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Billings, MT 59102

***GRESHAM SUBDIVISION, 1<sup>st</sup> FILING***  
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**(Yellowstone County)**

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## **Gresham Subdivision, 1<sup>st</sup> Filing**

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between *Bighorn Drywall and Construction, LLC*, whose address for the purpose of this agreement is **6114 Arthur Avenue, Billings, MT 59106**, 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 *Gresham Subdivision, 1<sup>st</sup> Filing*; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Gresham Subdivision, 1<sup>st</sup> Filing*; 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 *Gresham Subdivision, 1<sup>st</sup> 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 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**

There are no variances being requested with this 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.

### **III. TRANSPORTATION**

#### **A. Streets**

The streets within this subdivision Miller Farm Road, Gresham Road, Anders Road, Arthur Road, and South 60<sup>th</sup> Street West, shall have a 60-foot-wide easement and be constructed to county paved road standards with a satisfactory subbase, base course, and asphalt surface. The roads within the subdivision shall be maintained by creation of an RSID.

#### **B. Traffic Control Devices**

Street name and stop signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the Yellowstone County Public Works Departments. A stop sign will be located at the intersections of the two subdivision roads that exit onto Hesper Road.

**C. Access**

Access to this subdivision shall be from Hesper Road which is a paved county dedicated road with 120-foot-wide right-of-way and shall be maintained by the county.

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

This subdivision is located within the area of the BABTMP. A 10-foot-wide paved pathway will be constructed adjacent to Hesper within the designed parkland area.

**IV. EMERGENCY SERVICE**

A 30,000-gallon water storage tank/dry hydrant was installed as part of Hesper Meadows Subdivision. The dry hydrant is located in a dry hydrant easement filed under Document No. 4042160. RSID #810M was created to maintain and service the dry hydrant. RSID #810M will be expanded to include this subdivision.

**V. STORM DRAINAGE**

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.

Stormwater improvements for roadway construction shall be constructed as designed and permitted with Montana DEQ. Stormwater improvements for residential home construction will be completed when the home size and location on lot have been determined by a future lot owner.

**VI. UTILITIES**

**A. Water**

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, all proposed water systems must obtain approval by the MDEQ, or its designee.

Individual wells will be permitted for the lots. An approval letter from MDEQ will be submitted with the final plat. The maintenance and operation of the individual wells will be facilitated by the individual lot owner.

**B. Septic System**

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, all proposed sanitary sewer systems must obtain approval by the MDEQ, or its designee.

Individual septic systems will be permitted. An approval letter from MDEQ will be submitted with the final plat. The maintenance and operation of the individual systems will be facilitated by the individual lot owner.

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

The private utilities shall be installed within the 10' utility easements that were dedicated on the plat for Gresham Subdivision per the request of the utility companies.

**VII. PARKS/OPEN SPACE**

The area of parkland dedication required for this subdivision is 2.18 acres. A total of 0.80-acre park is planned to be dedicated. A 10-foot-wide paved pathway adjacent to Hesper will also be completed. The remaining parkland will be finished graded and seeded with native prairie grass mixture. An RSID will be created for the maintenance of the parkland. The remaining balance, 1.38 acre of required parkland dedication, will be addressed by a cash-in-lieu contribution.

**VIII. IRRIGATION**

There are no irrigation systems located within this subdivision.

**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**

A geotechnical study is not required for this subdivision.

**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 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.

## **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”

*Bighorn Drywall and Construction, LLC*

By: \_\_\_\_\_  
Heath Olson, managing member

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 Heath Olson, known to me to be the managing member of *Bighorn Drywall and Construction, LLC*, who executed the foregoing instrument and acknowledged to me that they executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_

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

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Attest: \_\_\_\_\_  
County 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 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.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_



## 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:

*Gresham Subdivision, 1<sup>st</sup> Filing*

Signed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Bighorn Drywall and Construction, LLC

By: \_\_\_\_\_  
Heath Olson, managing member

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 Heath Olson, known to me to be the managing member of *Bighorn Drywall and Construction, LLC*, who executed the foregoing instrument and acknowledged to me that they executed the same.

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

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed name: \_\_\_\_\_  
Residing in Billings, Montana  
My commission expires: