

SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT, made between Lorson LLC, as nominee for Murray Fountain LLC, hereinafter called the "Subdivider," and El Paso County by and through the Board of County Commissioners of El Paso County, Colorado, hereinafter called the "County," shall become effective the date of approval of the Final Plat by the Board of County Commissioners.

WITNESSETH:

WHEREAS, the Subdivider, as a condition of approval of the final plat of Lorson Ranch East Filing No. 3 subdivision wishes to enter into a Subdivision Improvements Agreement, as provided for by Section 30-28-137 (C.R.S.), Chapter 5 of the El Paso County Engineering Criteria Manual and Chapter 8 of the El Paso County Land Development Code incorporated herein; and

WHEREAS, pursuant to the same authority, the Subdivider is obligated to provide security or collateral sufficient in the judgment of the Board of County Commissioners to make reasonable provision for completion of certain public improvements set forth on Exhibit A attached hereto and incorporated herein; and

WHEREAS, the Subdivider wishes to provide collateral to guarantee performance of this Agreement including construction of the above-referenced improvements by means of Irrevocable Letter of Credit.

NOW, THEREFORE, in consideration of the following mutual covenants and agreements, the Subdivider and the County agree as follows:

1. The Subdivider agrees to construct and install, at its sole expense, all of those improvements as set forth on Exhibit A attached hereto. To secure and guarantee performance of its obligations as set forth herein, the Subdivider agrees to provide collateral to remain in effect at all times until the improvements are completed and accepted in accordance with Chapter 5 of the ECM. Security and collateral shall be posted in the form of Irrevocable Letter of Credit from Kirkpatrick Bank in the amount of \$ 682,787.00.
2. Subdivider is responsible for providing any renewals of collateral to ensure that there is never a lapse in security coverage. Subdivider shall procure renewal/extension/replacement collateral at least fifteen (15) days prior to the expiration of the original or renewal/extension/replacement collateral then in effect. Failure to procure renewal/extension/replacement collateral within this time limit shall be a default under this Agreement and shall allow the County to execute on the collateral. In addition, if Subdivider allows collateral to lapse at any time, no lots in the subdivision may be sold, conveyed or transferred, whether by Deed or Contract, after the expiration date of such collateral until the improvements identified on Exhibit A have been completed and final acceptance is received from the County. If replacement collateral is used for renewal, approval by Board of County Commissioners is required.
3. No lots in the subdivision shall be sold, conveyed or transferred, whether by Deed or by Contract, nor shall building permits be issued until and unless the required improvements for the subdivision have been constructed and completed in accordance with the approved construction plans and preliminary acceptance is received from the County. In the alternative, lots within the subdivision may be sold, conveyed or transferred and / or have building permits issued upon receipt of collateral acceptable to the County, pursuant to this Agreement, which is sufficient to guarantee construction of the improvements in the attached Exhibit A.

