

**Return to:**  
Shane Stack  
Director of Public Works, Missoula County  
6089 Training Dr  
Missoula, MT 59808-8654

## Temporary Construction Access Agreement

**Project ID:** Mullan BUILD      **Parcel No.:** EB 2 – 6      **County:** Missoula  
**Designation:** England BLVD  
**Project No.:** N/A

This Agreement, made this 14<sup>th</sup> day of April, 2022, by and between

**Dougherty Ranch, LLC, a Montana limited liability company**

as property owner of real property legally described as:

**Tract F of Certificate of Survey No. 6850, located in the NW¼ & SW¼ of Section 7, Township 13 North, Range 19 West and the NE¼ & SE¼ of Section 12, Township 13 North, Range 20 West, P.M.M., Missoula County, Montana**

as "GRANTOR", and **Missoula County, Montana**, a municipal corporation organized pursuant to the laws of the State of Montana as "GRANTEE", in consideration of payment constituting good and valuable consideration, the receipt of which is acknowledged;

**Witnesses that**, the GRANTOR does hereby grant to the GRANTEE and its successors, assigns, agents, contractors, subcontractors, and employees the right of temporary access to Grantor's real property in the location and width as shown on Exhibit "D" attached hereto and by reference made a part hereof containing an area of 1.99 acres of land in said Tract F, more or less, pursuant to the following conditions and obligations:

1. **Purpose.** This grant of access is solely for the purpose of facilitating the construction of certain Improvements as identified in the Right-of-Way Agreement executed by Dougherty Ranch, LLC and the City of Missoula, attached hereto as Exhibit D. This grant of access is subordinate to Grantor's rights to construct its own improvements within the area subject

**Temporary Construction Easement**  
**Project ID:** Mullan BUILD  
**Designation:** England BLVD

**Parcel No.:** EB 2 – 6

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to this grant of access and shall in no way prohibit, prevent, or delay Grantor's construction of structures or other improvements therein. Grantee shall take care to avoid such structures and improvements constructed by Grantor and in all cases shall restore the land within the temporary construction easement access area and any improvements thereon to their original condition upon the completion of the Improvements.

**2. Release and Indemnity.** Grantee assumes the risk of injuries to persons and damage to property arising out of Grantee's use of the Temporary Construction Access Agreement, and shall indemnify and defend Grantor from any claim, loss, damage, liability or expense in any way resulting from Grantee's use of the Temporary Construction Access Agreement.

**It is understood** that the Easement rights herein granted shall terminate two years from the beginning of the project identified as Mullan BUILD or upon completion of the aforementioned construction project, whichever is sooner. For purposes of this document, the "beginning of the project" is the date that the contractor receives a Notice to Proceed on the portion of the project that will be constructed in the area granted by this easement.

**4. No Grant of Property Interest.** The parties acknowledge that notwithstanding any of the language contained herein, nothing in this Temporary Construction Access Agreement shall be construed as conveying any easement or other property interest in the real property identified above and solely consists as a temporary grant of access for the purpose stated herein.

**5. Compliance with Laws.** In exercising easement rights, Grantee shall comply with all applicable laws, rules and regulations of any public authority relating to such use and shall keep the easement free from liens arising in any manner out of Grantee's activities.

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6. **Binding Effect.** The rights granted herein shall not run with the land and shall not be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors, and assigns.


7. **Amendment.** This agreement shall not be amended or otherwise modified except via an instrument executed in writing by the parties or their successors and assigns.

8. **Enforcement.** In enforcing any rights hereunder, the parties shall be entitled to the remedies of specific performance and injunctive relief. In the event of any litigation to enforce this Agreement, the prevailing party shall be entitled to recover costs and attorneys' fees from the non-prevailing party or parties.

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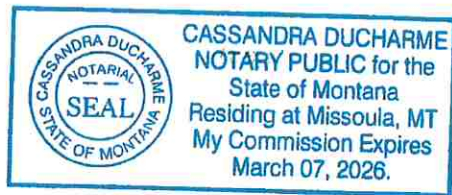
Parcel No.: EB 2 – 6

Dougherty Ranch, LLC, a Montana limited liability company.

