

ITEM 136-1001-R0707 Attachment 1

# SOUTH AVENUE

## ATTACHMENT #1

### PROPOSED ROAD & UTILITY EASEMENTS

#### GENERALLY LOCATED IN SECTION 36, T13N, R20W

CITY OF MISSOULA

MISSOULA COUNTY HIGH SCHOOL DISTRICT



DRY LAY SEWER FORCE MAIN TO SOUTH AVENUE

PROPOSED 70' ROAD & UTILITY EASEMENT  
1.77± ACRES

PROPOSED 70'-91' ROAD & UTILITY EASEMENT  
0.37± ACRES

BOARD OF REGENTS OF HIGHER EDUCATION  
GEOCODE #04219936201090000

REMAINDER #3  
(0.5 ACRES)

26th STREET

30' UTILITY EASEMENT

30' UTILITY EASEMENT

30' UTILITY EASEMENT

JTL GROUP

MINER'S ADDITION  
(19.4 ACRES)

SANDRA LANE

28th STREET

UNIV. OF MONTANA  
BOARD OF REGENTS

GEOCODE #04219936101070000

NORTHERN LIGHTS DEVELOPMENT  
PCI PROJ NO. 7220-04  
FEBRUARY 27, 2007  
SEWER ROUTE MAP W/2006 PHOTO

26 25

N89°36'38"E  
655.84'

35 36

SECTION CORNER

# EXHIBIT "B"

NORTH 1/4 CORNER

SECTION 36

**ROAD & UTILITY EASEMENT**  
**A PORTION OF THAT PROPERTY DESCRIBED IN BOOK 275,  
 MICRO AT PAGE 1273 AS TRACT 5. RECORDED IN MISSOULA  
 COUNTY, MONTANA. LOCATED IN THE N1/2, NW1/4, SECTION 36,  
 TOWNSHIP 13 NORTH, RANGE 20 WEST, P.M.,M.**

MISSOULA COUNTY HIGH SCHOOL DISTRICT  
 TRACT 4  
 DE 1836

40TH AVE  
 S 00°31'20" E  
 1329.45'  
 EAST LINE OF THE W 1/2, NW 1/4, NW1/4,  
 SECTION 36.

SOUTH LINE, N1/2,  
 NW1/4, SECTION 36

BOARD OF REGENTS. BOOK 275 MICRO, PAGE  
 1273, TRACT 5

AREA= 0.42  
 ACRES

REMAINDER TRACT 5  
 DE 1838

POINT OF BEGINNING  
 C-W-NW1/64 CORNER. SECTION 36

PARCEL 4  
 COS 5593

26TH STREET

| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | BEARING     |
| L1         | 91.00  | N89°37'44"E |
| L2         | 230.27 | N05°45'17"W |
| L3         | 70.00  | S89°47'00"W |
| L4         | 229.45 | S00°31'20"E |



**Professional Consultants Inc.**  
 Engineers. Surveyors. Planners. Mappers.

3115 RUSSELL ST. PO BOX 1750 MISSOULA, MONTANA  
 PHONE 406-728-1880 FAX 406-728-0276



A portion of that property as described as Tract 5 in Book 275 Micro at Page 1273, as recorded in Missoula County, Montana. Located in the North1/2, Northwest1/4 and Northwest1/4, Northeast1/4, Section 36, Township 13 North, Range 20 West, Principle Meridian, Montana and more particularly described as follows;

Commencing at the Center-West-Northwest 1/64 corner of said Section 36, said point also being the True Point of Beginning for the easement herein described;

thence North 89°37'44" East, along the south line of said Tract 5, a distance of 91.00 feet;

thence North 05°45'17" West, a distance of 230.27 to point on the north line of said Tract 5;

thence South 89°47'00" West, along the north line of said Tract 5, a distance of 70.00 feet to a point on the west line of said Tract 5;

thence South 89°47'00" East, along the west line of said Tract 5, a distance of 229.45 feet to the True Point of Beginning;

Containing 0.42 acres, more or less.

