

117-2016

# CERTIFIED COPY OF ORDER

STATE OF MISSOURI



ea.

March Session of the January Adjourned

Term. 20 16

County of Boone

In the County Commission of said county, on the

8<sup>th</sup>

day of

March

20

16

the following, among other proceedings, were had, viz:

Now on this day the County Commission of the County of Boone does hereby approve the attached Development Agreement between Boone County and East 280 LLC.

The terms of the Agreement are stipulated in the attached Agreement. It is further ordered the Presiding Commissioner is hereby authorized to sign said Development Agreement.

Done this 8th day of March, 2016.

ATTEST:

Wendy S. Noren  
Clerk of the County Commission

Daniel K. Atwill  
Presiding Commissioner

Karen M. Miller  
District I Commissioner

Janet M. Thompson  
District II Commissioner

## DEVELOPMENT AGREEMENT

THIS AGREEMENT is made by and between Boone County, Missouri, a first class county and political subdivision of the State of Missouri, acting by and through its County Commission (referred to as "County") and East 280 LLC, a Missouri Limited Liability Company (referred to as "Developer").

WHEREAS, Developer owns real property commonly described as the Bleu patio property, also known as the east half of Lot 280 in the original town, now City of Columbia, as shown in the Plat of the Town of Columbia recorded in Plat Book 1, Page 335, Boone County Records; and

WHEREAS, County owns the west half of Lot 280 and several adjoining parcels as part of the Boone County Courthouse plaza and the Boone County Government Center; and

WHEREAS, Developer and County wish to enter into certain agreements and understandings that will allow Developer to build an aesthetically-pleasing, 5-story building that is 62' in height on the western side of the structure (72' on the eastern side of the structure), which has its primary entrance on the western side of the structure onto the courthouse plaza; and

WHEREAS, the planned construction requires certain permanent easements be granted by County to Developer for airspace for the contemplated building overhang and for access; and

WHEREAS, the planned construction required certain temporary easements and temporary licenses be granted by County to Developer for construction activities and the protection of pedestrian traffic on the courthouse plaza during the construction of the building; and

WHEREAS, the planned construction also requires the parties to reach certain agreements relating to the demolition of the "forever fountain" that is currently a planter that runs along the property line between the east and west half of Lot 280, the dismantling and reinstalling of the "blocks of time" along said "forever fountain" into a new installation that is acceptable to County as well as the installation of replacement plantings complimentary to those in the courthouse plaza;

NOW, THEREFORE, in light of the above understandings, the parties agree to the following:

1. Building Design. Developer agrees to build a new building the height of which at the highest occupiable floor will not exceed sixty-five feet (65'), and which has its primary entrance on the western side of the structure onto the courthouse plaza. The building will be a 5-story building on the Walnut Street / south side of the structure, with a roof-top deck having enclosed spaces, a basement or lower level with exterior access on the alley running along the north side of the building (and the south side of the County Government Center), with the main entrance on the west side generally facing the Boone County Courthouse. The building contemplated herein is depicted in the conceptual drawing attached hereto as **Exhibit A**, the west entry as shown on **Exhibit B**, and will have the profile impact shown in the shade study attached hereto as **Exhibit C**.
2. Temporary Construction Easement. County agrees to grant Developer an Temporary Construction Easement (TCE) for a period of time that runs through **January 1, 2018**. The TCE will run along the lot line between the east half and the west half of Lot 280 and will extend twenty feet (20') into the west half of lot 280. Said TCE can not be used for storage of materials or parking of equipment. The form and description of the TCE is attached hereto as **Exhibit D** and incorporated herein.
3. Airspace Overhang Easement. County agrees to grant Developer an Airspace Overhang Easement, both the form and description of which is attached hereto as **Exhibit E** and incorporated herein.
4. Access Easement. County agrees to grant Developer a permanent Access Easement to facilitate the Developer's building entrance onto the courthouse plaza as generally depicted on Exhibit B. The form of said Easement shall be agreed upon by the parties after the construction of the entrance is completed so that a precise, as-built description can be drafted by a land surveyor licensed to do business in Missouri describing of the minimum necessary access easement onto the County-owned west half of lot 280 of the original Town of Columbia to accommodate the building entrance.
5. Construction Staging / Construction Plan. Developer agrees to stage construction in a

manner that does not involve the overnight storage of equipment or material in any areas granted by County in any easement referred to in this Agreement. Developer's construction staging area will be off of County property. The Developer agrees to commence construction activities on or before the 1<sup>st</sup> day of May, 2016, and plans to reach substantial completion, weather-permitting, on or before the 1st day of January, 2018.

