

SUBDIVISION IMPROVEMENTS AGREEMENT
*Lots 20, 21, 22, & 23, Block 1 of the West King Commercial Park Subdivision, Northfield
Warehouses*

Table of Contents
Yellowstone County

I. Variances	2
II. Conditions that Run with the Land	2
III. Transportation	3
A. Streets	
B. Access	
C. Billings Area Bike Trials	
D. Maintenance	
IV. Emergency Services	3
V. Storm Drainage	4
VI. Utilities	4
A. Water & Septic Sewer	
B. Power, Telephone, Gas, and Cable Television	
VII. Parks/Open Space	4
VIII. Irrigation	4
IX. Weed Management	4
X. Soils/Geotechnical Study	4
XI. Financial Guarantees	5
XII. Legal Provisions	5

SUBDIVISION IMPROVEMENTS AGREEMENT

Lots 20, 21, 22, & 23, Block 1 of the West King Commercial Park Subdivision, Northfield Warehouses

This agreement is made and entered into this ____ day of _____, 20__, by and between Eggart Enterprises LLC, whose address for the purpose of this agreement is 720 Lohwest lane, Billings, MT 59106, hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, the plat of Lots 20, 21, 22, & 23, Block 1 of the West King Commercial Park Subdivision, Northfield Warehouses, located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning as a major subdivision; and

WHEREAS, a Subdivision Improvements Agreement is required by the County prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to the Condominium development of Lots 20, 21, 22 & 23, Block 1 of the West King Commercial Park Subdivision, Northfield Warehouses, upon the filing of the final condominium documents in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. VARIANCES

Subdivider does not request any variances from the Yellowstone County Subdivision Regulations for this subdivision.

II. CONDITIONS THAT RUN WITH THE LAND

A. N/A

B. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

C. No water rights have been transferred to the lot owners.

D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

E. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.

F. When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.

H. Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision or by assessed Owners Association fees governed by the Owners Association created as part of this subdivision of land.

III. TRANSPORTATION

A. Streets

No new streets are proposed for the subdivision. The subdivision will utilize the existing dedicated right of way, Black Hawk Street or Western Way, for access. Black Hawk Street was installed as part of Phase 1 of the West King Commercial Park Subdivision. Western Way was installed as part of Phase 2 & 3 of the West King Commercial Park Subdivision. Black Hawk Street & Western Way are 28' wide public streets constructed to County Standards. They consist of a 24' wide paved surface with 2 foot wide gravel shoulders and drainage ditches on both sides. The street is situated in the center of a 70' right of way. Approach culverts installed within the drainage swales of Western Way shall be 15" in diameter. Western Way intersects with S.64th to the East. A 2nd means of egress is provided via Black Hawk Street which intersects King Avenue West.

There are no bike trails planned for this commercial subdivision.

B. Access

Access into the property will be via 2-30' approaches off of the existing 70' right of way of Western Way. The approaches shall be installed & piped in accordance with the approach standards of Yellowstone County Public Works. These approaches will be constructed of Concrete. Access to Western Way will be from either Black Hawk Street or S. 64th St. W. No sidewalks are to be provided.

C. Billings Area Bike Trials

The subdivision is within the jurisdiction area of Billings Area Bike Trials. However, no trails have been identified for this property and none have been provided.

D. Maintenance

Maintenance of the Street Improvements shall be the responsibility of the existing Rural Special Improvement District for Maintenance (RSID-M) as described in the SIA for West King Commercial Park Subdivision on file at the Yellowstone County Clerk & Recorder under Document #3555252. This RSID-M shall be expanded to include each individual owner of property with the Northfield Warehouses Subdivision.

IV. EMERGENCY SERVICE

There is an existing 30,000 gallon dry hydrant located approximately 450' Southeast of the property at the southeast corner of Wagon Trail that was installed as part of the West King Commercial Park Subdivision. This dry hydrant is within a ½ road mile of the Northfield Warehouses. The maintenance of the existing dry hydrant within West King Commercial Park Subdivision is the responsibility of the RSID-M as described in the SIA for West King Commercial Park Subdivision on file at the Yellowstone County Clerk & Recorder under Document #3555252. This RSID-M shall be expanded to include each individual owner of property with the Northfield Warehouses Subdivision. This subdivision is within the BUFSA boundaries.