26 25

N89°36'38"E  
655.84'

35 36

SECTION CORNER

NORTH 1/4 CORNER

SECTION 36

# EXHIBIT "A" UTILITY EASEMENT

**A PORTION OF THAT PROPERTY DESCRIBED IN BOOK 275, MICRO AT PAGE 1273 AS TRACT 5. RECORDED IN MISSOULA COUNTY, MONTANA. LOCATED IN THE N1/2, NW1/4 & NW1/4, NE1/4, SECTION 36, TOWNSHIP 13 NORTH, RANGE 20 WEST, P.M.,M.**

MISSOULA COUNTY HIGH SCHOOL DISTRICT  
TRACT 4  
DE 1836

40TH AVE  
S 00°31'20" E 1329.45'  
E 02°31'20" E  
EAST LINE OF THE W 1/2, NW 1/4, NW1/4,  
SECTION 36.

SOUTH LINE, N1/2,  
NW1/4, SECTION 36

C-W-NW1/64  
CORNER.  
SECTION 36

POINT OF BEGINNING

PARCEL 4  
COS 5593



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MISSOULA, MONTANA FAX  
406-728-0276

N 89°37'44" E  
91.00'

BOARD OF REGENTS. BOOK 275 MICRO, PAGE  
1273, TRACT 5

N 89°37'44" E

1666.00'

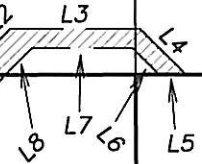
S89°37'44"W

1672.74'

26TH STREET

52.00'

AREA = 2.22  
ACRES



REMAINDER TRACT 5  
DE 1838

| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | BEARING     |
| L1         | 52.23  | N05°45'18"W |
| L2         | 28.28  | N44°37'44"E |
| L3         | 202.74 | N89°37'44"E |
| L4         | 102.01 | N45°22'16"W |
| L5         | 42.50  | N89°43'23"E |
| L6         | 59.48  | N45°22'16"W |
| L7         | 156.68 | N89°37'44"E |
| L8         | 59.40  | N44°37'44"E |

300 0 300 600



SCALE IN FEET



A portion of that property as described as Tract 5 in Book 275 Micro, at Page 1273, as recorded in Missoula County, Montana. Located in the North 1/2, Northwest 1/4 and Northwest 1/4, Northeast 1/4, Section 36, Township 13 North, Range 20 West, Principle Meridian, Montana and more particularly described as follows;

Commencing at the Center-West-Northwest 1/64 corner of said Section 36;

thence North 89°37'44" East along the south line of the North 1/2 of the Northwest 1/4 of said Section 36, said line also being the south line of said Tract 5, a distance of 91.00 feet to the True Point of Beginning of the easement herein described;

thence North 05°45'18" West, a distance of 52.23 feet;

thence North 89°37'44" East, a distance of 1666.00 feet;

thence North 44°37'44" East, a distance of 28.28 feet;

thence North 89°37'44" East, a distance of 202.74 feet;

thence South 45°22'16" East, a distance of 102.01 feet to point on the south line of said Tract 5;

thence South 89°43'23" West, along the south line of said Tract 5, a distance of 42.50 feet;

thence North 45°22'16" West, a distance of 59.48 feet;

thence South 89°37'44" West, a distance of 156.68 feet;

thence South 44°37'44" West, a distance of 59.40 feet to point on the south line of said Tract 5;

thence South 89°37'44" West, along the south line of said Tract 5, a distance of 1672.74 feet to the True Point of Beginning;

Containing 2.22 acres, more or less.