6. Protection of Pedestrians / Courthouse Plaza to be kept open. The courthouse plaza will be kept open for pedestrian traffic during Developer's construction activity. If it is determined that scaffolding and overhead protection is necessary in order to protect pedestrian traffic using the courthouse plaza immediately adjacent to the area of the Temporary Construction Easement, Developer agrees to obtain from County a temporary license to erect such scaffolding and overhead protection for pedestrian traffic by making application through the County Commission office, with notification to the Boone County Facilities Maintenance Department. Developer will provide such information as is reasonably required, including a diagram of the proposed, impacted area on GIS photos of the plaza, and appear at the scheduled County Commission meeting to answer any questions. The nature and extent of any temporary license granted by the County Commission shall be detailed in the Commission Order approving Developer's application for use of County facilities.
7. Forever Fountain / Blocks of Time / Green Space / Plantings. Developer's construction activities will require the demolition of the "forever fountain" that runs along the lot line between the east and west half of Lot 280, including the removal of the existing plantings and the commemorative "blocks of time" that are affixed to the same. Developer's construction activities will also impact the existing grass areas within the Temporary Construction Easement granted herein, and will require new concrete sidewalk seams be constructed between Developer's building and the existing courthouse plaza sidewalks. As such, the parties specifically agree to the following:
  - a. Developer will demolish the "forever fountain" at Developer's cost and restore the ground to a condition suitable for the other purposes contemplated herein.

- b. Developer will remove or otherwise restore the existing “blocks of time” from the forever fountain into a new installation to be located within the area of the Access Easement or such other location on the courthouse plaza as agreed to by County. Developer’s new installation design, the location of said installation, and the method of affixing the relocated “blocks of time” shall all be agreed upon by the parties and approved by County in advance and in writing.
  - c. Developer shall place landscaping and plantings within the area of the Access Easement that are complimentary to those plantings that exist in the courthouse plaza. The landscaping design shall be approved by County in advance.
8. Restoration of Damaged Property. If Developer’s construction activities cause any damage to the concrete, plantings, irrigation system, or other areas of County’s property, after notice from County Developer shall restore said damaged property to its prior condition or better within a reasonable time and in a manner of repair agreed to by County.
9. Future Maintenance of Blocks of Time and Plantings. If Developer installs the relocated blocks of time, the plantings, and landscaping as contemplated in the plans to be agreed to in advance by County, then County will accept the plantings and blocks of time for future maintenance and the same shall become County property. Notwithstanding the foregoing, however, Developer shall provide a one-year warranty on the relocated blocks of time and the newly-installed plantings from the date of County’s acceptance of the same and, if any plants die during that one-year period or defects in workmanship become apparent in the relocated blocks of time, Developer shall arrange for the installation of a replacement plan or replacement block(s) of time within a reasonable time after notice from County.
10. Future Maintenance of Building. If Developer should require access to County property, including areas within the permanent Access Easement, for maintenance activities on Developer’s Building, Developer agrees to make application through the County Commission office, with notice to the Boone County Facilities Maintenance Department, for the temporary use of County facilities as is necessary for Developer’s contemplated

activities. This process will ensure coordination with other public uses of the courthouse plaza as well as County-planned maintenance activities. Permission granted by the County will be evidenced by a Commission Order approving Developer's application, and the nature and extent of any temporary license granted by the County Commission shall be detailed in the Commission Order approving Developer's application for use of County facilities.

11. Survival of Agreement Terms. The duties and obligations of the parties imposed by the terms of this agreement shall survive the delivery and acceptance of the deeds contemplated herein.
12. Authority of Signatories. Each person signing this agreement in a representative capacity on behalf of the parties of this agreement hereby affirmatively represents that all orders, ordinances, or resolutions necessary to bind each respective party to the terms and conditions of this agreement have been duly passed or enacted and that each such signatory is fully empowered and duly authorized to execute this agreement on behalf of the party represented.
13. Binding Effect. This agreement shall be binding upon and inure to the benefit of the parties hereto for so long as this agreement remains in full force and effect.

**IN WITNESS WHEREOF**, the individual parties constituting and representing the County and Developer, through their duly authorized representative signatories have executed this Agreement on the day and year indicated below.

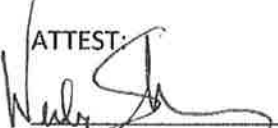
Executed by County on the 8<sup>th</sup> day of March, 2016.

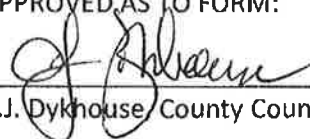
Executed by Developer on the 16<sup>th</sup> day of FEBRUARY, 2016.

