

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
TRAILS WEST SUBDIVISION, SIXTH FILING**

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Return to:
Sanbell
1300 North Transtech Way
Billings, MT 59102

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
TRAILS WEST SUBDIVISION, SIXTH FILING**

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between **TRAILS WEST HOMES, LLC**, whose address for the purpose of this agreement is 115 Shiloh Road, Suite 2, Billings, Montana 59102, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the preliminary plat of Trails West Subdivision, Sixth Filing, located in the City of Billings, Yellowstone County, Montana, was submitted to the Planning and Community Services Department which recommended its approval to the Yellowstone County Board of Planning; and

WHEREAS, at a meeting held on the 26th day of November, 2019, by the Yellowstone County Board of Planning, the Board recommended for approval, subject to certain conditions, an area known as Trails West Subdivision, Sixth Filing, and

WHEREAS, at a regular meeting held on the 16th day of December, 2019, the City Council approved, subject to certain conditions, a preliminary plat of Trails West Subdivision, Sixth Filing, and

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

WHEREAS, the provisions of this agreement shall be effective and applicable to the plat of Trails West Subdivision, Sixth Filing, upon 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 requests no variances.

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. Lot owners should be aware that the United States Postal Service mail delivery will be made only to centralized delivery locations. Such locations shall consist of from 8 to 16 mailboxes per location. The location of each centralized mailbox setting is shown on the overall development plan and the private contract construction plans. Subdivider shall install the mailboxes within the private contract for Sixth Filing.
- G. Lot owners should be aware that agricultural activities could be present on surrounding properties. Any impacts associated with agricultural activities and any issue arising therefrom is the responsibility of the lot owners.
- H. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- I. The developer and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- J. Lot owners should be aware that the installation of an EOne Grinder Pump (or hydraulically comparable grinder pump) will be required at each home at time of lot development. Lot owners

should be aware that there is the possibility of periodic maintenance and replacement of the grinder pumps.

- K. The lowest finished floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb measured from the highest location along the lot frontage.
- L. The lowest openings on each home (window well, walk-out basement doors, and equivalent openings) shall be located outside drainage paths. If this is not possible, the homebuilder and lot owners must take necessary measures to protect these openings from being inundated from surface water flows. Allow enough space between window wells and property lines to provide sufficient swales and drainage away from window wells and meet applicable building codes for drainage requirements.

III. TRANSPORTATION

A. Streets

1. Blackberry Way, Goat Meadow Trail and Phantom Creek Avenue shall be 34 feet back of curb to back of curb within 56-foot right-of-ways. These internal access roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.
2. Stockman Avenue shall be 39 feet back of curb to back of curb within a 74-foot right-of-way. This road shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.
3. Per the original Traffic Impact Study (TIS), the warrant criteria for a northbound left-turn lane at the intersection of Stockman Avenue and 56th Street West was found to be satisfied by a narrow margin at the time of Sixth Filing build-out and that additional analysis would be required to

determine if the improvements would be required. Since then, a TIS was performed on the neighboring property to the west (Buffalo Crossing Subdivision) as well as an updated TIS for Trails West Subdivision, 6th Filing. Both studies indicated the construction of the northbound left-turn lane at 56th Street West and Stockman Avenue is not required. However, the updated TIS identified Trails West Subdivision will be required to provide a cash contribution for their proportionate share of future 56th Street West and Stockman Avenue intersection improvements. The amount of this cash contribution is detailed in section D Traffic Control Devices.

4. Developer is responsible for half of the construction of Stockman Avenue across the Birely Drain. Full build out includes the construction of the culvert, water main, street paving, curb, and gutter, and either 5-foot-wide boulevard or 7-foot-wide curb walk along both sides of the street and any safety improvements that may be necessary. Half of the construction shall include construction of the culvert, water main, and gravel surfacing.

If a portion of the crossing constructed by any other development, Developer is responsible to construct any improvement not complete.

