

TEMPORARY ACCESS LICENSE AGREEMENT

THIS GRANT OF TEMPORARY ACCESS LICENSE AGREEMENT (hereinafter "Agreement") is made and executed this 07 day of May, 2019 by the DIRECTOR OF THE EL PASO COUNTY COMMUNITY SERVICES DEPARTMENT on behalf of El Paso County, Colorado (hereinafter referred to as "County" or "Grantor") and CBH Properties Falcon, LLC. (hereinafter referred to as "Grantee"), whose address is 17725 Katy Freeway, Houston, TX 77094.

The County does hereby grant a license for temporary, non-exclusive access to the Grantee within the property identified as El Paso County Assessor tax schedule number 4200000265 (more specifically described below) for the purpose of vehicle and equipment access to support the construction of a retaining wall, drainage infrastructure, and landscaping adjacent to the Rock Island Regional Trail on County property (all such access and construction and related activity hereinafter referred to as the "Work"), as hereinafter described and subject to the terms and conditions contained herein.

DESCRIPTION AND PURPOSE OF ACCESS

Description of the premises subject to this license

(Parcel No. 4200000265)

STRIP OF LAND IN VARIOUS WIDTHS BEING PART OF FORMER CHICAGO, ROCK ISLAND & PACIFIC RR UPON & THROUGH THE FOL SECTIONS, TOWNSHIPS & RANGES DES AS FOLS: STRIP BEING 150.00 FT WIDE IN NE 800.00 FT OF W2NW4, E2NW4, NW4NE4 SEC 07-13-64, STRIP BEING 150.00 FT WIDE IN W2SE4 SEC 06-13-64, STRIP BEING 100.00 FT WIDE IN E2SE4 SEC 06-13-64, STRIP BEING 125.00 FT WIDE IN NW4SW4, SW4NW4 SEC 05-13-64, STRIP BEING 100.00 FT WIDE IN E2NW4, NW4NE4 SEC 05-13-64, STRIP BEING 100.00 FT WIDE IN SE4 SEC 32-12-64, STRIP BEING 125.00 FT WIDE IN NW4SW4 SEC 33-12-64, STRIP BEING 100.00 FT WIDE IN NW4 SEC 33-12-64, STRIP BEING 125.00 FT WIDE IN NW4NE4 SEC 33-12-64, STRIP BEING 100.00 FT WIDE IN SE4 SEC 28-12-64, STRIP BEING 125.00 FT WIDE IN NW4SW4 SEC 27-12-64, STRIP BEING 100.00 FT WIDE IN NW4, NW4NE4 SEC 27-12-64, STRIP BEING 125.00 FT WIDE IN SWLY 850.00 FT OF SE4 SEC 22-12-64, STRIP BEING 100.00 FT WIDE IN NELY 1560.00 FT OF SE4 SEC 22-12-64, STRIP BEING 100.00 FT IN NW4SW4 SEC 23-12-64, STRIP BEING 200.00 FT WIDE IN NW4 SEC 23-12-64, STRIP BEING 125.00 FT WIDE NE4 SEC 23-12-64, STRIP BEING 100.00 FT WIDE IN SE4 SEC 14-12-64, STRIP BEING 150.00 FT WIDE IN SW4 SEC 13-12-64, STRIP BEING 100.00 FT WIDE IN NW4, NE4 SEC 13-12-64, STRIP BEING 100.00 FT WIDE IN SE4 SEC 12-12-64, STRIP BEING 200.00 FT WIDE IN SW4 SEC 07-12-63, STRIP BEING 100.00 FT WIDE IN NW4, SW4NE4 SEC 07-12-63, STRIP BEING 150.00 FT WIDE IN SW 1000.00 FT OF W2NE4 SEC 07-12-63, STRIP BEING 275.00 FT WIDE, STRIP IN SW4 SEC 7-12-63 BEING 200.00 FT WIDE, BALANCE OF N2NE4 LYING SW OF BRADSHAW RD, EX FOR TRACTS CONV BY BKS 3516-954, 6510-615

(hereinafter referred to as the "Property").

Purpose

The access granted herein is a non-exclusive, temporary access for the limited purposes of access reasonably necessary to conduct and complete the Work, as described above.

