

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT
DISTRICTS
Amended Plat of Lot 4E-1, Block 1, Shiloh Crossing Subdivision
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(City of Billings)**

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**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS**

Amended Plat of Lot 4E-1, Block 1, Shiloh Crossing Subdivision

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 4E-1, Block 1, Shiloh Crossing 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 City Council conditionally approved an amended preliminary plat of *Lot 4E-1, Block 1, Shiloh Crossing 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 *Lots 4E-1A and 4E-1B, Block 1, Shiloh Crossing 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

There are no variances requested for this subdivision.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

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 there are Covenants, Conditions and Restrictions of the Amended Lot 4E-1, Block 1, Shiloh Crossing Subdivision recorded in conjunction with this subdivision that outlines additional requirements specific to this subdivision.
- D.** A geotechnical engineering report was prepared for this development by Tetra Tech titled, *New Opportunity Bank – Shiloh Crossing, Billings, Montana*, dated October 17, 2019. This report details foundation design, and pavement and concrete sections specific to the proposed site improvements.
- E.** 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.
- F.** 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.
- G.** 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.
- H.** 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

Shiloh Road has a variable width constructed adjacent to the project limits with curb and gutter and an approximately 73' paved width. No improvements to Shiloh Road are proposed with this subdivision.

An unnamed access road to the north of the project limits has a 47' public sewer, water, and access easement. The road has curb and gutter and an approximately 39' paved width and no improvements are proposed with this subdivision.

Shiloh Crossing Boulevard has a 47' public sewer, water, and access easement. Immediately abutting the public access easement is a 14' utility, lighting and sidewalk easement all lying within the parcel. Shiloh Crossing Boulevard is fully constructed adjacent to the project limits with curb and gutter and an approximately 43' paved width. No improvements to Shiloh Crossing Boulevard are proposed with this subdivision.

B. Sidewalks

An approximately 5' wide concrete sidewalk is currently in place along Shiloh Road. No improvements to the boulevard or sidewalk along Shiloh Road are proposed with this subdivision other than replacing areas that are damaged during construction of the on-site improvements.

A variable width boulevard and 5' wide concrete sidewalk will be constructed along the frontage of the subject parcel along the unnamed north access road and Shiloh Crossing Boulevard. Timing of the sidewalk improvements will be determined in conjunction with City Engineering.

C. Street Lighting

There are no street lighting improvements proposed with this subdivision.

D. Traffic Control Devices

There are existing stop signs on the unnamed access road at the intersections with Shiloh Road and Shiloh Crossing Boulevard. There are no additional traffic control devices proposed with this subdivision.

E. Access

Legal access will be granted by way of the access easement for Shiloh Crossing Boulevard via one approach. A reciprocal access easement will be placed over the access drive to provide legal, shared access to both lots.

F. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway and Trail Master Plan Update identifies a shared use path along Shiloh Road. 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 Shiloh Crossing Boulevard. An operational fire hydrant is located south of the property on the west side of Shiloh Crossing Boulevard.

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 separate infiltration systems on each lot. The collection system will tie into the Subdivision's existing storm sewer system.

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 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. No additional sanitary sewer system improvements are proposed for this subdivision.

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 amended plat of Lot 4E-1, Block 1, Shiloh Crossing Subdivision, as all parcels are nonresidential [MCA 76-3-621(3)(b)].

VIII. IRRIGATION

Both parcels will utilize private irrigation systems and are not within an irrigation district.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical engineering report was prepared for this development by Tetra Tech titled, *New Opportunity Bank – Shiloh Crossing, Billings, Montana*, dated October 17, 2019. This report details foundation design, and pavement and concrete sections 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 APPLYING TO SUBDIVIDER

- 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 run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees 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: _____

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 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.

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

