

**SUBDIVISION IMPROVEMENTS AGREEMENT**  
***Bar Eleven Estates Subdivision***  
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**Yellowstone County**

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# SUBDIVISION IMPROVEMENTS AGREEMENT

## Bar Eleven Estates Subdivision

This agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between *Production Consulting, LLC.*, whose address for the purpose of this agreement is **PO Box 51120, Billings, MT 59105**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY, Montana**, hereinafter referred to as “County.”

### WITNESSETH:

**WHEREAS**, the plat of *Bar Eleven Estates Subdivision*, 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 Board of Planning recommended conditional approval of a preliminary plat of *Bar Eleven Estates Subdivision*; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Bar Eleven Estates 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 *Bar Eleven Estates 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 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 has not requested any variance from the Yellowstone County Subdivision Regulations.

### **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.
- 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 at no cost to the County and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G. 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.
- H. Lot owners are required to obtain an access permit prior to any home construction.

### **III. TRANSPORTATION**

The subdivider agrees to guarantee all improvements for a period of one (1) year from the date of final acceptance by Yellowstone County.

#### **A. Streets**

- Yuzu Circle is being dedicated as public 60-foot wide right-of-way to Yellowstone County as part of this subdivision.
- Maintenance of said road will be funded through the creation of a RSID. The public dedication documents and RSID waiver will be filed with the final plat documents.
- All roads within the subdivision shall be built to grade with a satisfactory subbase, base course and asphalt surface. The street design cross-section shall be a 24-foot asphalt width street with 2-foot wide gravel shoulders. The design cross-sections of said streets shall be submitted to, and approved by, Yellowstone County Public Works. An RSID will be created for future maintenance of all public (or common) constructed improvements prior to final plat approval.
- Developer shall install the first 75 feet of sidewalk from the intersection of Plateau Road along Yuzu Circle on both sides of the road in addition to the sidewalk surrounding the cul-de-sac of Yuzu Circle to the northern lot line of Lot 2's frontage.
- Each unit on Lots 5 and 6 shall construct 70 feet of 5-foot sidewalk along its frontage. Sidewalk shall evenly straddle the building, and extend to the next adjacent units sidewalk (if existing). Units located on the most northern and southern ends of Lots 5 and 6 shall extend sidewalk to tie-into the existing sidewalk installed by the developer as described above.

#### **B. Traffic Control Devices**

- 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 Yellowstone County Public Works Department.
- No traffic signals are anticipated within this subdivision
- 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 Yellowstone County Public Works Department.

#### **C. Access**

- Access to Bar Eleven Estates Subdivision will be provided from the north via Plateau Road.
- Access to Lots 4, 5 and 6 will be provided off Yuzu Circle.
- Access to Lot 7 (Parkland) will be provided via a 32-foot access easement extending from Yuzu Circle.
- Access Lots 1 and 2 will be provided via an existing 30-foot access easement from Plateau Road. Lot 2 shall not take access from Yuzu Circle.
- Should the driveway for the future dwelling on Lot 3 extend further than 150 feet from the parkland cul-de-sac, an approved turn around shall be

supplied at the end of the driveway in accordance with the fire department and county subdivision regulations.

**D. Billings Area Bikeway and Trail Master Plan**

- No bike trail is identified in the area of this subdivision and no trail easement is being provided.

**IV. EMERGENCY SERVICE**

The Billings Urban Fire Service Area (BUFSA) currently provides fire protection and paramedic services for the subdivision.

At the time of future lot development 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 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 Billings Urban Fire Service Area.

At a minimum, the following:

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 apparatus access and water supply.

**V. STORM DRAINAGE**

All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by the Montana Department of Environmental Quality (MDEQ), or its designee.

**VI. UTILITIES**

**A. Water**

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, all proposed water systems must obtain approval by the MDEQ, or its

designee.

- Lot 1 is currently being served by an existing well. The remaining lots will be served by an 8-inch public main placed within the roadway. The 8-inch main will connect to the existing 12-inch main located in Plateau Road. Valves and hydrants will be placed to meet Heights Water District and Montana DEQ standards, rules, and regulations.
- A Montana DEQ approval letter will be submitted with the final plat.

#### **B. Septic System**

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, all proposed sanitary sewer systems must obtain approval by the MDEQ, or its designee.

- There are currently three individual on-site sewer systems within the subdivision. An additional individual on-site sewer systems shall be installed to serve Lot 3. A community on-site sewer system shall be installed to serve Lot 5 and Lot 6. A utility easement for the community drainfield will be located within the parkland area.
- A Montana DEQ approval letter will be submitted with the final plat.

#### **C. Power, Telephone, Gas, and Cable Television**

- Power, natural gas, telephone, and cable will all be located within the public right-of-way.

### **VII. PARKS/OPEN SPACE**

- The parkland requirement for the subdivision are as follows:
  - i. 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acre or less. This applies to Lot 5 and Lot 6. The net area of the two lots is 4.047 acres, which requires 0.445 acres of parkland.
  - ii. 5% of the area of the net land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres. This applies to Lot 1, Lot 2, and Lot 4. The net area of the three lots is 5.494 acres, which requires 0.275 acres of parkland.
  - iii. 2.5% of the area of the net land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres. This applies to Lot 3. The net area of lot 3 is 3.633 acres, which requires 0.091 acres of parkland.
  - iv. Total parkland dedicated is 3.198 acres.
- The proposed parkland will consist primarily of open space covered with native vegetation.
- A utility easement shall overlay the parkland area for the purposes of constructing a communal drainfield for the benefit of Lots 5 and 6.

Following construction of the drainfield, disturbed area shall be reseeded with native grasses.

- The Park Maintenance District created from the previous Bar 11 Subdivision will be expanded to maintain the parkland designated in the Bar Eleven Estates Subdivision. Access to the parkland will be from the 32-foot access easement along the east side of the Subdivision.

#### **VIII. IRRIGATION**

- There are no irrigation ditches within the subdivision and none of the proposed lots will have water rights assigned to them.

#### **IX. WEED MANAGEMENT**

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

- A revegetation plan shall be submitted as part of the management plan. A seeding recommendation can be obtained from the Yellowstone County Weed Department pursuant to Section 7-22-2152, MCA. The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

#### **X. SOILS/GEOTECHNICAL STUDY**

- Soil data was obtained from the NRCS web soil survey. Soils consist of Blacksheep-Twilight complex, McRae loam, Rentsac-Cabbart complex, and Cabbart-Bonfri loams.
- A geotechnical study is not required by the Yellowstone County Subdivision Regulations as part of this plat. 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 limitation for proposed construction on the lots, which may require a geotechnical survey prior to construction.

#### **XI. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. 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 designed by and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the state of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works

Department, a statement certifying that the improvements have been completed in accordance with approved, seal stamped, record drawings, along with all required post-construction certification per Section 4.6.C. of the Yellowstone County Subdivision Regulations.

## **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.

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

“SUBDIVIDER”

*Production Consulting, LLC.*

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 *Production Consulting, LLC.*, 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: \_\_\_\_\_



**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 for a period of no more than twenty years from the date of this document's recording.

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:

*Bar Eleven Estates Subdivision*

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Production Consulting, LLC.

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 *Production Consulting, LLC.*, who executed the forgoing 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 hereinabove written.

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

Printed name: \_\_\_\_\_  
Residing in Billings, Montana  
My commission expires: \_\_\_\_\_