B. Sidewalks

City and Subdivider agree that the developer will install handicap accessibility ramps at the time of private contract construction. The City and the Subdivider also agree that the developer will install a 5-foot wide sidewalk along the west boundary of the subdivision in the proposed Birely Drain right of way at the time of private contract construction. The developer will also install a 10-foot-wide sidewalk, or asphalt path, between lots 18 and 19, Block 13 of Trails West Subdivision, 6th Filing that will connect to the 5-foot wide sidewalk along the Birely Drain right of way at the time of private contract construction. No other sidewalks will be installed by the developer as part of construction improvements.

Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction. Sidewalks shall be 5-foot-wide with a 5-foot boulevard.

C. Street Lighting

Construction or installation of street lights shall not be required at this time. If street lights are installed in the future, a street light maintenance district will be formed for the entire subdivision to accommodate maintenance of the street lights.

D. Traffic Control Devices

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the subdivision. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction. All traffic control devices shall be subject to review and approval by the City Engineering office.

The updated traffic impact study has been completed for Trails West Subdivision, 6th Filing. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdividers expense. The percent of traffic contributions to the following shall be in accordance with the updated traffic accessibility study.

56th Street West and Grand Avenue	0.92%
54th Street West and Grand Avenue	0.96%
56th Street West and Central Avenue	0.25%
56th Street West and Stockman Avenue	6.67%

The cash contributions shall be based on the percent of traffic contributions to the intersections on the total cost of an intersection as determined by Engineering for the year in which the contribution is made. The cash contribution shall be made prior to final plat approval.

E. Access

Access will be provided for the subdivision by extending Blackberry Way, Phantom Creek Avenue, and Stockman Avenue. These street

connections will connect to the existing subdivision accesses to Grand Avenue and 56th Street West. The streets within the subdivision shall be subject to review and approval by the City Engineering office.

F. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway and Trail Master Plan identifies Grand Avenue, adjacent to the site, as an arterial bikeway. The developer will construct a 10-foot wide multi-use path on the south side of Stockman Avenue at the time of private contract construction. Therefore, the City and Subdivider agree that trail requirements are being met for the subdivision.

G. Public Transit

There are no MET Transit routes that service this subdivision at this time. No improvements with regard to MET Transit vehicles are anticipated at this time.

IV. EMERGENCY SERVICES

Access is provided to this subdivision from Blackberry Way, Phantom Creek Avenue and Stockman Avenue. Fire hydrants shall be provided at each street intersection, and at intermediate locations where distances exceed 500 feet. Appropriate turn arounds will be located on any street in excess of 150 feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) 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 an 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 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 affect the current minimum subdivision requirements for fire apparatus access and water supply.

V. STORM DRAINAGE

- A.** The storm drainage system for Trails West Subdivision, Sixth Filing will consist of a curb and gutter surface collection and curb inlets that drain into storm drainage piping, as well as surface conveyance. The storm drain piping will discharge into existing storm drain piping and to an existing mechanical stormwater filtration manhole, and to an existing stormwater detention facility located on Lot 4, Block 13 Trails West Subdivision, 3rd Filing, with a discharge to the Birely Drain. The existing mechanical stormwater filtration manhole and stormwater storage volume were designed to include Trails West Subdivision, Sixth Filing. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Chapter 28, BMCC.
- B.** The stormwater detention area is located on a private lot (Lot 4, Block 13 of Trails West Subdivision, Third Filing) and will be maintained by the homeowners' association (HOA) established for this subdivision. The mechanical stormwater filtration manhole is existing, and associated improvements are also privately owned and maintained by the HOA. Trails West Subdivision, Sixth Filing will be included in the HOA that is responsible for maintaining these facilities. O&M requirements and HOA maintenance and fiscal responsibilities have been outlined within the Trails West Subdivision, Third O&M Manual.
- C.** The elevation of residential dwellings must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm.

- D. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the City of Billings Stormwater Management Manual.
- E. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater discharges Associated with Construction Activity, Chapter 28, BMCC and the City of Billings Stormwater Management Manual.

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**

Service to the subdivision will be provided from the existing water main stubs in Blackberry Way, Phantom Creek Avenue, and Stockman Avenue. Connecting these mains will provide a looped system for the subdivision. Appropriately sized mains and services

in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality and will be approved by the Public Works Department.