DURATION OF AGREEMENT

The non-exclusive temporary access granted herein shall commence from the date of the grant; however, said temporary access shall terminate at any time upon mutual agreement of the parties or by December 31, 2019, whichever occurs sooner. If the Grantee needs additional time to perform the Work, it shall request, in writing, an extension of time from the County.

COVENANTS

In consideration of the promises, mutual covenants and agreements contained herein, the Parties agree as follows:

1. Ingress and Egress. Grantee shall have and may exercise the right of reasonable ingress and egress in, to, through, over, and across the Property for access to and from the roads, highways, streets, alleys, trails, or any other point nearest to the Property. To the maximum practicable extent, Grantee shall use existing gates, roads, trails and facilities to avoid disruption of the Grantor's operations on the Property.

2. Grantor's Rights Unaffected. The County shall retain the right to make full use of the Property subject to any existing encumbrances provided however, the County shall not unreasonably interfere with Grantee's rights as set forth in this Agreement for the purposes of completing the Work.

3. Surface Restoration to Land. Grantee shall repair any physical damage done to the Property by or resulting from its actions or operations. Grantee shall promptly restore, replace, re-vegetate, or repair the surface of the Property to the original condition as near as may be reasonably possible. Grantee shall restore the Rock Island Regional Trail by installing 4" of compacted crushed limestone trail surfacing material over 2" of compacted base course.

5. Trail Closure. Grantee shall only close the Rock Island Regional Trail as deemed reasonably necessary. Trail closure signs shall be placed 100 feet away from any construction activity. Grantee shall provide written notice no later than 48 hours prior to closure of the trail.

4. Subjacent and Lateral Support. Grantee shall not impair the lateral or subjacent support of the Property.

5. Workmanship. Grantee agrees to perform all work in a neat and workmanlike manner so as not to interfere with either the County's use of the Property and without cost or liability to the County. Grantee shall take all necessary measures to protect the County, the County's employees, and the general public from its activities on the Property.

6. County Representation. One or more County representatives may be present on the Property during any of the Work activities under this Agreement.

7. Insurance. Grantee represents and warrants to the County that Grantee is insured and its contractors carry insurance, including workers compensation insurance, general liability and professional insurance and automotive insurance. Prior to its first access to the property under this Agreement, upon request, Grantee will provide the County with the Certificates of Insurance evidencing the insurance coverage described herein and such supplemental certificates as may be appropriate.

8. Entire Agreement. This Agreement represents the entire agreement between the Parties and no additional or different oral representation, promise or agreement shall be binding on any of the Parties hereto with respect to the subject matter of this instrument, unless stated in writing signed by the County and Grantee.

9. Amendments. No modification, amendment, notation, change, or other alteration of this Agreement shall be valid unless mutually agreed to by the Parties in writing and executed as an addendum to this Agreement.

10. Governing Law, Venue, Jurisdiction, and Indemnification. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Venue shall exclusively be in the District or County Court in and for El Paso County, Colorado.

To the maximum extent permitted by law, Grantee shall defend, indemnify, and hold the County, its elected officials, appointees, officers, employees, agents and contractors free and harmless from and against any and all liabilities, demands, claims, damages, suits, judgments and decrees, and Court awards including costs, expenses and attorney's fees, on account of injuries to or death of any person or persons, including, any property damage arising out of or related to Grantee's intentional or negligent acts, errors or omissions or that of its agents, officers, servants and employees, subcontractors or assignees, whether contractual or otherwise, during the performance of this Agreement and pursuant to its terms. The Grantee shall not be liable to the County for any intentional or negligent acts solely due to the fault of the County or its employees. Nothing in this section shall be deemed to waive or otherwise limit the defenses available to the County pursuant to the Colorado Governmental Immunity Act or otherwise provided by law.

11. No Real Estate Interest Created. This Agreement only creates to Grantee a non-exclusive, revocable license and, therefore, each Parties' rights and obligations stated hereunder are exclusively contractual. Thus, Grantee agrees and understands that the County has not granted or conveyed to any real estate interest of whatsoever kind or nature.

12. Disclaimer of Warranties. THE COUNTY DOES NOT MAKE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE PROPERTY OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROPERTY. GRANTEE SHALL USE THE PROPERTY FOR ACCESS SOLELY "AT ITS OWN RISK".

