

SUBDIVISION IMPROVEMENTS AGREEMENT
West Meadows Subdivision 2nd Filing
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(Yellowstone County)

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SUBDIVISION IMPROVEMENTS AGREEMENT

West Meadows Subdivision, 2nd Filing

This agreement is made and entered into this ____ day of _____, 2021, by and between Wineridge, Inc., whose address for the purpose of this agreement is **P.O. Box 81508, Billings, MT 59108**, hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 2021, the Board of Planning recommended conditional approval of a preliminary plat of *West Meadows Subdivision, 2nd Filing*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 2021, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of West Meadows Subdivision, 2nd Filing; 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 West Meadows Subdivision, 2nd 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 requirement 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. There are no variance requests with this 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 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 and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G. Subdivider may obtain water rights from the High Ditch Company or Cove Ditch Company to be used for a community irrigation system that would be operated and maintained through a Homeowners Association of the West Meadows Subdivision 2nd Filing. This is not a County required improvement.
- H. The Burlington Northern Railroad right-of-way is located along the southeasterly boundary of the site and is in active operation. Noise from the moving trains is clearly audible within the subdivision.
- I. Future maintenance of all public (or common) improvements shall be done through one (1) or more Rural Special Improvement Districts (RSIDs) created as part of the SIA for this subdivision. The subdivision, is located in a RSID; RSID#773M.

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

Streets shall be built to grade with a satisfactory engineered subbase, base course, and asphalt surface. The internal subdivision streets will be 28 feet wide (24-foot wide paved surface with 2-foot side gravel shoulders) public

streets with drainage ditches on both sides. Culverts shall be provided to convey stormwater across roadways and driveways. The engineered design cross-sections of said streets shall be submitted to Yellowstone County Public Works Department. Improvements of streets shall be as outlined in Section XI in this SIA.

1. Interior Curbs and Gutters: Curbs and gutters within the subdivision will not be installed.
2. Street Name Signs: Street name signs for streets within the subdivision or located immediately adjacent thereto shall be furnished and installed in accordance with the specifications of the County Public Works Department and in compliance with MUTCD standards.

B. Traffic Control Devices

1. No traffic signals are required for this subdivision.
2. The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual of Uniform Traffic Control Devices.

C. Access

A 60-foot wide right-of-way shall be dedicated by Subdivider for all internal streets. A right-of-way-dedication for Central Avenue was completed previously under the West Meadows Subdivision, which includes not only the petitioned right-of-way of Central Avenue, but an additional 10' of dedicated right-of-way. This dedication is not to be changed by this package.

Dedicated rights-of-way are closed until approval by the County Public Works Department. No permits for approaches to the roadway will be issued prior to approval by the County Public Works Department except as outlined herein.

All driveway approaches shall be piped in accordance with the approach standards of Yellowstone County Public Works. ROW culvert sizes are shown MDEQ storm water design report.

The County Public Works Department will issue permits for approaches to the public roadway (Central Avenue and Whistler Way) prior to opening of the dedicated rights-of-way, if the required public improvements outlined herein are secured by letter of credit or a letter of commitment to lend funds from a commercial lender.

D. Billings Area Bikeway and Trail Master Plan (BABTMP)

The subdivision is not within the area of the BABTMP.

E. Survey Monuments

Survey monuments shall be installed as required by Yellowstone County and the Montana Subdivision and Platting Act.

F. Maintenance

RSID 773M was adopted in 2012 for purposes of maintenance of all street improvements including signage, surfacing, culverts, weed control, and fire protection facilities located within the dedicated rights-of-way and dedicated park areas as indicated on the plat. The associated estimated costs will be used for maintenance.

