

**SUBDIVISION IMPROVEMENTS AGREEMENT**

**FOR**

**METZGERWAY SUBDIVISION**

**PROPOSED SUBDIVISION IS LOCATED IN THE SW  $\frac{1}{4}$  OF SECTION 28,  
T2S, R25E, PMM, YELLOWSTONE COUNTY, MONTANA.**

**PREPARED BY:**

**NORTH STAR LAND SERVICES, P.C.  
33 CENTENNIAL ROAD, COLUMBUS, MONTANA 59019**

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**SUBDIVISION IMPROVEMENTS AGREEMENT**  
**Metzgerway Subdivision**

**This agreement** is made and entered in to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **Gauger Sales Corp.** whose address for the purpose of this agreement is **5440 River Road, Montana 59044**, hereinafter referred to as “Subdivider,” and **Yellowstone County, Montana**, hereinafter referred to as “County.”

**WITNESSETH:**

**WHEREAS**, the plat of Metzgerway Subdivision 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 Board of County Commissioners conditionally approved a preliminary plat of Metzgerway 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 Metzgerway 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 Subdivisions Regulations, the rules, regulations, polices, 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 the other good and valuable consideration, do hereby agree as follows:

**I. VARIANCES**

**A.** Subdivider has requested, and the county hereby grants, the following variances by the Board of County Commissioner from the strict interpretation of the County's Subdivision Regulations. No variances are requested.

**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 construction on the lots, which may require a geotechnical survey prior to construction.

**C.** No water rights shall be transferred to the lot owners. No irrigation ditches exist in the area of the lots.

**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 development 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.** Metzgerway Subdivision is located outside of the 100-year floodplain.

**F.** Culverts and associated drainage swales shall not be filled in or altered by the Subdivider or subsequent lot owners.

**G.** 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 relocation outside of the public right-of-way shall be subject to securing and recording easements.

**H.** Future maintenance of all (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.

**I.** Lot owners should be aware that there is a potential for high water levels in the area during times of seasonal flooding along Duck Creek, this may pose limitations on building along said Duck Creek.

**J.** The Lots 1,2, and 3 shall comply with any building restrictions noted in Special Zoning District 14. All buildings will be located at least ten (10) feet from adjoining public rights-of-way and from any public or private access, and 10 feet from any perimeter property lines.

### **III. TRANSPORTATION**

#### **A. Streets**

No interior roads or streets will be located within the subdivision. Access to Lots 1,2 and 3 will be off Metzger Road being an existing 60' wide county road and utility easement.

The approaches off Metzger Road, for Lots 1,2 and 3 will be required to have an

approach permit from the Yellowstone County Public Works Department and be built to County Public Works Standards.

**B. Traffic Control Devices**

No stop signs or yield signs are proposed as the traffic volume will be quite low. No speed bumps or valley gutters are proposed. No speed sign signs are proposed.

**C. Access**

Location of proposed accesses are shown on the plat.

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

Metzgerway Subdivision, is outside the (BABTMP).

**IV. EMERGENCY SERVICES**

A. Blue Creek Volunteer Fire Department will provide fire suppression and emergency services.

B. Water storage/dry hydrant fixture is not required for a three-lot subdivision.

C. Urban Wildland Interface Code requirements are not required as the subdivision is not located in a highly wooded area.

**V. STORM DRAINAGE**

A. Storm water from the public R.O.W. will be stored in the roadside swales. Individual lots will be required to provide their own storm water retention per approved plans by the Yellowstone County Department of Environmental Quality.

B. Existing drainage swales are also located along the existing county road. No improvements to the existing system are planned.

**VI. UTILITIES**

**A. Water**

Water supply will be provided by individual wells and/or offsite domestic water supply companies and stored on each lot in cisterns that meet the Yellowstone City/County Health Department Approval as outlined in Section 4.9 of the Yellowstone County Subdivision Regulations.

**B. Sanitary Sewer**

Sewer systems for the lots will require approval from the Yellowstone City/County Health Department Approval as outlined in Section 4.8 of the Yellowstone County Subdivision Regulations.

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

All utilities presently exist within the Metzger Road right-of-way and will be extended to provide service to each lot.

**VII. PARKS/OPEN SPACE**

There is no parkland requirement for Metzgerway Subdivision, as this is a minor subdivision.

**VIII. IRRIGATION**

There are no irrigation water rights on this subdivision.

**VIII. 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 the 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 the 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**

No geotechnical study was completed for this subdivision. Such a study will be the responsibility of future owners if they choose.

**XI. PHASING OF IMPROVEMENTS**

There will be no phasing of improvements.

**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 contracting parties pursuant to said 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 post-construction certification per Section 4.6.C. of the Yellowstone County Subdivision Regulations.

**XIII. LEGAL PROVISIONS**

**A.**

There are no public improvements proposed for this subdivision.

**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.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

By: \_\_\_\_\_  
Officer of GAUGER SALES CORP. ( sign)

Its: \_\_\_\_\_

STATE OF MONTANA )  
 : ss  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_ Officer of the GAUGER SALES CORP. known to me to be the person who executed the forgoing instrument and acknowledges to me that they executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Montana.

\_\_\_\_\_  
Printed Name: ( seal )

Residing at:\_\_\_\_\_

My commission expires:\_\_\_\_\_

STATE OF MONTANA )  
 :ss  
County of Yellowstone )

This agreement is hereby approved and accepted by Yellowstone County this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

“COUNTY”  
YELLOWSTONE COUNTY

By:\_\_\_\_\_ Chairman

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Attest:\_\_\_\_\_



Clerk and Recorder

STATE OF MONTANA )  
 ) ss  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, a Notary Public in and for the State of Montana personally appeared \_\_\_\_\_,

\_\_\_\_\_,

\_\_\_\_\_ and

\_\_\_\_\_ known to me to be the County Commissioners and the 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 the Yellowstone County, Montana.

\_\_\_\_\_  
Notary Public in and for the State of Montana.

Printed name; \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_

( seal )

