit corporation (“**Association**” or “**Grantor**”) whose address is c/o Diversified Association Management, 4325 N. Nevada Ave. #100, Colorado Springs, CO 80907 and El Paso County by and through the Board of County Commissioners of El Paso County, Colorado (“**Grantee**”), whose address is 200 S. Cascade Avenue, Colorado Springs, CO 80903.

### RECITALS

- (a) The Association is the owner of certain common area property known as Tract AA as set forth on the Plat of Courtyards at Woodmen Hills West Subdivision, El Paso County, Colorado recorded at Reception No. 204099900 (“**Tract AA**”).
- (b) Grantee has requested an easement over a portion of Tract AA (“**Easement Area**”) for constructing and maintaining improvements. The Easement Area is described and depicted on Exhibit A.
- (c) The Association desires to grant Grantee the requested easement over the Easement Area under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Incorporation. The foregoing Recitals are incorporated into and made a part of this Agreement by this reference.
2. Grant of Easement. The Association, for itself, its successors and assigns, grants and conveys to the Grantee and its contractors, successors and assigns a nonexclusive, permanent easement over the Easement Area for the purpose of constructing and maintaining Improvements. For purposes of this Agreement, Improvements include grading, rip-rap, piping, concrete aprons, swales, inlets and appurtenances as well as construction and paving of curb, gutter, sidewalk and roadway paving and subgrade. The Easement Area is described and depicted on Exhibit A which is attached hereto and incorporated herein by this reference. Grantee shall be solely responsible for the cost and expense of maintaining, repairing, and insuring all Improvements and any other improvements installed on the Easement Area. No improvements other than those expressly identified in this Agreement shall be constructed on the Easement Area without the advanced written approval of the Association.

3. Damage to Easement Area. In accessing and utilizing the Easement Area, the Grantee will be responsible for any damage caused to the Easement Area and Association's adjacent common areas by the Grantee or its agents, employees, and contractors. In such case, Grantee shall immediately restore the property to its condition prior to such damage. If Grantee fails to restore the property within 10 days of causing such damage, the Association may do so and seek reimbursement from Grantee, together with any and all attorney fees and costs incurred in such action. All work related to the Improvements shall be performed in a good and workmanlike manner, free from faults and defects, and in accordance with the highest standards of the trade and in accordance with applicable governmental building codes and other laws, rules, ordinances, requirements and regulations application to the work. The work and Improvements shall be free and clear of all claims, liens and encumbrances. Grantee shall defend and hold Association harmless from and indemnify Association from and against all such claims, liens or encumbrances, pending or threatened.

Any existing fencing, including flood-damaged fencing, which is moved or disturbed as part of the above-referenced construction will be restored, replaced, or rebuilt with new fencing by Grantee. All new fencing shall be of like kind (generally described as 6' cedar with brick pilasters), location, design, configuration, height, color, and quantity, and of quality equal to or higher than the existing fencing as of the date of this agreement unless otherwise agreed to by Grantee and Grantor in writing.

4. Indemnification. To the extent allowed by law, Grantee agrees to and shall indemnify and hold harmless Association of and from any and all liability, loss, damage, (including reasonable attorney fees), manner of action, inactions, cause and causes of action, suits, controversies, claims and demands or claim of loss whatsoever, in law or equity, against such party or which such party may suffer as a result of or in any way related to the negligence or willful actions of the Grantee arising out of this Agreement. Grantee shall further indemnify and hold harmless the Association of and from any and all liability, loss, and damage resulting from Grantee's use of the Easement Area, except to the extent caused by the Association's negligence or willful actions.

5. Term. The term of this Agreement will commence as of the date first set forth above and will terminate upon the written agreement of the parties. In the event this Agreement is terminated, Grantee shall restore the Easement Area back to its original condition at its sole cost and expense.

6. Runs with the Land. This Agreement and the benefits and obligations set forth herein shall run with the land and be binding upon and inure to the benefit of the parties hereto, and subsequent owners of the property identified herein. The Grantee will disclose the existence of this Agreement, and its associated obligations, to any purchasers of the benefitted property.

7. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all of which shall constitute one and the same instrument.

8. Governing Law. The terms and conditions of this Agreement shall be governed and construed under the laws of the State of Colorado. Venue shall be proper in El Paso County, Colorado.

