

PRE-SUBDIVISION SITE GRADING ACKNOWLEDGEMENT  
AND RIGHT OF ACCESS FORM

The undersigned (“Applicant”) owns and holds legal title to the real property to be known as **FALCON MEADOWS AT BENT GRASS FILING NO. 2** (“Property”), which Property is legally described on Exhibit A attached hereto and incorporated herein by this reference.

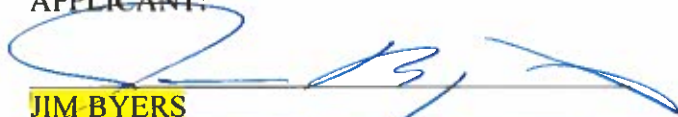
Applicant seeks approval for Pre-Subdivision Site Grading under Section 6.2.6 of the El Paso County Land Development Code. As a condition of approval and issuance of Construction Permit No. \_\_\_\_\_, Applicant must complete and submit this Pre-Subdivision Site Grading Acknowledgement and Right of Access Form. 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 preliminary plan or final plat, including any associated construction drawings, for the Property. Applicant proceeds 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-Subdivision Site Grading approval shall execute their own Pre-Subdivision Site Grading Acknowledgement and Right of Access Form, obtain their own Construction Permit, and provide an updated Financial Assurance Estimate and replacement surety.
3. Applicant hereby grants to El Paso County, its employees, agents, contractors, and/or subcontractors the right of 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;
  - b. To inspect and investigate for completion of grading activities and soil stabilization requirements;
  - c. In the event of noncompliance with either of the above, to identify deficiencies, which may result in issuance of a Letter of Noncompliance describing 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 surety provided and perform the work in order to correct said deficiencies pursuant to ECM Section 1.6.1.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 1.4.1C, Applicant is obligated to provide surety 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. Surety shall be in the form of cash, Certified or Cashier's Check, or letter of credit.
6. Applicant is responsible for providing any renewals of surety to ensure that there is never a lapse in security coverage. Applicant shall procure renewal/extension/replacement surety at least fifteen (15) days prior to the expiration of the surety then in effect. Failure to procure renewal/extension/replacement surety within this time limit shall allow the County to execute on the surety.
7. All of the 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 surety 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. Failure to meet the original or extended completion date, as applicable, shall allow the County to execute on the surety.

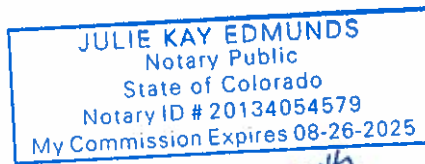
IN WITNESS WHEREOF, the Applicant hereby executes this Pre-Subdivision Site Grading Acknowledgement and Right of Access Form this 8<sup>th</sup> day of February, 2022

APPLICANT:



**JIM BYERS**  
**(VP OF COMMUNITY DEVELOPMENT OF CHALLENGER COMMUNITIES, LLC)**

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



The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of February, 2022, by Jim Byers.

Witness my hand and official seal.

My commission expires: 8.26.2025

  
Notary Public

Craig Dossey, Executive Director  
Planning and Community Development Department

Date

Approved as to Content and Form:

Assistant County Attorney

EXHIBIT A – “PROPERTY” LEGAL DESCRIPTION

A PORTION OF TRACT G, BENT GRASS RESIDENTIAL FILING NO. 2, AND A PORTION OF THE WEST HALF OF SECTION 1, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, TOGETHER MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: ALL BEARINGS ARE GRID BEARINGS OF THE COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983. THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1 BEARS  $N00^{\circ}13'46''W$ , MONUMENTED BY THE SOUTHWEST CORNER OF SAID SECTION 1, BEING A 2-1/2 INCH ALUMINUM CAP IN RANGE BOX STAMPED "PLS 17664", AND BY THE WEST QUARTER CORNER OF SAID SECTION 1, BEING A 2" ALUMINUM CAP STAMPED "PLS 28651", WITH ALL BEARINGS HEREIN RELATIVE THERETO;

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 1;

THENCE WITH THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1,  $N00^{\circ}14'14''W$ , A DISTANCE OF 1,316.12 FEET TO THE NORTH SIXTEENTH CORNER OF SAID SECTION 1;

THENCE WITH THE NORTH LINE OF THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 1,  $N89^{\circ}36'34''E$ , A DISTANCE OF 1,207.60 FEET;