## LEGAL DESCRIPTION

Tract E, Certificate of Survey No. 5680, located in the West one-half (W1/2) of Section 35 and the East one-half (E1/2) of Section 36, Township 13 North, Range 20 West, Principal Meridian, Montana, Missoula County, Montana,

LESS AND EXCEPTING THEREFROM that portion of Tract E lying southerly and westerly of Miner's Addition, a subdivision granted preliminary plat approval by the Missoula County Commissioners, being more particularly described as follows:

Beginning at the southeast corner of said Tract E, said point being the TRUE POINT OF BEGINNING; thence the following eleven (11) courses along the boundary of said Tract E: N.89°41'45"W., 856.54 feet; thence S.89°40'18"W., 1377.93 feet; thence N.00°00'00"E., 618.91 feet; N.20°56'04"W., 242.35 feet; thence N.24°24'57"W., 256.33 feet; thence N.00°00'00"E., 244.93 feet; thence N.89°42'57"E., 251.10 feet; thence N.00°24'46"W., 667.79 feet; thence N.89°51'37"E., 1321.02 feet; thence N.00°31'33"W., 664.77 feet; thence N.89°37'44"E., 240.23 feet to a point on the westerly boundary of said Miner's Addition; thence the following sixteen (16) courses along the boundary of said Miner's Addition: S.00°22'16"E., 216.57 feet; thence S.11°29'37"E., 548.76 feet to a tangent point of curvature; thence an arc distance of 166.88 feet along said tangent curve to the left, of radius 602.00 feet and delta 15°52'58" to a point of reverse curvature; thence an arc distance of 216.43 feet along said reverse curve, of radius 338.29 feet and delta 36°39'19" to a point on a tangent line; thence along said tangent line, S.09°16'44"W., 254.89 feet; thence S.43°34'05"W., 219.36 feet to a tangent point of curvature; thence an arc distance of 79.42 feet along said tangent curve to the right, of radius 298.00 feet and delta 15°16'10" to a point on a tangent line; thence along said tangent line, S.58°50'15"W., 337.13 feet; thence S.31°11'24"E., 56.74 feet to a non-tangent point of curvature, said point having a radial bearing of S.06°01'33"E.; thence an arc distance of 179.72 feet along said non-tangent curve being concave to the northeasterly, of radius 50.00 feet and delta 205°56'54" to a point on a tangent line; thence along said tangent line, N.58°01'32"E., 178.11 feet; thence N.89°57'55"E., 130.39 feet; thence S.70°02'35"E., 69.72 feet; thence S.87°16'52"E., 105.10 feet; thence N.79°23'50"E., 304.72 feet; thence N.87°03'56"E., 50.11 feet to a point on the easterly boundary of said Tract E; thence the following three (3) courses along said easterly boundary: S.00°20'29"E., 251.01 feet; thence N.89°38'21"E., 99.99 feet; thence S.00°23'33"E., 636.14 feet to the TRUE POINT OF BEGINNING. Containing 91.95 acres, more or less, being subject to all easements and rights of way, existing, apparent or of record.

**EASEMENT AGREEMENT**

This Easement Agreement (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2007, between the undersigned \_\_\_\_\_ (the THE BOARD OF REGENTS OF HIGHER EDUCATION OF THE MONTANA UNIVERSITY SYSTEM, an agency of the State of Montana, whose address is 32 Campus Drive, Missoula, Montana 59812 ("Grantor") and NORTHERN LIGHTS DEVELOPMENT NO.1, LLC, a Montana limited liability company, whose address is 900 Lolo St., Missoula, Montana 59802 (the "Grantee").

**RECITALS:**

1. WHEREAS, The Grantor is the owner of two parcels of certain real property in Missoula County, Montana, which real property is particularly described as:

Parcel #1 (the "COT parcel"): That property located in the N 1/2 NW 1/4 and NW 1/4 NE 1/4 of Section 36, Township 13 North, Range 20 West, PMM as described in Book 275 Micro, at Page 1273, as recorded in Missoula County, Montana.