IV. EMERGENCY SERVICE

Fire Protection Service: The entire West Meadows Subdivision 2nd Filing is located within the Laurel Volunteer Fire District (LVFD) and as such, the LVFD provides fire service to the area. A dedicated fire suppressant system for LVFD use will be constructed during Phase I of the Subdivision. The pond will be located within an easement area on Lot 1 of Block 5 of West Meadows Subdivision 2nd Filing. The pond shall have suction piping and a dry hydrant connection meeting LVFD approval. The suction piping shall be constructed to be off of the bottom of the pond as approved by LVFD and shall have a straining device on the piping with openings as approved by LVFD. The pond is to be maintained year round by a Maintenance District formed by the Developer. The Maintenance District shall have a contract with Cove Ditch to allow filling of the pond. Should the pond not be able to be filled by the ditch, the Maintenance District shall fill the pond by water truck if necessary. Access to the pond shall be constructed during Phase I of the Subdivision and shall be to County standards. Access shall be to the top slope of the pond and shall have standard signage at the fire department connection meeting LVFD approval. A Maintenance District shall also provide year round maintenance of the access, signage, suction line, and pond for reliability of use.

Access to the individual properties via the collector road shall be addressed within the 2012 International Fire Code, Fire Department Access. The driveways leading to the structures located on these individual properties shall provide a minimum unobstructed width of 12 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches when any portion of an exterior wall of the first story of a building is located less than 150 feet from a road. These roads shall be all-weather surface roads.

Driveways leading to structures located on individual properties when any portion of an exterior wall of the first story of a building is located in excess of 150 feet from the road shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches, and roads in excess of 150 feet from the road in length that dead end shall be provided with turnarounds with an inside turning radii of not less than 30 feet and an outside turning radii of not less than 45 feet. These roads shall be all-weather surface roads.

V. STORM DRAINAGE

All storm water facilities located within or adjacent to the subdivision are an integral part of the street drainage system and shall remain so until such time as a storm drain trunk system becomes available and is utilized by the subdivision.

All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a storm water management plan shall be submitted to and approved by MDEQ.

VI. UTILITIES

A. Water

Public water service is not available to the subdivision at this time. The subdivision will be served by individual cisterns for each lot. The systems shall be located as shown on the site layout approved by DEQ. Installation and maintenance of said systems shall be the responsibility of the lot purchaser.

B. Septic System

Municipal public sewer service is not available in the subdivision at this time. The subdivision will be served by individual on-site wastewater disposal systems as approved by DEQ. These systems shall be located and installed as shown on the site layout approved by DEQ. Installation and maintenance of said systems shall be the responsibility of the lot purchaser.

C. Power, Telephone, Gas, and Cable Television

Telephone, gas, electrical power, and cable television lines (where said utilities are available and existing to the subdivision) shall be installed as required and prior to street paving.

VII. PARKS/OPEN SPACE

As part of the West Meadows Subdivision, the Subdivider made a park contribution of land of 6.42 acres. The required land contribution is 2.87 acres for West Meadows Subdivision 2nd Filing. The park dedication made as part of the original West Meadows Subdivision was not vacated as part of the West Meadows Amended Subdivision package and is to be considered the park land dedication for the West Meadows Subdivision 2nd Filing.

RSID#773M was previously created for maintenance of public infrastructure within the West Meadows Subdivision. The irrigation system in the park of the West Meadows Subdivision 2nd Filing will be required to be maintained with the Park RSID to be created with this subdivision.

VIII. IRRIGATION

Concurrent with the recordation of the final plat, the Subdivider shall grant irrigation ditch easements, as depicted on the face of the plat, for the Cove Ditch, which currently exists on the property. The Cove Ditch will be maintained by the Cove

Ditch Company. The ditch easements will be 66 feet. There are no definitive plans for water share transfer at this time.

The mitigation efforts to protect the ditches during construction include:

- Maintenance of easements where feasible
- Standard erosion and sediment control measures will be used, and spill prevention best management practices (BMPs), and other BMPs will be used during construction.

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.
- The Subdivider shall provide restoration of the areas disturbed during construction of the improvements outlined herein, as follows:

Dryland Prairie Mix that may be seeded by either broadcast or drill.