B. Sanitary Sewer

Service to the subdivision will be provided from an existing sanitary sewer main stubs in Blackberry Way and Phantom Creek Avenue. City and Subdivider agree that sanitary sewer service to the Sixth Filing of the subdivision will be provided through low-pressure sanitary sewer mains. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate low-pressure sanitary sewer service and each lot will need to use an EOne Grinder Pump (or hydraulically comparable grinder pump). All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department, Distribution, and Collection Division.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be placed in designated easements outside of the right-of-way and shall be installed underground prior to surface improvements. The location of all such facilities shall be subject to approval of the City Engineer.

VII. PARKS/OPEN SPACE

Section 76-3-621 of the Montana Code Annotated covers the park dedication requirement. Additionally, Section 23-1002. B.1 of the City of Billings municipal code covers parkland dedication of major subdivisions. The Sixth Filing has a total of 30 lots, requiring a parkland dedication of 0.600 acres. The Subdivider and City agree that this parkland dedication will be met through a cash-in-lieu payment to the

development of Cottonwood Park. City and Subdivider agree the cash payment in lieu of parkland dedication shall be made prior to final plat approval. A comparative market analysis, or other approved method to determine raw land value, shall be used to determine the parkland dedication amount in accordance with Section 23-1006, BMCC.

VIII. SOILS/GEOTECHNICAL STUDY

A geotechnical report was performed with the area of this subdivision and submitted with the preliminary plat. This geotechnical report for Trails West Subdivision was performed by Rimrock Engineering and completed on August 11, 2008. Since then, a newer geotechnical report has been completed by Rimrock Engineering, dated July 23, 2025.

It is recommended that owners, purchasers, realtors, builders and developers fully familiarize themselves with the information contained in these reports prior to design or construction.

IX. 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.

X. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

- A. Subdivider agrees to guarantee all public improvements for a period of two 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 run with the land and apply to and shall be binding on the heirs,

personal representatives, successors, assigns and transferees 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.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

"SUBDIVIDER"

TRAILS WEST HOMES, LLC

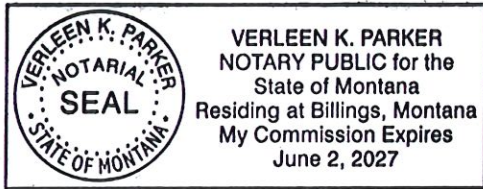
By: Rod Wilson

Its: MEMBER AGENT

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this 22nd day of October, 2025, before me, a Notary Public in and for the State of Montana, personally appeared Rod Wilson, known to me to be the person who signed the foregoing instrument as the member agent of TRAILS WEST HOMES, LLC, and who acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.



Verleen K. Parker
Notary Public in and for the State of Montana
Printed name: Verleen K. Parker
Residing at: Billings, MT
My commission expires: 6/2/27

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

"CITY"

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)

County of Yellowstone) : ss

On this _____ day of _____, 20____, before me, a Notary Public 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.

Montana

Notary Public in and for the State of

Printed name: _____

Residing at: _____

My commission expires: _____

Approved as to Form:

City Attorney

**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 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 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.

This Waiver is in addition to any other recorded waiver related to the property described herein and is not intended to replace, supersede, or invalidate any such waiver.

The real property hereinabove mentioned is more particularly described as follows:

Trails West Subdivision, Sixth Filing

Signed and dated this 22 day of OCTOBER, 2025.

"SUBDIVIDER"

TRAILS WEST HOMES, LLC

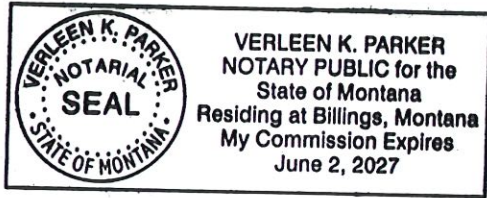
Asd Wulin MZMBEED 6205

STATE OF MONTANA)

: SS

County of Yellowstone)

On this 22nd day of October, 2025, before me, a Notary Public in and for the State of Montana, personally appeared Rod Wilson, known to me to be member agent of **Trails West Homes, LLC**, the person who executed the forgoing instrument and acknowledged to me that said company executed the same.



Verleen K. Parker

Notary Public in and for the State of Montana

Printed Name: Verleen K. Parker

Residing at: Billings, MT

My commission expires: 6/2/27