Parcel #2 (the "28-acre parcel"): That property located in the NE 1/4 of Section 36, Township 13 North, Range 20 West, PMM as described in Book 316 Micro, at Page 1921, as recorded in Missoula County, Montana.

according to the plat thereof on file and of record in the office of the County Clerk and Recorder of Missoula County, Montana, and by this reference made a part hereof, and is hereinafter known as the Grantor Property; and

2. WHEREAS, The Grantee is the owner of certain real property in Missoula County, Montana, which real property is particularly described as:

The Miner's Addition, a subdivision granted preliminary plat approval by the Missoula County Commissioners, located in the West one-half (W1/2) of Section 35 and the East one-half (E1/2) of Section 36, Township 13 North, Range 20 West, Principal Meridian, Montana, Missoula County, Montana,

See "Legal Description" attached for complete legal description

according to the plat thereof on file and of record in the office of the County Clerk and Recorder of Missoula County, Montana, and by this reference made a part hereof, and is hereinafter known as the Grantee Property; and

3. WHEREAS, The Grantee desires to obtain from the Grantor, and the Grantor desires to grant unto the Grantee the three perpetual easements and rights of way as indicated on the attached Exhibits 1A, 2B, and 3C.

The terms of this Agreement are NOW, THEREFORE, in consideration of the mutual promises herein set forth the parties agree as follows:

1. The Grantor, in consideration of the mutual promises herein set forth, agrees to grant unto the Grantee, its heirs and assigns, three perpetual easements and rights of way across and upon the Grantor Property as shown in Exhibits 1A, 2B, and 3C attached hereto.

2. The Grantee is obtaining this easement for the purpose of locating, installing, erecting, constructing, and maintaining a roadway and public utilities to the Grantee property described above and for the permanent use and maintenance of said roadway and utilities.

3. The Grantee parties, in consideration of the mutual promises herein set forth, agrees to the following:

a. Grantee to provide active sewer and potable water service hookups for up to all three buildings on the Grantor Property<sup>[A1]</sup>, at expense to Grantee.

b. Both Grantor and Grantee parties acknowledge that the engineering required to complete these hookups has not yet been performed, however, both parties agree that the Grantee will be responsible for providing such sewer and potable water service to the exterior wall of any of the all three existing buildings at a location chosen located on by Grantor's property and that Grantor will be responsible for all internal plumbing or mechanical services that will be required to make the hookups serviceable. Grantor and Grantee agree to work in conjunction with the Missoula County Public Schools (owners of another parcel of land adjacent to Grantor's property who is simultaneously working with Grantee on a utility easement project) to accomplish mutually beneficial goals, but, as a default, must envision a service location and construction methodology that is wholly on Grantor property.

c. Both parties agree that the Grantee will engineer the capacity of such sewer and potable water service to accommodate the expected demands of a future 80,000 ft<sup>2</sup> facility facilities upon Grantor Property as shown in Exhibit C. <sup>[A2]</sup>

d. The Grantee will replace and restore the Grantor Property to its previous condition prior to above utility easements<sup>[A3]</sup>.

e. , and Grantee will actively coordinate with Grantor regarding the schedule of installation.<sup>[A4]</sup> It is anticipated that easement construction will take place during the summer of 2008 to avoid interference with COT classes during the school year.



- f. Both parties agree that Grantee shall employ an archeologist on site during easement construction upon Grantor Property as shown in Exhibit C; archeologist shall have authority to stop excavation in the event that Native American cultural materials or human remains are uncovered.
- g. Grantee will pay for all expenses related to the design, construction, maintenance, and recording of easements, and indemnify and hold harmless The University of Montana against all legal liabilities and costs arising from activities in connection with the right-of-way and utility easements.
- h. Both parties understand and agree that Grantee shall not be responsible for any other work on the Grantor Property.

4. The Grantee will record all of the aforementioned easement documentation in the office of the Clerk and Recorder of Missoula County, Montana at such time as the work described herein is completed.

5. Grantor’s and Grantee’s Representations: Both Grantor and Grantee havehas the legal power, right, and authority to enter into this Agreement. All requisite corporate actions have been taken by both Grantor and Grantee in connection with entering into this Agreement. No further consent of any member, partner, or shareholder is required. Grantor must receive approval from the Montana University System Board of Regents (including compliance with all requirements of the State Antiquities Act and Board of Regents Policy 1003.5 concerning heritage property and the Montana Department of Environmental Quality) prior to commencing construction of the easement. The persons executing this Agreement on behalf of both Grantor and Grantee havehas the legal power, right, and actual authority to bind both Grantor and Grantee to the terms of this Agreement.

