

## PUBLIC ROADWAY EASEMENTS

This instrument made this 19 day of November, 2003, by and between Sinclair Living Trust, Grantor and the County of Missoula of the State of Montana, Grantee.

### WITNESSETH

Grantor being the lawful owner of Tracts 5 and 7 of Certificate of Survey No. 3176 located in the W½ of Section 12, Township 13 North, Range 20 West, P.M.M., over which the following public roadway easements cross, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby designate, grant and convey to Grantee, its successors and assigns public roadway easements over, under, along and across that certain real property located in Missoula County, Montana, and more particularly described as Parcels A, B and C on the attached Exhibit and by this reference incorporated into and made part of this instrument:

These public roadway easements hereby granted are specifically and expressly made subject to the following limitations and conditions:

- 1) Within 365 days from the date of this document, Grantee shall have a Certificate of Survey prepared and recorded that defines and monuments the final locations of the public roadway easements upon Grantor's land.
- 2) The Board of County Commissioners will vacate all Government Land Office ("G.L.O.") roads, "Petitioned" roads, "Journal" roads, and roads identified in County Road Book "I", across the previously cited lands owned by Grantor.
- 3) In using the public roadway easements, Grantee shall comply with all applicable laws, rules and regulations of any public authority relating to such use, and shall use reasonable care to safeguard Grantor's property from damage. Further, Grantee shall take such action as is reasonably necessary during construction and maintenance activities to control the propagation of noxious weeds from the public roadway easements onto Grantor's land immediately adjacent to the public roadway easement.
- 4) Grantee assumes risk of injury to persons and damage to property arising out of use or operations under these public roadway easements and shall indemnify and hold Grantor harmless from any loss, claim, damage or expense in any way resulting from Grantee's use of the public roadway easements, except to the extent such loss, damage or expense is caused or contributed to by Grantor's negligence.
- 5) Grantee shall keep Grantor's property free from liens arising in any manner out of Grantee's activities and shall promptly discharge any lien that may be asserted by third parties.
- 6) The public roadway easements herein granted are subject to all previously granted easements and rights-of-way for roads, ditches, pipelines, telephone, telegraphic and electric transmission lines as the same now may be constructed, and all other easements now in effect and relating to any portion of the easement area as above described. The parties intend that Grantee take and accept this conveyance subject to all prior easements and in case of conflict between the public roadway easements herein granted and previously granted



Missoula County Vickie M Zeier E

200403867

Page: 2 of 4

02/13/2004 08:26A

BK-726 Pg-569

easements, it shall be Grantee's obligation to obtain grants of possession or other appropriate releases from former grantees, or their successors in interest, or other affected third parties.

7) Grantee shall keep unimproved portions of these public roadway easements closed for motorized and/or non-motorized travel. Until portions of the public roadway easements are improved with a paved roadway and opened to use by the public, Grantor specifically reserves to itself, its respective agents, employees, contractors, successors and assigns, the right to cross over, on and upon unimproved portions of the above-described public roadway easements whenever in the usual course of Grantor's business it may become necessary, advisable, or convenient for Grantor, its respective agents, employees, contractors, successors and assigns to do so. That is, Grantor, for itself and its agents, employees, contractors, successors and assigns, reserves a temporary right of use over, on and across the public roadway easements herein conveyed over Grantor's property until roadways are improved, paved, and open to public use.

8) Grantee, its assigns, permittees and/or successors may place public utilities within these public roadway easements and may use these public roadway easements for access for the purpose of constructing, maintaining, improving, repairing, and removing public utilities and related improvements including, but not limited to, public sewer, public water, natural gas, buried electrical, buried telephone, and buried cable television. Grantee, its assigns, permittees and/or successors shall have the right at all times of reasonable access to said public roadway easement and to enter upon said public roadway easements for the purpose of constructing, maintaining, improving, repairing or removing public utilities and related appurtenances and shall have the right of reasonable entry upon and temporary use of the property immediately adjacent to said easements for necessary related activities, provided however, that Grantee, its assigns, permittees and/or successors shall make only such disturbances and excavations as is reasonably necessary for their related activities and that each time it is necessary to enter upon said public roadway easements or the property immediately adjacent thereto for the above-described purposes and activities, the surface of the property and improvements thereon shall be restored as close to, as reasonably possible, its original condition by Grantee as promptly as possible.

9) Grantor and Grantee mutually agree that Parcel C is granted subject to the dedication of an additional contiguous 40 feet of road right-of-way to the west. If this 40 feet of additional right-of-way width is not obtained by January 1, 2014 then Parcel C shall be vacated by Grantee unless the owner of Tract 5 agrees not to vacate Parcel C as a public roadway easement. Any such vacation shall not extinguish the right-of-way as a private roadway and public utility easement.

10) Grantor and Grantee mutually agree and acknowledge that the Grantee's authority applicable to the vacation of the road rights-of-ways, called for in Items 2 and 9 above, are controlled and limited by state law. Therefore the Grantee shall only be obligated to proceed with said vacations to the extent allowed for by the law at the time of said vacations. The Grantor shall provide such request, petitions and the withholding of protests as applicable for the initiation and final completion of said vacations. Should the Grantee not be able to vacate said rights-of-ways, due to the limitations established by state law or due to the ruling of a court of law, this grant of public roadway easement shall remain full in effect in all valid applications.

