

After Recording Return to:
City Clerk
City of Missoula
435 Ryman St.
Missoula, MT 59802

MUNICIPAL UTILITY EASEMENT

This Municipal Utility Easement, made this __ day of _____, 20__, is between [INSERT GRANTOR NAME HERE] (“Grantor”), [Insert Grantor Mailing Address Here], and the City of Missoula, a municipal corporation organized pursuant to the laws of the State of Montana (“Grantee”), 435 Ryman St, Missoula, MT 59802. Grantor owns property legally described as follows:

[Insert Legal Description] (“Property”)

Grantor, for good and valuable consideration, receipt of which is hereby acknowledged, hereby grants and conveys, subject to the conditions and covenants herein set forth, to the Grantee, a municipal utility easement (“Easement”) over, upon, under and across a portion of the Property described above. Said easement being more particularly described as follows:

[Easement Description or the description can be on Exhibit A] and being more particularly described and shown on Exhibit A, which is by this reference made a part hereof (“Easement Area”).

The parties to this easement agree that the above-described Easement shall be governed by the following terms, conditions, and restrictions:

- 1. Permanent Easement.** The Easement shall include the right, privilege, and authority of Grantee to:
 - A. Excavate for, and to construct, build, install, lay, patrol, operate, place, maintain, repair, replace, relocate, inspect, add to, and remove underground municipal utility infrastructure, along with all appurtenances incident thereto or necessary therewith, and make excavations therefor from time to time, in, under, and through the above-described premises within said Easement Area, and Grantee shall have the right to reasonable entry, access and temporary use of property immediately adjacent to said Easement for necessary activities related to constructing, maintaining, occupying, improving, repairing, and removing the municipal utility infrastructure and associated facilities located within the Easement Area.
 - B. Authorize third parties to access and use the Easement Area for the purpose of connecting to the municipal utility facility(s) located thereon.

- C. Remove from the Easement Area any vegetation, buildings, structures, fences, fill, or other materials or obstructions, or appurtenances attached to or connected therewith, for any reason; and
- D. The right of ingress and egress in, under, over, across, and through the Easement Area at any and all times for any purpose. Grantor shall at all times upon reasonable notice from Grantee remove any surface obstructions or open gates which would otherwise prevent ingress or egress by Grantee. Grantee shall not be responsible for costs associated with the removal or replacement of surface obstructions placed in the Easement Area by the Grantor.

2. Prohibited Activities. The Grantor is prohibited from engaging in any activity within the Easement Area, or use of the Easement Area, or allowing another to engage in or use the Easement Area, in any manner inconsistent with the purposes of this Easement or detrimental to the Grantee's use of the Easement, including but not limited to:

- A. Excavation or the placement of fill or material that would serve as an embankment in the Easement Area without the prior express written consent of Grantee.
- B. Placing, installing, or constructing any buildings, structures, fences, fill, trees, shrubs, or other materials or obstructions without the prior express written consent of Grantee. Planting of grass shall not require consent of the Grantee.

Should such written consent be given, Grantee will set forth the conditions under which such activity may take place, including a stipulation that all risks of damage to the utility infrastructure shall be assumed by Grantor, its successors, or assigns.

- 3. Restoration.** Grantee, upon the initial construction and upon each and every occasion that the Easement is used, shall restore the premises of Grantor, and any improvements disturbed by Grantee, to as good a condition as they were prior to any such installation or work, including the restoration of pavements, gravel areas, topsoil, and lawn.
- 4. Hazardous Substances.** Grantee assumes no liability for any hazardous waste on or from this Property. Grantor, its successors and assigns, shall indemnify and hold harmless the Grantee, its officers, employees, and agents against any and all liabilities, damages, penalties, losses, claims, demands, actions, suits, and judgments (including attorney fees and costs), and any costs or expenses incurred resulting from the presence of hazardous waste onto or from the Easement Area, including any and all costs associated with clean up or remediation that may be required. This provision shall not apply to a release of hazardous waste onto or from the Easement Area caused by the officers, employees, or agents of Grantee. Any action taken pursuant to this provision shall not constitute an admission of liability or waiver of any defenses to liability.
- 5. No Waiver or Abandonment of Grantee's Rights.** Failure of Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by the Grantor

shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver. No delay by or failure of Grantee to exercise its rights under this Easement shall be construed as abandonment of the Easement by Grantee.

6. Easement to Run with the Land. This Easement, and the covenants and agreements contained in this Easement, shall run with the land and inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors, and assigns of the respective parties.

7. Governing Law and Venue. The terms and conditions of this easement shall be governed by the laws of the State of Montana; and the venue for any dispute pertaining to this easement shall be in the Fourth Judicial District, Missoula County, Montana.

Dated this _____ day of _____, 20____.

[INSERT GRANTOR NAME HERE]

By: _____

Title: _____

This instrument was acknowledged before me on _____, 20____, by

_____ as _____ of
(Name) (Title)

_____.

Notary Signature

ACCEPTED ON BEHALF OF THE CITY OF MISSOULA BY:

Attest:

John Engen, Mayor

Martha L. Rehbein, CMC, City Clerk