

When Recorded Return To:
MPEG Land Development, LLC
2101 Overland Avenue
Billings, MT 59102
Attn: Don Sterhan

SANITARY SEWER EASEMENT

This **SANITARY SEWER EASEMENT** (this “**Easement**”) is made as of October ____, 2023 (the “**Effective Date**”), by **MPEG LAND DEVELOPMENT, LLC**, a Montana limited liability company (“**Grantor**”) in favor of the **CITY OF SIDNEY, MONTANA** (“**Grantee**”). Grantor, Grantee and their respective successors and assigns are referred to individually as a “**Party**” and referred to collectively as the “**Parties.**”

RECITALS

WHEREAS, Grantor is the fee simple owner of the real property legally described in the attached Exhibit A (the “**Grantor Property**”); and

WHEREAS, subject to the terms and conditions in this Easement, Grantor desires to grant to Grantee a perpetual, non-exclusive easement in and to that portion of the Grantor Property (the “**Easement Area**”) legally described in the attached Exhibit B and depicted in the attached Exhibit C to operate, maintain, repair and replace an underground 8-inch sanitary sewer line, together with all necessary and appurtenant underground equipment and facilities necessary for the use and operation thereof (the “**Sewer Improvements**”).

NOW, THEREFORE, in consideration of the foregoing Recitals, which by this reference are incorporated into this Easement, the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties hereto grant, covenant and agree as follows:

AGREEMENT

Section 1. Grant of Easement. Subject to matters of record, Grantor, for itself, its successors and assigns, hereby grants to Grantee and its successors and assigns for the benefit of Grantee, a perpetual, non-exclusive easement in and to the Easement Area to operate, maintain, repair and replace the Sewer Improvements.

Section 2. Improvements; Maintenance. No permanent buildings shall be placed on, over or across the Easement Area; provided, however, that Grantor may construct and maintain any landscaping, driveways, parking areas or other improvements upon the Easement Area which do not materially interfere with the rights granted to Grantee pursuant to this Easement. Grantee

shall maintain all Sewer Improvements located within the Easement Area in good condition and repair at its sole cost and expense, and shall promptly repair any damage to all or any portion of the Grantor Property caused by the use or maintenance of the Easement Area. In each instance, Grantee shall obtain written permission from Grantor, its successors and assigns prior to conducting any work upon the Grantor Property. Grantee shall be responsible for any claims, damages and losses arising from its use of or work upon the Easement Area and Grantee shall indemnify Grantor, its successors and assigns against any loss or damage, including reasonable attorneys' fees, arising out of the use of the Easement Area by Grantee, its invitees or licensees, excluding losses or damages directly caused solely by the gross negligence or willful misconduct of the Grantor.

Section 3. Use of the Grantor Property. Grantee covenants and agrees to use its best efforts to not interfere with or disturb Grantor's business operations on the Grantor Property or the use and enjoyment of the Grantor Property by Grantor and Grantor's tenants, invitees, permittees, contractors, successors and assigns (collectively, the "**Grantor Parties**") while exercising its rights under this Easement, including without limitation, using its best efforts to coordinate schedules with Grantor before performing any work to the Easement Area or improvements located therein to provide minimum disruption to Grantor's business operations and Grantor's and Grantor Parties' use and enjoyment of the Grantor Property.

Section 4. Binding Upon Property. The easements, restrictions, rights and obligations created pursuant to the terms of this Easement shall benefit Grantee and shall run with and be binding upon the Easement Area, including future subdivisions and/or reconfigurations of such property, and shall be binding on all entities having or acquiring any right, title or interest in such properties and shall inure to the benefit of each owner, tenant, subtenant, employee or invitee thereof.

Section 5. Third Parties. Except as herein specifically provided, no rights, privileges or immunities of any Party hereto shall inure to the benefit of any third party, nor shall any third Party be deemed to be a beneficiary of any of the provisions contained in this Easement.

