



**Item:** Easement on City Property for Shared Access between the City-Owned Americans Little League Baseball Complex and the BLM/Forest Service Property on 38<sup>th</sup> Street North just south of River Drive

**From:** Planning & Community Development Department

**Initiated By:** Erik Sletten

**Presented By:** Craig Raymond, CBO, Director of Planning & Community Development

**Action Requested:** Approve the Easement Agreement for Shared Access

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (approve/deny) the Easement Agreement between the City of Great Falls and Erik Sletten for shared access between the City-Owned Americans Little League Baseball Complex and the BLM/Forest Service Property on 38<sup>th</sup> Street North just south of River Drive.”

2. Mayor calls for a second, discussion, public comment, and calls the vote.

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**Background:** To facilitate safe access to two adjoining properties, the owner and developer of the new BLM/Forest Service office building has proposed a shared access from 38<sup>th</sup> Street North at the north boundary of a large, City-owned parcel, immediately south of the new building site (see Attachment A, Map Exhibit).

The northern parcel is owned by Erik Sletten, and legally described as Tract 1 of Certificate of Survey #1642, in the NE ¼ of Section 5, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana.

The southern parcel is owned by the City of Great Falls, and legally described as Tract 2 of Certificate of Survey #1642, in the NE ¼ of Section 5, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana.

The proposed easement is on a portion of City property that is undeveloped and outside the fence of the Great Falls Americans Little League Baseball Complex (referred to in the Park &

Recreation Master Plan as “American Legion Youth Baseball Fields”). The easement and proposed access would not adversely affect operations of the baseball fields.

The Baseball Complex currently has three driveways further south along its 38<sup>th</sup> Street North frontage. However, users of the northernmost baseball field have to travel more than 600 feet to the south to exit the facility. Multiple accesses will allow for quicker egress, especially in the case of an emergency.

Mr. Sletten desires the easement to similarly improve access to the government offices, also for safety reasons. Although the property also borders River Drive, the Montana Department of Transportation will not allow an access from River Drive due to limited sight visibility and nearness to the railroad crossing. Mr. Sletten has offered to construct, landscape and maintain a shared paved access, to benefit both property owners.

Finally, the Official Code of the City of Great Falls encourages shared accesses:

*17.32.140 - Common driveways.*

*A. Generally. A common driveway with one (1) curb cut shall be used on minor arterials or principal arterials whenever possible to serve two (2) or more properties.*

*B. Easement required. The common driveway shall be located within an easement which shall be recorded with the County Clerk and Recorder. The easement shall run with the land and can only be terminated by written agreement of all of the affected property owners.*

**Concurrences:** Representatives from the City Planning & Community Development and Park & Recreation Department support the easement. In addition, the Americans Little League organization also supports the additional access.

**Fiscal Impact:** There will be no fiscal impact to the City, as Mr. Sletten will construct and maintain all improvements.

**Alternatives:** The City Commission could vote to not approve the easement.

**Attachments:**

Attachment A – Map Exhibit

Attachment B – Easement Agreement

Cc: Joseph Petrella, Park & Recreation Director  
Spencer Woith, Woith Engineering  
Erik Sletten, Owner

Attachment A – Map Exhibit



Attachment B – Easement Agreement

## **EASEMENT AGREEMENT**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Great Falls, a Montana municipal corporation, hereinafter "Grantor," and Erik Sletten, 1732 Alder Drive, Great Falls, Montana, hereinafter "Grantee."

### **RECITALS**

1. Grantor is the owner of the real property situated in Cascade County, Montana, more particularly described as Tract 2 of Certificate of Survey #1642, in the NE ¼ of Section 5, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana, and depicted on Exhibit "A" attached hereto and incorporated herein by this reference, hereinafter the "Grantor Real Property;" and,
2. Grantee is the sole owner of the real property situated in Cascade County, Montana, more particularly described as Tract 1 of Certificate of Survey #1642, in the NE ¼ of Section 5, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana, and depicted on Exhibit "A," hereinafter the "Grantee Real Property;" and,
3. Grantee desires that Grantor grant it a perpetual non-exclusive easement and right-of-way (the "Easement") across the Grantor Real Property to the Grantee Real Property, for the purpose of constructing and maintaining an access driveway, landscaping and associated improvements, and as more fully described in Exhibit "A;" and,
4. Although Grantor currently has driveway access to the Grantor Real Property, the driveway nearest the Easement location is approximately 600 feet to the south along 38<sup>th</sup> Street North; and,
5. An additional driveway into the Grantor Real Property at the north property line would improve traffic flow and provide more direct emergency access into and out of the Grantor Real Property's baseball complex; and,
6. Safe access to both the Grantor Real Property and Grantee Real Property can be accomplished through a shared, common driveway, which is encouraged in the Official Code of the City of Great Falls as follows:  
*17.32.140 - Common driveways.*
  - A. *Generally. A common driveway with one (1) curb cut shall be used on minor arterials or principal arterials whenever possible to serve two (2) or more properties.*
  - B. *Easement required. The common driveway shall be located within an easement which shall be recorded with the County Clerk and Recorder. The easement shall run with the land and can only be terminated by written agreement of all of the affected property owners.*and,
7. Grantor is willing to grant the Easement upon the terms and conditions described herein.