4. The Subdivider agrees that all of those certain public improvements to be completed as identified on Exhibit A shall be constructed in compliance with the following:
 - a. All laws, resolutions and regulations of the United States, State of Colorado, El Paso County and its various agencies, affected special districts and/or servicing authorities.
 - b. Such other designs, drawings, maps, specifications, sketches and other matter submitted to and approved by any of the above-stated governmental entities.
5. All improvements shall be completed by the Subdivider, meeting all applicable standards for preliminary acceptance, within 24 (twenty-four) months from the date of notice to proceed in the Construction Permit for the Subdivision. If the Subdivider determines that the completion date needs to be extended, the Subdivider shall submit a written request for a change in the completion date to the ECM Administrator at least 90 days in advance of the required completion date. The request shall include the reasons for the requested change in completion date, the proposed new completion date, and prove collateral is in place to cover the extension time requested. The completion date for the Subdivision may be extended one time, for a period no longer than 6 months at the discretion of the ECM Administrator. Any additional requests for extension of the completion date will be scheduled for hearing by the Board of County Commissioners. The ECM Administrator or the Board of County Commissioners may require an adjustment in the amount of collateral to take into account any increase in cost due to the delay including inflation.
6. It is mutually agreed pursuant to the provisions of Section 30-28-137 (3) C.R.S. that the County or any purchaser of any lot, lots, tract or tracts of land subject to a plat restriction which is the security portion of a Subdivision Improvements Agreement shall have the authority to bring an action in any District Court to compel the enforcement of any Subdivision Improvements Agreement on the sale, conveyance, or transfer of any such lot, lots, tract or tracts of land or of any other provision of this article. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of any lot, lots, tract or tracts of land contrary to the provisions of any such restrictions set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of a building permit by the County where so required or otherwise prior to commencement of construction on any such lot, lots, tract or tracts of land.
7. It is further mutually agreed that, pursuant to the provisions of Section 30-28-137 (2) C.R.S., and Chapter 5 of the County's Engineering Criteria Manual, as improvements are completed, the Subdivider may apply to the Board of County Commissioners for a release of part or all of the collateral deposited with said Board. Upon inspection and approval, the Board shall release said collateral. The County agrees to respond to an inspection request in a reasonable time upon receipt of the request. If the Board determines that any of such improvements are not constructed in substantial compliance with specifications it shall furnish the Subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications, the Board of County Commissioners may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications.
8. The Subdivider agrees, and all parties acknowledge that the construction of the improvements identified and guaranteed through this Subdivision Improvements Agreement shall follow the inspection, collateral, and acceptance process that is identified in Chapter 5 of the County's Engineering Criteria Manual. This is to include among other things, a Preliminary Acceptance process, replacement of performance collateral with appropriate Warranty collateral at that time,

and a 2 year warranty period prior to final acceptance. Where any inconsistency exists between Chapter 5 of the Engineering Criteria Manual and the Land Development Code with respect to these inspections, collateral and acceptance processes, the Engineering Criteria Manual is the controlling document.

9. Drainage fees due for this Subdivision are \$177,213. Pursuant to Resolution No. 16-320, recorded in the records of the El Paso County Clerk and Recorder at Reception No. 216101958, the amount of collateral that must be posted for possible payment of a future increase in drainage fees is \$70,354. Subdivider anticipates recording an additional final plat for Creekside at Lorson Ranch Filing No. 1 (“Creekside”) in the near future and, in connection with Creekside, constructing over two million dollars in regional drainage improvements. The Parties therefore agree as follows:

- a. Upon recording the final plat of Lorson Ranch East Filing No. 2, Subdivider shall provide the County with an irrevocable letter of credit issued by Kirkpatrick Bank in the amount of \$2,074,670.20 in order to guarantee construction of the improvements set forth in Exhibit B to the subdivision improvements agreement for that subdivision. No drainage fees or additional drainage collateral will be collected at plat recording for Lorson Ranch East Filing No. 3.
- b. Upon recording the final plat for Creekside, Subdivider shall enter into a subdivision improvements agreement that includes the obligation to construct the regional drainage improvements for which collateral is now being posted pursuant to this paragraph 9. Subdivider shall provide an updated financial assurance estimate based upon approved construction drawings and provide a new irrevocable letter of credit to reflect the new estimate. The irrevocable letter of credit posted in connection with Lorson Ranch East Filing No. 2 shall thereafter be released. The amount of drainage fees and additional drainage collateral required in connection with Lorson Ranch East Filing No. 3 shall be subtracted from any future drainage credits applied for or received for the regional drainage improvements constructed in connection with Creekside.
- c. If the final plat for Creekside is not recorded within two (2) years of the date of recording the final plat for Lorson Ranch East Filing No. 2, then one of the following shall occur:
 - i. The Subdivider shall immediately pay to the County the drainage fees and additional drainage collateral due, in the amounts set forth above. Following payment, the County will release the irrevocable letter of credit provided pursuant to paragraph 9.a above.
 - ii. The County may withdraw from the irrevocable letter of credit provided pursuant to paragraph 9.a above the drainage fees and additional drainage collateral due, in the amounts set forth above. Pursuant to the Subdivision Improvements Agreement for Lorson Ranch East Filing No. 2, the drainage fees and additional drainage collateral due for that subdivision may also be withdrawn. The remaining balance shall be released.

In either circumstance, the regional drainage improvements anticipated to be constructed in connection with Creekside, and the collateral necessary to guarantee such construction, shall be required at such time as the final plat for Creekside is recorded.