  
Sean Dougherty

STATE OF MONTANA     )  
                                  ) ss.  
COUNTY OF MISSOULA    )

On this 14<sup>th</sup> day of April, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Sean Dougherty as an authorized member of the Dougherty Ranch LLC, a Montana limited liability company, is signed to the foregoing instrument and who acknowledged before me on this that, being informed of the contents of the instrument, he or she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.





Notary Signature Line

Cassandra Ducharme

Notary Printed Name

Notary Public for State of Montana

Residing at: Missoula

My Commission Expires: 3-7-26

### MISSOULA COUNTY ACCEPTANCE

This easement is accepted, and its terms and conditions agreed to by Missoula County on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

#### APPROVAL:

\_\_\_\_\_  
Juanita Vero, Commissioner - Chair

\_\_\_\_\_  
Dave Strohmaier, Commissioner

\_\_\_\_\_  
Josh Slotnick, Commissioner

#### APPROVED AS TO FORM:

\_\_\_\_\_  
Legal Counsel

Temporary Construction Easement  
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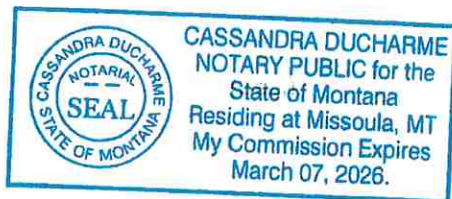
Parcel No.: EB 2 – 6

Dougherty Ranch, LLC, a Montana limited liability company.

Brian D. Dougherty  
Brian Dougherty

STATE OF MONTANA     )  
  ) ss.  
COUNTY OF MISSOULA    )

On this 15<sup>th</sup> day of April, 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared Brian Dougherty as an authorized members of the Dougherty Ranch LLC, a Montana limited liability company, is signed to the foregoing instrument and who acknowledged before me on this that, being informed of the contents of the instrument, he or she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.



Cassandra DuCharme  
Notary Signature Line  
Cassandra DuCharme  
Notary Printed Name

Notary Public for State of Montana  
Residing at: Missoula  
My Commission Expires: March 7, 2026

### MISSOULA COUNTY ACCEPTANCE

This easement is accepted, and its terms and conditions agreed to by Missoula County on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

