

PRE-DEVELOPMENT SITE GRADING ACKNOWLEDGEMENT
AND RIGHT OF ACCESS AGREEMENT

The undersigned ("Applicant") owns and holds legal title to the real property to be known as CLAREMONT BUSINESS PARK 2 FIL. NO. 1 ("Property"), which Property is legally described on Exhibit A attached hereto and incorporated herein by this reference.

Applicant seeks approval for Pre-Development Site Grading under Section 6.2.6 of the El Paso County Land Development Code. As a condition of approval and issuance of Construction Permit No. PCD-EGP-20-004, Applicant must complete and submit this Pre-Development Site Grading Acknowledgement and Right of Access Agreement ("Agreement"). In compliance therewith, by signing below, Applicant hereby acknowledges and agrees as follows:

1. The approval and issuance of the Construction Permit does not guarantee or create a right in, or a right of expectation in, Applicant that the El Paso County Planning Commission will recommend or the Board of County Commissioners of El Paso County will approve Applicant's final plat for the Property. Applicant may proceed with grading under the Construction Permit at Applicant's sole risk.
2. The Construction Permit shall be personal to the Applicant and shall not run with the land. Any successors and/or assigns of the Applicant desiring to proceed or continue with the Pre-Development Site Grading approval shall execute their own Pre-Development Site Grading Acknowledgement and Right of Access Agreement, obtain their own Construction Permit and provide replacement financial guarantees.
3. Applicant hereby grants to El Paso County, its employees, agents, contractors, and/or subcontractors free access to enter upon the Property at all reasonable hours for the following purposes in accordance with requirements of the El Paso County Engineering Criteria Manual (ECM), Section I.5:
 - a. To inspect and investigate for compliance with Construction Permit requirements, including, but not limited to, proper installation and maintenance of erosion and sediment control measures; and
 - b. To inspect and investigate for completion of grading activities and soil stabilization requirements; and
 - c. In the event of noncompliance with either of the above, to identify deficiencies, which may result in issuance of a Letter of Noncompliance which includes such deficiencies to be corrected by Applicant; and
 - d. In the event the Applicant does not correct deficiencies identified in a Letter of Noncompliance, to draw on collateral provided and perform the

work in order to correct said deficiencies pursuant to ECM Section I.6.1.H.

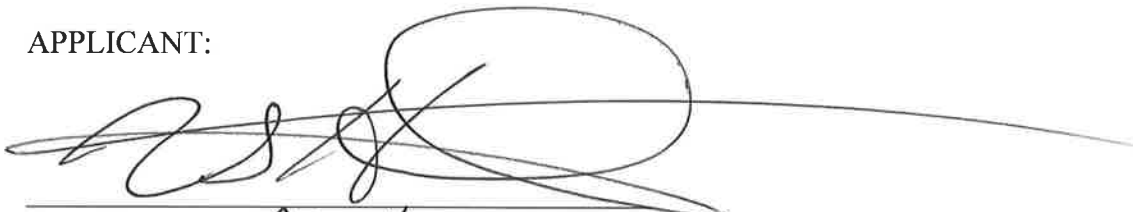
4. Applicant shall indemnify, defend, and forever hold harmless the Board of County Commissioners of El Paso County, their officers, employees, agents, contractors, and subcontractors, from any and all claim, demand, action, cause of action, loss, damage, injury, property damage, personal injury, death, liability, duty, obligation, costs and expenses (including attorney fees) arising out of or related to such entry on the Property. Nothing in this section shall be deemed to waive or otherwise limit the defenses available to the Board of County Commissioners pursuant to the Colorado Governmental Immunity Act or as otherwise provided by law.
5. In accordance with ECM Sections 5.3.15 and I.4.1.A.3, Applicant is obligated to provide security or collateral sufficient to make reasonable provision for completion of the grading, erosion control and final stabilization measures, in the amount set forth on Exhibit B attached hereto. Collateral shall be in the form of cash, cashier's check, or letter of credit issued by a financial institution authorized to do business in the State of Colorado. Collateral in the form of "Letter of Credit" , issued by "First National Bank" , in the amount of \$ 39,830.07 has been provided as security to guarantee completion of the proposed grading, erosion control and final stabilization measures.
6. Applicant is responsible for providing any renewals of collateral to ensure that there is never a lapse in security coverage. Applicant 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 allow the County to execute on the collateral.
7. All of those certain grading, erosion control and final stabilization measures to be completed as identified on Exhibit B 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.
8. All grading, erosion control and final stabilization measures shall be completed by the Applicant within 12 (twelve) months from the date of notice to proceed in the Construction Permit. If Applicant determines that the completion date needs to be extended, Applicant 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 Construction Permit may be extended at the discretion of the ECM Administrator. The completion date for the grading, erosion control, and final stabilization measures 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. Failure to meet the original or extended completion date, as applicable, shall allow the County to execute on the collateral.