6. Grantee’s Representations: Grantee has the legal power, right, and authority to enter into this Agreement. All requisite corporate actions have been taken by Grantee in connection with entering into this Agreement. No further consent of any member, partner, or shareholder is required. The person executing this Agreement on behalf of Grantee has the legal power, right, and actual authority to bind Grantee to the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

GRANTOR:

GRANTEE:

THE BOARD OF REGENTS OF THE  
MONTANA UNIVERSITY SYSTEM  
ACTING FOR THE STATE OF MONTANA

NORTHERN LIGHTS DEVELOPMENT NO.  
1, LLC

AND IN THE INTEREST OF THE  
UNIVERSITY OF MONTANA

By: \_\_\_\_\_  
George Dennison, President  
The University of Montana

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Grantor:

Grantee:  
Northern Lights Development No.1, LLC

\_\_\_\_\_

By: Stuart Goldberg or Brett Kulina, Member

STATE OF MONTANA     )

County of Missoula     )

) ss.

Signed or attested before me on the \_\_\_\_\_ day of  
\_\_\_\_\_, 2007, by

\_\_\_\_\_  
\_\_\_\_\_

Notary Public for the State of Montana

Residing \_\_\_\_\_

My Commission expires on: \_\_\_\_\_

SECTION 25

ITEM 136-1001-R0707 Exhibit C

25 30

NORTH 1/4 CORNER SECTION 36

36 31

# EXHIBIT "C" UTILITY EASEMENT

A PORTION OF THAT PROPERTY DESCRIBED IN BOOK 316,  
MICRO AT PAGE 1921. RECORDED IN MISSOULA COUNTY,  
MONTANA. LOCATED IN THE NE1/4, SECTION 36, TOWNSHIP 13  
NORTH, RANGE 20 WEST, P.M.,M.

MISSOULA COUNTY  
HIGH SCHOOL  
DISTRICT

TRACT 4  
DE 1836

TRACT B  
COS 4826

500'31'32"E

1330.08'

BOARD OF  
REGENTS. BOOK  
275 MICRO,  
PAGE 1273,  
TRACT 5

C-N1/16 CORNER.  
SECTION 36

N 89°43'23" E

1237.33'

30.00'

AREA = 0.85 ACRES

POINT OF BEGINNING

| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | BEARING     |
| L1         | 36.88  | N89°43'23"E |
| L2         | 15.00  | S00°16'37"E |

REMAINDER TRACT 5  
DE 1838

BOARD OF  
REGENTS

BOOK 316  
MICRO, PAGE  
1921.

PARCEL 1  
DE 1838



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3115 RUSSELL ST.  
PO BOX 1750  
MISSOULA,  
MONTANA

PHONE  
406-728-1880  
FAX  
406-728-0276

A 30 foot wide strip of land being a portion of that property described in Book 316 Micro, at Page 1921, as recorded in Missoula County, Montana. Located in the Northeast 1/4, Section 36, Township 13 North, Range 20 West, Principle Meridian, Montana and whose centerline is more particularly described as follows;

Commencing at the Center-North 1/16 corner of said Section 36;

thence North  $89^{\circ}43'23''$  East along the south line of the North 1/2 of the Northeast 1/4 of said Section 36, said line also being the north line of said property described in Book 316 Micro, at Page 1921, a distance of 36.88 feet;

thence South  $00^{\circ}16'37''$  East, a distance of 15.00 feet to the True Point of Beginning of the centerline herein described;

thence North  $89^{\circ}43'23''$  East, a distance of 1237.33 feet to a point on the northwesterly line of Parcel 1, Deed Exhibit 1838 on file with the Missoula County Surveyor's Office;

The sidelines thereof to be extended or shortened to be perpendicular to the Point of Beginning and also to terminate at the said northwesterly line of Parcel 1, Deed Exhibit 1838;

Containing 0.85 acres, more or less