#### APPROVAL:

\_\_\_\_\_  
Juanita Vero, Commissioner - Chair

\_\_\_\_\_  
Dave Strohmaier, Commissioner

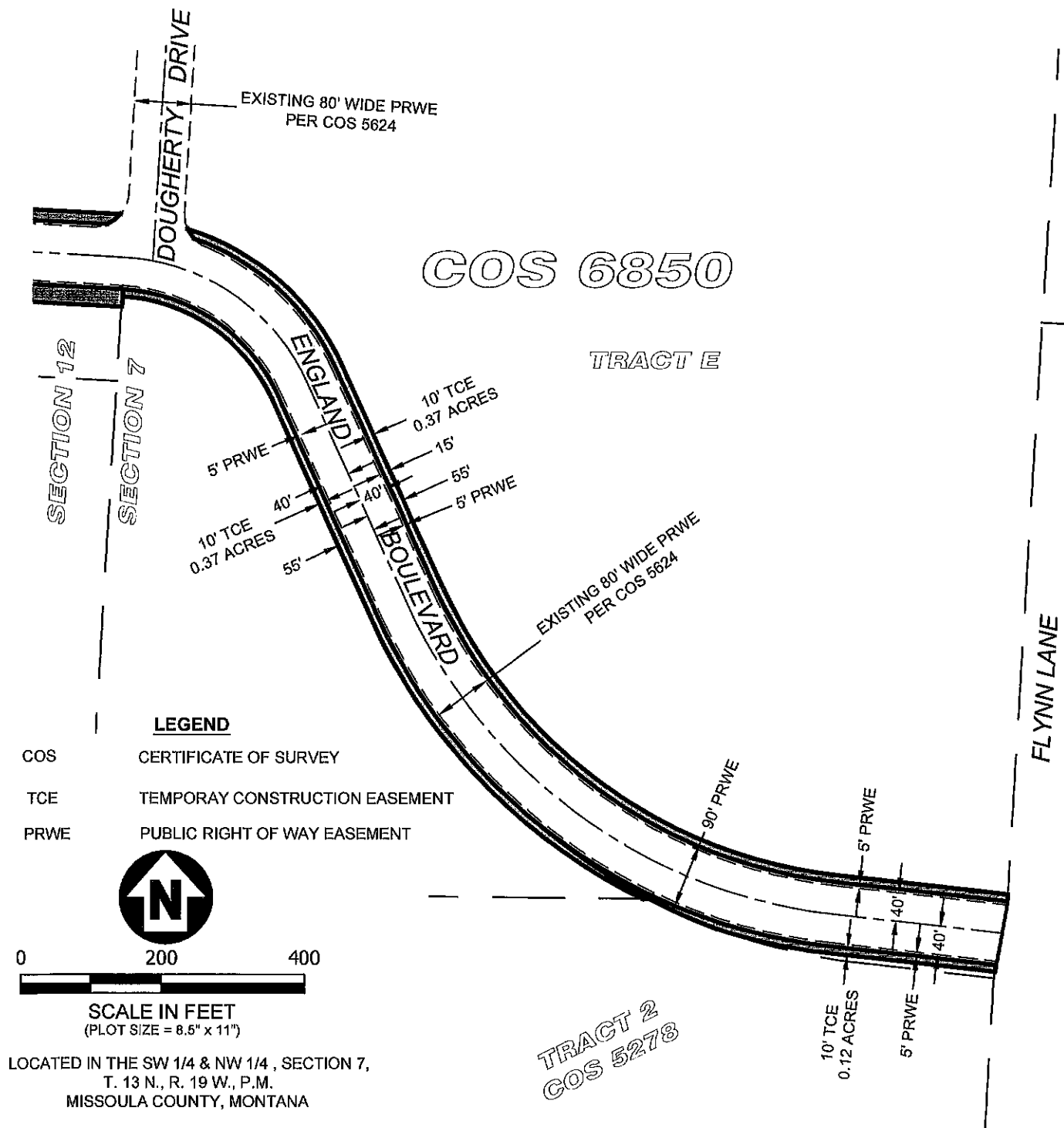
\_\_\_\_\_  
Josh Slotnick, Commissioner

