

**SUBDIVISION IMPROVEMENTS AGREEMENT**

***Homestead Acres Subdivision***

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Yellowstone County**

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**SUBDIVISION IMPROVEMENTS AGREEMENT**

***Homestead Acres Subdivision***

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Levi & Barbara Britton, whose address for the purpose of this agreement is **941 South 84<sup>th</sup> Street West, Billings, MT 59106**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY, Montana**, hereinafter referred to as “County.”

WITNESSETH:

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Board of Planning recommended conditional approval of a preliminary plat of Homestead Acres 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 Homestead Acres 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 Homestead Acres 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**

- A. Subdivider has requested, and the County hereby grants, the following variances by the Board of County Commissioners from the strict interpretation of the County’s Subdivision Regulations (Chapter 11, Yellowstone County Subdivision Regulations):
  - 1. No variances have been requested for Homestead Acres 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.** There are no existing water rights and thus no water rights have been transferred to the lot owners. The irrigation ditch that exists on and adjacent to this development is for the benefit of lots within this subdivision and other properties. The irrigation ditch 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 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.** The lot owner has obtained three Access Permits from County Public Works prior to any construction on any lot within the subdivision. The Access Permit application included a site plan showing the desired location of the accesses and showing that they meet the requirements outlined by the DEQ storm water requirements for the subdivision.

### **III. TRANSPORTATION**

#### **A. Streets**

The following roads exist surrounding the subdivision:

- South 80<sup>th</sup> Street West is an existing road located adjacent to and east of the property.
- South 84<sup>th</sup> Street West is an existing road located adjacent to and west of the property.
- Fire Tank Street is an existing standard asphalt private road, located within a 60' private access easement that ends at the northern boundary of this property.

The Subdivision proposes the following roads:

- Standard asphalt 24-foot-wide private road maintained by the Property Owners Association and to be known as Wisner Avenue, located within a 60' private access easement through the center of the property. Wisner Avenue will culminate in a cul-de-sac.
- An extension of existing Fire Tank Street is proposed with this subdivision as a standard asphalt 24-foot-wide private road maintained by the Property Owners Association, located within a 60' private access easement to connect with Wisner Avenue.

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

- One stop sign will be installed at the intersection of proposed Wisner Avenue and South 80<sup>th</sup> Street West.

#### **C. Access**

- Fourteen of the homes are proposed to be accessed off of individual driveways accessing Wisner Avenue. Wisner Avenue will connect with South 80<sup>th</sup> Street West, providing access to these fourteen homes. Two homes are proposed to be accessed off of individual driveways from South 84<sup>th</sup> Street West. Access widths will be permitted and constructed in accordance with County Regulations.

### **IV. EMERGENCY SERVICE**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (Fire Suppression Tank) in place to allow for fire suppression requirements. Fire apparatus access roads and water supply requirements shall be provided in accordance with the Fire Protection Requirements as noted in the Yellowstone County Subdivision Regulations.

There is one existing dry hydrant located within the adjacent Shop World 1 Subdivision. This dry hydrant is located within a half mile of Lots 1-7 and Lots 10-16.

There are currently two dry hydrants located in the adjacent master planned development for Tanglewood Estates Subdivision that are utilized for water supply for fire suppression. One is located in the large lake and the other is located in the smaller lake. The Laurel Fire Department maintains an agreement with the Yellowstone Boys and Girls ranch to utilize the 40,000-gallon water tank for fire suppression for surrounding properties. Proposed Lots 8 and 9 are located within a half mile of this fire suppression system.

## **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 MDEQ, or its designee.

- Stormwater detention facilities are proposed within Homestead Acres Subdivision. Increased stormwater will be mitigated with culverts, roadside ditches and drainage swales as well as the detention facilities proposed within the development.

## **VI. UTILITIES**

### **A. Water**

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, the following has been proposed:

- One thousand five hundred (1,500) gallon water cisterns have been proposed for each lot.
- The Montana Department of Environmental Quality approval letter will be submitted with the final plat.

### **B. Septic System**

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, the following has been proposed:

- Individual subsurface wastewater treatment systems have been proposed for each lot.
- The Montana Department of Environmental Quality approval letter will be submitted with the final plat.

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

A ten (10) foot wide utility easement on lots one through seven and lots ten through sixteen provides utility access to all lots. Lots eight and nine will utilize the existing South 84<sup>th</sup> Street right-of-way for utilities.

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

In accordance with Section 10.2 Yellowstone County Subdivision Regulations, cash-in-lieu of parkland is proposed for approximately 1.56 acres. This number is equal to 5% of the area of the net land proposed to be subdivided into parcels larger than one acre but not larger than three acres (1 Lot), and 2.5% of the area of the net land proposed to be subdivided into parcels larger than three acres but not larger than five acres. The total amount of cash to be provided will be in accordance with Section 10.6 Yellowstone County Subdivision Regulations.

### **VIII. IRRIGATION**

This subdivision is located within the High Ditch Company Irrigation District. There is no existing easement for the High Ditch located on this property; however, a 75' easement has been proposed along the irrigation ditch. No additional mitigation efforts have been proposed for the ditch.

Irrigation water will be supplied by the High Ditch located on this property. A single water share will be obtained from the High Ditch Company, and water from the ditch will be routed through an easement to a service for the fourteen lots located east of the High Ditch. A Homestead Acres irrigation water user district will be formed to utilize and allocate the maintenance costs to each lot. Individual pumping systems will be installed by property owners to boost the water pressure for different forms of sprinkler irrigation. No flood irrigation will be allowed. The two lots west of the High Ditch will obtain individual pumping contracts from the High Ditch Company for irrigation needs.

### **IX. WEED MANAGEMENT**

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

The weed plan shall include the following and shall be referenced in this SIA:

- A Weed Management Plan must be filed and updated as needed for approval 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.
- 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**

A soils/geotechnical study was not required but owners of the lots will be encouraged to perform a site-specific geotechnical investigation that is specific to the type of structure contemplated prior to construction.

### **XI. PHASING OF IMPROVEMENTS**

Homestead Acres Subdivision proposes that all 16 lots will be developed in a single phase.

## **XII. FINANCIAL GUARANTEES**

As all infrastructure will be private, no financial guarantee is proposed.

## **XIII. 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”

Levi J. Britton

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
: ss  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Levi J. Britton, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

Barbara L. Britton

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
: ss  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Barbara L. Britton, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

This agreement is hereby approved and accepted by Yellowstone County, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**“COUNTY”**

COUNTY OF YELLOWSTONE  
MONTANA

County of Yellowstone  
Board of County Commissioners

By: \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Attest: \_\_\_\_\_  
County Clerk and Recorder

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 Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

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



Barbara L. Britton

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

: ss

County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Barbara L. Britton, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

Printed Name: \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_