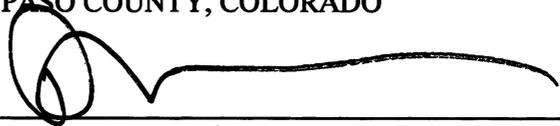
9. The Subdivider agrees to provide the County with a title insurance commitment at time of final platting evidencing that fee simple title of all lands in the subdivision is vested with the Subdivider.

10. The County agrees to approval of the final plat of Lorson Ranch East Filing No. 3 Subdivision subject to the terms and conditions of this Agreement.
11. Parties hereto mutually agree that this Agreement may be amended from time to time provided that such amendment be in writing and signed by all parties hereto.
12. This Agreement shall take effect on the date of approval of the Final Plat by the Board of County Commissioners.
13. The Subdivider agrees for itself and its successors and assigns that Subdivider and/or said successors and assigns shall be required to pay road impact fees in accordance with the El Paso County Road Impact Fee Program at or prior to the time of building permit submittals.

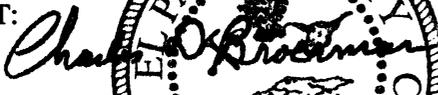
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year below written.

BOARD OF COUNTY COMMISSIONERS OF
EL PASO COUNTY, COLORADO

May 28, 2019
(Date Final Plat Approved)

By: 
Mark Waller, Chair

ATTEST:


County Clerk and Recorder



SUBDIVIDER:

Executed this 11th day of February, 2020, by:

Lorson, LLC as nominee for Murray Fountain, LLC

By: 
Jeff Mark, Manager, Lorson, LLC

Subscribed, sworn to and acknowledged before me this 11th day of February, 2020
by the parties above named.

My commission expires: 3-22-21.

SUSAN L GONZALES
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20044004607
MY COMMISSION EXPIRES MARCH 22, 2021


Notary Public

Exhibit A – Lorson Ranch East Filing No. 3 Financial Assurance Estimate

2019 Financial Assurance Estimate Form
(with pre-plat construction)

Updated: 7/16/2019

PROJECT INFORMATION		
Project Name: Lorson Ranch East Filing No. 3	Date: 2/10/2020	PCD File No.: SF 19-003

Description	Quantity	Units	Unit Cost	Total	(with Pre-Plat Construction) % Complete	Remaining
SECTION 1 - GRADING AND EROSION CONTROL (Construction and Permanent BMPs)						
* Earthwork						
less than 1,000; \$5,300 min		CY	\$ 8.00	= \$ -		\$ -
1,000-5,000; \$8,000 min	1,000	CY	\$ 6.00	= \$ 8,000.00	80.00%	\$ 1,600.00
5,001-20,000; \$30,000 min		CY	\$ 5.00	= \$ -		\$ -
20,001-50,000; \$100,000 min		CY	\$ 3.50	= \$ -		\$ -
50,001-200,000; \$175,000 min		CY	\$ 2.50	= \$ -		\$ -
greater than 200,000; \$500,000 min		CY	\$ 2.00	= \$ -		\$ -
* Permanent Seeding (inc. noxious weed mgmnt.)	1	AC	\$ 800.00	= \$ 800.00	80.00%	\$ 160.00
* Mulching	1	AC	\$ 750.00	= \$ 750.00	80.00%	\$ 150.00
* Permanent Erosion Control Blanket		SY	\$ 6.00	= \$ -		\$ -
* Permanent Pond/BMP Construction		CY	\$ 20.00	= \$ -		\$ -
* Permanent Pond/BMP (Spillway)		EA		= \$ -		\$ -
* Permanent Pond/BMP (Outlet Structure)		EA		= \$ -		\$ -
Safety Fence		LF	\$ 3.00	= \$ -		\$ -
Temporary Erosion Control Blanket		SY	\$ 3.00	= \$ -		\$ -
Vehicle Tracking Control	2	EA	\$ 2,370.00	= \$ 4,740.00	80.00%	\$ 948.00
Silt Fence		LF	\$ 2.50	= \$ -		\$ -
Temporary Seeding	10	AC	\$ 628.00	= \$ 6,280.00	80.00%	\$ 1,256.00
Temporary Mulch	10	AC	\$ 750.00	= \$ 7,500.00	80.00%	\$ 1,500.00
Erosion Bales	40	EA	\$ 25.00	= \$ 1,000.00	80.00%	\$ 200.00
Erosion Logs/Straw Waddle		LF	\$ 5.00	= \$ -		\$ -
Rock Check Dams		EA	\$ 500.00	= \$ -		\$ -
Inlet Protection	4	EA	\$ 167.00	= \$ 668.00	80.00%	\$ 133.60
Sediment Basin	4	EA	\$ 1,762.00	= \$ 7,048.00	80.00%	\$ 1,409.60
Concrete Washout Basin	1	EA	\$ 900.00	= \$ 900.00	80.00%	\$ 180.00
<i>(insert items not listed but part of construction plans)</i>						
MAINTENANCE (35% of Construction BMPs)				= \$ 9,847.60		\$ 9,847.60
Section 1 Subtotal				= \$ 47,533.60		\$ 17,384.80