Section 6. Title. Grantor confirms with Grantee and its assigns that, subject to matters of record, Grantor is seized in fee of the Grantor Property and that it has the right to grant and convey this Easement and rights granted herein, and that no third party holds any interest in or to any portion of the Grantor Property as mortgagee, lessee or otherwise.

Section 7. Notice. All notices, requests, demands and other communications required or permitted under this Easement must be in writing and will be deemed to have been delivered, received and effective: (i) on the date of service, if served by hand delivery or by facsimile on the Party to whom notice is to be given; or (ii) on receipt or first attempted delivery after deposit of the notice properly addressed to the Party at the address shown below, if sent by overnight Federal Express or equivalent overnight delivery; or (iii) on receipt or first attempted delivery after deposit of the notice properly addressed, if sent by U.S. certified mail, return receipt requested. The addresses, telephone numbers, and facsimile numbers shown below are the places and numbers for delivery of all notices. Each Party may change the place or number for delivery of notice by notifying the other Party.

If to Grantor: MPEG Land Development, LLC
2101 Overland Avenue
Billings, MT 59102
Attn: Don Sterhan

If to Grantee: City of Sidney, Montana
115 2nd Street S.E.
Sidney, MT 59270
Attn: Jeffrey Hintz, City Engineer/Director

Section 8. Governing Law. This Easement will be governed by and construed in accordance with the procedural and substantive laws of the State of Montana.

Section 9. Severability. If any provision of this Easement or the application of this Easement to any Party to this Easement or any other person is held to be invalid, void or illegal, the remaining provisions will nonetheless remain in full force and effect and not be affected by the invalidity or illegality.

Section 10. Authority. Each person executing this Easement personally represents and warrants that he or she has the requisite authority to bind the Party on whose behalf this Easement is being executed.

Section 11. Amendments. This Easement may be amended only by a recordable written instrument properly executed and notarized on behalf of Grantor and Grantee or their respective successors and assigns.

Section 12. Counterparts. The Easement may be executed in any number of counterparts, whether by original, copy or telecopy signature, and each counterpart of this Easement so executed shall, taken together, comprise one and the same original document.

[Signature pages follow]

IN WITNESS WHEREOF, this Easement has been executed by Grantor as of the Effective Date.

GRANTOR:

MPEG LAND DEVELOPMENT, LLC, a Montana limited liability company

By: _____
Name: Donald J. Sterhan
Title: Managing Member

STATE OF MONTANA)
) ss.
COUNTY OF YELLOWSTONE)

On this _____ day of October in the year 2023, before me, _____, a Notary Public in and for said state, personally appeared Donald J. Sterhan, Managing Member of MPEG Land Development, LLC, a Montana limited liability company, known to me to be the person who executed the within instrument on behalf of said trust and acknowledged to me that he executed the same for the purposes therein stated.

Notary Public

My Commission Expires: _____

IN WITNESS WHEREOF, this Easement has been executed by Grantee as of the Effective Date.

GRANTEE:

CITY OF SIDNEY, MONTANA

By: _____
Name: Jeffrey Hintz
Title: City Engineer/Director

STATE OF MONTANA)
) ss.
COUNTY OF RICHLAND)

On this ____ day of October in the year 2023, before me, _____, a Notary Public in and for said state, personally appeared Jeffrey Hintz, City Engineer/Director of the City of Sidney, Montana, known to me to be the person who executed the within instrument on behalf of said City and acknowledged to me that he executed the same for the purposes therein stated.

Notary Public

My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF GRANTOR PROPERTY

Lot 2, Richland Minor Subdivision, Minor Subdivision Number 145, according to the official plat thereof on file in the Office of the County Clerk and Recorder as Document No. 556826, recorded June 28, 2010, and being a tract of land located within Certificate of Survey No. 27-769 in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 23 North, Range 59 East, M.P.M., Richland County, Montana.

