

## SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT, made between Northbay Townhomes, 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 Northbay at Lake Woodmoor 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(s) 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 a Plat restriction on the Plat.

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 his sole expense, all of those improvements as set forth on Exhibit(s) 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 a plat restriction appearing on the face of the plat which reads as follows: If Subdivider chooses to construct the subdivision in phases, the ECM Administrator may require an increase in the amount of security for an individual phase prior to notice to proceed for that phase, to take into account any increase in cost due to inflation.
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 or, if constructed in phases, in any phase thereof, 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 or the particular phase thereof 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 or, if constructed in phases, in any phase thereof, 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, identified by phase if applicable, 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, or Phase of 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 or Subdivision Phase 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 both 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. The Subdivider(s) 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(s).
10. The County agrees to approval of the final plat of Northbay at Lake Woodmoor 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(s) agrees for itself and its successors and assigns that Subdivider and/or its 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**

\_\_\_\_\_  
(Date Final Plat Approved)

By \_\_\_\_\_  
Darryl Glenn, President

ATTEST:

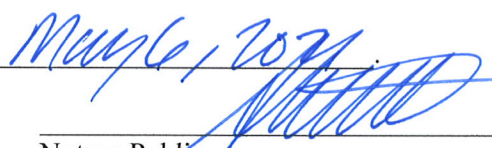
\_\_\_\_\_  
County Clerk and Recorder

**NORTHBAY TOWNHOMES, LLC, Subdivider**

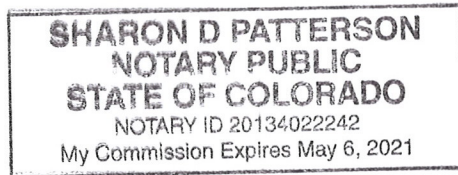
By  \_\_\_\_\_  
Representative (if applicable)

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

Subscribed, sworn to and acknowledged before me this 12<sup>th</sup> day of February, 2018, by the parties above named.

My commission expires: May 6, 2021  
  
\_\_\_\_\_  
Notary Public

[SEAL]





20 Boulder Crescent, STE 110  
Colorado Springs, CO 80903  
Mail to: PO Box 1360  
Colorado Springs, CO 80901  
v 719.955.5485

## **RIGHT OF WAY LICENSE AGREEMENT A PORTION OF DEER CREEK ROAD, MONUMENT COLORADO**

### **BASIS OF BEARINGS STATEMENT:**

BASIS OF BEARINGS: THE WEST LINE OF "LAKE WOODMOOR", MONUMENTED AT ITS NORTHERLY END WITH A REBAR & CAP, PLS 2682 AND AT ITS SOUTH END WITH A #4 REBAR. SAID LINE BEARS S 04 °31 ' 13 " E (ASSUMED).

### **LEGAL DESCRIPTION:**

A PORTION OF THE PUBLIC RIGHT-OF-WAY KNOWN AS 60 FOOT WIDE DEER CREEK ROAD AS PLATTED ON "WOODMOOR OAKS" RECORDED IN PLAT BOOK H-2 AT PAGE 59 OF THE EL PASO COUNTY, COLORADO RECORDS, BEING IN THE SOUTHEAST QUARTER OF SECTION 11, T11S, R67W OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF DEER CREEK ROAD, SAID POINT BEING THE NORTHWEST CORNER OF "LAKE WOODMOOR" RECORDED IN PLAT BOOK K-2 AT PAGE 83 IN THE EL PASO COUNTY, RECORDS;

THENCE SOUTHWESTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF DEER CREEK ROAD THE FOLLOWING TWO (2) COURSES;

(1) THENCE ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 508.69, A CENTRAL ANGLE OF 32°08'19", (THE CHORD OF WHICH BEARS S53°49'49"W, 281.61 FEET), AN ARC DISTANCE OF 285.34 FEET TO A POINT OF REVERSE CURVE;

(2) THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 742.00 FEET, A CENTRAL ANGLE OF 29°10'45", (THE CHORD OF WHICH BEARS S52°19'21"W, 373.81 FEET), AN ARC DISTANCE OF 377.88 FEET TO THE NORTHEAST CORNER OF WOODMOOR WATER AND SANITATION, DISTRICT NO. 1, "WELL SITE NO. 5";

THENCE N23°05'16"W A DISTANCE OF 4.19 FEET TO THE EDGE OF PAVEMENT AS LOCATED ON FEBRUARY 13, 2018;

THENCE GENERALLY ALONG THE EXISTING EDGE OF PAVEMENT THE FOLLOWING THREE (3) COURSES;

(1) THENCE ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 795.25 FEET, A CENTRAL ANGLE OF 19°12'02", (THE CHORD OF WHICH BEARS N53°30'05"E, 265.25 FEET), AN ARC DISTANCE OF 266.50 FEET TO A POINT OF TANGENT;


(2) THENCE N43°54'04"E ALONG SAID TANGENT 148.39 FEET TO A POINT OF CURVE;

(3) THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 624.60 FEET, A CENTRAL ANGLE OF 22°50'14", (THE CHORD OF WHICH BEARS N55°19'11"E, 247.31 FEET), AN ARC DISTANCE OF 248.96 FEET;

THENCE S20°06'02"E A DISTANCE OF 15.53 FEET TO THE POINT OF BEGINNING.