Grantor does hereby designate, grant and convey these public roadway easements and the right of reasonable entry upon and temporary use of the property immediately adjacent to said public roadway easements for necessary activities related to construction of public roadways and/or public utilities.



Grantor agrees not to build any kind of a permanent structure within this public roadway easement.

Grantor does hereby covenant with Grantee that Grantor is lawfully seized and possessed of the real estate above described, and that Grantor has a good and lawful right to convey it, or any part hereof.

Binding Effect. This grant of public roadway easements, which shall be recorded at the Missoula County Clerk and Recorder's Office, is binding upon the heirs, executors, personal representatives, assigns and successors of the parties hereto and shall run with the land.

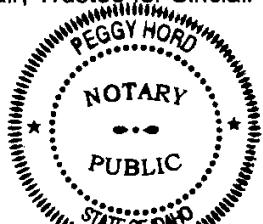
IN WITNESS WHEREOF, the said Grantor has hereunto set its hand and seals the day and year in this instrument first above written.

**SINCLAIR LIVING TRUST**

Patricia J. Sinclair  
BY: Patricia J. Sinclair, Trustee

STATE OF MONTANA IDAHO  
County of Missoula—Kootenai

This instrument was acknowledged before me on this 19th day of November 2003, by Patricia J. Sinclair, Trustee for Sinclair Living Trust.



Peggy Hord  
Notary Public for the State of Montana Idaho  
Residing at: Coeur d'Alene, Idaho  
My Commission Expires: 12-08-09  
Printed Name of Notary Public: Peggy Hord

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF MISSOULA – ACCEPTANCE**

2-10-04

BY: Bill Carey  
Bill Carey, Commissioner

BY: Barbara Evans  
Barbara Evans, Chairman

BY: NOT AVAILABLE FOR SIGNATURE  
Jean Curtiss, Commissioner

ATTEST:  
BY: Deputy County Attorney



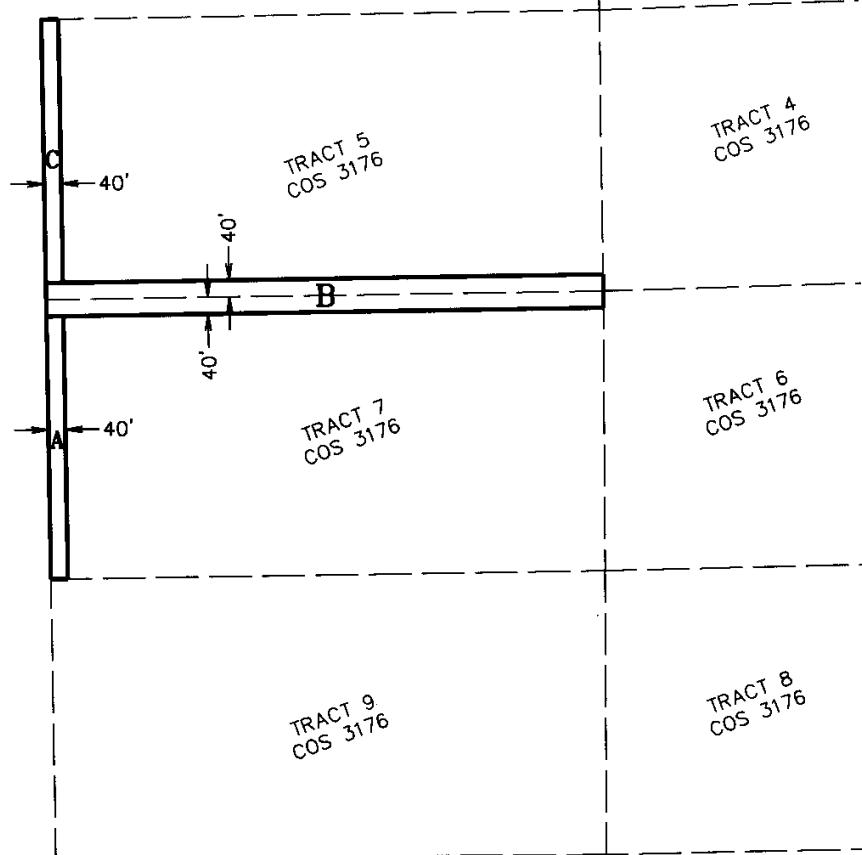


Missoula County Vickie M Zeier E

200403867

Page: 4 of 4  
02/13/2004 08:28A  
Bk-726 Pg-569

TRACT 3  
COS 3176



400 0 400  
  
SCALE - FEET

SHEET 1 OF 1

PUBLIC ROADWAY EASEMENT EXHIBIT  
LOCATED IN THE W 1/2 OF SECTION 12,  
T. 13 N., R. 20 W., P.M., M.  
MISSOULA COUNTY, MONTANA

DRAFT: CEG

**WGM GROUP, INC.**  
ENGINEERING • SURVEYING • PLANNING  
3021 Palmer • (406) 728-4611  
P.O. Box 16027 • Missoula, MT 59808

DATE: 10/21/03  
PROJECT: 00-07-06

000706E38.DWG