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BlueLine Engineering
2669 S 56th St W
Billings, MT 59106

SUBDIVISION IMPROVEMENTS AGREEMENT
Sartorie Subdivision, 2nd Filing
Table of Contents
(City of Billings)

I.	Variances	2
II.	Conditions that Run with the Land	2-3
III.	Transportation	
	A. Streets	3
	B. Sidewalks	3
	C. Street Lighting	4
	D. Traffic Control Devices	4
	E. Access	4
	F. Heritage Trail Plan	4
	G. Public Transit	4
IV.	Emergency Services	4-5
V.	Storm Drainage	5
VI.	Utilities	5-6
	A. Water	6
	B. Sanitary Sewer	6
	C. Power, Telephone, Gas, and Cable Television	6
VII.	Parks/Open Space	6-7
VIII.	Irrigation	7
IX.	Soils/Geotechnical Study	7
X.	Financial Guarantees	7
XI.	Legal Provisions	7-8

SUBDIVISION IMPROVEMENTS AGREEMENT

Sartorie Subdivision, 2nd Filing

This agreement is made and entered into this ____ day of _____, 2018, by and between **J&M DEVELOPMENT, LLC**, whose address for the purpose of this agreement is 1880 Hawthorne Lane; Billings, MT 59105, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, at a regular meeting conducted on the _____ day of _____, 2016, the Board of Planning recommended conditional approval of a preliminary plat of Sartorie Subdivision, 2nd Filing; and

WHEREAS, at a regular meeting conducted on the 24th day of July, 2017, the City Council conditionally approved a preliminary plat of Sartorie Subdivision, 2nd Filing; and

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

WHEREAS, the provisions of this agreement shall be effective and applicable to Sartorie Subdivision, 2nd Filing. 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

A. There are no variances requested for the Subdivision.

II. CONDITIONS THAT RUN WITH THE LAND

A. Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.

B. 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.

- C. 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.
- D. Lot owners should be aware that there is a possibility of high water table on lots, especially along the east edge by the ditch. An investigation of water table levels shall be conducted and be submitted with the building permit.
- E. Lot owners should be aware of the limitation to the sanitary sewer depth and what they are able to build on the lots.
- F. 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.
- G. The Developer and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and Billings Stormwater Management Manual.
- H. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for and new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- I. 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

1. All dedicated streets and site improvements within the subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, Uniform Building Code the *Stormwater Management Manual*, and other applicable City codes, rules and regulations.
2. Sartorie Road within the subdivision shall be built to grade with a satisfactory subbase, base course, curb and gutter and asphalt surface. The design cross-section shall be a 34-foot back-to-back curb width street. The design cross-sections of said streets shall be submitted to, and approved by, the City of Billings Public Works and Fire Departments.
3. No improvements to Hawthorne Lane shall be required at this time, but said improvements shall be included in the Waiver for construction of same in the future. Future improvements to Hawthorne Lane could include sidewalk, curb and gutter, and street widening.

The curb and gutter on the north side of Kyhl Lane east from the intersection of Sartorie Road to the intersection of Kyhl Lane and Hawthorne Lane will be constructed during future filings of the subdivision and will be included in the waiver. Kyhl Lane improvements west of the Sartorie Road intersection to the edge of the subdivision will be completed with Sartorie Subdivision, 2nd Filing. A 5-foot wide boulevard sidewalk will be constructed on the north side of Kyhl Lane. Curb and gutter shall be installed, as well as the northern half of the street widening to make for a 34-foot street section.

B. Sidewalks

The Subdivider will install handicap access ramps where necessary as part of improvements of construction. Sidewalks along lot frontages shall be 5-foot wide walks with a 5-foot grassy boulevard and shall be installed by the lot owner at the time of lot development.

C. Street Lighting

Street lights shall not be installed along the residential streets, but said lights shall be included in the Waiver for construction of same in the future. The Subdivider shall install utility conduits with the private contracts to aid future street light installation. Said Waiver shall also include a maintenance district for street light energy and the maintenance of future street lights.

D. Traffic Control Devices

1. Street name and stop signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the City of Billings Public Works and Fire Departments.
2. No traffic signals are anticipated within this subdivision.
3. The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual of Uniform Traffic Control Devices and approved by the City of Billings Public Works Department.

E. Access

Access to the subdivision will be provided from the Sartorie Road intersection with Kyhl Lane. No secondary access is required as this is a major subdivision with less than 20 lots and a cul-de-sac with a length less than 600 feet.

F. Billings Area Bikeways & Trail Master Plan (BABTMP)

The BABTMP does not show a corridor adjacent to the subdivision.

G. Public Transit

The Met Transit System provides public transportation services throughout the City of Billings. There is a bus line that runs along Hawthorne Lane, which borders Sartorie Subdivision to the east. This system is already in place and will not require any improvements.

