

Return to:
City Clerk
City of Billings
P.O. Box 1178
Billings, MT 59101

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
FOR
PLAT OF AMENDED ST. VINCENT HEALTHCARE
SUBDIVISION
CITY OF BILLINGS
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Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
FOR THE PLAT OF
AMENDED ST. VINCENT HEALTHCARE SUBDIVISION**

THIS AGREEMENT is made and entered into this ____ day of _____, 20___, by and between **SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.**, whose address for the purpose of this agreement is 500 Eldorado Blvd, Ste 4300, Broomfield, CO 80021, hereinafter referred to as “Subdivider,” **GLACIER BANK** whose address for the purpose of this agreement is 2812 1st Avenue North, Billings Montana 59101, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the plat of Amended St. Vincent Healthcare Subdivision, hereafter referred to as “the subdivision”, located in the City of Billings, Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on the ____ day of _____ 2022, the City Council conditionally approved a preliminary plat of the Subdivision; and

WHEREAS, this plat is being completed in conjunction with the vacation and subsequent realignment of Marillac Street and the replat of St. Vincent Healthcare Subdivision, Second Filing; 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 the subdivision upon the filing of the amended 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

No Variances are being requested with 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. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.
- 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.** 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.
- E.** 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.

- F. 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.
- G. 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**

The subdivision is adjacent to Saint Mary Way and Henry Chapple Street and will include the new alignment and dedication of Marillac Street. Saint Mary Way and Henry Chapple Street are developed rights-of-way. Marillac Street improvements are included in the St. Vincent Healthcare Subdivision, Second Filing plat. All improvements are included in the Waiver of Right to Protest Future Special Improvement Districts.

B. **Sidewalks**

City and the Subdivider agree that the developer will install accessibility ramps at time of private contract construction. Individual lot owners will be responsible for the construction of the five-foot wide boulevard sidewalks adjacent to their lot at the time of lot construction. The City reserves the right to construct any missing sidewalk and assess the property owners three years after construction of a phase.

Individual lot owners will be responsible for the construction of the multi-use paths adjacent to their lot at the time of initial construction. Each lot owner shall be responsible for building the ten (10) foot wide Multi-Use Paths (in the Easement Area reflected on the plat) in the

Easement Area appurtenant to each owner's lot, as provided in the Planned Development Agreement for the Subdivision.

C. Street Lighting

City and Subdivider agree that streetlights will be installed in the boulevard area within the right-of-way along both sides of St. Mary Way, St. Vincent Way, Henry Chapple Street, Marillac Street, and Rocky Vista Way. Subdivider has created a City of Billings street light maintenance district for construction, operation, and maintenance prior to the installation of the street lights.

City and Subdivider agree that the streetlights shall be designed to meet City of Billings' standards and that said design will be reviewed by the City Engineer. However, Subdivider reserves the right to choose fixture and pole types of the streetlights. City and Subdivider agree that fixture and pole types will be determined by mutual agreement between the two parties.

D. Traffic Control Devices

No street traffic control devices are anticipated at this time for the subdivision but is included in the Waiver of Right to Protest Future Special Improvement Districts.

E. Access

Access to this subdivision is provided by connecting Marillac Street to Rocky Vista Way at Marillac's north end and to Saint Mary Way and Henry Chapple Street at Marillac's south end. Lots fronting Henry Chapple Street will have access from Henry Chapple Street and from Saint Vincent Way to Monad Road, Saint Mary Way to King Avenue West and to Monad Road via Rocky Vista Way.

F. Billings Area Bikeway and Trail Master Plan

No additional improvements are anticipated at this time for the subdivision relating to the Billings Area Bikeway and Trail Master Plan.

G. Public Transit

No additional improvements are anticipated at this time for the subdivision relating to public transit.

IV. EMERGENCY SERVICES

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:

- 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 the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- 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.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

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 of individual lots at the time of development.

VI. UTILITIES

Water and sanitary sewer lines shall be sized and installed in conformance with the City design standards and specifications and the rules and regulations of the City of Billings.

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, Distribution and Collection Division. The extension/connection of/to water mains and sanitary sewers are 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 appropriate water and wastewater fees in effect shall be submitted with the applications.

The developer/owner acknowledges that the subdivision shall be subject to the applicable system development fees in effect at the time new water and 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 and regulations of, and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

A. Water

The water mains within the subdivision will make looped connections whenever possible. Fire hydrants will be provided at all appropriate locations and will be subject to approval by the City of Billings Fire Department. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. Each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department, Distribution, and Collection Division.

B. Sanitary Sewer

The subdivision will be served by the extension of lateral sanitary sewer lines in the public streets. All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department, Distribution, and Collection Division.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be placed in designated easements outside of the right-of-way, where possible, and shall be installed underground prior to surface

improvements. The location of all such facilities shall be subject to approval of the City Engineer.

VII. PARKS/OPEN SPACE

This is a replat of existing subdivided land. No additional lands are being included and none of the uses anticipated within the platted area are considered residential in nature. As such, there are no park contributions anticipated in this re-platting and only reconfiguration of existing open spaces that were created in the original platting.

VIII. IRRIGATION

Various lateral irrigation supply and waste ditches traverse the property. These ditches are serving the agricultural needs of this and other upstream property and will be continued in service as development progresses.

The Sisters of Charity of Leavenworth Health System, Inc. will retain its shares in the irrigation district serving St. Vincent Healthcare Subdivision for continued agricultural purposes and for future landscaping irrigation and watercourse recharge needs.

IX. SOILS/GEOTECHNICAL STUDY

The Subdivider has performed a preliminary geotechnical analysis for this property in accordance with City Subdivision Regulations and there are several area geotechnical reports that have been completed in the earlier phases of the development.

It is recommended that owners, purchasers, realtors, builders or developers fully familiarize themselves with the information contained in this report prior to any design or construction.

X. PHASING OF IMPROVEMENTS

No public improvements are required at this time by the Subdivider.

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 two years 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”

SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM INC.

By: [Signature]

Its: Vice President

STATE OF Colorado)

:SS

County of Broomfield)

On this 22nd day of November, 2022, before me, the undersigned Notary Public for the State of Colorado, personally appeared Barbara Jahn, known to me to be the person who signed the foregoing instrument as Vice President of Sisters of Charity of Leavenworth Health System Inc., and who acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

[Signature]
Notary Public in and for the State of Colorado
Printed name: Max Stich
Residing at: Denver
My commission expires: 1.26.2026



“SUBDIVIDER”

GLACIER BANK

By: Michael Seppala

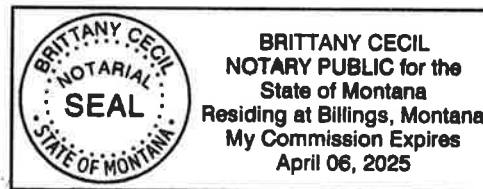
Its: President

STATE OF Montana)

County of Yellowstone :SS

On this 15th day of November, 2022, before me, the undersigned Notary Public for the State of Montana, personally appeared Michael Seppala, known to me to be the person who signed the foregoing instrument as President of Glacier Bank and who acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

Brittany Cecil
Notary Public in and for the State of MT
Printed name: Brittany Cecil
Residing at: Billings, MT
My commission expires: April 06, 2025



Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT DISTRICTS

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 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.

This Waiver is in addition to any other recorded waiver related to the property described herein and is not intended to replace, supersede, or invalidate any such waiver.

The real property hereinabove mentioned is more particularly described as follows:

Plat of Amended St. Vincent Healthcare Subdivision