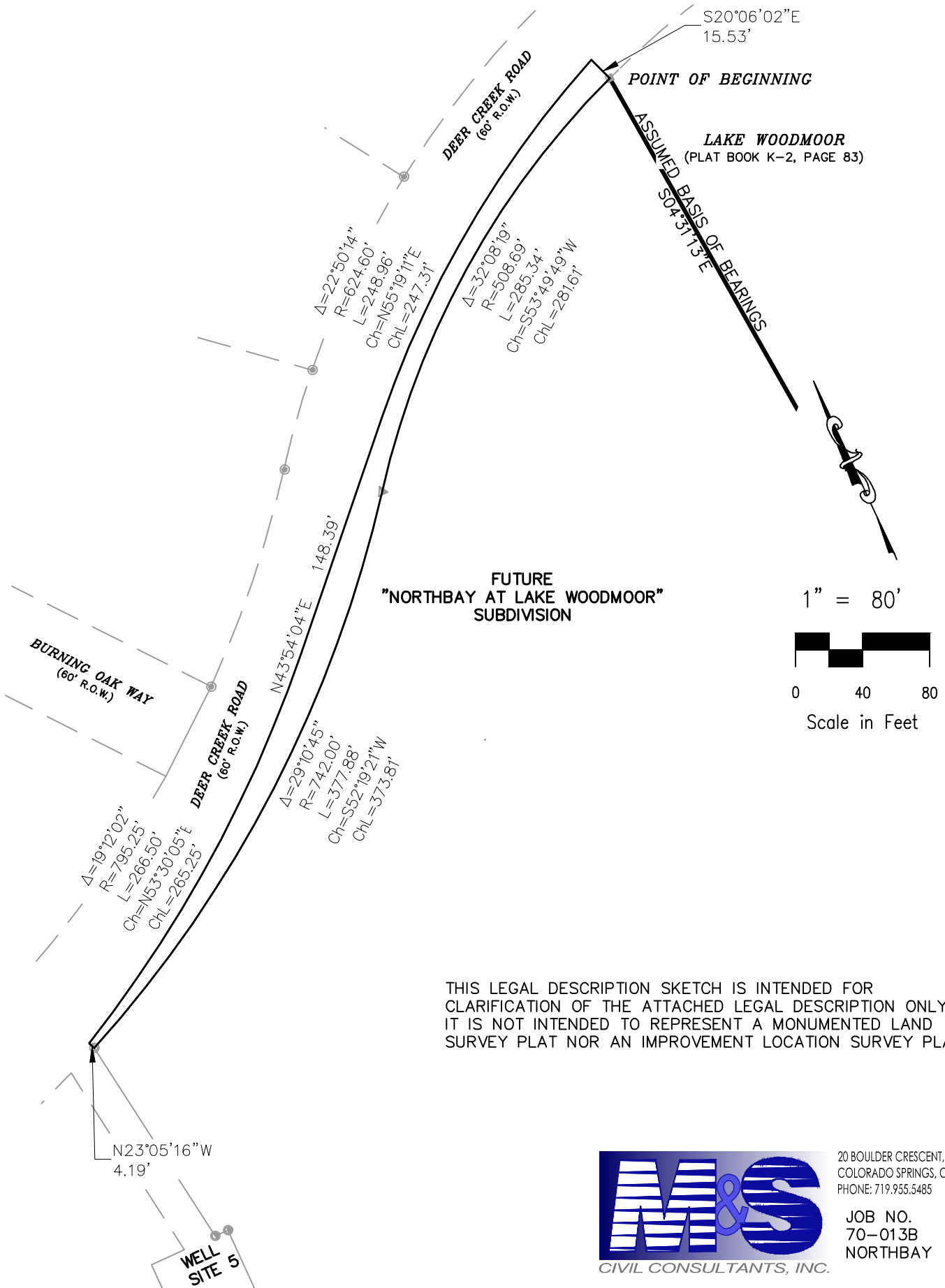
SAID PORTION OF DEER CREEK ROAD CONTAINS A CALCULATED AREA OF 8,516 S.F. MORE OR LESS.

### **PREPARED BY:**

 2/21/18  
VERNON P. TAYLOR, COLORADO PLS NO. 25966  
FOR AND ON BEHALF OF M&S CIVIL CONSULTANTS, INC.  
20 BOULDER CRESCENT, SUITE 110  
COLORADO SPRINGS, COLORADO 80901  
719-955-5485



# LEGAL DESCRIPTION SKETCH FOR RIGHT-OF-WAY LICENSE AGREEMENT



THIS LEGAL DESCRIPTION SKETCH IS INTENDED FOR CLARIFICATION OF THE ATTACHED LEGAL DESCRIPTION ONLY. IT IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY PLAT NOR AN IMPROVEMENT LOCATION SURVEY PLAT.



20 BOULDER CRESCENT, SUITE 110  
COLORADO SPRINGS, CO 80903  
PHONE: 719.955.5485

JOB NO.  
70-013B  
NORTHBAY