

**SUBDIVISION IMPROVEMENTS AGREEMENT**

***The Grove Subdivision***  
**Yellowstone County**

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**SUBDIVISION IMPROVEMENTS AGREEMENT**

***The Grove Subdivision***

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **M&J Land Co LLC**, whose address for the purpose of this agreement is **5233 Blue Heron Dr., Billings, MT 59106**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY**, Montana, hereinafter referred to as “County.”

WITNESSETH:

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Board of Planning recommended conditional approval of a preliminary plat of The Grove 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 The Grove 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 The Grove 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 variances have been requested for The Grove Subdivision.

## **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.** There are no existing water rights associated with the parcel prior to subdivision. As part of the subdivision, a Groundwater Application for Beneficial Water Use Permit is being obtained from the DNRC. This permit will cover the individual wells on each lot for domestic and irrigation purposes.
- 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 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 one (1) or more HOA(s) or RSID(s) created as part of the SIA for this subdivision.
- H.** The Subdivider will obtain two Access Permits from County Public Works prior to any construction on any lot within the subdivision. The application will include a site plan showing the designed location of the access and show that it meets the requirements outlined by the DEQ stormwater requirements for the subdivision. These two Access Permits will be for the connections of private roads onto Hesper Road and 64<sup>th</sup> Street West.

Future lot owners inside the subdivision will all access their property from the private road network and a County Public Works Access Permit will not be required.

### **III. TRANSPORTATION**

#### **A. Streets**

The following roads exist surrounding the subdivision:

- South 64<sup>th</sup> Street West is an existing road located adjacent to and east of the property within a 60' wide County Road Easement.
- As part of this subdivision, 30' of the County Road Easement and an additional 30' of property along 64<sup>th</sup> Street will be dedicated as right-of-way to the County.
- Hesper Road is an existing road located adjacent to and north of the property within a 60' wide County Road Easement.
- As part of this subdivision, 30' of the County Road Easement and an additional 30' of property along Hesper Road will be dedicated as right-of-way to the County.

The Subdivision proposes the following roads:

- Standard asphalt 24-foot-wide private road maintained by the newly created HOA and to be known as Cherry Birch Lane, located within a 60' Private Road Easement throughout the subdivision as shown on the plat.
- Standard asphalt 24-foot-wide private road maintained by the newly created HOA and to be known as Black Maple Way, located within a 60' Private Road Easement throughout the subdivision as shown on the plat.
- Standard asphalt 24-foot-wide private road maintained by the newly created HOA and to be known as White Ash Place, located within a 60' Private Road Easement throughout the subdivision as shown on the plat.

#### **B. Traffic Control Devices**

- One stop sign will be installed at the intersection of proposed Cherry Birch Lane and Hesper Road and one stop sign will be installed at the intersection of proposed Black Maple Way and South 64<sup>th</sup> Street West.

#### **C. Access**

- All twenty-four (24) of the proposed subdivision lots will access off of the internal subdivision road network.

### **IV. EMERGENCY SERVICE**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (Fire Suppression Tank) in place to allow for fire suppression requirements. Fire apparatus access roads and water supply requirements shall be provided in accordance with the Fire Protection Requirements as noted in the Yellowstone County Subdivision Regulations.

A 30,000 Gallon Fire Suppression Tank will be provided in the south portion of The Grove Subdivision adjacent to proposed Black Maple Way. The design and construction will be reviewed and approved per BUFSA requirements. A RSID will be created to maintain the fire tank.

## **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 MDEQ, or its designee.

- Stormwater detention facilities are proposed within The Grove Subdivision. Increased stormwater will be mitigated with culverts, roadside ditches, and drainage swales as well as the detention facilities proposed within the development.

## **VI. UTILITIES**

### **A. Water**

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, the following has been proposed:

- Each lot is to be served by an individual water well.
- The Montana Department of Environmental Quality approval letter will be submitted with the final plat.

### **B. Septic System**

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, the following has been proposed:

- Individual subsurface wastewater treatment systems have been proposed for each lot.
- The Montana Department of Environmental Quality approval letter will be submitted with the final plat.

### **C. Power, Telephone, Gas, and Cable Television**

These utilities will be provided within the 60-foot Private Road Easement or the Utility Easements created as part of this subdivision.

## **VII. PARKS/OPEN SPACE**

In accordance with Section 10.2 Yellowstone County Subdivision Regulations, 1.43 acres of parkland has been dedicated as part of The Grove Subdivision which meets the 1.41 acres required by the Yellowstone County Subdivision Regulations. Prior to completion of the subdivision, the parkland areas will need to be planted with grass and have an irrigation system installed and a RSID will need to be created for the park maintenance.

## **VIII. IRRIGATION**

Irrigation for the proposed lots will be provided by the on-site wells to be permitted by the DNRC and DEQ.

The irrigation ditches that exist on and adjacent to this development are for the benefit of other properties. The irrigation ditches shall remain in place and shall not be altered by the Subdivider or subsequent owners without the permission of the irrigation users.

## **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 soils/geotechnical study was not required but owners of the lots will be encouraged to perform a site-specific geotechnical investigation that is specific to the type of structure contemplated prior to construction.

#### **XI. PHASING OF IMPROVEMENTS**

The Grove Subdivision proposes that all 24 lots will be developed in a single phase.

#### **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) HOA(s) or RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.



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: \_\_\_\_\_