X. SOILS/GEOTECHNICAL STUDY

Lot owners should be aware that soil characteristics within the area of this subdivision, as described in 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.

XI. PHASING OF IMPROVEMENTS

The Subdivider requests to file the West Meadows Subdivision 2nd Filing as a Phased Subdivision. Completion of Phases will be per the following schedule.

- Phase I – April 2021
- Phase II – December 2027

Phase II will be platted and constructed by the Subdivider in the future. The Subdivider agrees not to sell or convey any lots in the Subdivision until the necessary installation of the public improvements to serve said lots and necessary access and traffic circulation for the traffic generated by those lots is provided. All phases must either be constructed prior to final plat or have financial guarantees prior to final plat as outlined in Section XII. Completion of each phase will be conducted in accordance with Yellowstone County Subdivision Regulations and Montana Code Annotated, as applicable.

Pursuant to the foregoing agreement, the Subdivider shall execute and record a Declaration of Restrictions on Transfers and Conveyances for each Phase, to be recorded concurrently with the recording of this Agreement. Said Declaration notifies all third parties that said lots may not be legally sold, conveyed or transferred until a Release executed by the Yellowstone County and substantially in the form of a Release has been recorded in the office of the Clerk and Recorder of Yellowstone County, Montana. No lots shall be released until a Certificate substantially in the form of a Certificate executed by Yellowstone County Department of Public Works stating that the above conditions have been met, which Certificate must accompany any request for a Release. By the acceptance and recording of the Agreement, the County does hereby authorize the Department of Public Works and the County Commissioners to review any request for Release and to execute such Certificates and Releases as may be necessary to evidence a Release from the restriction against sale, conveyance, and transfer of lots in the Subdivision.

Subdivider agrees to install postal service boxes for the proposed subdivision adjacent to the existing postal service boxes located near the intersection of South 80th Street West and Monad Road. Postal boxes will meet the requirements of the USPS for pad and box construction.

In accordance with the forgoing, the Subdivider and County agree as follows:

- A.** Phase I of infrastructure shall consist of the development of Lots 1 through 5 of Block 1, Lots 1 through 14 of Block 2, Lots 1 through 6 of Block 5, Lots 1 through 3 of Block 6, Lots 1 through 7 of Block 3. This phase shall include Vescue Way and Wineridge Circle in its entirety, White Pine Circle to the intersection of West Bird Way, and West Bird Way from the intersection to White Pine Circle to Central Avenue.

The Phase I improvements shall include the Phase I street improvements and the Phase I private utility improvements as described in this agreement. Easements for storm water control facilities inside of Phase I will be provided with the Final Plat of Phase I.

Improvements listed herein shall be installed and constructed utilizing a private contract guaranteed with appropriate monetary securities/guarantees. Said security/guarantee shall be in conformance with the requirements as outlined within the Yellowstone County Regulations.

- B.** Phase II of infrastructure shall consist of the development of Lots 1 through 4 of Block 3 and Lots 1 through 4 of Block 4. This phase shall include Zanes Circle, the remainder of White Pine Circle and the remainder of West Bird Way.

The Phase II improvements shall include the Phase II street improvements and the Phase II private utility improvements as described in this agreement. Easement for the storm water control facilities inside of Phase II will be provided with the Final Plat of Phase II.

Improvements listed herein shall be installed and constructed utilizing a private contract guaranteed with appropriate monetary securities/guarantees. Said security/guarantee shall be in conformance with the requirements as outlined within the Yellowstone County Regulations.

XII. 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 contacting parties pursuant to said special improvement district or 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 improvement, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvement 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.

In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations.

XIII. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvement for a period of one year from the date of the 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 agree 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 improvement 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”

WINERIDGE, INC

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 2021 _____,
known to me to be the _____ of WINERIDGE INC., 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: _____

This agreement is hereby approved and accepted by Yellowstone County, this _____ day of _____, 2021.

“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 _____, 2021, 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: _____