

**SUBDIVISION AGREEMENT**

**THIS AGREEMENT, made and entered into this 8<sup>th</sup> day of April, 2019 by and between BERNARD INVESTMENT GROUP LLC hereinafter referred to as "Subdivider", and the TOWN OF DAYTON, SHERIDAN COUNTY, WYOMING, a municipal corporation, hereinafter referred to as "Town".**

**WITNESSETH:**

**THAT WHEREAS, at a meeting held by the Dayton Planning Committee, on the 13<sup>th</sup> day of November, 2018 the Committee recommended approval of the preliminary plat of the premises known as the Brookfield Acres Subdivision, and**

**WHEREAS, at a regular meeting held on the 4<sup>th</sup> day of December, 2018 the Town Council approved the preliminary plat of the Brookfield Acres addition to the Town of Dayton, Wyoming, and**

**WHEREAS at a regular meeting held on the 8<sup>th</sup> day of April, 2019, the Town Council approved said final plat of the Brookfield Acres;**

**WHEREAS, the Town of Dayton has retained Randall Engineering, hereinafter referred to as "Town Engineer", to provide engineering services for the Town of Dayton;**

**NOW 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:**

**A. IMPROVEMENTS:**

**Subdivider agrees to submit plans of, and construct at its cost and expense, and other related expenses, the following improvements to the premises in accordance with the plans approved by the Town Engineer:**

- 1. A thirty-foot (30') concrete apron on private driveways that adjoin 4<sup>th</sup> Street.**
- 2. All driveways shall require a hard surface consisting of rock material which may include scoria, gravel, roto-mill or other similar type materials.**
- 3. All driveways located along 4<sup>th</sup> Street shall have roll over curbs.**
- 4. Subdivider will be required to repair 4<sup>th</sup> Street paving after tapping into the water system with paving material. Any sidewalk damage adjacent to subdivision will be required to be repaired.**
- 5. Subdivider agrees to pay \$3000.00 in annexation costs.**
- 6. Covenants shall be required which will preserve the nature and character of the neighborhood.**
- 7. Surface drainage plans showing the routing of surface water shall be submitted to the Town Engineer for approval.**

**B. UTILITIES:**

- 1. Construction of utilities and related improvements shall be in accordance with applicable portions of the current edition of the Wyoming Public Works Standard Specifications, and the Town municipal code.**
- 2. A water supply distribution plan shall be submitted to the Town Engineer and D.E.Q. for approval. Plans shall show the size and type of water system lines, depth and location of all lines, valves and appurtenant equipment within dedicated street right-of-way or utility easements. Fire hydrants shall be located in accordance with the Town of Dayton specifications, and shall be shown on the water distribution plan which is to be submitted**

to the Town Engineer and The Dayton Volunteer Fire Chief for approval. Water lines to fire hydrants shall conform to recommendations of the National Board of Fire Underwriters.

3. Sanitary sewers connected to the Town's sewerage system shall have slopes sufficient to provide a sewage velocity therein of not less than two feet (2') per second. A sewer system design plan and profile showing manhole locations, size and location of mains shall be submitted to the Town Engineer and D.E.Q. for approval.

4. A plan showing underground power, telephone and television wires and conduit, shall be approved by the utility companies and submitted to the Town Engineer for approval.

5. Lots #1 through #6 (excluding lot 5 which already has raw water) will have the Town of Dayton Raw Water System installed according to Town specifications and installed by the developer.

6. The Final Plat shall include a utility easement which shall allow for the installation, placement and maintenance of natural gas lines.

**C. SERVEY MONUMENTS:**

1. Permanent survey monuments shall be set at all boundary corners and boundary deflection points. Monuments shall be, at a minimum, an iron pipe or ferrous rod monument not less than twenty-four (24) inches in length and not less than five-eighths (5/8) inches in diameter, and shall include a permanently attached identifying marker. In addition, one iron pipe or ferrous rod monument, with aforementioned dimensions, shall be set at all lot corners.