9. Amendment. The provisions of this Agreement may be abrogated, modified, rescinded, terminated or amended in whole or in part only by a written instrument duly executed by both parties and recorded in the real property records of El Paso County, Colorado.

10. Recording. Either Party may duly record, or cause to be recorded, this Agreement in the real property records for El Paso County, Colorado.

11. Subject to Matters of Record. This Agreement and the easement granted hereby shall be subject to any existing liens and/or encumbrances affecting the burdened property.

12. Attorney Fees. In the event of legal action resulting from or in any way related to this Agreement, the prevailing party in such action shall be entitled to an award of its reasonable attorney fees and costs, including any fees or costs incurred on appeal.

13. Remedies. In the event of a default under this Agreement, the remedies available to the non-defaulting party shall include all those remedies provided at law or in equity, together with specific performance.

14. Enforceability. The invalidity or unenforceability of any particular provision of this Agreement shall not in any way affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Courtyards at Woodmen Hills West Homeowners Association, Inc.  
a Colorado nonprofit corporation

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: President

Board of County Commissioners of El Paso County, Colorado

\_\_\_\_\_  
By: Mark Waller  
Its: President

STATE OF COLORADO

)

)

ss.

COUNTY OF EL PASO

)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, as President of Courtyards at Woodmen Hills West Homeowners Association, Inc.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF COLORADO

)

)

ss.

COUNTY OF EL PASO

)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_ as \_\_\_\_\_ of Board of County Commissioners, El Paso County, Colorado.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

*See attached Right of Way Easement depiction and legal description date November 12, 2018.*

DRAFT



Drexel, Barrell & Co

NOVEMBER 12, 2018

**LEGAL DESCRIPTION-RIGHT-OF-WAY EASEMENT**

Engineers/Surveyors

Boulder  
Colorado Springs  
Greeley

3 South 7<sup>th</sup> Street  
Colorado Springs, CO 80905

719.260.0887  
719.260.8352 Fax

A TRACT OF LAND LOCATED IN THE SE 1/4 OF SECTION 1, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO BEING A PORTION OF TRACT AA, COURTYARDS AT WOODMEN HILLS WEST SUBDIVISION, AS DESCRIBED IN THE PLAT THEREOF RECORDED UNDER RECEPTION NO. 204099900 OF THE RECORDS OF EL PASO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID COURTYARDS AT WOODMEN HILLS WEST SUBDIVISION FROM WHICH THE SOUTHEAST CORNER OF SAID SUBDIVISION IS ASSUMED TO BEAR S 00°03'53" W, WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE S 00°03'53" W, 1179.92 FEET ALONG THE EAST LINE OF SAID COURTYARDS AT WOODMEN HILLS WEST SUBDIVISION TO THE TRUE POINT OF BEGINNING; THENCE S 00°03'53" W, 40.49 FEET ALONG THE EAST LINE OF SAID SUBDIVISION TO A NON-TANGENT CURVE CONCAVE TO THE SOUTH ON THE NORTH RIGHT-OF-WAY LINE OF WOODMEN ROAD AS DESCRIBED IN THAT DOCUMENT RECORDED UNDER RECEPTION NO. 203218722 & 215032985 OF THE RECORDS OF EL PASO COUNTY;

THENCE 34.99 FEET ALONG THE ARC OF SAID CURVE AND ALONG SAID NORTH RIGHT-OF-WAY LINE, SAID ARC HAVING A RADIUS OF 11632.00 FEET, A CENTRAL ANGLE OF 00°10'20" AND BEING SUBTENDED BY A CHORD THAT BEARS S 87°23'37" W, 34.99 FEET;

THENCE N 39°45'06" E, 54.73 FEET; TO THE EAST LINE OF SAID COURTYARDS AT WOODMEN HILLS WEST AND THE POINT OF BEGINNING. AREA= 707 SQ. FT. MORE OR LESS, 0.016 ACRES MORE OR LESS.