**BOONE COUNTY, MISSOURI**

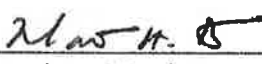
Through Its County Commission

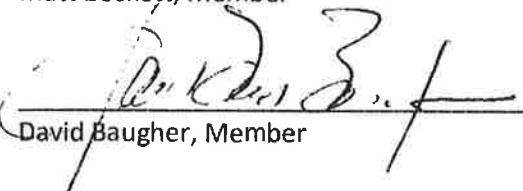
By:   
Daniel K. Atwill, Presiding Commissioner

ATTEST:  
  
Wendy S. Noren, County Clerk

APPROVED AS TO FORM:  
  
C.J. Dykhouse, County Counselor

**EAST 280 LLC**

By:   
Matt Beckett, Member

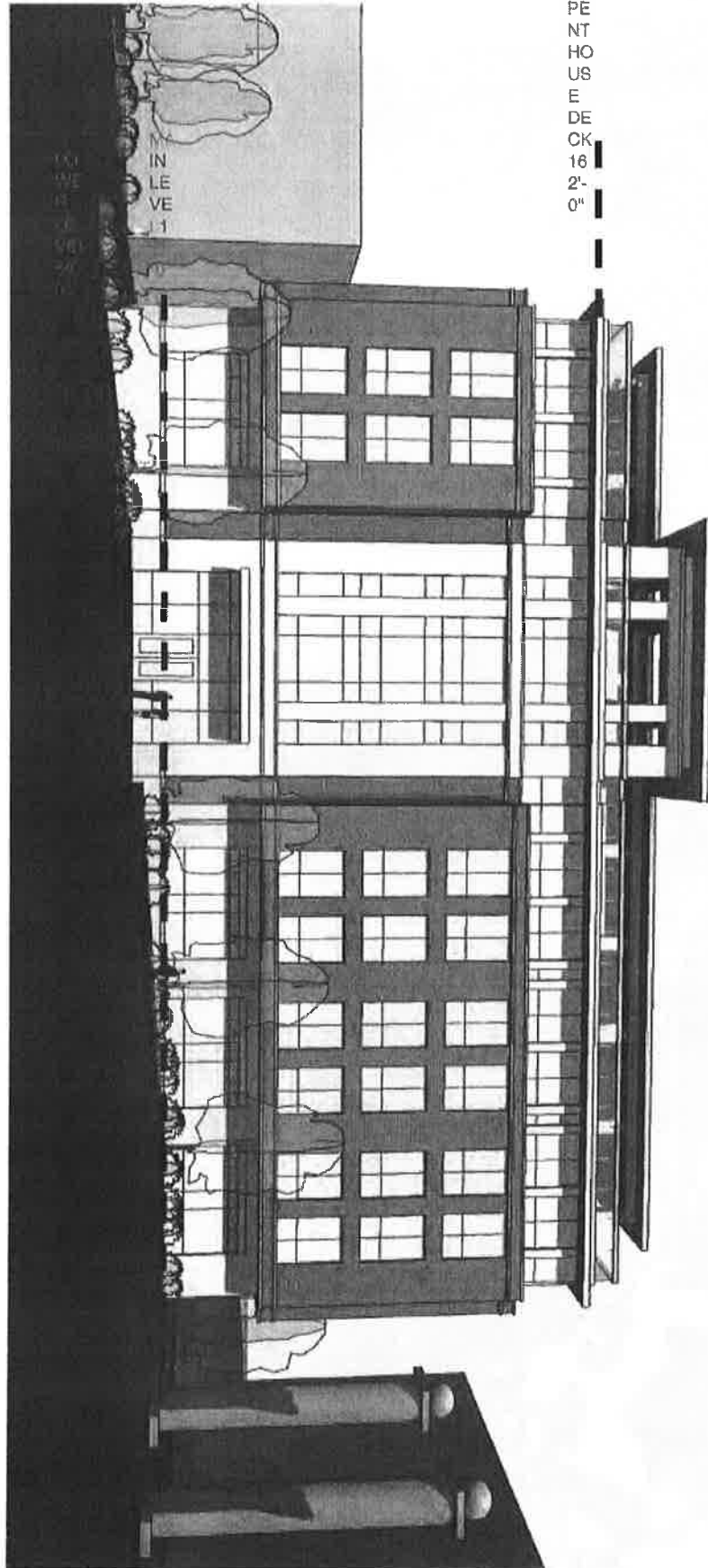
  
David Baugher, Member

## **EXHIBITS**

- **Exhibit A – Conceptual Building Drawings**
- **Exhibit B – West Entry Plan Drawing**
- **Exhibit C – Shade Study**
- **Exhibit D – Temporary Construction Easement form and description**
- **Exhibit E – Airspace Overhang Easement form and description**



Exhibit A



PENTHOUSE DECK  
16'-2'-0"



Exhibit C



**WALNUT PROFESSIONAL BUILDING: SHADE STUDY**

9/21/2015

Building without shade (for reference)