* - Subject to defect warranty financial assurance. A minimum of 20% shall be retained until final acceptance (MAXIMUM OF 80% COMPLETE ALLOWED)

SECTION 2 - PUBLIC IMPROVEMENTS

ROADWAY IMPROVEMENTS						
Construction Traffic Control	1	LS	\$ 5,000.00	= \$ 5,000.00	80.00%	\$ 1,000.00
Aggregate Base Course (135 lbs/cf)	3,605	Tons	\$ 28.00	= \$ 100,940.00	80.00%	\$ 20,188.00
Aggregate Base Course (135 lbs/cf)		CY	\$ 50.00	= \$ -		\$ -
Asphalt Pavement (3" thick)		SY	\$ 14.00	= \$ -		\$ -
Asphalt Pavement (4" thick)		SY	\$ 19.00	= \$ -		\$ -
Asphalt Pavement (6" thick)		SY	\$ 29.00	= \$ -		\$ -
Asphalt Pavement (147 lbs/cf) 1" thick	2,773	Tons	\$ 88.00	= \$ 244,024.00	80.00%	\$ 48,804.80
Raised Median, Paved		SF	\$ 8.00	= \$ -		\$ -
Regulatory Sign/Advisory Sign	5	EA	\$ 300.00	= \$ 1,500.00		\$ 1,500.00
Guide/Street Name Sign	12	EA	\$ 200.00	= \$ 2,400.00		\$ 2,400.00
Epoxy Pavement Marking		SF	\$ 13.00	= \$ -		\$ -
Thermoplastic Pavement Marking		SF	\$ 23.00	= \$ -		\$ -
Barricade - Type 3	2	EA	\$ 200.00	= \$ 400.00		\$ 400.00
Delineator - Type I		EA	\$ 24.00	= \$ -		\$ -
Curb and Gutter, Type A (6" Vertical)	900	LF	\$ 30.00	= \$ 27,000.00	80.00%	\$ 5,400.00
Curb and Gutter, Type B (Median)		LF	\$ 30.00	= \$ -		\$ -
Curb and Gutter, Type C (Ramp)	5,440	LF	\$ 30.00	= \$ 163,200.00	80.00%	\$ 32,640.00
4" Sidewalk (common areas only)		SY	\$ 48.00	= \$ -		\$ -
5" Sidewalk	7,820	SY	\$ 60.00	= \$ 469,200.00		\$ 469,200.00
6" Sidewalk		SY	\$ 72.00	= \$ -		\$ -
8" Sidewalk		SY	\$ 98.00	= \$ -		\$ -
Pedestrian Ramp	15	EA	\$ 1,150.00	= \$ 17,250.00		\$ 17,250.00
Cross Pan, local (8" thick, 6' wide to include return)	250	LF	\$ 61.00	= \$ 15,860.00	80.00%	\$ 3,172.00
Cross Pan, collector (9" thick, 8' wide to include return)		LF	\$ 92.00	= \$ -		\$ -
Curb Chase		EA	\$ 1,480.00	= \$ -		\$ -
Guardrail Type 3 (W-Beam)		LF	\$ 49.00	= \$ -		\$ -
Guardrail Type 7 (Concrete)		LF	\$ 72.00	= \$ -		\$ -
Guardrail End Anchorage		EA	\$ 2,098.00	= \$ -		\$ -
Guardrail Impact Attenuator		EA	\$ 3,787.00	= \$ -		\$ -
Sound Barrier Fence (CMU block, 6' high)		LF	\$ 78.00	= \$ -		\$ -
Sound Barrier Fence (panels, 6' high)		LF	\$ 80.00	= \$ -		\$ -
Electrical Conduit, Size =		LF	\$ 16.00	= \$ -		\$ -
Traffic Signal, complete intersection		EA	\$ 425,000	= \$ -		\$ -

