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SUBDIVISION IMPROVEMENTS AGREEMENT
EASTSLOPE MEADOWS SUBDIVISION
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Yellowstone County

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(Subdivision Improvements Agreement)

This agreement is made and entered into this ___ day of _____, 20___, by and between *Hardrives Construction, Inc.*, whose address for the purpose of this agreement is PO Box 2535, Billings, MT 59103, hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, at a regular meeting conducted on ___ day of _____, 20___, the Board of Planning recommended conditional approval of a preliminary plat of *Eastslope Meadows Subdivision*, and

WHEREAS, at a regular meeting conducted on ___ day of _____, 20___, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Eastslope Meadows Subdivision*, 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 *Eastslope Meadows 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 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. The subdivider requests no variances for the *Eastslope Meadows 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 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.

- 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. Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.
- H. Lot owners or their agent will obtain an Access Permit from County Public Works prior to any construction on any lot within the subdivision. The application will include a site plan showing the desired location of the access and show that it meets the requirements outlined by the DEQ storm water requirements for the subdivision. Failure to do so will result in the lot owner or their agent removing what has been installed and locating the access in an approved location at the lot owners expense.

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

The Eastslope Meadows Subdivision proposes the following internal public access roads:

- All four roads within the subdivision will be standard asphalt 28-foot-wide public roads located within 60' wide public access easements as displayed on the final plat and will be maintained by an RSID created with this subdivision. The four roads are named Westwind Way, Prairie Grass Lane, Russian Olive Drive and Neveah Lane. Russian Olive Drive and Neveah Lane will provide access to the subdivision from South 64th Street West.

B. Traffic Control Devices

- Stop signs are proposed at the intersection of Russian Olive Drive and S 64th Street W and the intersection of Neveah Lane and S 64th Street W. Both stop signs will face internally into the subdivision.
- A traffic impact study shall be completed before the final plat filing of the Eastslope Meadows Subdivision. All recommended changes from the traffic impact study shall be installed.

C. Access

- There will be two accesses for the proposed subdivision, each approach will be 60' wide. Both approaches will be from South 64th St. West.
- All lots within the subdivision shall be accessed using the internal public road network.

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

The Eastslope Meadows Subdivision is near the BABTMP, with a Bike Lane Future and Shared Use Path located along South 64th St. West, however the trail does not intersect the property thus no easements or trail improvements are required.

IV. EMERGENCY SERVICE

- Billings Urban Fire Service Area will provide fire protection for the subdivision. The existing 30,000-gallon dry hydrant located at the corner of Bear Paw Drive South and Bear Paw Drive North is within .5 miles of this proposed subdivision and will be utilized by this subdivision if approved by the Billings Urban Fire Department. If not approved, a new 30,000-gallon dry hydrant will be constructed within the subdivision to provide fire protection.
- Police protection will be provided by Yellowstone County Sheriff's Department.
- Ambulance Service will be provided by American Medical Response.

V. STORM DRAINAGE

- A system of roadside ditches and retention ponds for each lot will be approved by MDEQ prior to filing the final plat.
- All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by MDEQ, or its designee.

VI. UTILITIES

A. Water

- Each lot will have an individual well approved by MDEQ and DNRC.
- MDEQ approval for these systems will be included with the final plat filing.

B. Septic System

- Lot 1 is served by an existing gravity septic system.
- Lots 2-9 are proposed to be served by individual raised sand mound drainfields.
- MDEQ approval for these systems will be included with the final plat filing

C. Power, Telephone, Gas, and Cable Television

- These utilities will be provided within the 60' public access easements created as part of this subdivision, displayed on the face of the final plat and included as documents within the final plat submittal.

D. Solid Waste

- Solid waste will be disposed of by a local waste collection company and will be sent to the Billings Regional Landfill.

VII. PARKS/OPEN SPACE

There is no parkland dedication requirement for this subdivision, as all parcels are nonresidential pursuant to (76-3-621(3)(a-e), MCA) and the Yellowstone County Subdivision Regulations Section 10.8.

VIII. IRRIGATION

- The Danford Drain irrigation ditch located adjacent to the southern border of the property will remain unobstructed and unaffected by this subdivision.
- No water rights exist within this subdivision thus no water rights will be transferred to individual lot owners.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

- 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.

X. SOILS/GEOTECHNICAL STUDY

The subdivider has not completed any geotechnical study. Lot owners are encouraged to perform individual geotechnical studies prior to building.

XI. 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 contracting 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 improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvements 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. If using a security, describe the method in this section)

XII. LEGAL PROVISIONS

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

Hardrives Construction, Inc.

James A. Bailey, President, Hardrives
Construction, Inc

STATE OF _____)
 : ss
County of _____)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared James A. Bailey, President, Hardrives Construction, Inc., (*Subdivider*), who executed the foregoing instrument and acknowledged to me that he executed the same.

SS _____

This agreement is hereby approved and accepted by Yellowstone County, this _____ day of _____, 20 ____

“COUNTY”
COUNTY OF YELLOWSTONE
MONTANA

County of Yellowstone
Board of County Commissioners

By: _____
John Ostlund, Chairman

Donald Jones, Commissioner

Mark Morse, Commissioner

Attest: _____
Jeff Martin, County Clerk and
Recorder

STATE OF _____)
: ss
County of _____)

On this ____ day of _____, 20 ____, before me, a Notary Public in and for the State of Montana, personally appeared John Ostlund, Donald Jones, Mark Morse and Jeff Martin, 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.

SS _____

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Waiver of Right to Protest

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 Rural Special Improvement Districts (RSID's), for a period of no more than twenty years from the recording of this waiver, which Yellowstone County 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.

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

Eastslope Meadows Subdivision

Signed and dated this _____ day of _____, 20____.

James A. Bailey, President, Hardrives
Construction Inc.

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of _____, personally appeared James A. Bailey, President of Hardrives Construction, Inc., the person who executed the forgoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

SS _____