

After recording return to:  
City of Missoula  
Public Works and Mobility Department  
Engineering Division  
435 Ryman Street  
Missoula, MT 59802

## **PUBLIC ACCESS EASEMENT**

THIS PUBLIC ACCESS EASEMENT AGREEMENT (“Easement”) is made as of this 29<sup>th</sup> day of September, 2022, by City of Missoula, whose address is 435 Ryman St, Missoula, MT 59802 (“**Grantor**”).

WHEREAS, the Grantor is the owner of certain real property located in the City of Missoula, Missoula County, Montana, legally described as:

That certain tract of land shown on Certificate of Survey No. 1461, on file and of public record in Missoula County, Montana, located in the Northeast Quarter of Section 05, Township 12 North, Range 19 West, Principal Meridian, Montana; containing 4.64 acres, more or less. (“**Servient Property**”);

WHEREAS, Grantor is proposing to divide or reconfigure real property in the City of Missoula, and pursuant to Article 8 of the City’s Subdivision Regulations, any property that is reconfigured or divided that has two or fewer connections to public rights-of-way must maintain the same number of accesses to public rights-of-way after the reconfiguration or division as the property had before the reconfiguration or division; and

WHEREAS, in order to meet the City’s regulations, Grantor desires to grant a public access easement across the Servient Property.

NOW THEREFORE, in order to obtain City approval of the proposed reconfiguration or division, and to provide valuable benefits to the Servient Property, and for other good and valuable consideration Grantor grants to the public (hereinafter referred to as “**Grantee**”) a permanent non-exclusive access easement over and along the width and length of the Servient Property described below:

1. **Grant of Easement.** Grantor grants unto Grantee a permanent non-exclusive easement over and along the property shown on the attached exhibit of the Servient Property, which is hereafter referred to as “**Easement Area**”, and is as shown on the attached map as Exhibit A.
2. **Easement Rights.** This Easement provides limited public access for motorized, non-motorized and pedestrian travel across and through the Easement Area, and adopts applicable Missoula Municipal Codes pertaining to sidewalk and roadway maintenance and accepts regulatory enforcement actions by the City in furtherance of the sidewalk and

roadway maintenance requirements spelled out in such Codes. This easement also provides access rights to police and emergency responders.

3. **Grantee's Limitations on Use.** Grantee shall have no right to use the Easement Area beyond that which is reasonably necessary to provide access across the Servient Property.
4. **Grantor's Rights.** Grantor may not take any action which unreasonably interferes with Grantee's use of the Easement Area.
5. **Easement Runs with the Land.** 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 Grantor and Grantee.
6. **Easement to Survive Merger.** In the event the Dominant Property and Servient Property are owned by the same party at the time this Easement is recorded, the Easement shall spring into being upon conveyance of the Dominant Property to any other party. It is the intention of the Grantor that this be a perpetual easement, and in the event the Dominant Property and Servient Property are subsequently owned by the same entity at any point in the future, this Easement shall again spring into being upon the conveyance of either the Dominant Property or the Servient Property to another party.
7. **No Amendment or Termination of the Easement is Allowed without the City of Missoula's Advanced Written Approval.** This Easement is granted, in part, to obtain approval from the City of Missoula to a reconfiguration or division of real property governed by the City's Subdivision Regulations. As a result, the City is an intended third-party beneficiary of this Easement, and no amendment, alteration, termination, release or extinguishment of this Easement is allowed unless signed by the City of Missoula, with such authorization being solely within the discretion of the City of Missoula.

IN WITNESS WHEREOF, the undersigned have caused this Easement to be executed the day and year first written above.

[signature appears below]