**D. ENGINEER:**

1. Subdivider agrees to notify the Town Engineer, prior to beginning work, the time of which the work is expected to be started on any of the following items:

- a. Laying of sewer main and service lines
- b. Backfilling of sewer main and service lines
- c. Laying of water main and service lines
- d. Backfilling of water main and service lines
- e. Placing of concrete for storm drain structures and manholes
- f. Installing fire hydrant
- g. Laying of Raw Water lines
- h. Backfilling of Raw Water lines

2. It is understood and agreed whenever the Town Engineer, or his duly authorized representative, inspects portions of the work as mentioned hereinbefore and finds the work performed to be a satisfactory condition for inclusion in the completed project, the Town Engineer or his duly authorized representative shall issue a statement of inspection which shall permit the Subdivider to perform the next phase of the construction. Inspection and approval of any item of work shall not forfeit the right of the Town to require the correction of faulty workmanship or materials. Town will inspect completed work within twenty-four (24) hours after proper notification (excluding Saturdays and Sundays).

3. Subdivider agrees to provide for any necessary adjustment or alteration to existing utilities because of the work required by this Agreement, without cost to the Town.

4. Subdivider agrees to furnish to the Town Engineer, upon completion of all the improvements within public ways or rights-of-ways required hereby, a map (a hard copy and a digital file) on which is accurately indicated by lettered dimensions, the location of all manholes, size and depth of all sewer mains, laterals and wyes for the connection of service lines, size, depth, and location of all water lines, valves, service lines and fire hydrants, the location, grade and specific construction section for all streets.

5. Subdivider agrees that all improvements shall be made in accordance with the general regulations, applicable State of Wyoming Standards and Specifications and

Ordinances of said Town and that approval of the final plat shall not be made until all street plans and profiles, typical street sections, sewer plans and profiles and all other such plans and specifications as may be required have been submitted to and approved by the Town Engineer.

6. Town shall have the right to require the correction, by the Subdivider, at any time before release of the security required herein, of any item, or items, to be installed under this Agreement which do not conform to Town standards, specifications or ordinances, except for such item or items as may have been approved by the Town Engineer, whether in the plans or otherwise noted.

**E. BONDING:**

1. Subdivider agrees to execute a bond in the amount of \$78,864.50, which is equal to 110% of the cost of required improvements as estimated by the Subdivider's Engineer and approved by the Town Engineer (see attached Exhibit A). The bond is held by AmTrust Surety in Irvine, California.

a. The condition of the security is that the Subdivider shall complete the improvements within the period specified in this Agreement. In the event Subdivider fails to complete the improvements within the time allowed by the Agreement, or any extension thereof, as may be granted by the Town, then the Surety shall complete the improvements and deliver them to the Town for approval or, at the election of Surety, Surety shall tender to Town the amount necessary, in no event to exceed the penal sum hereof, based upon estimates provided by the Town, to carry out completion of the improvements, it being further understood that upon completion of the improvements, and unexpended funds shall be returned to Surety.

b. Upon completion of any phase of the required improvements, Subdivider may apply for the release of the security in proportion to the relationship between the completed and approved work and the total of required improvements. Any such release of security is limited to 90% of the Town's Engineer the town has contracted with original estimate of the cost of the completed and approved improvements. An application for the release of security upon completion of any improvements shall not be granted unless accompanied by the written certificate of the Town Engineer the Town has contracted with, stating that all requirements of the completed portions have been satisfactorily completed in accordance with the terms of this Agreement.

c. The provider of any security for the performance of this Agreement must agree that the security shall remain in effect in the unreleased amount until all improvements required by this Agreement are accepted by the Town. The period within which improvements must be completed may be extended by the Town from time to time, by Town Council action or otherwise, without notice to the provider of the security, and any such extension or extensions shall not relieve the provider of its obligation.

2. Subdivider shall be responsible for the care and maintenance of all improvements until completion and final acceptance by the Town. During moving in, construction, and moving off, Subdivider shall keep the site free and clean from dangerous accumulation of rubbish and debris, and shall maintain sufficient and proper barricades, lights, etc., for the protection of the public. Final acceptance of the improvements will not be made by the Town until the area falling under this Agreement and adjacent property has been cleared of all rubbish, surplus materials and equipment resulting from the Contractor's operations, to the satisfaction of the Town Engineer.