9. At any time the County determines, in its sole discretion, that Applicant has failed to comply with any of the terms or conditions of this Agreement or to complete the required grading, erosion and sediment control measures, or final site stabilization, it may draw on the collateral provided, up to the total amount, to complete such work.

IN WITNESS WHEREOF, the Applicant hereby executes this Pre-Development Site Grading Acknowledgement and Right of Access Agreement this 30 day of Jun, 2020.

APPLICANT:


~~Steve Hammers~~ DAVE HAMMERS
Hammers Construction, Inc.

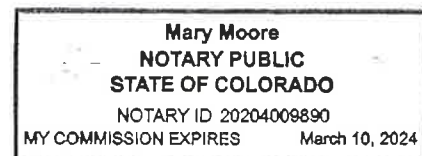
STATE OF COLORADO)
)ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 30th day of June, 2020, by Dave Hammers, of Hammers Construction, Inc.

Witness my hand and official seal.

My commission expires: March 10, 2024

Mary Moore
Notary Public



Craig Dossey, Executive Director
Planning and Community Development Department

Date

Approved as to Content and Form:

Assistant County Attorney



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

**LEGAL DESCRIPTION (8.39 ACRES)
A PORTION OF TRACT C, "CLAREMONT BUSINESS PARK FILING NO. 2"**

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE1/4, SE1/4) OF SECTION 5, AND IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER (NE1/4, NE1/4) OF SECTION 8, T14S, R65W, OF THE 6th P.M., CITY OF COLORADO SPRINGS, EL PASO COUNTY COLORADO, BEING A PORTION OF TRACT C, "CLAREMONT BUSINESS PARK FILING NO. 2" AS RECORDED UNDER RECEPTION NO. 207712506 IN THE EL PASO COUNTY, COLORADO RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING:

THE EAST LINE OF SAID TRACT C, ALSO BEING ON WESTERLY RIGHT-OF-WAY LINE OF MARKSHEFFEL ROAD AND BEING MONUMENTED AT THE NORTHEAST CORNER OF SAID TRACT C, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF MEADOWBROOK PARKWAY, WITH A REBAR AND CAP COLORADO PLS NO. 32822 AND AT A POINT OF CURVE ON THE EAST LINE OF SAID TRACT C WITH A REBAR AND CAP COLORADO PLS NO. 32822. SAID LINE BEARS S00°07'45"W A DISTANCE OF 550.09 FEET ACCORDING TO THE RECORD PLAT OF "CLAREMONT BUSINESS PARK FILING NO. 2".

LEGAL DESCRIPTION:

COMMENCING AT THE NORTHEAST CORNER OF TRACT C;
THENCE S00°07'45"W ALONG THE WESTERLY RIGHT-OF-WAY LINE OF MARKSHEFFEL ROAD 501.71 FEET TO THE POINT OF BEGINNING OF THIS LEGAL DESCRIPTION;
THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF MARKSHEFFEL ROAD THE FOLLOWING FIVE (5) COURSES;
(1) THENCE CONTINUING S00°07'45"E A DISTANCE OF 48.44 FEET;
(2) THENCE 264.49 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 604.30 FEET, A CENTRAL ANGLE OF 25°04'40", THE CHORD OF WHICH BEARS S12°24'35"E, 262.39 FEET;
(3) THENCE S06°50'36"E A DISTANCE OF 142.31 FEET;
(4) THENCE S14°53'45"W A DISTANCE OF 164.30 FEET;
(5) THENCE S33°31'44"W A DISTANCE OF 192.29 FEET TO THE NORTHEAST CORNER OF LOT 2 "CLAREMONT BUSINESS PARK FILING NO. 1A" AS RECORDED UNDER RECEPTION NO. 206712398;
THENCE N56°05'59"W ALONG THE NORTH LINE THEREOF 427.26 FEET;
THENCE N77°52'05"W ALONG SAID NORTH LINE 113.74 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MEADOWBROOK PARKWAY;
THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES;
(1) THENCE 254.27 FEET ALONG THE ARC OF A CURVE TO THE LEFT, NON-TANGENT TO THE PREVIOUS COURSE, SAID CURVE HAVING A RADIUS OF 605.00 FEET, A CENTRAL ANGLE OF 24°04'49", (THE CHORD OF WHICH BEARS N00°09'38"W, 252.40 FEET), TO A POINT OF TANGENT;
(2) THENCE N12°12'01"W ALONG SAID TANGENT 118.66 FEET;
(3) THENCE 132.18 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 525.00 FEET, A CENTRAL ANGLE OF 14°25'33", (THE CHORD OF WHICH BEARS N04°58'14"W, 131.84 FEET);
THENCE N89°41'23"E A DISTANCE OF 578.26 FEET TO THE POINT OF BEGINNING

