

SUBDIVISION IMPROVEMENTS AGREEMENT
Amended Plat of Lot 1, Wolf Subdivision
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(City of Billings)

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SUBDIVISION IMPROVEMENTS AGREEMENT

Amended Plat of Lot 1, Wolf Subdivision

This agreement is made and entered into this ____ day of _____, 20__, by and between 2120 Rehberg, LLC, whose address for the purpose of this agreement is 1010 Central Avenue, Suite 1, Billings, MT 59102, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the amended plat of *Lot 1, Wolf 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 City Council conditionally approved an amended preliminary plat of *Lot 1, Wolf Subdivision*; and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to *Amended Plat of Lot , Wolf 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 City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, 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 requested for this subdivision.

II. CONDITIONS THAT RUN WITH THE LAND

A. Lot owners should be aware that there are Covenants, Conditions and Restrictions of the Amended Plat of Lot 1, Wolf Subdivision recorded in conjunction with this subdivision that outlines additional requirements specific to this subdivision.

B. 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.

- C. 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.
- D. No water rights have been transferred to the lot owners.
- E. 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.
- F. The subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- G. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

III. TRANSPORTATION

This section should include, but not be limited to the following:

A. Streets

Rehberg Lane has a right-of-way width of 60 feet and is fully constructed adjacent to the project limits with curb and gutter and an approximately 45' paved width. No proposed improvements to Rehberg Lane are proposed with this subdivision.

Boulder Avenue has a right-of-way width of 60 feet and is partially constructed within the project limits with a paved width of approximately 24'.

The south half of Boulder Avenue, along the frontage of the subject parcel, will be improved to City Residential Local Access Standards with a 34' back of curb to back of curb width (30' paved width). Improvements will consist of paving an additional width of approximately 4.25' and installing concrete curb and gutter. Timing of the street improvements will be determined in conjunction with City Engineering.

B. Sidewalks

A 5' wide concrete sidewalk is currently in place along Rehberg Lane. A 5' wide boulevard and 5' wide concrete sidewalk will be constructed along the frontage of the subject parcel along Boulder Avenue. Timing of the sidewalk improvements will be determined in conjunction with City Engineering.

C. Street Lighting

There are no street lighting improvements proposed with this subdivision.

D. Traffic Control Devices

There are existing stop signs and street signs on Boulder Avenue at the intersection with Rehberg Lane. There are no additional traffic control devices proposed with this subdivision.

E. Access

Legal access will be granted by way of the dedicated right-of-way along Rehberg Lane. A reciprocal access and parking easement will be placed over the existing parking lot to provide legal, shared access and parking to both lots.

F. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway and Trail Master Plan identifies a proposed short-range bike lane along Rehberg Lane from Grand Avenue to Rimrock Lane. This subdivision will not require the construction of any bikeway or trail improvements.

G. Public Transit

There are no public transit improvements proposed with this subdivision.

IV. EMERGENCY SERVICE

The City of Billings Fire and Police Departments will provide emergency fire and law enforcement services. Emergency access shall be provided via Rehberg Lane. An operational fire hydrant is located in the southwest quadrant of the intersection of Rehberg Lane and Boulder Avenue.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management.

An existing on-site storm drainage system has previously been approved and constructed for the subject parcels. No additional storm drainage improvements are proposed for this subdivision.

VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable System Development and Franchise Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

A. Water

Both proposed lots are currently served by individual water services. No additional water system improvements are proposed for this subdivision.

B. Sanitary Sewer

Both proposed lots are currently served by individual sanitary sewer services. No additional sanitary sewer system improvements are proposed for this subdivision.

C. Power, Telephone, Gas, and Cable Television

Both proposed lots are currently served by individual power, telephone, gas, and cable television services. No additional power, telephone, gas, or cable television improvements are proposed for this subdivision.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed Amended Plat of Lot 1, Wolf Subdivision, as this is a minor subdivision [MCA 76-3-621(3)(a)].

VIII. IRRIGATION

Both parcels of the subdivision are irrigated with a private system. No Irrigation District or ditches will be affected by this subdivision.

IX. SOILS/GEOTECHNICAL STUDY

All site and building improvements have been constructed on the proposed lots. No additional construction activities are proposed for this subdivision.

X. PHASING OF IMPROVEMENTS

There are no phases associated with this subdivision.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract secured by letters of credit or a letter of commitment to lend funds from a commercial lender. 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 installed as approved by the City Engineer and Utility Department Manager.

XII. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by the City of Billings.
- 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,

This agreement is hereby approved and accepted by the City of Billings, this ____ day of _____, 20__.

“CITY”
CITY OF BILLINGS
MONTANA

By: _____
Mayor

Attest: _____
City Clerk

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 Mayor and City Clerk, respectively, of the City of Billings, 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 City of Billings, Montana.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

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 special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements incident to the above which the City of Billings 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:

Amended Plat of Lot 1, Wolf Subdivision

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

Subdivider/Owner

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 _____, known to me to be Subdivider/Owner, the person who executed the forgoing instrument and acknowledged to me that he/she 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 at: _____
My commission expires: _____