

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

***Eldorado Minor Subdivision***

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City of Billings

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

***Eldorado Minor Subdivision***

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between *Harvey Markegard*, whose address for the purpose of this agreement is **3842 N Tanager Lane, Billings, MT 59102**, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

**WHEREAS**, the plat of *Eldorado Minor Subdivision*, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

**WHEREAS**, at a regular meeting conducted on 27<sup>th</sup> day of June, 2022, the City Council conditionally approved a preliminary plat of *Eldorado Minor 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 *Eldorado Minor 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 being requested with this subdivision.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

- 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. As the existing improvement on the lots have been constructed and no new public road is being developed a new geotechnical report is not needed for this development. All existing improvements inside of the subdivision are functional. A geotechnical investigation is recommended for any further development of the subdivision.
- C.** 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.
- D.** 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.
- E.** 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**

- This subdivision has no new dedicated public roads or streets.

#### **B. Sidewalks**

- There will be no construction of sidewalks in this subdivision.
- A 5-foot curb walk has previously been constructed on the north side of Eldorado Drive.

#### **C. Street Lighting**

- There are no street lighting improvements required for this subdivision.

#### **D. Traffic Control Devices**

- There are no traffic control devices or stop signs required for this subdivision.

#### **E. Access**

- Lot 2C-2 has an existing approach to access Eldorado Drive.
- A reciprocal access easement will be granted across Lot 2C-2 for the benefit of Lot 2C-1 to provide access from Eldorado Drive.

#### **F. Billings Area Bikeway and Trail Master Plan**

- The subdivision is within the Bikeway and Trail Master Plan.
- The subdivision is within an existing commercial area without any existing bikeways or trails; therefore, no bikeways or trails will be constructed as part of the subdivision.

#### **G. Public Transit**

- The nearest MET bus transfer center is located at the Stewart Park Transfer Center approximately 0.5 miles west of the subdivision. There are multiple bus stops at the corner of 24<sup>th</sup> Street and Central Avenue.

### **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.

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.
- An existing fire hydrant is located at the corner of Eldorado Drive and Pueblo Drive.
- A reciprocal access easement will provide access to Lot 2C-1. The surface of the reciprocal access easement is a paved surface consistent with the other parking lots in the area.

## **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.

- No storm drainage improvements are required for this subdivision.

## **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 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**

An existing 8-inch water main is located in Eldorado Drive. Lot 2C-2 is currently served by a previously installed 1-inch water service line. Lot 2C-1 will have a dedicated utility easement along the west side of Lot 2C-2 for installation of a new water service line. The water service for Lot 2C-1 will be constructed in conjunction with further development of Lot 2C-1 to allow for appropriate sizing of the water service for that development.

### **B. Sanitary Sewer**

An existing 8-inch sanitary main is located in Eldorado Drive. Lot 2C-2 has a previously installed sanitary service line. Lot 2C-1 will have a dedicated utility easement along the west side of Lot 2C-2 for installation of a new sanitary service line. The sanitary sewer service will be installed in conjunction with further development of Lot 2C-1.

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

Power, telephone, gas, and cable television are currently located on or adjacent to the west, north, and portions of the east side of the existing subdivision. An 8-foot utility easement will be dedicated along the perimeter of the existing subdivision on the west, north, and a portion of east side of the property. Lot 2C-2 has previous service

line installed. Lot 2C-1 will need individual services installed to service any future development.

**VII. PARKS/OPEN SPACE**

There is no parkland requirement for proposed *Eldorado Minor Subdivision*, as this is a minor subdivision [MCA 76-3-621(3)(a)].

**VIII. IRRIGATION**

There are no irrigation systems within the property.

**IX. SOILS/GEOTECHNICAL STUDY**

A soils/geotechnical study was not required but will be completed for a building permit prior to construction within the property

**X. FINANCIAL GUARANTEES**

There are no public improvements planned for this subdivision. Therefore, no financial guarantees are necessary.

**XI. 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”

Harvey Markegard

By: Claudia R. Nace

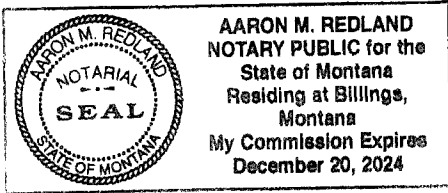
Title: Attorney in Fact for Harvey Markegard

STATE OF MONTANA )

: ss

County of )

On this 14th day of NOVEMBER, 2022 before me, a Notary Public in and for the State of Montana, personally appeared Claudia R. Nace, known to me to be the Attorney in Fact for Harvey Markegard, who executed the foregoing instrument and acknowledged to me that he/she executed the same.



AARON M. REDLAND  
Notary Public in and for the State of Montana  
Printed Name: AARON M. REDLAND  
Residing at: BILLINGS, MT  
My commission expires: DEC. 20, 2024

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



