

SUBDIVISION IMPROVEMENTS AGREEMENT
AMENDED PLAT OF LOT 2, BLOCK 4, CLAIMSTAKESUBDIVISION

Table of Contents
City of Billings

I. Variances	2
II. Conditions that Run with the Land	2
III. Transportation	3
A. Streets	
B. Sidewalks	
C. Street Lighting	
D. Access	
E. Billings Area Bikeway and Trail Master Plan	
F. Public Transit	
IV. Emergency Services	4
V. Storm Drainage	5
VI. Utilities	5
A. Water	
B. Sanitary Sewer	
C. Power, Telephone, Gas, and Cable Television	
VII. Parks/Open Space	5
VIII. Irrigation	5
IX. Soils/Geotechnical Study	5
X. Financial Guarantees	6
XI. Legal Provisions	6

SUBDIVISION IMPROVEMENTS AGREEMENT
Amended Plat of Lot 2, Block 4, Claimstake Subdivision

This agreement is made and entered into this ____ day of _____, 20__, by and between Timothy J Eastwood & Tracey R Eastwood whose address for the purpose of this agreement is 134 Regal St., Billings, MT 59101, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the plat of Amended Plat of Lot 2, Block 4, Claimstake Subdivision, located in the City of Billings, Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on _____, the City Council conditionally approved a preliminary plat of Amended Plat of Lot 2, Block 4, Claimstake Subdivision and

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

WHEREAS, the provisions of this agreement shall be effective and applicable to the Amended Plat of Lot 2, Block 4, Claimstake Subdivision upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, 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 City of Billings Subdivision Regulations for this subdivision.

II. CONDITIONS THAT RUN WITH THE LAND

A. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

- 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. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent 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.

III. TRANSPORTATION

A. Streets

This subdivision is fronted by Enterprise Avenue, a public street with a 70' right of way on the north and by Overland Avenue, a public street with a 70' right of way on the south. Both Enterprise Avenue and Overland Avenue are paved with 49 foot widths from back of curb to back of curb. No new streets are proposed for this subdivision.

B. Sidewalks

Enterprise Avenue has five foot wide concrete boulevard sidewalks on both sides of the street, where it fronts this subdivision. Overland Avenue has a five foot wide boulevard sidewalk on the north side of the street and a five foot wide concrete sidewalk up against the curb on the south side of the street where it fronts this subdivision. No new public sidewalks will be built in conjunction with this new subdivision.

C. Street Lighting

No street lighting is proposed at this time.

D. Access

Access to Lot 2A will be from Enterprise Avenue but not until lot development. Access to Lot 2B will be from a 25' wide drive approach and a 30' wide drive approach from Overland Avenue.

E. Billings Area Bikeway and Trail Master Plan (BABTMP)

This subdivision is not along the BABTMP and no new trails are proposed with this subdivision.

F. Public Transit

This subdivision is about 400' from closest MET bus route. It is within the City of Billings where taxi service is available.

IV. EMERGENCY SERVICE

Access can be provided to this subdivision from either Overland Avenue or Enterprise Avenue. There is an existing fire hydrant fronting this subdivision on both Overland Avenue and Enterprise Avenue.

Construction of buildings made of combustible Materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as Adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20 feet wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

V. STORM DRAINAGE

This subdivision will comply with the provisions of the Stormwater Management Manual and section 23-706, BMCC, a stormwater management plan shall be submitted for approval by the Engineering Division. There is an existing 6" storm drain service which can be utilized by Lot 2B.

VI. UTILITIES

A. Water

An existing water service stubbed in from Overland Avenue will serve Lot 2B. An existing 1 ¼" water service is stubbed in from Enterprise Avenue which will be available for Lot 2A. No new water mains are proposed for this subdivision.

B. Sanitary Sewer

An existing 6" sewer service is available to Lot 2A which is stubbed out of Enterprise Avenue. An existing 6" sewer service is available to Lot 2B which is stubbed out of Overland Avenue. No new sewer mains are proposed for this subdivision.

C. Power, Telephone, Gas, and Cable Television

There are existing 9.5' wide sidewalk and utility easements along both of the streets fronting this subdivision and there are existing 8' wide utility easements along the east and west edges of this subdivision which are used to provide private utilities to this subdivision.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed Amended Plat of Lot 2, Block 4, Claimstake Subdivision, as this is a minor subdivision [MCA 76-3-617(3)(a)].

VIII. IRRIGATION

This subdivision does not affect any irrigation districts or ditches. There are no irrigation rights associated with this subdivision. No new irrigation improvements are proposed with this subdivision.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical report dated November 13, 2017 by SK Geotechnical was performed for the underlying lots of this subdivision. The geotechnical report did not find anything unusual which would require significant non-typical construction methods for building on this site. The geotechnical report can be viewed at the office of EEC located at 720 Lohwest Lane, Billings, MT, 59106, or if a copy is requested, can be mailed to concerned parties.

X. FINANCIAL GUARANTEES

Except as otherwise provided, subdivider shall install and construct said required improvements with cash or by using the mechanics of a special improvement district or private contracts secured by letters of credit or letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

XI. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by the City of Billings.
- 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.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

Timothy J Eastwood

Tracey R Eastwood

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____ 20__, before me, a Notary Public in and for the State of Montana, personally appeared Timothy J Eastwood and Tracey R Eastwood, known to me to be the persons, who executed the foregoing instrument and acknowledged to me that they executed the same.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

This Agreement is hereby approved and accepted by the City of Billings, this _____ day of _____, 20____.

"CITY"

CITY OF BILLINGS
MONTANA

BY: _____
Mayor

ATTEST: _____
City Clerk

STATE OF MONTANA)
 :ss.
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____, and _____ known to me to be the Mayor and the City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

Signature

Print or Type Name

Notary Public for the State of Montana
Residing in _____, Montana

My Commission expires: _____

WAIVER OF RIGHT TO PROTEST

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more Rural Special Improvement Districts (RSID's) which Yellowstone County may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

Amended Plat of Lot 2, Block 4, Claimstake Subdivision

Signed and dated this ____ day of _____, 20__.

"SUBDIVIDER"

Timothy J Eastwood

Tracey R Eastwood

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared Timothy J Eastwood and Tracey R Eastwood, known to me to be the persons who executed the foregoing instrument and acknowledged to me that they executed the same.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____