#### APPROVED AS TO FORM:

\_\_\_\_\_  
Legal Counsel

# EXHIBIT "D"

## TEMPORARY CONSTRUCTION EASEMENT



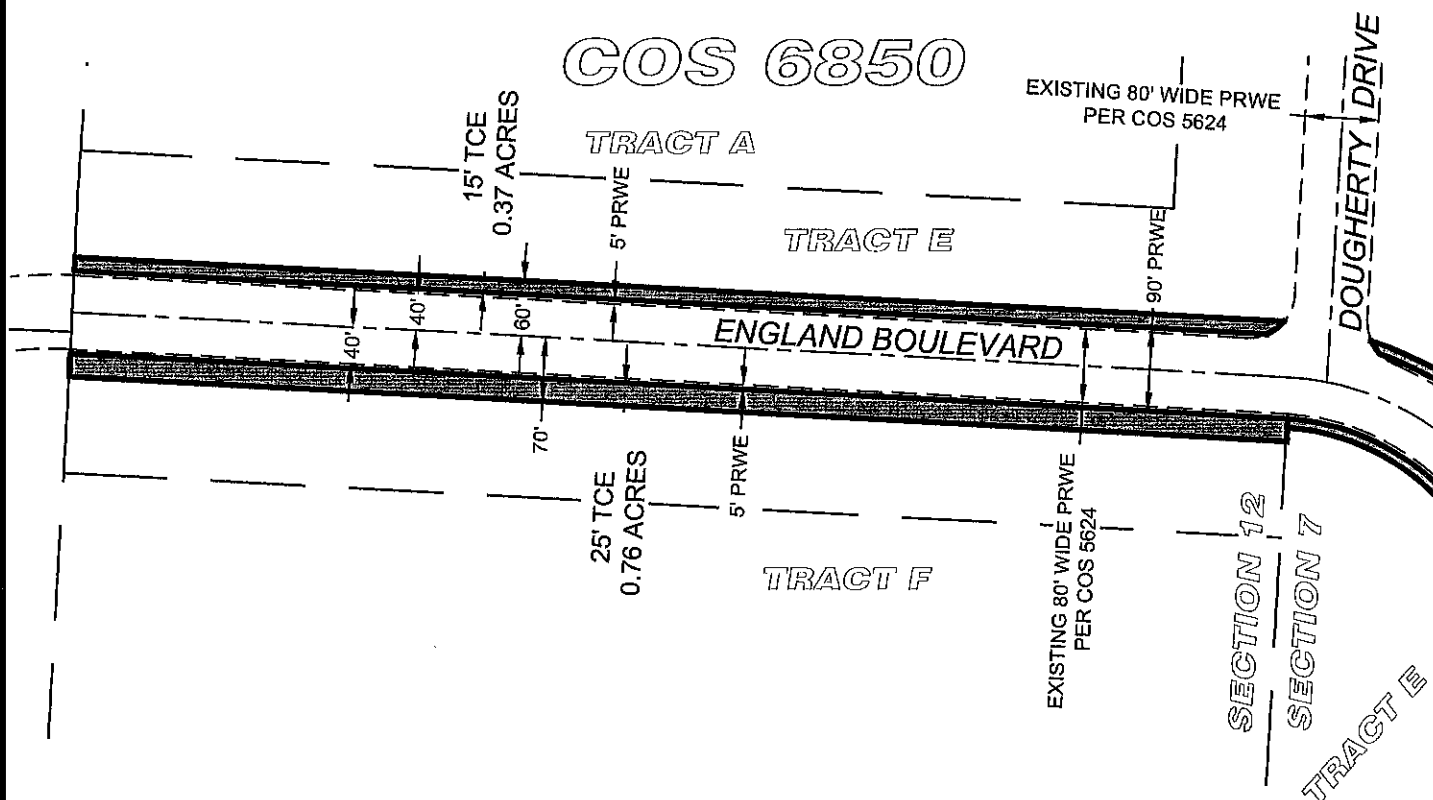
ENGINEERS  
PLANNERS  
SURVEYORS

BASIS OF BEARING: MONTANA STATE PLANE  
GRID NORTH BASED ON GNSS OBSERVATION

APRIL, 2022

# EXHIBIT "D"

## TEMPORARY CONSTRUCTION EASEMENT



### LEGEND

COS	CERTIFICATE OF SURVEY
PRWE	PUBLIC RIGHT OF WAY EASEMENT
TCE	TEMPORARY CONSTRUCTION EASEMENT



ENGINEERS  
PLANNERS  
SURVEYORS

BASIS OF BEARING: MONTANA STATE PLANE  
GRID NORTH BASED ON GNSS OBSERVATION



SCALE IN FEET  
(PLOT SIZE = 8.5" x 11")

LOCATED IN THE NE 1/4,  
SECTION 12, T. 13 N., R. 20 W., P.M.  
MISSOULA COUNTY, MONTANA

APRIL, 2022



# EXHIBIT "D"

PAGE 3 OF 3  
EB 2  
REV

## TEMPORARY CONSTRUCTION EASEMENT

### LEGAL DESCRIPTION:

A TEMPORARY CONSTRUCTION EASEMENT OVER AND ACROSS TRACT E OF CERTIFICATE OF SURVEY NO 6850, MISSOULA COUNTY, MT. RECORDS LOCATED IN THE SW1/4 AND THE NW1/4 OF SECTION 7, TOWNSHIP 13 NORTH, RANGE 19 WEST, AND THE SE1/4 AND THE NE1/4 OF SECTION 12, TOWNSHIP 13 NORTH, RANGE 20 WEST, P. M., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND 10 FEET WIDE LOCATED IN SAID SECTION 7, LYING SOUTHWEST OF AND ADJACENT TO A LINE 45 FEET SOUTH AND SOUTHWEST OF AND PARALLEL TO THE CENTERLINE OF THE PERMANENT RIGHT OF WAY EASEMENT PREVIOUSLY DEDICATED TO THE PUBLIC AS ENGLAND BOULEVARD AND RETRACED ON CERTIFICATE OF SURVEY NO. 5624, MISSOULA COUNTY RECORDS.