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.

At a minimum, the following is required:

1. 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.

2. 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.
3. 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.
4. The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

V. STORM DRAINAGE

There is a storm water detention pond on the southern end of the property. The subdivision will drain to said pond and discharge through a storm drain pipe that was installed in Sartorie Subdivision, 1st Filing.

An inlet will be installed in the new cul-de-sac that will discharge to the existing piping on the western boundary of the subdivision. The pipe flows south to the existing stormwater pond.

The 0.265 acres of land containing the on-site detention pond was dedicated to the City of Billings. Mowing and weeding of the pond area will be performed by the subdivisions homeowners association. Maintenance of the stormwater structures will be performed by the City of Billings.

All stormwater facilities will be owned by the City of Billings.

All drainage improvements will be subject to review and approval by the engineering department and in conformance with the *Stormwater Management Manual* and Section 23-706, BMCC.

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 County Water District of Billings Heights (CWDBH) and 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 (sewer), the CWDBH, Billings Fire Department and the Montana Department of Environmental Quality (MDEQ).

A. Water

An 8-inch water main and services shall be installed in Sartorie Road and Pumpkin Hollow Circle. Said main and services will be approved by the CWDBH and shall be installed in conformance with the design standards, specification, rules and regulations of the CWDBH and MDEQ.

Improvements noted herein shall include, but not be limited to, any and all interim improvements that may be deemed necessary due to phased or partial construction.

B. Sanitary Sewer

An 8-inch sewer main and services shall be installed in Sartorie Road and Pumpkin Hollow Circle. Said main and services will be approved by the Public Works Director and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and MDEQ.

Improvements noted herein shall include, but not be limited to, any and all interim improvements that may be deemed necessary due to phased or partial construction.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power and cable television lines shall be placed in the right-of-way or in designated easements outside of the right-of-way and shall be installed underground prior to surface improvements. The width and location of required utility easements upon lots and park vary in width in the locations shown on the final plat.

VII. PARKS/OPEN SPACE

- A. Section 76-3-621 of the Montana Code Annotated covers the park dedication requirement. Paragraph (1) calls for park area to be 11 percent of the land proposed to be subdivided into parcels of one-half acre or smaller. The net lot area subject to the 11 percent calculation is 1.706 acres, requiring 0.188 acres of park land dedication. A cash contribution will be made in lieu of park land dedication.

- B. The existing Park Maintenance District will be expanded to include the lots in Sartorie Subdivision, 2nd Filing.

VIII. IRRIGATION

The BBWA irrigation district has a main canal facility adjacent to the East of this subdivision, within its own right-of-way. A 10.5-foot easement will be placed along the eastern boundary of the subdivision for the canal. No water rights are being transferred to lots in this subdivision.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical analysis was performed for the lots in this subdivision. According to the geotechnical analysis, the soils found are capable of supporting house construction. With these soils, conventional spread and continuous footings should be used to support the structures that are to be built on this land. Shallow foundations or concrete floor slabs should have a minimum thickness of four inches on top of a minimum of four inches of crushed base aggregate to provide uniform support.

X. 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 engineers, the CWDBH and the City of Billings Public Works – Engineering Division.

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 and the CWDBH.
- 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”

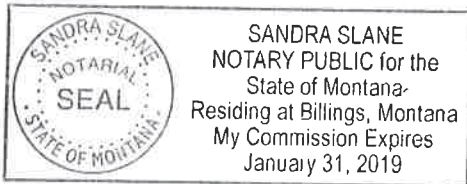
J & M DEVELOPMENT, LLC

By: *[Signature]*

Its: owner

STATE OF MONTANA)
: ss
County of Yellowstone)

On this 31 day of October, 2018, before me, a Notary Public in and for the State of Montana, personally appeared Michael Sartorio as owner, of J&M DEVELOPMENT, LLC known to me to be the person who executed the foregoing instrument and acknowledged to me that he/she executed the same.



Sandra Slane
Notary Public in and for the State of Montana
Printed Name: Sandra Slane
Residing at: Billings
My commission expires: 1-31-2019

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 special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements incident to the above which the City of Billings 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:

Sartorie Subdivision, 2nd Filing

Signed and dated this 31 day of OCTOBER, 2018.

J&M DEVELOPMENT, LLC

By: 

Its: OWNER

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this 31 day of October, 2018, before me, a Notary Public in and for the State of Montana, personally appeared Michael Sartorie as owner, of J&M DEVELOPMENT, LLC known to me to be the person who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

Sandra Slane

Notary Public in and for the State of Montana

Printed name: *Sandra Slane*

Residing in Billings, Montana

My commission expires: *1-31-2019*

