

P 2-18-00075

SUBDIVISION IMPROVEMENTS AGREEMENT
Amended Plat of Lot 3, Sunnyside Subdivision – 1st Filing
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. Traffic Control Devices	
	E. Access	
	F. Billings Area Bikeway and Trail Master Plan	
	G. 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	6
VIII.	Irrigation	6
IX.	Soils/Geotechnical Study	6
X.	Phasing of Improvements	6
XI.	Financial Guarantees	6
XII.	Legal Provisions	6

SUBDIVISION IMPROVEMENTS AGREEMENT

Amended Plat of Lot 3, Sunnyside Subdivision – 1st Filing

This agreement is made and entered into this ____ day of _____, 20__, by and between Opportunity Bank of Montana, whose address for the purpose of this agreement is P.O. Box 4999, Helena, MT 59604-4999, hereinafter referred to as “Subdivider,” and the CITY OF BILLINGS, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the amended plat of *Lot 3, Sunnyside Subdivision – 1st Filing*, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the City Council conditionally approved an amended preliminary plat of *Lot 3, Sunnyside Subdivision – 1st Filing*; 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 *Lot 3, Sunnyside Subdivision – 1st Filing* 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

There are no variances requested for this subdivision.

II. CONDITIONS THAT RUN WITH THE LAND

A. Lot owners should be aware that there are Covenants, Conditions and Restrictions of the Lot 3, Sunnyside Subdivision – 1st Filing recorded in conjunction with this subdivision that outlines additional requirements specific to this subdivision.

- B. A geotechnical engineering report was prepared for this development by Terracon Consultants, Inc. titled, *New Commercial Development, Billings, Montana*, dated May 30, 2018. This report details foundation design, pavement and concrete sections, and infiltration rates for stormwater management systems specific to the proposed site improvements.
- 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. The subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- F. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

North 27th Street has a right-of-way width of 80 feet and is fully constructed adjacent to the project limits with curb and gutter and an approximately 60' paved width. No improvements to North 27th Street are proposed with this subdivision.

10th Avenue North has a right-of-way width of 80 feet and is fully constructed adjacent to the project limits with a paved width of approximately 50'. No improvements to 10th Avenue North are proposed with this subdivision.

B. Sidewalks

An approximately 7' wide concrete sidewalk is currently in place along North 27th Street. A 10' wide boulevard and 5' wide concrete sidewalk will be

constructed along the frontage of the subject parcel along North 27th Street. Timing of the sidewalk improvements will be determined in conjunction with the Montana Department of Transportation and City Engineering.

An approximately 7.5' wide boulevard and 6' wide concrete sidewalk are currently in place along 10th Avenue North. No improvements to the boulevard or sidewalk along 10th Avenue North are proposed with this subdivision other than replacing areas that are damaged during construction of the on-site improvements.

C. Street Lighting

There are no street lighting improvements proposed with this subdivision.

D. Traffic Control Devices

There are existing stop signs and street signs on 10th Avenue North at the intersection with North 27th Street. There are no additional traffic control devices proposed with this subdivision.

E. Access

Legal access will be granted by way of the dedicated right-of-way along North 27th Street via two approaches. A reciprocal access and parking easement will be placed over the parking lot to provide legal, shared access and parking to both lots. The approach locations and configurations will be determined in conjunction with the Montana Department of Transportation and City Engineering.

F. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway and Trail Master Plan identifies a proposed short-range bike lane along North 27th Street adjacent to this property. This subdivision will not require the construction of any bikeway or trail improvements.

G. Public Transit

There are no public transit improvements proposed with this subdivision.

IV. EMERGENCY SERVICE

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) 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.

The City of Billings Fire and Police Departments will provide emergency fire and law enforcement services. Emergency access shall be provided via North 27th

Street. An operational fire hydrant is located in the southwest quadrant of the intersection of North 27th Street and 10th Avenue North.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of development.

The proposed stormwater management system will consist of two separate infiltration systems with large diameter perforated pipe. The infiltration system will tie into the City's existing storm sewer system and will include access risers for maintenance purposes.

VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable System Development and Franchise Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

A. Water

Both proposed lots are currently served by individual water services. No additional water system improvements are proposed for this subdivision.

B. Sanitary Sewer

Both proposed lots are currently served by individual sanitary sewer services. All existing sanitary sewer services that are located on the lots will be removed and capped at the sanitary sewer main. New sanitary sewer services will be installed at the locations required by the development of the lots.

C. Power, Telephone, Gas, and Cable Television

Both proposed lots are currently served by individual power, telephone, gas, and cable television services. No additional power, telephone, gas, or cable television improvements are proposed for this subdivision.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed Lot 3, Sunnyside Subdivision – 1st Filing, as this is a minor subdivision [MCA 76-3-621(3)(a)].

VIII. IRRIGATION

Both parcels of the subdivision are within the Sunnyside Irrigation District; however, both parcels will utilize private irrigation systems.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical engineering report was prepared for this development by Terracon Consultants, Inc. titled, *New Commercial Development, Billings, Montana*, dated May 30, 2018. This report details foundation design, pavement and concrete sections, and infiltration rates for stormwater management systems specific to the proposed site improvements.

X. PHASING OF IMPROVEMENTS

There are no phases associated with this subdivision.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract secured by letters of credit or a 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 private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

XII. 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”

Opportunity Bank Of Montana

By: _____

Its: _____

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 _____, known to me to be the _____ of *Opportunity Bank of Montana*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

