

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 Creekside South at Lorson Ranch (“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. _____, 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 _____, issued by _____ in the amount of \$ _____ 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

Planning and Community Development Department

Approved as to Content and Form:

Assistant County Attorney

Exhibit A: Legal Description

CREEKSIDE SOUTH BOUNDARY LEGAL DESCRIPTION (64.257 ACRES)

A PARCEL OF LAND IN THE NORTH HALF (N1/2) OF SECTION 23, T15S, R65W OF THE 6th P.M., EL PASO COUNTY, COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING:

THE EAST-WEST CENTERLINE OF SAID SECTION 23 BEING MONUMENTED AT THE WEST QUARTER CORNER OF SAID SECTION WITH A FOUND NO. 6 REBAR, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 23 MONUMENTED WITH AN ALUMINUM CAP STAMPED "PLS NO. 31161", BEARS N89°41'54"E A DISTANCE OF 5319.46 FEET, TO WHICH LINE ALL BEARINGS IN THIS LEGAL DESCRIPTION ARE RELATIVE;

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 23;
THENCE N89°41'54"E ALONG THE CENTERLINE OF SAID SECTION 892.24 FEET TO THE SOUTHEAST CORNER OF "CREEKSIDE AT LORSON RANCH FILING NO. 1" AS RECORDED UNDER RECEPTION NO. _____, IN THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF "CREEKSIDE AT LORSON RANCH FILING NO. 1" THE FOLLOWING TWENTY-TWO (22) COURSES;

- 1) THENCE N36°43'29"E A DISTANCE OF 311.41 FEET;
- 2) THENCE N28°55'26"E A DISTANCE OF 265.02 FEET;
- 3) THENCE S77°01'58"E A DISTANCE OF 350.83 FEET;
- 4) THENCE N83°30'09"E A DISTANCE OF 446.06 FEET;
- 5) THENCE N16°26'24"E A DISTANCE OF 116.82 FEET TO A POINT OF CURVE;
- 6) THENCE 281.40 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 215.00 FEET, A CENTRAL ANGLE OF 74°59'26", THE CHORD OF 261.74 FEET BEARS N53°56'07"E TO A POINT OF TANGENT
- 7) THENCE S88°34'10"E A DISTANCE OF 160.16 FEET;
- 8) THENCE S44°43'03"E A DISTANCE OF 230.04 FEET;
- 9) THENCE S65°32'01"E A DISTANCE OF 188.46 FEET;
- 10) THENCE N85°20'33"E A DISTANCE OF 169.20 FEET;
- 11) THENCE N17°08'25"E A DISTANCE OF 123.42 FEET;
- 12) THENCE N60°55'25"E A DISTANCE OF 219.41 FEET;
- 13) THENCE N77°50'20"E A DISTANCE OF 405.01 FEET;
- 14) THENCE S82°16'06"E A DISTANCE OF 188.62 FEET;
- 15) THENCE N76°28'55"E A DISTANCE OF 247.86 FEET;
- 16) THENCE N31°05'09"E A DISTANCE OF 90.00 FEET;
- 17) THENCE N58°54'51"W A DISTANCE OF 4.71 FEET;
- 18) THENCE N31°55'05"E A DISTANCE OF 182.34 FEET;
- 19) THENCE N11°17'09"E A DISTANCE OF 285.14 FEET;
- 20) THENCE N00°29'43"E A DISTANCE OF 173.06 FEET;
- 21) THENCE N11°46'57"E A DISTANCE OF 127.69 FEET;
- 22) THENCE N21°18'01"E A DISTANCE OF 20.20 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF LORSON BOULEVARD AS SHOWN IN THE PLAT OF " LORSON RANCH EAST FILING NO. 1" AS RECORDED UNDER RECEPTION NO. 219714288 IN THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES:

- 1) THENCE S86°49'28"E A DISTANCE OF 128.25 FEET;

- 2) THENCE N89°35'58"EA DISTANCE OF 125.90 FEET;
- 3) THENCE S47°05'26"E A DISTANCE OF 38.26 FEET;
- 4) THENCE S00°24'02"E A DISTANCE OF 38.12 FEET TO A POINT ON THE WEST LINE OF THAT PARCEL DESCRIBED IN A WARRANTY DEED UNDER RECEPTION NO. 217154370 IN THE EL PASO COUNTY RECORDS;

THENCE ALONG THE WEST LINES OF SAID PARCEL THE FOLLOWING FOUR (4) COURSES;

- 1) THENCE S00°24'02"E A DISTANCE OF 429.71 FEET TO A POINT OF CURVE;
- 2) THENCE 538.03 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 595.00 FEET, A CENTRAL ANGLE OF 51°48'35", THE CHORD OF 519.88 FEET BEARS S26°18'20"E TO A POINT OF TANGENT;
- 3) THENCE S52°12'37"E A DISTANCE OF 365.17 FEET TO A POINT ON A TANGENT CURVE;
- 4) THENCE 160.11 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 780.00 FEET, A CENTRAL ANGLE OF 11°45'39", THE CHORD OF 159.83 FEET BEARS S58°05'27"E TO THE WEST LINE OF THAT EASEMENT DESCRIBED IN BOOK 2665 AT PAGE 715 OF THE EL PASO COUNTY RECORDS;

THENCE S38°22'41"W ALONG SAID EASEMENT LINE 250.28 FEET;

THENCE S00°19'53"E ALONG SAID EASEMENT LINE 168.88 FEET TO THE EAST-WEST CENTERLINE OF SECTION 23;

THENCE S89°41'54"W ALONG SAID CENTERLINE 4073.30 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS A CALCULATED AREA OF 2,799,021 Sq. Ft. (64.257 ACRES MORE OR LESS).

PREPARED BY:

VERNON P. TAYLOR, COLORADO PLS NO. 25966 DATE
FOR AND ON BEHALF OF M&S CIVIL CONSULTANTS, INC