

**SUBDIVISION IMPROVEMENTS
AGREEMENT & WAIVER OF RIGHT TO
PROTEST FURTURE SPECIAL
IMPROVEMENT DISTRICTS**

**Lot 4A of the Amended Plat of Lots 1 and 4, Block 1,
Willowbrook Subdivision 2nd Filing**

Table of Contents

City of Billings, Montana

I.	Variances	Page #2
II.	Property Conditions and Information for Lot Purchasers	Page #3
III.	Transportation	Page #4
	A. Streets	
	B. Sidewalks	
	C. Street Lighting	
	D. Traffic Control Devices	
	E. Access	
	F. Heritage Trail Plan	
	G. Public Transit	
IV.	Emergency Services	Page #4
V.	Storm Drainage	Page #5
VI.	Utilities	Page #6
	A. Water	
	B. Sanitary Sewer	
	C. Power, Telephone, Gas, and Cable Television	
VII.	Parks/Open Space	Page #6
VIII.	Irrigation	Page #6
IX.	Soils/Geotechnical Study	Page #6
X.	Financial Guarantees	Page #6
XI.	Legal Provisions Applying to Subdivider	Page #7

**SUBDIVISION IMPROVEMENTS AGREEMENT &
WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS**

***Lot 4A of the Amended Plat of Lots 1 and 4, Block 1, Willowbrook
Subdivision 2nd Filing***

This agreement is made and entered into this ___ day of _____, 20___, by and between *Griffin Automotive Enterprises, Inc.*, whose address for the purpose of this agreement is **PO Box 2137, Billings, MT 59103**, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the plat of *Lot 4A of the Amended Plat of Lots 1 and 4, Block 1, Willowbrook Subdivision 2nd Filing*, located in the City of Billings, 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 a preliminary plat of *Lot 4A of the Amended Plat of Lots 1 and 4, Block 1, Willowbrook Subdivision 2nd Filing* 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 *Lot 4A of the Amended Plat of Lots 1 and 4, Block 1, Willowbrook Subdivision 2nd 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 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

- No variances have been requested with this Subdivision.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** The owner of Lot 4A-1 will be required to construct a multi-use trail/path along the frontage of Lot 4A-1 prior to a building permit being issued.
- B.** The owner of Lot 4A-1 will be required to construct the segment of curb, gutter and road widening that fronts their property, if required by the Montana Department of Transportation, prior to a building permit being issued.
- C.** 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.
- D.** 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.
- E.** There are no irrigation ditches around the proposed subdivision.
- 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 before and 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

A. Streets

- There are no proposed streets within this subdivision.
- The South Frontage Road is an existing street located adjacent to the north side of this property. This is a 45' paved road within a State of Montana 349' right-of-way.
- There is an existing approximately 30' wide asphalt access road across the western side of Lot 4A-1, to the northwestern corner of Lot 4A-2. It is located within a Reciprocal Access Easement.

B. Sidewalks

- There currently are no existing or proposed sidewalk on or adjacent to the subdivision. Sidewalks are included in the project's waiver of right to protest future improvements.

C. Street Lighting

- There is no existing street lighting on the property to be subdivided.
- No street lighting is proposed as no streets are proposed. Street lighting along the South Frontage Road has been included in the waiver of right to protest.

D. Traffic Control Devices

- No traffic control devices are proposed as no streets are proposed.
- There is an existing stop sign at the intersection of the existing access road and Frontage Road.

E. Access

- Access for the two lots is proposed off of the existing approximately 30' wide asphalt access road. This will provide direct access for the two lots onto the South Frontage Road.

F. Billings Area Bikeway and Trail Master Plan (BABTMP)

- The owner of Lot 4A-1 will be required to construct a multi-use trail/path along the frontage of Lot 4A-1 prior to a building permit being issued.

G. Public Transit

- There currently is no public transit in the area of this proposed subdivision.

IV. EMERGENCY SERVICE

- Emergency access to the two lots is proposed to be by the existing approximately 30' wide asphalt access road.
- There is an existing fire hydrant located along the South Frontage Road to the northwest of this property as well as adjacent to the east side of this property.
- Urban Wildland Interface Code requirements have not been proposed as the property is not located in a highly wooded area.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division.

- The storm drainage on the property will continue to operate as it has historically.
- There are no proposed improvements to the existing storm drainage system as there is no proposed development on these lots.

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 – Distribution and Collection 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 appropriate water and wastewater construction fees in effect shall be submitted with the applications.

It is acknowledged that the properties subject to this Subdivision Improvements Agreement shall be subject to the appropriate water and wastewater local and interior construction fees in effect at the time of payment. Fees shall be paid for the lots in each phase as applied for in the extension application and as per the first paragraph above.

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

It is acknowledged that City water and sewer services will need to be developed to the boundary of Lot 4A-1, at the time a building permit is issued for this property.

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

- At this time, it is unknown what water service requirements there will be as it is unknown what development will take place on Lot 4A-1. This will be required and proposed in accordance with the City of Billings requirements at the time a building permit is issued for this property.

B. Sanitary Sewer

- At this time, it is unknown what sewer service requirements there will be as it is unknown what development will take place on Lot 4A-1. This will be required and proposed in accordance with the City of Billings requirements at the time a building permit is issued for this property.

C. Power, Telephone, Gas, and Cable Television

- There is an existing 10' wide utility easement that is proposed to provide power, telephone, gas, or cable television to the proposed lots.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed Lot 4A of the Amended Plat of Lots 1 and 4, Block 1, Willowbrook Subdivision 2nd Filing, as this is a minor subdivision [MCA 76-3-617(3)(a)].

VIII. IRRIGATION

- There are no existing or proposed irrigation ditches on or adjacent to the subject property.

IX. SOILS/GEOTECHNICAL STUDY

- A geotechnical report that was previously completed on the property directly adjacent to the subject property has been included with this submittal. A new report will be provided at the time of any proposed development on these lots.
- Any results of the Geotech study, construction restrictions, and/or required mitigation efforts determined by the new report will be required for future development on these lots.

X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or private contracts 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 special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

WAIVER OF RIGHT TO PROTEST

FUTURE SPECIAL IMPROVEMENT DISTRICTS

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 date 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:

Lot 4A of the Amended Plat of Lots 1 and 4, Block 1, Willowbrook Subdivision 2nd Filing

Signed and dated this _____ day of _____, 2020.

Griffin Automotive Enterprises, Inc.,

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this day of _____, 2020, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be *Griffin Automotive Enterprises, Inc.*, 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 in Billings, Montana

My commission expires: _____

DRAFT