

SUBDIVISION IMPROVEMENTS AGREEMENT
(Serenity Subdivision)
Table of Contents
(Yellowstone County)

I.	Variances	(page #)
II.	Conditions that Run with the Land	
III.	Transportation	
	A. Streets	
	B. Traffic Control Devices	
	C. Access	
	D. Billings Area Bikeway and Trail Master Plan	
IV.	Emergency Services	
V.	Storm Drainage	
VI.	Utilities	
	A. Water	
	B. Sanitary Sewer	
	C. Power, Telephone, Gas, and Cable Television	
VII.	Parks/Open Space	
VIII.	Irrigation	
IX.	Weed Management	
X.	Soils/Geotechnical Study	
XI.	Phasing of Improvements	
XII.	Financial Guarantees	
XIII.	Legal Provisions	

SUBDIVISION IMPROVEMENTS AGREEMENT

(Serenity Subdivision)

This agreement is made and entered into this ____ day of _____, 20__, by and between *(Marsich Investments, Inc. and Lorenz Construction, LLC)*, whose address for the purpose of this agreement is 3371 Pipestone Dr., Billings, Mt 59102-6941, hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, the plat of *(Serenity 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 Planning recommended conditional approval of a preliminary plat of *(Serenity 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 *(Serenity 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 *(Serenity 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. Subdivider has requested, and the County hereby grants, the following variances by the Board of County Commissioners from the strict interpretation of the County’s Subdivision Regulations (Chapter 11, Yellowstone County Subdivision Regulations):

1. No Variance 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 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 at no cost to the County 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 RSID(s) created as part of the SIA for this subdivision.
- H.** Lot 58 (16.441 acres) shall have sanitary restrictions that shall be lifted by application to the MDEQ with future development review (subdivision, site plan, or condominium).

- I. 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 owner's 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

- Streets shall be public and have Right-of-way widths of 60 feet.
- Streets shall be paved with 24 feet of asphalt with a 2-foot gravel shoulder along each edge of asphalt
- A Rural Special Improvements District (RSID) for maintenance of the public streets will be established with the Final Plat.

B. Traffic Control Devices

- Stop signs shall be installed at the 2 egresses of the subdivision onto South 48th Street West.

C. Access

- Two accesses shall be provided off of South 48th Street West
- One access shall be by way of a connection to 50th Street West, a public street

D. Billings Area Bikeway and Trail Master Plan

- The Billings Area Bikeway and Trail Masterplan shows future bike lanes along 48th Street West and Neibauer Road. There are no elements within the property being subdivided.
- No improvements are required or proposed at this time.
- Future bike lanes can be constructed with a future widening project within the existing dedicated Right-of-way.

IV. EMERGENCY SERVICE

- Fire protection facilities shall be provided via a dry hydrant system with a capable 30,000 gallon underground water storage tank. The system shall be capable of providing a minimum of 1,000 gallons per minute at draft.
- The Subdivider shall submit plans and specifications of the dry hydrant system to the Billings Fire Department for review and approval prior to installation of the system. The tank shall be installed within a dry hydrant

easement with access from the adjacent public street. The dry hydrant system shall be inspected, acceptance tested, and approved by the Billings Fire Department prior to construction of any buildings in the subdivision. An RSID will be created for maintenance of the dry hydrant with the final plat.

- Internal streets will be paved to county standards and provide emergency access.
- This subdivision is not located within an Urban Wildland Interface Area.

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 the Montana Department of Environmental Quality (MDEQ), or its designee.

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.

- Water will be supplied by individual wells.
- MDEQ approval (letter submitted with final plat)

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.

- Wastewater will be handled with individual septic systems.
- MDEQ approval (letter submitted with final plat)

C. Power, Telephone, Gas, and Cable Television

- Power, telephone, gas, and cable television utility service will be provided to all lots within an 8' wide utility easement along street frontages and behind sidewalks of all public roads.

VII. PARKS/OPEN SPACE

- The parkland requirement for this subdivision is 3.939 Acres.
- The parkland requirement is met by a dedication of 4.398 Acres of public parkland.
- A Park Maintenance District will be established with the final plat.

VIII. IRRIGATION

- Canyon Creek Irrigation District owns a ditch along the westerly and northerly boundaries of this subdivision.
- This ditch and access road are located within a 70-foot wide irrigation easement along and outside of the westerly and northerly boundaries of this subdivision, as defined on the face of the L.M. Subdivision final plat.

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

- No geotechnical study is required.
- Lot owners shall obtain their own geotechnical study for recommendations pertinent to their particular lot.

XI. PHASING OF IMPROVEMENTS

- Subdivision will be completed in a single phase.
- Public improvements will be constructed by way of a private contract.

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 required post-construction certification per Section 4.6.C. of the Yellowstone County Subdivision Regulations.

XIII. 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”

Dan Marsich as President of Marsich Investments, Inc.

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 _____, (*Subdivider*), 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: _____

“SUBDIVIDER”

Rod Lorenz as Managing Member of Lorenz Construction, LLC

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 _____, (*Subdivider*), 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: _____

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: _____
My commission expires: _____