**WITNESSETH**

That:

For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor has this day bargained, sold, and by these presents does hereby bargain, sell, convey and transfer unto Grantee, its successors and assigns forever, a perpetual easement and right-of-way upon the Grantor Real Property for the sole purpose of access to the Grantee Real Property, together with the right to install, repair, maintain, alter, erect and operate an access driveway and landscaping upon, over, and across the Easement upon Grantor Real Property, subject to the termination rights contained herein. The perpetual easement and right-of-way shall be for the unrestricted right to enter at any time and from time to time to install, repair, maintain, alter, erect and operate an access road, together with all surfacing, fencing, landscaping, irrigation system and other materials incidental thereto (“Improvements”). Said Easement is more fully illustrated on Exhibit “A,” which is appended to and made a part of this Easement Agreement.

Grantee agrees to install and maintain landscaping upon the Easement according to a plan approved by the Grantor.

Grantee agrees to re-surface all existing driveways into the Grantor Public Property off of 38<sup>th</sup> Street North, to ensure the new driveway across the Easement does not become the main access to the baseball complex on the Grantor Real Property.

Grantee agrees to prepare, file and record a Certificate of Survey showing the Easement and pay all filing fees related to this Easement.

The Improvements, as well as all driveway paving, shall be constructed at the sole expense of Grantee according to plans approved by Grantor. The Improvements shall be maintained at the sole expense of Grantee or its permitted assigns and shall be made and kept as safe as possible for the intended uses.

To the fullest extent permitted by law, Grantee shall indemnify and save harmless Grantor, its officers, managers, agents and employees, against and from any and all actions, lawsuits, claims, demands, damages, judgments, losses, fines, penalties, fees and expenses (including reasonable attorney fees and court costs incurred enforcing this obligation or a third party claim) or liability of any character whatsoever, brought or asserted for injuries to or death of any person or persons, damages to the property, or violation of any federal, state or local statute, rule, regulation or ordinance (including, but not limited to, environmental, safety or health statute, rule regulation or ordinance) arising out of, resulting from, or occurring in connection with the Grantee’s exercise of the rights and privileges herein granted.

Up to the limitations set forth in MCA §2-9-108, Grantor shall fully indemnify, defend, and save Grantee, its agents, representatives, employees, and officers harmless from and against any and all claims, actions, costs, fees, losses, liabilities or damages of whatever kind or nature arising solely from Grantor’s performance under this agreement.

Grantee and Grantor agree that the Easement is necessary for safe access to the Grantee Real Property and will enhance access to the Grantor Real Property. Should Grantor or Grantee deem this access to the Grantee Real Property no longer necessary, the Grantor and Grantee may mutually agree to terminate this Easement. In the event of termination, Grantor and Grantee agree to execute a written termination and abandonment of the Easement for title purposes.

Grantor and Grantee mutually recognize, understand and agree that subsequent to the time that this Easement is granted, events may occur and actions may be taken which were unforeseen by either party or both parties hereto. In this respect, Grantor and Grantee agree that the Grantor and Grantee may modify this Easement by subsequent written agreement which is executed by both Grantor and Grantee; provided, however, that Grantor's termination rights set forth herein shall not be disturbed.

Grantor does hereby covenant with Grantee that it is lawfully seized and possessed of said Grantor Real Property and that it has the good and lawful right to convey said Easement or any part or parts thereof.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Easement Agreement as of the day and year first above written.

**GRANTOR:**

CITY OF GREAT FALLS

By: \_\_\_\_\_  
Michael J. Winters, Mayor

Attest: (SEAL OF CITY)

\_\_\_\_\_  
Lisa Kunz, City Clerk

REVIEWED FOR LEGAL CONTENT

\_\_\_\_\_  
Sara R. Sexe, City Attorney

STATE OF MONTANA )  
 : ss:  
County of Cascade )

**GRANTEE:**

Erik Sletten  
\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(NOTARIAL SEAL)