March 1, 10:00am



March 1, 1:00pm



March 1, 4:00pm



April 1, 10:00am



April 1, 1:00pm



April 1, 4:00pm



May 1, 10:00am



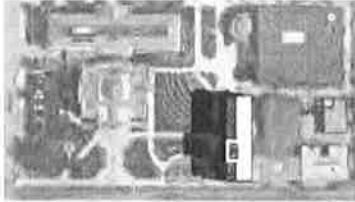
May 1, 1:00pm



May 1, 4:00pm



June 1, 10:00am



June 1, 1:00pm



June 1, 4:00pm



July 1, 10:00am



July 1, 1:00pm



July 1, 4:00pm



August 1, 10:00am



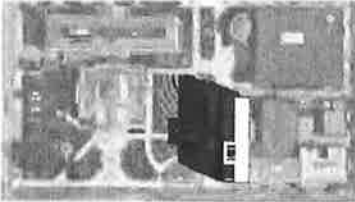
August 1, 1:00pm



August 1, 4:00pm



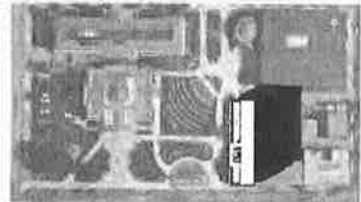
September 1, 10:00am



September 1, 1:00pm



September 1, 4:00pm



October 1, 10:00am



October 1, 1:00pm



October 1, 4:00pm



Exhibit D

TEMPORARY CONSTRUCTION EASEMENT

THIS temporary construction easement entered into this 8<sup>th</sup> day of March, 2016 by and between the County of Boone, State of Missouri, a Missouri political subdivision, Grantor, and East 280 LLC, a Missouri limited liability company, Grantee; Grantee's mailing address is 2409 Marietta Falls Lane, Columbia, MO 65203;

WITNESSETH:

That the Grantor, in consideration of the sum of Ten Dollars (\$10.00), in hand paid by Grantee, the receipt of which is hereby acknowledged, does hereby grant unto the Grantee, a temporary easement and right-of-way to be in effect during the time of construction of a building on the east-half of Lot 280 in the original town now City of Columbia, Missouri (the "Project") for the following purposes: to provide access to said construction Project by granting the right to enter upon, remove improvements, and operate equipment on, over and across the right-of-way hereinafter described, but shall not include the storing of materials or parking of idle equipment, which is located within the boundaries of a parcel of land situated in the County of Boone and State of Missouri and described as follows:

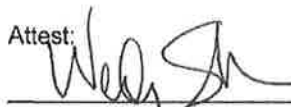
See attached Exhibit A.

TO HAVE AND TO HOLD said temporary construction easement and right-of-way unto the Grantee and to its successors and assigns during the period of construction of the Project. Said easement shall cease within one year of issuance of a certificate of occupancy for the completed construction Project by the City of Columbia, Missouri, or by January 1, 2018, whichever first occurs.

The Grantor covenants that it has the right and authority to make and execute this agreement.

County of Boone, State of Missouri

By:   
Daniel K. Atwill, Presiding Commissioner

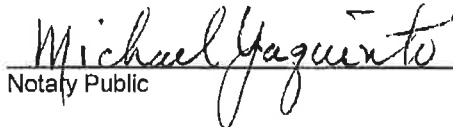
Attest:   
Wendy S. Noren, County Clerk

STATE OF MISSOURI )  
 )ss.  
COUNTY OF BOONE )

On this 8<sup>th</sup> day of March, 2016, before me, a Notary Public in and for said state, personally appeared Daniel K. Atwill, known to me to be the person described in and who executed the foregoing instrument, who being by me duly sworn, acknowledged that he executed the same as Presiding Commissioner of the County of Boone, State of Missouri, as an authorized signatory of the County Commission, for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal.

**MICHAEL YAQUINTO**  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires September 9, 2017  
Commission #12524500

  
Notary Public

STATE OF MISSOURI )  
 )ss.  
COUNTY OF BOONE )

On this 8<sup>th</sup> day of March, 2016, before me, a Notary Public in and for said state, personally appeared Wendy S. Noren, known to me to be the person described in and who executed the foregoing instrument, who being by me duly sworn, acknowledged that he executed the same as County Clerk of the County of Boone, State of Missouri, as authorized by official action of the County Commission, for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal.

**DIANE K. BUCHMANN**  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires May 30, 2019  
Commission #15549819

  
Notary Public

Exhibit A

DESCRIPTION FOR INGRESS/EGRESS & TEMPORARY CONSTRUCTION EASEMENT  
FOR: EAST 280 LLC  
JOB #160014

JANUARY 19, 2016

A STRIP OF LAND LOCATED IN THE SECTION 12, TOWNSHIP 48 NORTH, RANGE 13 WEST, COLUMBIA, BOONE COUNTY, MISSOURI AND BEING PART OF THE LAND DESCRIBED BY THE QUIT-CLAIM DEED RECORDED IN BOOK 1043, PAGE 369, AND BEING PART OF LOT 280, AS SHOWN BY THE PLAT OF THE ORIGINAL TOWN OF COLUMBIA, RECORDED IN PLAT BOOK A, PAGE 335 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE WEST HALF OF SAID LOT 280, AND WITH THE EAST LINE THEREOF, SAID STRIP BEING 20.00 FEET WIDE AND LEFT OF AND ADJACENT TO THE FOLLOWING DESCRIBED LINE, N 0°20'25"W, 157.50 FEET TO THE END OF THIS DESCRIBED LINE.

