

PRE-DEVELOPMENT SITE GRADING ACKNOWLEDGEMENT
AND RIGHT OF ACCESS FORM

The undersigned (“Applicant”) owns and holds legal title to the real property to be known as Waterbury Filing No. 1 & 2 (“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 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 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 Form, 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. To the extent allowed by law, 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.
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. Failure to meet the original or extended completion date, as applicable, shall allow the County to execute on the collateral.

WATERBURY FILINGS 1 AND 2 PUD/PRELIMINARY PLAN

A PARCEL OF LAND BEING A PORTION OF SECTION 28, A PORTION OF SECTION 29, AND A PORTION SECTION 33, TOWNSHIP 12 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MONUMENTED AT EACH END BY A 3-1/4" ALUMINUM SURVEYOR'S CAP STAMPED "PSINC LS 30087" AND ASSUMED TO BEAR S89°47'04"E A DISTANCE OF 5,285.07 FEET.

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 15 AS PLATTED IN 4 WAY RANCH FILING NO. 1, RECORDED UNDER RECEPTION NO. 206712416, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING ON THE WESTERLY RIGHT OF WAY LINE OF STAPLETON DRIVE AS DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 212064636; THENCE N01°31'24"E, ON THE EASTERLY BOUNDARY OF SAID LOT 15 AND THE SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 5.63 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID STAPLETON ROAD SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE EASTERLY BOUNDARY OF SAID 4 WAY RANCH FILING NO. 1, THE FOLLOWING TWELVE (12) COURSES;

1. N01°31'24"E, A DISTANCE OF 230.23 FEET;
2. N01°58'45"E, A DISTANCE OF 267.96 FEET;
3. N38°56'07"E, A DISTANCE OF 145.18 FEET;
4. N28°06'29"W, A DISTANCE OF 415.84 FEET;
5. N40°37'02"W, A DISTANCE OF 70.00 FEET TO A POINT ON CURVE;
6. ON THE ARC OF CURVE TO THE LEFT WHOSE CENTER BEARS S40°37'02"E, HAVING A DELTA OF 02°07'07", A RADIUS OF 1,135.00 FEET, A DISTANCE OF 41.97 FEET TO A POINT ON CURVE;
7. N44°30'10"W, A DISTANCE OF 104.01 FEET TO A POINT OF CURVE;
8. ON THE ARC OF CURVE TO THE RIGHT, HAVING A DELTA OF 21°00'17", A RADIUS OF 565.00 FEET, A DISTANCE OF 207.13 FEET TO A POINT OF TANGENT;
9. N23°29'53"W, A DISTANCE OF 586.57 FEET TO A POINT OF CURVE;
10. ON THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 41°24'35", A RADIUS OF 40.00 FEET AND A DISTANCE OF 28.91 FEET TO A POINT OF REVERSE CURVE;
11. ON THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 98°17'54", A RADIUS OF 60.00 FEET, A DISTANCE OF 102.94 FEET TO A POINT ON CURVE;
12. N09°36'47"E, A DISTANCE OF 181.35 FEET;

THENCE S84°51'41"E, A DISTANCE OF 156.95 FEET, THENCE N81°05'30"E, A DISTANCE OF 114.50 FEET; THENCE N08°54'30"W, A DISTANCE OF 13.30 FEET TO A POINT OF CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 00°22'06", A RADIUS OF 475.00 FEET, A DISTANCE OF 3.05 FEET TO A POINT ON CURVE; THENCE N80°43'23"E, A DISTANCE OF 50.00 FEET; THENCE S88°55'30"E, A DISTANCE OF 118.82 FEET; THENCE S09°08'33"E, A DISTANCE OF 24.43 FEET; THENCE N89°59'53"E, A DISTANCE OF 125.65 FEET TO A POINT ON CURVE, THENCE ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N89°59'53"E, HAVING A DELTA OF 01°10'07", A RADIUS OF 225.00 FEET, A DISTANCE OF 4.59 FEET TO A POINT OF TANGENT; THENCE N01°10'00"E, A DISTANCE OF 22.47 FEET, THENCE S88°50'00"E, A DISTANCE OF 50.00 FEET; THENCE N89°55'04"E, A DISTANCE OF 152.16 FEET; THENCE N00°04'56"W, A DISTANCE OF 30.14 FEET; THENCE S88°15'00"E, A DISTANCE OF 201.01 FEET; THENCE S01°45'00"W, A DISTANCE OF 27.39 FEET; THENCE S88°35'57"E, A DISTANCE OF 70.97 FEET; THENCE

N68°36'47"E, A DISTANCE OF 62.85 FEET; THENCE N65°20'20"E, A DISTANCE OF 62.85 FEET; THENCE N62°03'54"E, A DISTANCE OF 62.85 FEET; THENCE N58°57'56"E, A DISTANCE OF 65.28 FEET; THENCE S32°58'22"E, A DISTANCE OF 124.73 FEET TO A POINT ON CURVE; THENCE ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N32°58'22"W, HAVING A DELTA OF 08°00'18", A RADIUS OF 1,225.00 FEET, A DISTANCE OF 171.15 FEET TO A POINT ON CURVE; THENCE S41°02'14"E, A DISTANCE OF 144.45 FEET; THENCE S34°05'25"E, A DISTANCE OF 72.65 FEET; THENCE S30°56'30"E, A DISTANCE OF 81.87 FEET; THENCE S21°08'32"E, A DISTANCE OF 89.56 FEET; THENCE S19°08'47"E, A DISTANCE OF 73.79 FEET; THENCE S03°18'02"W, A DISTANCE OF 205.74 FEET; THENCE S17°29'03"E, A DISTANCE OF 124.83 FEET; THENCE S16°09'50"E, A DISTANCE OF 50.00 FEET; THENCE S16°07'17"E, A DISTANCE OF 73.88 FEET; THENCE S27°50'37"E, A DISTANCE OF 65.16 FEET; THENCE S25°07'25"E, A DISTANCE OF 66.02 FEET; THENCE S22°21'31"E, A DISTANCE OF 66.20 FEET; THENCE S19°54'11"E, A DISTANCE OF 51.22 FEET; THENCE S16°26'35"E, A DISTANCE OF 114.20 FEET; THENCE S21°00'38"E, A DISTANCE OF 85.08 FEET TO A POINT ON THE BOUNDARY LINE OF THE PARCEL DESCRIBED IN THE WARRANTY DEED RECORDED UNDER RECEPTION NUMBER 214007733, RECORDS OF EL PASO COUNTY, COLORADO; THENCE S00°00'00"E ON SAID BOUNDARY LINE, A DISTANCE OF 472.54 FEET TO A POINT ON CURVE, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF STAPLETON DRIVE AS DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 212064636; THENCE ON SAID RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1. ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S00°23'33"W, HAVING A DELTA OF 26°14'01", A RADIUS OF 1,405.00 FEET, A DISTANCE OF 643.30 FEET TO A POINT OF TANGENT,
2. S64°09'32"W, A DISTANCE OF 777.32 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 2,694,934 SQUARE FEET OR 61.867 ACRES.