V. STORM DRAINAGE

This subdivision is subject to review by the Department of Environmental Quality for storm water management. A re-write request of the existing COSA to allow for condominiums on this site utilizing the existing storm water facilities for West King Commercial Park has been submitted to MDEQ for approval. Northfield Warehouses will be constructed to utilize the existing drainage ditches within the public right of way to convey storm water to the existing & proposed retention ponds already in place within the West King Commercial Park Subdivision. No new storm water facilities are planned. Maintenance of the existing storm water facilities shall be the responsibility of the existing Rural Special Improvement District for Maintenance (RSID-M) as described in the SIA for West King Commercial Park Subdivision on file at the Yellowstone County Clerk & Recorder under Document #3555253. This RSID-M shall be expanded to include each individual owner of property with the Northfield Warehouses Subdivision

VI. UTILITIES

A. Water & Sewer

No public water or sewer is available in the subdivision at this time. The subdivision will utilize cisterns and shared wastewater disposal systems as approved by MDEQ. The maintenance of the water & sewer facilities will be the responsibility of the Northfield Warehouses Owners Association.

The design and permitting of the water & sewer facilities will be concurrent with this subdivision review and its approval shall be subject to the approval by MDEQ.

B. Power, Telephone, Gas, and Cable Television

As shown on the subdivision plat, there is an existing 10 foot wide utility easement serving this property with utilities already located in that easement that will be brought to serve this property. An Easement will be provided to MDU when the main is extended into the property.

VII. PARKS/OPEN SPACE

There is no parkland requirement for this proposed plat.

VIII. IRRIGATION

Irrigation for trees & shrubs will be via a drip irrigation system. The system will utilize water from the proposed water supply cisterns.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

A Weed Management Plan has been approved by the Yellowstone County Weed Department. Said weed management plan shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.

The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

X. SOILS/GEOTECHNICAL STUDY

A geotechnical investigation may be required prior to issuance of a building permit for the buildings in this subdivision.

XI. FINANCIAL GUARANTEES

There are no Financial Guarantees associated with this subdivision as no public improvements are required.

XII. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C.** The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.
- D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.
- G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

DRAFT

SUBDIVISION IMPROVEMENTS AGREEMENT
*Lots 20, 21, 22, & 23, Block 1 of the West King Commercial Park Subdivision, Northfield
Warehouses*

Table of Contents
Yellowstone County

I. Variances	2
II. Conditions that Run with the Land	2
III. Transportation	3
A. Streets	
B. Access	
C. Billings Area Bike Trials	
D. Maintenance	
IV. Emergency Services	3
V. Storm Drainage	4
VI. Utilities	4
A. Water & Septic Sewer	
B. Power, Telephone, Gas, and Cable Television	
VII. Parks/Open Space	4
VIII. Irrigation	4
IX. Weed Management	4
X. Soils/Geotechnical Study	4
XI. Financial Guarantees	5
XII. Legal Provisions	5

SUBDIVISION IMPROVEMENTS AGREEMENT

Lots 20, 21, 22, & 23, Block 1 of the West King Commercial Park Subdivision, Northfield Warehouses

This agreement is made and entered into this ____ day of _____, 20__, by and between Eggart Enterprises LLC, whose address for the purpose of this agreement is 720 Lohwest lane, Billings, MT 59106, hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, the plat of Lots 20, 21, 22, & 23, Block 1 of the West King Commercial Park Subdivision, Northfield Warehouses, located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning as a major subdivision; and

WHEREAS, a Subdivision Improvements Agreement is required by the County prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to the Condominium development of Lots 20, 21, 22 & 23, Block 1 of the West King Commercial Park Subdivision, Northfield Warehouses, upon the filing of the final condominium documents in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. VARIANCES

Subdivider does not request any variances from the Yellowstone County Subdivision Regulations for this subdivision.

II. CONDITIONS THAT RUN WITH THE LAND

A. N/A

B. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

C. No water rights have been transferred to the lot owners.

D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

E. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.

F. When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.

H. Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision or by assessed Owners Association fees governed by the Owners Association created as part of this subdivision of land.