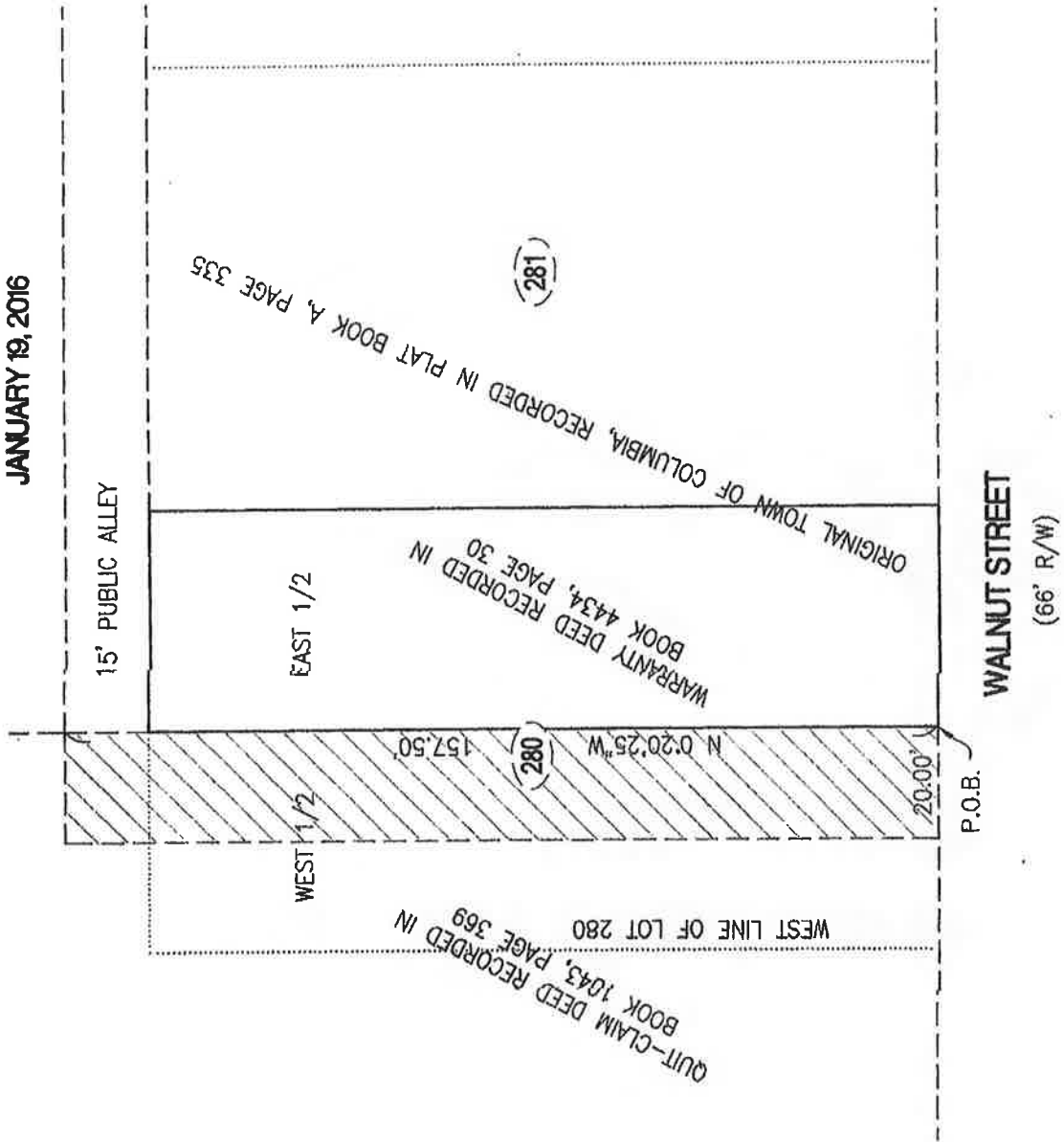
  
\_\_\_\_\_  
DAVID T. BUTCHER, PLS-2002014095

1/19/2016  
DATE



# EAST 280 LLC

INGRESS/EGRESS & TEMPORARY  
CONSTRUCTION EASEMENT EXHIBIT  
JANUARY 19, 2016



SCALE: 1"=30'



PREPARED BY:

## CROCKETT

ENGINEERING CONSULTANTS

2608 North Stadium Boulevard  
Columbia, Missouri 65202  
(314) 447-0292

[www.crockettengineering.com](http://www.crockettengineering.com)



Exhibit E

AIRSPACE OVERHANG EASEMENT

THIS Airspace Overhang Easement entered into this 8<sup>th</sup> day of March, 2016 by and between the County of Boone, State of Missouri, a Missouri political subdivision, Grantor, and East 280 LLC, a Missouri limited liability company, Grantee;

Grantee's mailing address is 2409 Marietta Falls Lane, Columbia, MO 65203;

WITNESSETH:

That the Grantor, in consideration of the sum of Ten Dollars (\$10.00), in hand paid by Grantee, the receipt of which is hereby acknowledged, does hereby grant unto the Grantee, a perpetual overhang easement for the purpose of constructing a building (the "Building") on the east-half of Lot 280 in the original town now City of Columbia, Missouri (the "Benefitted Tract") which is constructed in a manner such that the second floor of the Building and all higher floors of the Building overhang and extend into the airspace over the land of Grantor described below (the "County Land") which County Land is situated in the County of Boone and State of Missouri and described as follows:

A tract of land, located in Lot 280 Original Town (now City) of Columbia, Missouri and in the alley located north of, and adjoining said Lot 280, being part of the tract described by a quit claim deed recorded in book 1043 page 369, and further described as follows:

Beginning at the southeast corner of the west half of Lot 280 Original Town (now City) of Columbia, thence S 89°39'43"W, along the southerly line of said lot, 4.00 feet; thence leaving said line, N 0°20'23"W 146.50 feet; thence N 89°39'43"E 4.00 feet; thence S 0°20'23"E 4.00 feet to the northeast corner of the west half of Lot 280 Original Town (now City) of Columbia; thence S 0°20'23"E, along the east line of the west half of said lot, 142.50 feet to the beginning.

TO HAVE AND TO HOLD said permanent overhang easement unto the Grantee and to its successors and assigns for the benefit of Grantee and Grantee's successors in title to the Benefitted Tract. Said easement shall be a perpetual easement appurtenant to title to the Benefitted Tract and binding upon the County Land and Grantor's successors in title to the County Land, regardless of whether mentioned in any future deeds or conveyances.

The Grantor covenants that if has the right and authority to make and execute this agreement.



# CERTIFIED COPY OF ORDER

STATE OF MISSOURI }  
County of Boone } ea.

December Session of the October Adjourned

Term. 20 16

In the County Commission of said county, on the 29th day of December 20 16

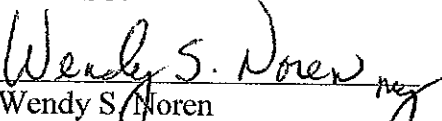
the following, among other proceedings, were had, viz:

Now on this day the County Commission of the County of Boone does hereby approve the attached Contract Amendment Number One to Development Agreement originally approved on Commission Order 117-2016 between Boone County and East 280 LLC.

The terms of the amendment are stipulated in the attached Amendment. It is further ordered the Presiding Commissioner is hereby authorized to sign said Contract Amendment Number One to Development Agreement.

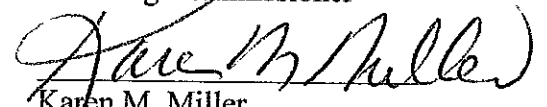
Done this 29<sup>th</sup> day of December, 2016.

ATTEST:

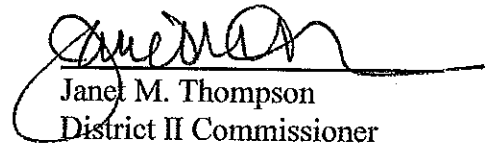
  
Wendy S. Noren  
Clerk of the County Commission



Daniel K. Atwill  
Presiding Commissioner



Karen M. Miller  
District I Commissioner



Janet M. Thompson  
District II Commissioner

**CONTRACT AMENDMENT NUMBER ONE  
TO DEVELOPMENT AGREEMENT**

The **Development Agreement** dated March 8, 2016, and approved in Boone County Commission Order 117-2016, made by and between **Boone County, Missouri** and **East 280 LLC**, for and in consideration of the performance of the respective obligations of the parties set forth herein, is amended as follows:

1. Amending the Temporary Construction Easement to allow access through January 1, 2019; and
2. Amending paragraph #5 to indicate that construction will commence on or before March 31, 2017, with a planned substantial completion on or before January 1, 2019.
3. Except as specifically amended hereunder, all other terms, conditions and provisions of the original agreement shall remain in full force and effect.

**IN WITNESS WHEREOF** the parties through their duly authorized representatives have executed this agreement on the day and year first above written.