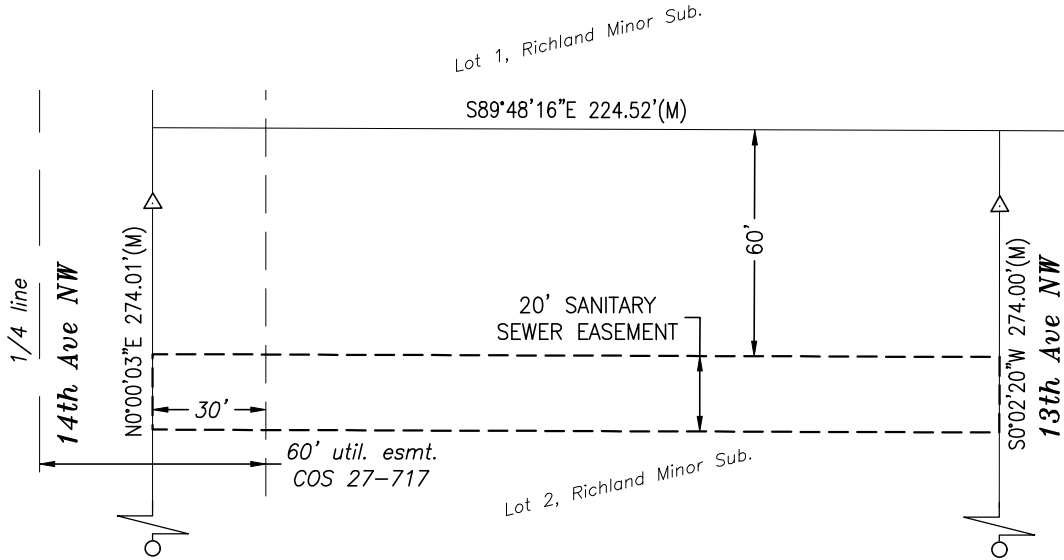
EXHIBIT B

LEGAL DESCRIPTION OF EASEMENT AREA

10 feet either side of a line described as beginning on the West boundary of Lot 2, Richland Minor Subdivision, Minor Subdivision Number 145, according to the official plat thereof on file in the Office of the County Clerk and Recorder as Document No. 556826, recorded June 28, 2010, and being a tract of land located within Certificate of Survey No. 27-769 in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29, Township 23 North, Range 59 East, M.P.M., Richland County, Montana, at a point 70 feet South of the Northwest corner of said Lot 2, thence East parallels with the North line of said Lot 2 to a point on the East boundary of said Lot 2, said point being 70 feet South of the Northeast Corner of said Lot 2.

EXHIBIT C

Within Lot 2 of Richland Minor Subdivision
 In the SE1/4 Section 29, T23N, R59E, P.M.M., Sidney, Richland County, Montana

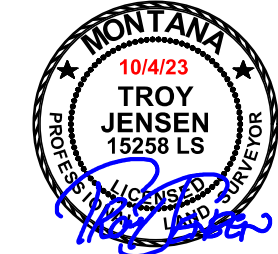


LEGEND	
○	FOUND REBAR & ORANGE CAP MARKED "15258LS"
△	FOUND 20' WITNESS CORNER ALUM. CAP MARKED "15258LS"
(M)	MEASURED DIMENSION
---	EXISTING EASEMENT
- - - -	NEW EASEMENT

DESCRIPTION

A sanitary sewer easement for the benefit of the City of Sidney being the south 20 feet of the northernmost 80 feet of Lot 2 of Richland Minor Subdivision in the SE1/4 Section 29, T23N, R59E, P.M.M., Sidney, Richland County, Montana.

Said easement contains 4489 square feet.



TROY JENSEN, P.L.S. No. 15258
 BENCHMARK LAND SURVEYING, INC.
 P.O. BOX 652
 SIDNEY, MONTANA 59270
 (406)-480-0906



LOT 2, RICHLAND MINOR SUBDIVISION Sanitary Sewer Easement SE1/4, Sec. 29, T23N, R59E, P.M.M. Sidney, Richland Co., Montana			
SURVEYED BY	T. JENSEN	Feb. 2023	SCALE
DRAWN BY	S.R.	Oct. 2023	1" = 40'
BLS Job No.:	23-046		REV