THENCE DEPARTING THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 1,  $S00^{\circ}24'55''W$ , A DISTANCE OF 135.43 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT THROUGH A DELTA ANGLE OF  $134^{\circ}24'55''$ , HAVING A RADIUS OF 55.00 FEET, AN ARC LENGTH OF 129.03 FEET, AND A CHORD BEARING  $S23^{\circ}17'58''E$ , A CHORD DISTANCE OF 101.41 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT;

THENCE WITH SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF  $44^{\circ}24'56''$ , HAVING A RADIUS OF 50.00 FEET, AN ARC LENGTH OF 38.76 FEET, AND A CHORD BEARING  $S21^{\circ}42'02''W$ , A CHORD DISTANCE OF 37.80 FEET;

THENCE  $S00^{\circ}30'26''E$ , A DISTANCE OF 271.08 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID NON-TANGENT CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF  $115^{\circ}24'50''$ , HAVING A RADIUS OF 55.00 FEET, AN ARC LENGTH OF 110.79 FEET, AND A CHORD BEARING  $S06^{\circ}49'35''E$ , A CHORD DISTANCE OF 92.99 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT;

THENCE WITH SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF  $48^{\circ}11'23''$ , HAVING A RADIUS OF 35.00 FEET, AN ARC LENGTH OF 29.44 FEET, AND WHOSE CHORD BEARS  $S26^{\circ}47'08''W$ , A CHORD DISTANCE OF 28.58 FEET;

THENCE  $S02^{\circ}41'25''W$ , A DISTANCE OF 48.65 FEET TO THE BEGINNING OF A CURVE TO THE LEFT;

THENCE WITH SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF  $03^{\circ}11'15''$ , HAVING A RADIUS OF 475.00 FEET, AN ARC LENGTH OF 26.42 FEET, AND WHOSE CHORD BEARS  $S01^{\circ}05'49''W$ , A CHORD DISTANCE OF 26.42 FEET;

THENCE  $S00^{\circ}29'48''E$ , A DISTANCE OF 15.55 FEET;

THENCE  $N90^{\circ}00'00''E$ , A DISTANCE OF 104.05 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT;

THENCE WITH SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 09°03'17", HAVING A RADIUS OF 227.00 FEET, AN ARC LENGTH OF 35.87 FEET, AND WHOSE CHORD BEARS N18°01'06"E, A CHORD DISTANCE OF 35.84 FEET TO A POINT OF REVERSE CURVE TO THE LEFT;

THENCE WITH SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 20°33'31", HAVING A RADIUS OF 133.00 FEET, AN ARC LENGTH OF 47.72 FEET, AND WHOSE CHORD BEARS N12°15'59"E, A CHORD DISTANCE OF 47.47 FEET;

THENCE N01°59'13"E, A DISTANCE OF 158.63 FEET;

THENCE N02°46'30"W, A DISTANCE OF 23.36 FEET TO A POINT ON THE EAST LINE OF SAID TRACT G;

THENCE WITH SAID EAST LINE OF SAID TRACT G, S07°25'43"E, A DISTANCE OF 64.83 FEET;

THENCE CONTINUING WITH SAID EAST LINE OF TRACT G, S12°15'03"E, A DISTANCE OF 78.86 FEET;

THENCE CONTINUING WITH SAID EAST LINE OF SAID TRACT G, S16°48'19"E, A DISTANCE OF 98.31 FEET;

THENCE CONTINUING WITH SAID EAST LINE OF SAID TRACT G, S04°47'47"W, A DISTANCE OF 94.40 FEET;

THENCE CONTINUING WITH SAID EAST LINE OF SAID TRACT G, S27°22'40"W, A DISTANCE OF 143.51 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF BENT GRASS MEADOWS DRIVE;

THENCE WITH SAID NORTH RIGHT OF WAY LINE, S89°30'12"W, A DISTANCE OF 191.33 FEET TO THE BEGINNING OF A CURVE TO THE LEFT;

THENCE CONTINUING WITH SAID NORTH RIGHT OF WAY LINE AND SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 65°45'45", HAVING A RADIUS OF 605.00 FEET, AN ARC LENGTH OF 694.40 FEET, AND WHOSE CHORD BEARS S56°37'18"W, A CHORD DISTANCE OF 656.91 FEET;

THENCE S23°44'26"W, A DISTANCE OF 247.83 FEET;

THENCE S89°46'14"W, A DISTANCE OF 493.96 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1;

THENCE WITH SAID WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 1, N00°13'46"W, A DISTANCE OF 205.35 FEET TO THE POINT OF BEGINNING.

CONTAINING 36.40 ACRES (1,585,416 SQUARE FEET), MORE OR LESS.