**EAST 280, LLC**

Matt A. B  
Matt Beckett, Member

David Baugher  
David Baugher, Member

**BOONE COUNTY, MISSOURI**

by: Boone County Commission  
Daniel K. Atwill  
Daniel K. Atwill, Presiding Commissioner

ATTEST:  
Wendy S. Noren  
Wendy S. Noren, County Clerk

APPROVED AS TO FORM:

J. Dykhouse  
J. Dykhouse, County Counselor



Recorded in Boone County, Missouri

Date and Time: 01/09/2017 at 03:51:38 PM

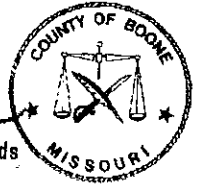
Instrument #: 2017000524 Book: 4701 Page: 78

Instrument Type: ESMT

Recording Fee: \$33.00 S

No. of Pages: 4

*Nora Dietzel*  
Nora Dietzel, Recorder of Deeds



**TEMPORARY CONSTRUCTION EASEMENT**

THIS temporary construction easement entered into this 29<sup>th</sup> day of December, 2016 by and between the County of Boone, State of Missouri, a Missouri political subdivision, Grantor, and East 280 LLC, a Missouri limited liability company, Grantee; Grantee's mailing address is 2409 Marietta Falls Lane, Columbia, MO 65203;

WITNESSETH:

That the Grantor, in consideration of the sum of Ten Dollars (\$10.00), in hand paid by Grantee, the receipt of which is hereby acknowledged, does hereby grant unto the Grantee, a temporary easement and right-of-way to be in effect during the time of construction of a building on the east-half of Lot 280 in the original town now City of Columbia, Missouri (the "Project") for the following purposes: to provide access to said construction Project by granting the right to enter upon, remove improvements, and operate equipment on, over and across the right-of-way hereinafter described, but shall **not** include the storing of materials or parking of idle equipment, which is located within the boundaries of a parcel of land situated in the County of Boone and State of Missouri and described as follows:

See attached Exhibit A.

TO HAVE AND TO HOLD said temporary construction easement and right-of-way unto the Grantee and to its successors and assigns during the period of construction of the Project. Said easement shall cease within one year of issuance of a certificate of occupancy for the completed construction Project by the City of Columbia, Missouri, or by **January 1, 2019**, whichever first occurs.

The Grantor covenants that if has the right and authority to make and execute this agreement.

County of Boone, State of Missouri

By:

*Daniel K. Atwill*  
\_\_\_\_\_

Daniel K. Atwill, Presiding Commissioner

Attest:

*Wendy S. Noren*  
\_\_\_\_\_

Wendy S. Noren, County Clerk

STATE OF MISSOURI )  
 )ss.  
COUNTY OF BOONE )

On this 29th day of December, 2016, before me, a Notary Public in and for said state, personally appeared Daniel K. Atwill, known to me to be the person described in and who executed the foregoing instrument, who being by me duly sworn, acknowledged that he executed the same as Presiding Commissioner of the County of Boone, State of Missouri, as an authorized signatory of the County Commission, for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal.

**MICHAEL YAQUINTO**  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires September 9, 2017  
Commission #13524500

*Michael Yaquinto*  
\_\_\_\_\_  
Notary Public

STATE OF MISSOURI )  
 )ss.  
COUNTY OF BOONE )

On this 4th day of January, 2017, before me, a Notary Public in and for said state, personally appeared Wendy S. Noren, known to me to be the person described in and who executed the foregoing instrument, who being by me duly sworn, acknowledged that he executed the same as County Clerk of the County of Boone, State of Missouri, as authorized by official action of the County Commission, for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal.

*Diane K. Buchmann*  
\_\_\_\_\_  
Notary Public

**DIANE K. BUCHMANN**  
Notary Public - Notary Seal  
State of Missouri  
County of Boone  
My Commission Expires May 30, 2019  
Commission #15549819

EXHIBIT A

DESCRIPTION FOR INGRESS/EGRESS & TEMPORARY CONSTRUCTION EASEMENT  
FOR: EAST 280 LLC  
JOB #160014

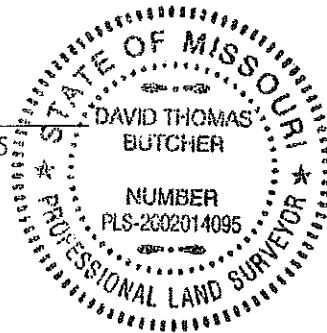
JANUARY 19, 2016

A STRIP OF LAND LOCATED IN THE SECTION 12, TOWNSHIP 48 NORTH, RANGE 13 WEST, COLUMBIA, BOONE COUNTY, MISSOURI AND BEING PART OF THE LAND DESCRIBED BY THE QUIT-CLAIM DEED RECORDED IN BOOK 1043, PAGE 369, AND BEING PART OF LOT 280, AS SHOWN BY THE PLAT OF THE ORIGINAL TOWN OF COLUMBIA, RECORDED IN PLAT BOOK A, PAGE 335 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE WEST HALF OF SAID LOT 280, AND WITH THE EAST LINE THEREOF, SAID STRIP BEING 20.00 FEET WIDE AND LEFT OF AND ADJACENT TO THE FOLLOWING DESCRIBED LINE, N 0°20'25"W, 157.50 FEET TO THE END OF THIS DESCRIBED LINE.

