

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT
DISTRICTS
LJ Wells Subdivision
Table of Contents
(City of Billings)**

I.	Variances	page 2
II.	Property Conditions and Information for Lot Purchasers	page 2
III.	Transportation	page 4
	A. Streets	page 4
	B. Sidewalks	page 4
	C. Street Lighting	page 4
	D. Traffic Control Devices	page 4
	E. Access	page 4
	F. Billings Area Bikeway and Trail Master Plan	page 4
	G. Public Transit	page 5
IV.	Emergency Services	page 5
V.	Storm Drainage	page 5
VI.	Utilities	page 5
	A. Water	page 6
	B. Sanitary Sewer	page 6
	C. Power, Telephone, Gas, and Cable Television	page 6
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 6

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

LJ Wells Subdivision

This agreement is made and entered into this ____ day of _____, 20____, by and between Leland & Lorraine Wells Family Trust (*Subdivider*), whose address for the purpose of this agreement is 5847 Whisperingwoods Dr, Billings, MT 59106, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the plat of *LJ Wells Subdivision*, located in the City of Billings, Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning as an expedited plat which was deemed to not require preliminary review; 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 *LJ Wells 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

Subdivider has requested no variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1101, BMCC):

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

- 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. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent 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

- An additional 20-foot strip is dedicated along Central Avenue which combines with the existing 40-foot half right-of-way so that the resulting half right-of-way on the north side of Central Avenue is 60 feet in width.
- Curb & gutter and asphalt widening beyond the edge of existing asphalt to create a total 15-foot half width of asphalt along the Central Avenue street frontage of Lot 2 shall be constructed by the owner(s) of Lot 2 at the time of lot development. If the City should initiate a project to widen Central Avenue prior to lot development, the owner(s) of Lot 2 will be assessed for construction of the street improvements described herein, which are covered under the Waiver of Right to Protest the creation of a special improvement district (SID).

B. Sidewalks

- A 5-foot wide sidewalk along the Central Avenue street frontage of Lot 2 shall be constructed by the owner(s) of Lot 2 at the time of lot development. If the City should initiate a project to widen Central Avenue prior to lot development, the owner(s) of Lot 2 will be assessed for construction of the 5-foot wide sidewalk described herein, which is covered under the Waiver of Right to Protest the creation of a special improvement district (SID).
- A 5-foot wide sidewalk along the Central Avenue street frontage of Lot 1 shall be constructed by the owner(s) of Lot 1 at the time of lot redevelopment. If the City should initiate a project to widen Central Avenue prior to lot redevelopment, the owner(s) of Lot 1 will be assessed for construction of the 5-foot wide sidewalk described herein, which is covered under the Waiver of Right to Protest the creation of a special improvement district (SID).

C. Street Lighting

- No street lighting is required.

D. Traffic Control Devices

- No stop signs, signals, or other traffic control devices are required.

E. Access

- Access is provided to both lots by way of a reciprocal access easement with approaches on Shiloh Road and Central Avenue.

F. Billings Area Bikeway and Trail Master Plan

- This subdivision is within the Bikeway and Trail Master Plan
- The master plan proposes a future bike lane and shared use path when Central Avenue is widened
- There is an existing shared use path along Shiloh Road

- No improvements are required with this subdivision.

G. Public Transit

- No improvements for public transit service are required.

IV. EMERGENCY SERVICE

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for 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 City of Billings.

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.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of development.

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 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

The lots are served by an existing city water service.

B. Sanitary Sewer

The lots are served by an existing city sewer service.

C. Power, Telephone, Gas, and Cable Television

- These services are existing.

VII. PARKS/OPEN SPACE

There is no parkland requirement for LJ Wells Subdivision as this is a minor subdivision [MCA 76-3-621(3)(a)].

VIII. IRRIGATION

- The Snow Ditch runs along the north side of Central Avenue.

IX. SOILS/GEOTECHNICAL STUDY

- No geotechnical study was required as this is a minor subdivision. Future lot owners shall obtain and follow the recommendations of a geotechnical study at the time of lot development.

X. FINANCIAL GUARANTEES

Since this is a minor subdivision, infrastructure serving the lots is existing and no public improvements are required. Therefore, no financial guarantees are required.

XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

- A.** 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.