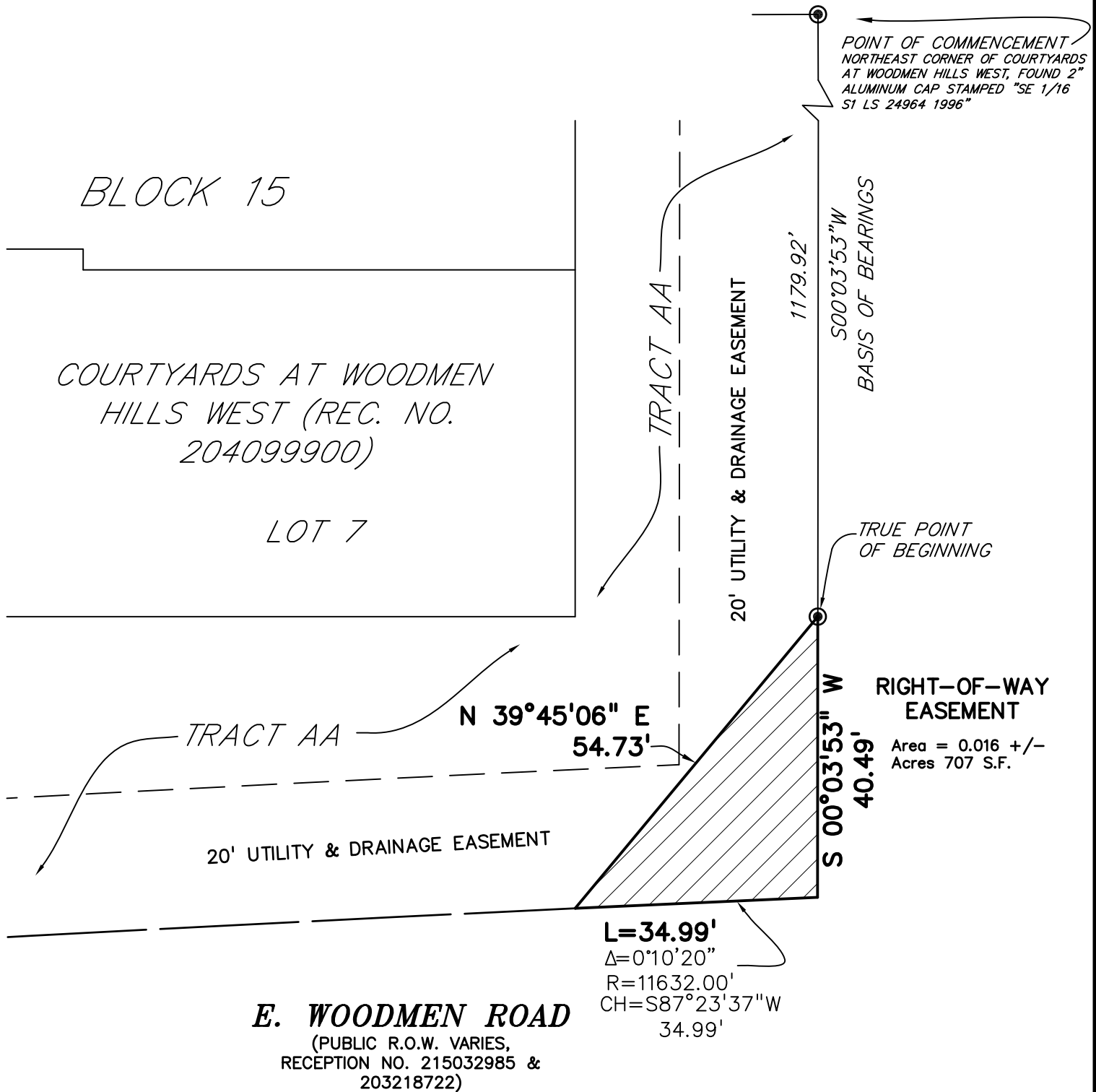
I, JOHN C. DAY, A PROFESSIONAL LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING.

JOHN C. DAY, PLS 29413  
DREXEL, BARRELL & CO.  
3 SOUTH 7TH STREET  
COLORADO SPRINGS, CO 80905  
(719) 260-0887



# EXHIBIT

## RIGHT-OF-WAY EASEMENT



SCALE: 1"=20'

NOTE: THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO DEPICT THE ATTACHED LEGAL DESCRIPTION.

PREPARED BY:



**Drexel, Barrell & Co.**  
3 SOUTH 7TH STREET  
1600 38TH STREET

Engineers/Surveyors  
COLORADO SPRINGS, COLORADO 80905 (719)260-0887  
BOULDER, COLORADO 80301 (303)442-4338

Revisions - Date	Date	Drawn By	Job No.
	11/12/18	GES	<b>20988-00</b>
	Scale	Checked By	Drawing No.
	1" = 20'	JCD	<b>ESMT2</b>