

SUBDIVISION IMPROVEMENTS AGREEMENT
Yellowstone Trail Subdivision
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Yellowstone County

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SUBDIVISION IMPROVEMENTS AGREEMENT

Yellowstone Trail Subdivision

This agreement is made and entered into this ____ day of _____, 20__, by and between *J & J Homes, LLC*, whose address for the purpose of this agreement is **744 Parkway Lane, Billings, Montana 59101**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY**, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, the plat of *Yellowstone Trail 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 *Yellowstone Trail Subdivision*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Board of County Commissioners (BOCC) conditionally approved a preliminary plat of *Yellowstone Trail 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 *Yellowstone Trail 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

No variances are requested from the Subdivision Regulations. Though no connecting road is proposed, such a connection is not practical due to steep slopes on the western side of the subdivision. Therefore, no variance application is needed.

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.
- D.** There is attached hereto a Waiver waiving the right to protest the creation of the Rural Special Improvement District or districts (RSID) 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.** 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.
- F.** Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.
- G.** 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.

- H.** 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 lot owners expense.

III. TRANSPORTATION

A. Streets

- Right-of-Way widths of 60 feet minimum shall be dedicated for Lynette Lane and Lenny Lane.
- Lot 18 has access to White Buffalo Road via a 24-foot wide access easement.
- Lynette Lane and Lenny Lane will be constructed to County standard and with a minimum pavement width of 24 feet with 2-foot gravel shoulders.
- Drainage ditches shall be constructed adjacent to the roadways in accordance to Yellowstone County Public Works and DEQ standards.

B. Sidewalks

- No sidewalks are proposed for this subdivision.

C. Street Lighting

- No street lighting is proposed for the development.

D. Traffic Control Devices

- The Subdivider shall furnish and install street name signs for streets within and adjacent to the subdivision as required by the County. Traffic control devices shall comply with the Manual of Uniform Traffic Control Devices (MUTCD) and County standards.
- The Subdivider shall furnish and install street name signs for streets within the subdivision or located immediately adjacent thereto in accordance with the specifications of the County Public Works and the local Fire Department.

E. Access

- Access to Lynette Lane and Lenny Lane will be provided off of Yellowstone Trail. Access to Lot 18 is provided off of White Buffalo Road via an access easement.

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

- The subdivision is outside the BABTMP.

G. Public Transit

- There is no public transportation available in the area.

IV. EMERGENCY SERVICES

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (dry fire hydrants) in place to allow for fire suppression requirements. Prior to construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the State of Montana.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- A 30,000-gallon dry hydrant located at the corner of Yellowstone Trail and Lenny Lane will be tested and approved prior to final plat by the fire department having jurisdiction. The maintenance for the tank and dry hydrant will require the formation of an RSID for maintenance.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Section 4.7 of the 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

The design/installation of sanitary systems, wells, and water distribution systems shall be in accordance with design standards, specifications, rules, regulations of and as approved by the Yellowstone City-County Health Department and the Montana Department of Environmental Quality (MDEQ).

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.

- The Subdivision shall be supplied by way of the extension of the Pryor Creek Water Association (PCWA) public water system. Water will be conveyed to the individual lots utilizing a water distribution system.
- The water distribution system shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- The PCWA will be responsible for the operation and maintenance of the community. There is a fee for new hookups to the existing system and billing will occur monthly.
- A MDEQ approval letter will be submitted with the final plat.

B. Sanitary Sewer

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

- The Subdivision will utilize the existing PCWA sanitary system composed of a collection system and lagoons for management and disposal of sanitary waste.
- The community sanitary system shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- The PCWA will be responsible for the operation and maintenance of the community sanitary systems. There is a fee for new hookups to the existing system and billing will occur monthly.
- A MDEQ approval letter will be submitted with the final plat.

C. Power, Telephone, Gas, and Cable Television

- Power, natural gas, telephone, and cable will all be located within the right-of-way and utility easements shown on the plat.

VII. PARKS/OPEN SPACE

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement.

- Per 10.2 (A) 3 of the Yellowstone County Subdivision Regulations the following areas dedicated as parkland are required:
 - i. 5% of the net residential land proposed for lots larger than 1 acre, but less than 3 acres.
 - Lots 1-16 = 20.96 net acres
 - 5% of Net Acreage = 1.048 acres
 - ii. 2.5% of the net residential land proposed for lots larger than 3 acres, but less than 5 acres.
 - Lots 17-18 = 4.761 acres
 - 2.5% of Net Acreage = 0.347 acres
 - iii. Total required parkland dedication = 1.395 acres
- 1.288 acres of parkland area is being dedicated within this subdivision, and an additional .5 acres is included in the access trail to the parkland for a total of 1.788 acres. The trail is 20 feet wide, naturally surfaced, and runs along the boundary of Lots 13 and 14, the boundary of Lots 15 and 17, and the boundary of Lots 16 and 17.

VIII. IRRIGATION

The property is not located within the boundary of an Irrigation District. No water shares will be transferred to the individual lot owners.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

The weed plan shall include the following and shall be referenced in this SIA:

- 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 by the Yellowstone County Subdivision Regulations as part of this plat. 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 limitation for proposed construction on the lots, which may require a geotechnical survey prior to construction.

XI. PHASING OF IMPROVEMENTS

There is no intended phasing of improvements. Internal roads and utilities fronting the lots will be constructed at the time of development.

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 special improvement district or 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.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations. If using a security, describe the method in this section).

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”

J & J Homes, LLC.

By: _____

Title: _____

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 the _____ of *J & J Homes, LLC.* 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: _____