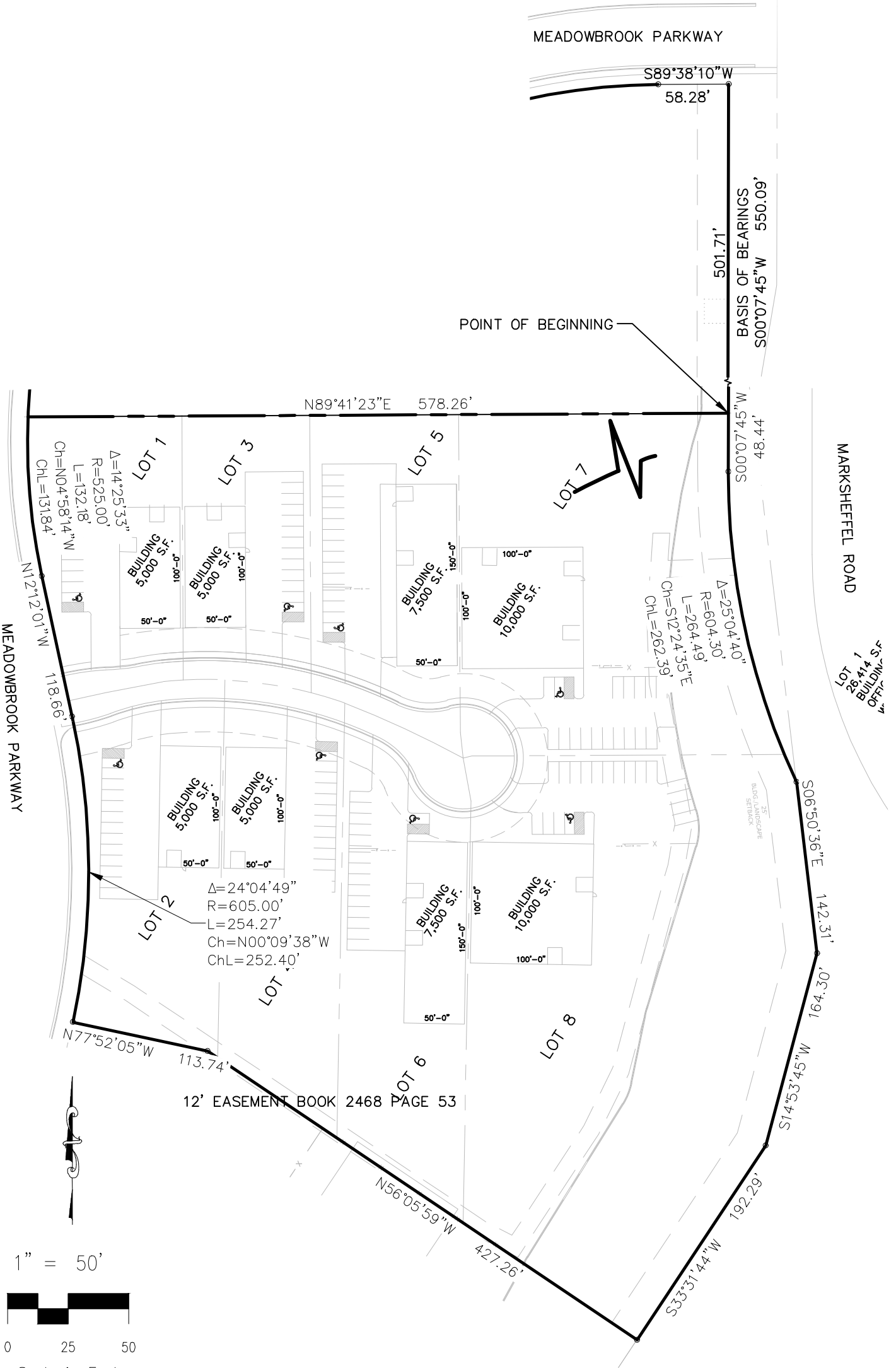
SAID PARCEL CONTAINS A CALCULATED AREA OF 365,492 SQUARE FEET (8.390 ACRES) MORE OR LESS.

PREPARED BY:

VERNON P. TAYLOR, COLORADO PLS NO. 25966
FOR AND ON BEHALF OF M&S CIVIL CONSULTANTS, INC.
102 E. PIKES PEAK AVE. #500
COLORADO SPRINGS, COLORADO 80901
719-955-5485



LEGAL DESCRIPTION SKETCH
FUTURE PLAT



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



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COLORADO SPRINGS, CO 80903
PHONE: 719.955.5485