13. No Third Party Beneficiaries. This Agreement does not and shall not be deemed to confer on any third party the right to the performance of or proceeds under this Agreement, to claim any damages, or to bring any legal action or other proceeding against any Party for any breach or other failure to perform this Agreement.

14. Notice: Grantee shall provide the County with no less than forty-eight (48) hours written notice prior to beginning the Work. One notification may cover multiple days of the Work. All notices, correspondence, or inquiries from Grantee to the County under this Agreement shall be directed to:

Tim Wolken, Director
El Paso County Department of Community Services
2002 Creek Crossing
Colorado Springs, CO 80903
Telephone: (719) 520-6981
Facsimile: (719) 520-6389
Electronic mail: timwolken@elpasoco.com

With an electronic copy sent to:

Jason Meyer, Project Manager II
El Paso County Department of Community Services
Electronic mail: jasonmeyer@elpasoco.com

THIS AGREEMENT is made and entered into the year and date first above written.

GRANTEE:

CBH Properties Falcon, LLC

By: Jonathan Wakefield
(Print)

Its: Director
(Print)

[Signature]
Signature

Date: 5/07/19

EL PASO COUNTY:

By: [Signature]
Tim Wolken
Executive Director, Community Services Department

Date: 5/30/19

Approved as to form by
Elizabeth A. Kirkman
SR Asst County Attorney

009073

CHRISTIAN BROTHERS AUTOMOTIVE CORPORATION

CONSTRUCTION ACCOUNT
17725 KATY FREEWAY, SUITE 200
HOUSTON, TX 77094

AMEGY BANK NA
35-1125/1130

4/30/2019

PAY TO THE ORDER OF El Paso County Parks

\$ **100.00

One Hundred and 00/100***** DOLLARS

El Paso County Parks
2002 Creek Crossing Street
Colorado Springs, 80905

John Foster

AUTHORIZED SIGNATURE



MEMO CBA Falcon, CO - Temp Access Agmnt Prcs Fee

⑈009073⑈ ⑆113011258⑆ ⑈0053745406⑈

CHRISTIAN BROTHERS AUTOMOTIVE CORPORATION

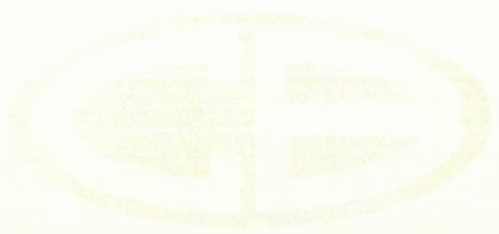
El Paso County Parks

4/30/2019

009073

Actual permitting fees charged by municipalities

100.00



Amegy Construction CBA Falcon, CO - Temp Access Agmnt Prcs Fe

100.00

Glenn Ellis

From: Jason Meyer <JasonMeyer@elpasoco.com>
Sent: Wednesday, April 24, 2019 2:27 PM
To: Glenn Ellis
Subject: RE: Christian Brothers Automotive (PPR183)

Glenn-

Sorry I've been in/out of the office this week. Briefly, I can draft the TAA language which will have our standard access and reclamation legalese, but need the following from you to get started. I will provide a draft for your review and approval and then send to the County Attorney's Office. Turnaround for the entire process can take a couple of weeks.

- Company and representative name with title and mailing address
- Proof of liability insurance of \$1,000,000
- Brief project description of the work and reclamation tasks
- Project timeframe and estimated completion date.
- Basic drawing of project area showing access location- can be simple sketch on aerial.
- \$100 processing fee made out to El Paso County Parks

Jason Meyer
Project Manager II
Community Services Department
(o) 719.520.6985 (c) 719.499.1806
jasonmeyer@elpasoco.com

From: Glenn Ellis [<mailto:GEllis@jrengineering.com>]
Sent: Wednesday, April 24, 2019 12:08 PM
To: Jason Meyer
Subject: RE: Christian Brothers Automotive (PPR183)

CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.

Jason,

I'm following up on my email earlier this month regarding a Temporary Access Agreement for a proposed Christian Brothers Automotive facility located at 7699 McLaughlin Road in Falcon.

Thanks.
Glenn

Glenn Ellis, PE
Project Manager



5475 Tech Center Drive, Suite 235
Colorado Springs, CO 80919
Office: (303)-267-6241 | Cell: (720)-383-3045
Email: gellis@jrengineering.com