3. Subdivider may request extensions of this agreement which may be given by the Dayton Town Council.



**F. MISCELLANEOUS**

1. This Subdivision Agreement shall inure to the benefit of and be binding upon the successors and assigns of Subdivider. This Agreement shall be recorded in the office of the County Clerk, Sheridan County, Sheridan, Wyoming, and shall constitute a covenant running with all land contained within the final plat of the Brookfield Acres Subdivision addition to the Town of Dayton, Wyoming.

2. Unless this Agreement is executed by the Subdivider and returned to the Office of the Town Clerk within 120 days after its approval by the Town Council, approval shall automatically terminate and Subdivider shall not thereafter be entitled to the benefits of this Agreement until it shall again have been approved by the Town Council.

3. No building of structures or occupying of lots (excluding lot 5) shall be allowed until all infrastructure is installed, completed, and approved by the Town of Dayton, WY.

4. The waiver of one breach of any term, condition, covenant, obligation, or agreement of this Agreement shall not be considered to be a waiver of that or any other term, condition, covenant, obligation, or agreement or of any subsequent breach thereof.

5. If any term or condition of this Agreement shall be deemed invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.


6. This Agreement may be signed in parts or by facsimile.

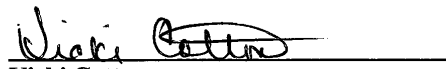
7. Should the Town of Dayton bring any action to enforce the terms of this Agreement, it shall be entitled to the recovery of all reasonable attorney fees and costs.

8. Third Party Rights: No person or entity who is not party to this Agreement shall have any right under this Agreement.

9. The Town shall release the original Subdivider's Security if it accepts a new security from any Subdivider or lender who obtains the property. However, no action by the Town shall constitute a release of the Subdivider from his liability under this Agreement.

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

  
Norm Anderson  
Mayor of Dayton, Wyoming

  
Vicki Cotton  
Clerk, Treasurer of Dayton, Wyoming

  
Bernard Investment Group, LLC  
Chris Bernard

  
Bernard Investment Group LLC  
Sheena Bernard

ACKNOWLEDGMENT

STATE OF WYOMING )  
 )  
COUNTY OF SHERIDAN )

The foregoing instrument was acknowledged before me by Norm Anderson and Vicki Cotton, the Mayor and Clerk/Treasurer of the Town of Dayton, this 18<sup>th</sup> day of April, 2019.

Witness my hand and official seal.

Charitina Fritzer  
Notary Public

My commission expires 11-8-2022



ACKNOWLEDGMENT

STATE OF WYOMING )  
 )  
COUNTY OF SHERIDAN )

The foregoing instrument was acknowledged before me by Chris and Sheena Bernard this 18 day of April 2019.

Witness my hand and official seal.

Charitina Fritzer  
Notary Public

My commission expires 11-8-2022



**EXHIBIT A**

**ESTIMATED COST OF IMPROVEMENTS  
 ON  
 BROOKFIELD ACRES SUBDIVISION**

<b><u>ITEM DESCRIPTION</u></b>	<b>MATERIAL &amp; INSTALATION UNIT COST</b>	<b><u>TOTAL COST</u></b>
<b><u>WATER LINES</u></b>		
Water service lines	\$14,500.00	\$14,500.00
Raw water lines	\$2,200.00	\$2,200.00
Meter pit cost	\$0.00	\$0.00
Town tap fees	\$0.00	\$0.00
<b><u>SANITARY SEWER LINES</u></b>		
Manholes	\$4,400.00	\$13,200.00
8" Sewer main	\$16,000.00	\$16,000.00
Sewer service lines	\$6,500.00	\$6,500.00
<b><u>FIRE HYRDANT</u></b>		
Hydrant	\$9,000.00	\$9,000.00
Tapping sub	\$2,795.00	\$2,795.00
<b><u>OTHER</u></b>		
(MDU, Phone, Cable)	\$0.00	\$0.00
Street/Curb/ Walk Repair	\$7,500.00	\$7,500.00
	<b>TOTAL IMPROV</b>	<b>\$71,695.00</b>
<b><u>SUBDIVISION SECURITY</u></b>		
Required Security	\$71,695.00 x 110%	\$78,864.50