THE SIDELINES OF THIS EASEMENT LENGTHEN AND SHORTEN TO INTERSECT THE WEST LINE OF SAID SECTION 7 AND THE WEST RIGHT OF WAY LINE OF FLYNN LANE.

CONTAINING 0.49 ACRES, MORE OR LESS.

AND EXCEPTING THEREFROM ANY PORTION OF TRACT 2, CERTIFICATE OF SURVEY NO. 5278, MISSOULA COUNTY RECORDS.

TOGETHER WITH – A STRIP OF LAND 10 FEET WIDE LOCATED IN SAID SECTION 7, LYING NORTHEAST OF AND ADJACENT TO A LINE 45 FEET NORTH AND NORTHEAST OF THE PERMANENT RIGHT OF WAY EASEMENT PREVIOUSLY DEDICATED TO THE PUBLIC AS ENGLAND BOULEVARD AND RETRACED ON CERTIFICATE OF SURVEY NO. 5624, MISSOULA COUNTY RECORDS, AND PARALLEL TO SAID ENGLAND BOULEVARD.

THE SIDELINES OF THIS EASEMENT LENGTHEN AND SHORTEN TO INTERSECT THE EAST RIGHT OF WAY LINE OF DOUGHERTY DRIVE AS RETRACED ON THE AFORESAID CERTIFICATE OF SURVEY NO. 5624 AND THE WEST RIGHT OF WAY LINE OF FLYNN LANE.

CONTAINING 0.37 ACRE OF LAND, MORE OR LESS.

TOGETHER WITH – A STRIP OF LAND 25 FEET WIDE LOCATED IN SAID SECTION 12, LYING SOUTH OF AND ADJACENT TO A LINE 45 FEET SOUTH OF AND PARALLEL TO THE CENTERLINE OF THE PERMANENT RIGHT OF WAY EASEMENT PREVIOUSLY DEDICATED TO THE PUBLIC AS ENGLAND BOULEVARD AND RETRACED ON CERTIFICATE OF SURVEY NO. 5624, MISSOULA COUNTY RECORDS.

THE SIDELINES OF THIS EASEMENT LENGTHEN OR SHORTEN TO INTERSECT THE WEST LINE OF SAID TRACT E AND THE EAST LINE OF SAID SECTION 12.

CONTAINING 0.76 ACRES, MORE OR LESS.

TOGETHER WITH – A STRIP OF LAND 15 FEET WIDE LOCATED IN SAID SECTION 12, LYING NORTH AND ADJACENT TO A LINE 45 FEET NORTH OF AND PARALLEL TO THE CENTERLINE OF THE PERMANENT RIGHT OF WAY EASEMENT PREVIOUSLY DEDICATED TO THE PUBLIC AS ENGLAND BOULEVARD AND RETRACED ON CERTIFICATE OF SURVEY NO. 5624, MISSOULA COUNTY RECORDS.

THE SIDELINES OF THIS EASEMENT LENGTHEN OR SHORTEN TO INTERSECT THE WEST LINE OF SAID TRACT E AND THE WEST RIGHT OF WAY LINE OF DOUGHERTY DRIVE.

CONTAINING 0.37 ACRES, MORE OR LESS.

TOTAL EASEMENT CONTAINING 1.99 ACRES, MORE OR LESS.

I HEREBY STATE THAT THIS TEMPORARY CONSTRUCTION EASEMENT EXHIBIT HAS BEEN PREPARED BY ME OR UNDER MY DIRECT SUPERVISION DURING THE MONTH OF APRIL, 2022.

THIS WAS PREPARED TO UPDATE THE CALL OUTS FOR PARCELS TO REFLECT THE CHANGES SHOWN ON CERTIFICATE OF SURVEY NO. 6850, FILED JAN 5, 2022, AND WITH CONCURRENCE OF SIGNATORIES OF THE RW AGREEMENT.

SIGNED Donald M. Roedel  
DONALD M. ROEDEL, P.L.S. 10999LS

DATE 04/06/2022



BASIS OF BEARING: MONTANA STATE PLANE  
GRID NORTH BASED ON GNSS OBSERVATION

APRIL, 2022

