

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT
DISTRICTS
Skyview Ridge Subdivision, 2nd Filing**

**Table of Contents
(City of Billings)**

I.	Variances.....	2
II.	Property Conditions and Information for Lot Purchasers.....	3
III.	Transportation.....	4
	A. Streets.....	4
	B. Sidewalks	4
	C. Street Lighting	5
	D. Traffic Control Devices	5
	E. Access	5
	F. Billings Area Bikeway and Trail Master Plan	5
	G. Public Transit.....	5
IV.	Emergency Service	5
V.	Storm Drainage	6
VI.	Utilities.....	6
	A. Water.....	6
	B. Sanitary Sewer	7
	C. Power, Telephone, Gas, and Cable Television	7
VII.	Parks/Open Space	7
VIII.	Irrigation	7
IX.	Soils/Geotechnical Study	7
X.	Phasing of Improvements	7
XI.	Financial Guarantees.....	8
XII.	Legal Provisions Applying to Subdivider.....	8

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

Skyview Ridge Subdivision, 2nd Filing

This agreement is made and entered into this ____ day of _____, 202__, by and between *STATE OF MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION*, whose address for the purpose of this agreement is 1625 Eleventh Avenue, Helena, Montana, 59601, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the plat of *Skyview Ridge Subdivision, 2nd Filing*, 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 a preliminary plat of *Skyview Ridge Subdivision, 2nd 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 *Skyview Ridge 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 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

Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City’s Subdivision Regulations (Section 23.1101, BMCC):

1. No variances have been requested at this time.

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. Sidewalks shall be 5-foot boulevard style walk.
- 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 by the completion of the conditions set forth in the 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 with Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

- The Subdivision will be initially accessed via a single approach off Wicks Lane as designated by the temporary shared access easement between Lots 1 and 2. Until such point Targhee Avenue is built to the subdivision's extents on either the east or west Subdivision extents, Lots 1 and 2 will be accessed via Wicks Lane. When Targhee Avenue is constructed to the Subdivision boundary, either on the west or east bounds, Lots 1 and 2 shall be accessed from Targhee Avenue. At such point, the access for Lots 1 and 2 from Wicks Lane shall be abandoned.
- Subdivider shall be responsible for construction of Targhee Avenue along the Subdivision's southern boundary at the point in time that adjacent development extends Targhee Avenue from the east or west. Subdivider may coordinate with adjacent developers or lessees to provide concurrent construction of Targhee Avenue and the underlying utilities. Should Phase 2 of the Subdivision be opened for development prior to adjacent development providing connection to Targhee Avenue, the Subdivider shall provide financial guarantee of public improvement construction, engineering design, and construction administration along the Subdivision's south frontage of Targhee Avenue to include a half-road section (curb and gutter on the north side of the roadway and 30' of asphalt paving), 5' boulevard sidewalk, 8" water distribution piping, 8" sewer collection piping, and an estimate for stormwater collection management.
- Subdivider and City agree that the required street improvements are as follows:
 1. Standard curb and gutter will be installed on all of the interior streets being constructed within the Subdivision.
 2. All streets will be provided with an asphalt concrete driving surface.

B. Sidewalks

- Subdivider shall construct 5-foot wide boulevard sidewalk along the north side of Targhee Avenue at the time of road construction, or shall provide financial guarantee of the sidewalk construction should Phase 2 be opened prior to adjacent development connecting Targhee Avenue to the Subdivision's east or west boundaries.
- Subdivider shall construct ADA accessible ramps to allow for the existing 10-foot trail along Wicks Lane to traverse the temporary approach to Lot 1 and 2.

C. Street Lighting

- Street lighting is not proposed with the Subdivision.

D. Traffic Control Devices

- It is not anticipated traffic control devices will be necessitated for the proposed lots within the Subdivision. Should development plans for lots with the Subdivision generate trips in excess of 500 trips per day, a Traffic Impact Study (TIS) shall be prepared by the Subdivider to determine appropriate traffic control devices.

E. Access

- As discussed under III. A. Streets, the Subdivision shall be accessed via a temporary shared approach off Wicks Lane until such point access connection to Targhee Avenue is provided via adjacent development.

F. Billings Area Bikeway and Trail Master Plan

- West Wicks Lane has a 10-foot multi-use trail constructed within its right-of-way on the north side of the Subdivision. Approaches and intersections to West Wicks Lane shall accommodate continued use of said trail with ADA accessible ramps/approaches.
- Subdivision is outside areas of the approved Skyview Ridge Park Master plan, and is proposed as a commercial subdivision not requiring parkland dedication.

G. Public Transit

- The Subdivision does not require improvements to ensure public transit service.

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.

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.

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 Subdivider, and future owners, acknowledge 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, Billings Fire Department and the Montana Department of Environmental Quality.

A. Water

The Subdivider shall construct 8-inch waterline along the Subdivisions southern extents in Targhee Avenue at such time waterline connections are constructed to the east or west boundaries of the Subdivision. Prior to this time, Lots 1 and 2 shall be serviced from the existing waterline in Wick Lane. The Subdividershall be responsible for paying the applicable Water System Development fees at the time of connection. Should Phase 2 of the Subdivision be opened for development prior to adjacent development extending connection

to the Subdivision boundaries, the Subdivider shall provide financial guarantee for ½ the estimated cost of the water line extension within Targhee Avenue to ensure future construction of the public improvements.

B. Sanitary Sewer

The Subdivider shall construct 8-inch sewer line along the Subdivisions southern extents in Targhee Avenue at such time sewer connections are constructed to the east or west boundaries of the Subdivision. Prior to this time, Lots 1 and 2 shall be serviced from the existing sewer line in Wick Lane. The Subdivider shall be responsible for paying the applicable Sewer System Development fees at the time of connection. Should Phase 2 of the Subdivision be opened for development prior to adjacent development extending connection to the Subdivision boundaries, the Subdivider shall provide financial guarantee for ½ the estimated cost of the sewer line extension within Targhee Avenue to ensure future construction of the public improvements.

C. Power, Telephone, Gas, and Cable Television

Private utility facilities currently exist to serve the Subdivision. Easements shall be included on the plat as requested by the utility companies.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed Skyview Ridge Subdivision, 2nd Filing, as this is a minor subdivision [MCA 76-3-621(3)(a)].

VIII. IRRIGATION

No water rights have been transferred to the lot owners. Irrigation ditches that exist near this development are for the benefit of other properties. Ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical investigation was performed for the area and can be obtained from the City Engineering Department office.

X. PHASING OF IMPROVEMENTS

The Subdivision is proposed to be constructed in phases as defined below. Public improvements associated with these phases shall be constructed or monetarily guaranteed prior to opening the phase.

Phase 1: Lots 1

Phase 2: Lots 2. Proposed opening in 2028.

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”

STATE OF MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of)

On this ____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____ of *STATE OF MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION*, 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: _____

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 describe as follows:

Skyview Ridge Subdivision, 2nd Filing

Signed and dated this ____ day of _____, 20__

*STATE OF MONTANA DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION*

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____ of *STATE OF MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION*, 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: _____