PROJECT INFORMATION

2/10/2020

SF 19-003

Project Name: Lorson Ranch East Filing No. 3

Date

PCD File No.

Description	Quantity	Units	Unit Cost	=	\$	Total	(with Pre-Plan Construction)		
							% Complete	Remaining	
<i>(insert items not listed but part of construction plans)</i>									
STORM DRAIN IMPROVEMENTS									
Concrete Box Culvert (M Standard), Size (W x H)		LF		=	\$	-		\$ -	
18" Reinforced Concrete Pipe	7	LF	\$ 65.00	=	\$	455.00	80.00%	\$ 91.00	
24" Reinforced Concrete Pipe	254	LF	\$ 78.00	=	\$	19,812.00	80.00%	\$ 3,962.40	
30" Reinforced Concrete Pipe	300	LF	\$ 97.00	=	\$	29,100.00	80.00%	\$ 5,820.00	
36" Reinforced Concrete Pipe		LF	\$ 120.00	=	\$	-		\$ -	
42" Reinforced Concrete Pipe		LF	\$ 160.00	=	\$	-		\$ -	
48" Reinforced Concrete Pipe		LF	\$ 195.00	=	\$	-		\$ -	
54" Reinforced Concrete Pipe		LF	\$ 245.00	=	\$	-		\$ -	
60" Reinforced Concrete Pipe		LF	\$ 288.00	=	\$	-		\$ -	
66" Reinforced Concrete Pipe		LF	\$ 332.00	=	\$	-		\$ -	
72" Reinforced Concrete Pipe		LF	\$ 380.00	=	\$	-		\$ -	
18" Corrugated Steel Pipe		LF	\$ 84.00	=	\$	-		\$ -	
24" Corrugated Steel Pipe		LF	\$ 98.00	=	\$	-		\$ -	
30" Corrugated Steel Pipe		LF	\$ 122.00	=	\$	-		\$ -	
36" Corrugated Steel Pipe		LF	\$ 147.00	=	\$	-		\$ -	
42" Corrugated Steel Pipe		LF	\$ 168.00	=	\$	-		\$ -	
48" Corrugated Steel Pipe		LF	\$ 178.00	=	\$	-		\$ -	
54" Corrugated Steel Pipe		LF	\$ 260.00	=	\$	-		\$ -	
60" Corrugated Steel Pipe		LF	\$ 280.00	=	\$	-		\$ -	
66" Corrugated Steel Pipe		LF	\$ 340.00	=	\$	-		\$ -	
72" Corrugated Steel Pipe		LF	\$ 400.00	=	\$	-		\$ -	
78" Corrugated Steel Pipe		LF	\$ 460.00	=	\$	-		\$ -	
84" Corrugated Steel Pipe		LF	\$ 550.00	=	\$	-		\$ -	
Flared End Section (FES) RCP Size = <small>(unit cost = 6x pipe unit cost)</small>		EA		=	\$	-		\$ -	
Flared End Section (FES) CSP Size = <small>(unit cost = 6x pipe unit cost)</small>		EA		=	\$	-		\$ -	
End Treatment- Headwall		EA		=	\$	-		\$ -	
End Treatment- Wingwall		EA		=	\$	-		\$ -	
End Treatment - Cutoff Wall		EA		=	\$	-		\$ -	
Curb Inlet (Type R) L=5', Depth < 5'		EA	\$ 5,542.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=5', 5' ≤ Depth < 10'	1	EA	\$ 7,188.00	=	\$	7,188.00	80.00%	\$ 1,437.60	
Curb Inlet (Type R) L=5', 10' ≤ Depth < 15'		EA	\$ 8,345.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=10', Depth < 5'		EA	\$ 7,627.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=10', 5' ≤ Depth < 10'		EA	\$ 7,861.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=10', 10' ≤ Depth < 15'		EA	\$ 9,841.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=15', Depth < 5'		EA	\$ 9,918.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=15', 5' ≤ Depth < 10'	4	EA	\$ 10,633.00	=	\$	42,532.00	80.00%	\$ 8,506.40	
Curb Inlet (Type R) L=15', 10' ≤ Depth < 15'		EA	\$ 11,627.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=20', Depth < 5'		EA	\$ 10,570.00	=	\$	-		\$ -	
Curb Inlet (Type R) L=20', 5' ≤ Depth < 10'		EA	\$ 11,667.00	=	\$	-		\$ -	
Grated Inlet (Type C), Depth < 5'		EA	\$ 4,840.00	=	\$	-		\$ -	
Grated Inlet (Type D), Depth < 5'		EA	\$ 5,731.00	=	\$	-		\$ -	
Storm Sewer Manhole, Box Base		EA	\$ 11,627.00	=	\$	-		\$ -	
Storm Sewer Manhole, Slab Base	2	EA	\$ 6,395.00	=	\$	12,790.00	80.00%	\$ 2,558.00	
Geotextile (Erosion Control)	60	SY	\$ 6.00	=	\$	360.00	80.00%	\$ 72.00	
Rip Rap, d50 size from 6" to 24"		Tons	\$ 80.00	=	\$	-		\$ -	
Rip Rap, Grouted		Tons	\$ 95.00	=	\$	-		\$ -	
Drainage Channel Construction, Size (W x H)		LF		=	\$	-		\$ -	
Drainage Channel Lining, Concrete		CY	\$ 570.00	=	\$	-		\$ -	
Drainage Channel Lining, Rip Rap		CY	\$ 112.00	=	\$	-		\$ -	
Drainage Channel Lining, Grass		AC	\$ 1,468.00	=	\$	-		\$ -	
Drainage Channel Lining, Other Stabilization				=	\$	-		\$ -	
<i>(insert items not listed but part of construction plans)</i>									
						Section 2 Subtotal	=	\$ 1,159,011.00	\$ 624,402.20