III. TRANSPORTATION

A. Streets

No new streets are proposed for the subdivision. The subdivision will utilize the existing dedicated right of way, Black Hawk Street or Western Way, for access. Black Hawk Street was installed as part of Phase 1 of the West King Commercial Park Subdivision. Western Way was installed as part of Phase 2 & 3 of the West King Commercial Park Subdivision. Black Hawk Street & Western Way are 28' wide public streets constructed to County Standards. They consist of a 24' wide paved surface with 2 foot wide gravel shoulders and drainage ditches on both sides. The street is situated in the center of a 70' right of way. Approach culverts installed within the drainage swales of Western Way shall be 15" in diameter. Western Way intersects with S.64th to the East. A 2nd means of egress is provided via Black Hawk Street which intersects King Avenue West.

There are no bike trails planned for this commercial subdivision.

B. Access

Access into the property will be via 2-30' approaches off of the existing 70' right of way of Western Way. The approaches shall be installed & piped in accordance with the approach standards of Yellowstone County Public Works. These approaches will be constructed of Concrete. Access to Western Way will be from either Black Hawk Street or S. 64th St. W. No sidewalks are to be provided.

C. Billings Area Bike Trials

The subdivision is within the jurisdiction area of Billings Area Bike Trials. However, no trails have been identified for this property and none have been provided.

D. Maintenance

Maintenance of the Street Improvements shall be the responsibility of the existing Rural Special Improvement District for Maintenance (RSID-M) as described in the SIA for West King Commercial Park Subdivision on file at the Yellowstone County Clerk & Recorder under Document #3555252. This RSID-M shall be expanded to include each individual owner of property with the Northfield Warehouses Subdivision.

IV. EMERGENCY SERVICE

There is an existing 30,000 gallon dry hydrant located approximately 450' Southeast of the property at the southeast corner of Wagon Trail that was installed as part of the West King Commercial Park Subdivision. This dry hydrant is within a ½ road mile of the Northfield Warehouses. The maintenance of the existing dry hydrant within West King Commercial Park Subdivision is the responsibility of the RSID-M as described in the SIA for West King Commercial Park Subdivision on file at the Yellowstone County Clerk & Recorder under Document #3555252. This RSID-M shall be expanded to include each individual owner of property with the Northfield Warehouses Subdivision. This subdivision is within the BUFSA boundaries.

V. STORM DRAINAGE

This subdivision is subject to review by the Department of Environmental Quality for storm water management. A re-write request of the existing COSA to allow for condominiums on this site utilizing the existing storm water facilities for West King Commercial Park has been submitted to MDEQ for approval. Northfield Warehouses will be constructed to utilize the existing drainage ditches within the public right of way to convey storm water to the existing & proposed retention ponds already in place within the West King Commercial Park Subdivision. No new storm water facilities are planned. Maintenance of the existing storm water facilities shall be the responsibility of the existing Rural Special Improvement District for Maintenance (RSID-M) as described in the SIA for West King Commercial Park Subdivision on file at the Yellowstone County Clerk & Recorder under Document #3555253. This RSID-M shall be expanded to include each individual owner of property with the Northfield Warehouses Subdivision

VI. UTILITIES

A. Water & Sewer

No public water or sewer is available in the subdivision at this time. The subdivision will utilize cisterns and shared wastewater disposal systems as approved by MDEQ. The maintenance of the water & sewer facilities will be the responsibility of the Northfield Warehouses Owners Association.

The design and permitting of the water & sewer facilities will be concurrent with this subdivision review and its approval shall be subject to the approval by MDEQ.

B. Power, Telephone, Gas, and Cable Television

As shown on the subdivision plat, there is an existing 10 foot wide utility easement serving this property with utilities already located in that easement that will be brought to serve this property. An Easement will be provided to MDU when the main is extended into the property.

VII. PARKS/OPEN SPACE

There is no parkland requirement for this proposed plat.

VIII. IRRIGATION

Irrigation for trees & shrubs will be via a drip irrigation system. The system will utilize water from the proposed water supply cisterns.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

A Weed Management Plan has been approved by the Yellowstone County Weed Department. Said weed management plan shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.

The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

X. SOILS/GEOTECHNICAL STUDY

A geotechnical investigation may be required prior to issuance of a building permit for the buildings in this subdivision.

XI. FINANCIAL GUARANTEES

There are no Financial Guarantees associated with this subdivision as no public improvements are required.

XII. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C.** The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.
- D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.
- G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

DRAFT