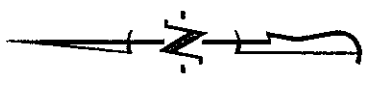
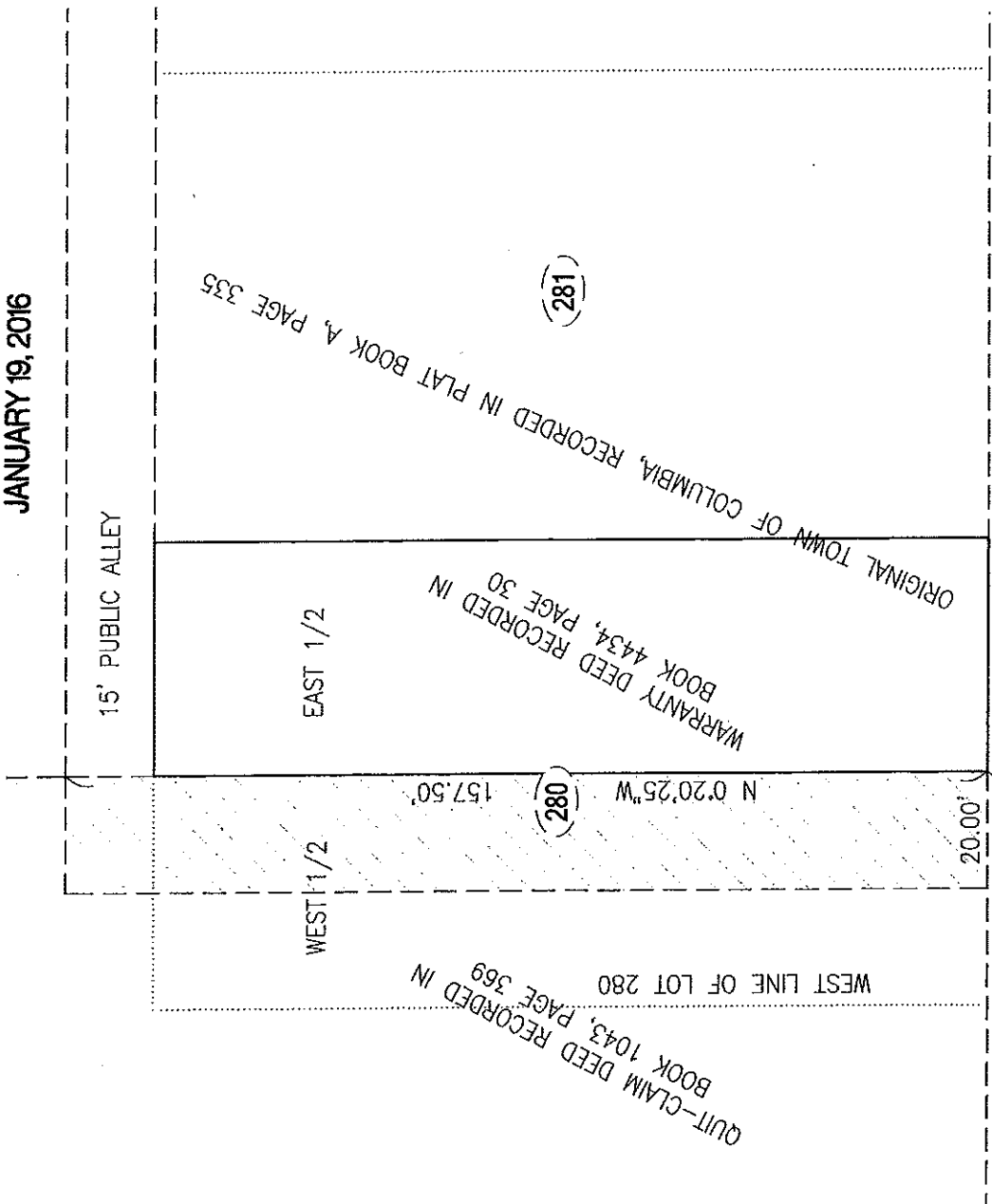
  
\_\_\_\_\_  
DAVID T. BUTCHER, PLS-2002014095

1/19/2016  
DATE



# EAST 280 LLC

INGRESS/EGRESS & TEMPORARY  
CONSTRUCTION EASEMENT EXHIBIT  
JANUARY 19, 2016



SCALE: 1"=30'



PREPARED BY:



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