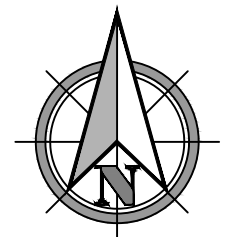
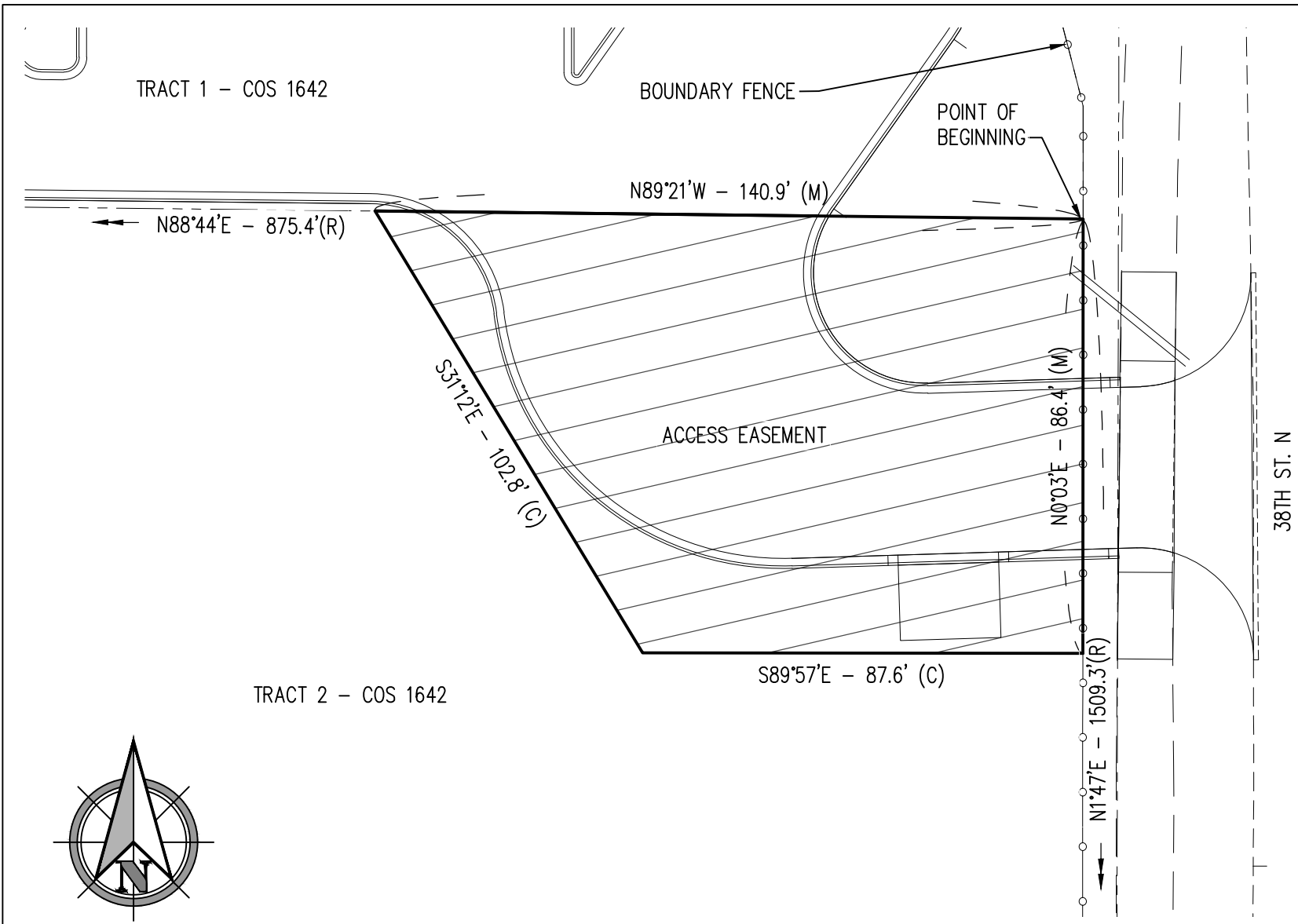
\_\_\_\_\_  
Notary Public for the State of Montana

DESCRIPTION

Beginning at the southwest corner of Tract 1 of C.O.S. 1642 as filed in the office of the Clerk and Recorder of Cascade County, Montana; thence N89°21'W, 140.9 feet along the boundary between Tract 1 and Tract 2 of said C.O.S.1642 to a point; thence S31°12'E, 102.8 feet to a point; thence S89°57'E, 87.6 feet to a point on the easterly boundary of said Tract 2; thence N0°03'E, 86.4 feet along said easterly boundary to the POINT OF BEGINNING, containing 0.228 acres.

**EXHIBIT A**  
**ACCESS EASEMENT**

AREA OF EASEMENT = 0.228 ACERS



SCALE: 1' = 30' (M) MEASURED BEARING AND DISTANCE (R) RECORD BEARING AND DISTANCE (C) CALCULATED BEARING AND DISTANCE FROM C.O.S. 1642