* - Subject to defect warranty financial assurance. A minimum of 20% shall be retained until final acceptance (MAXIMUM OF 80% COMPLETE ALLOWED)

PROJECT INFORMATION		
Project Name: <u>Lorson Ranch East Filing No. 3</u>	Date: <u>2/10/2020</u>	PCD File No.: <u>SF 19-003</u>

Description	Quantity	Units	Unit Cost	Total	(with Pre-Plat Construction)	
					% Complete	Remaining
AS-BUILT PLANS (Public Improvements inc. Permanent WQCV BMPs)		LS	\$ 6,000.00	= \$ 6,000.00	\$	6,000.00
POND/BMP CERTIFICATION (inc. elevations and volume calculations)		LS		= \$ -	\$	-
Total Construction Financial Assurance					\$	2,034,710.60
(Sum of all section subtotals plus as-builts and pond/BMP certification)						
Total Remaining Construction Financial Assurance (with Pre-Plat Construction)					\$	682,787.00
(Sum of all section totals less credit for items complete plus as-builts and pond/BMP certification)						
Total Defect Warranty Financial Assurance					\$	233,712.20
(20% of all items identified as (*). To be collateralized at time of preliminary acceptance)						

Approvals

I hereby certify that this plan is correct and complete and that I am the Engineer of Record for the work as shown on the Grading and Erosion Control Plan and Construction Drawings associated with the Project.



 Engineer (P.E. Seal Required)

[Signature] _____
 Approved by Owner / Applicant

2/10/20

 Date

 Approved by El Paso County Engineer / ECM Administrator

Approved

By: Elizabeth Nijkamp

Date: 02/10/2020

El Paso County Planning & Community Development

