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**SUBDIVISION IMPROVEMENTS AGREEMENT
COPPER RIDGE SUBDIVISION, SIXTH FILING
CITY OF BILLINGS
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Billings, MT 59102

SUBDIVISION IMPROVEMENTS AGREEMENT

COPPER RIDGE SUBDIVISION, SIXTH FILING

THIS AGREEMENT is made and entered into this 23rd day of May, 2016, by and between **COPPER RIDGE DEVELOPMENT CORP.**, whose address for the purpose of this agreement is 175 North 27th Street, Suite 900, Billings, Montana 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the preliminary plat of Copper Ridge 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 April, 2016, by the Yellowstone County Board of Planning, the Board recommended for approval, subject to certain conditions, an area known as Copper Ridge Subdivision, Sixth Filing, and

WHEREAS, at a regular meeting held on the 23rd day of May, 2016, the City Council approved, subject to certain conditions, a preliminary plat of Copper Ridge 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 Copper Ridge 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. CONDITIONS THAT RUN WITH THE LAND

- A.** Lot owners should be aware that this subdivision could contain wildlife migratory routes. Consequently, owners are advised that wildlife indigenous to this area could be found on the property and may impact the developed property and interface with domestic animals, residents, and visitors. Owners may also experience problems with damage to landscaped shrubs, flowers, and gardens. Any impacts associated with wildlife and any damage arising therefrom is the responsibility of the lot owners.
- B.** Lot owners should be aware that there is a fully operational petroleum products pipeline located within this subdivision, primarily within the park that traverses through the subdivision. At times it may be necessary for the pipeline company to inspect, test, and maintain this pipeline. These activities could include the excavation, repair, and replacement of the pipeline.
- C.** Lot owners should be aware that there is a Declaration of Restrictions and Protective Covenants recorded in conjunction with this subdivision, which outlines additional requirements specific to this subdivision design.
- D.** 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 the Sixth Filing.
- E.** Lot owners shall be advised that land in proximity to the northern boundary of Copper Ridge Subdivision is a right-of-way owned by the Burlington Northern Santa Fe Railroad, upon which they actively operate a transportation business. The noise from moving trains is clearly audible in the subdivision. This activity is protected by state law and can be expected to continue indefinitely. Subdivider, for itself and all successor owners of property within Copper Ridge Subdivision, hereby waives any right to object and/or protest the noise created by normal operation of trains running along the railway,



acknowledges that the railroad right-of-way is private property, and further acknowledges that Copper Ridge Subdivision and successor owners of lots within the subdivision have an affirmative duty to stay off the Burlington Northern Santa Fe Railroad property and to keep children, guests, and invitees off the property.

- F. 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.
- G. Lot owners should be aware that certain lots denoted in Section III. Transportation B, Sidewalks shall install sidewalks as shown in Figure 1. for stormwater mitigation purposes. [Lot 94, Block 4].
- 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. Certain lots as shown on the final plat of Copper Ridge Subdivision, Sixth Filing contain storm water drainage easements with a drainage swale along property lines. This storm water drainage easement and drainage swale is for conveying storm water and shall not be altered in any way to inhibit the conveyance of storm water. It shall be the lot owners' responsibility to maintain and perpetuate this storm water swale, as a fully functional swale.
- J. Certain lots as shown on the final plat of Copper Ridge Subdivision, Sixth Filing shall allow, through on-site building design and on-lot grading, for off-site storm water runoff from Burlington Northern Santa Fe Railroad property to pass through each lot without negatively affecting adjacent lots. This condition affects Lots 65 through 79, inclusive, Block 4.
- 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. Higher finished floor elevations shall be required on a lot by lot basis, as noted on the final plat.



- 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.
- M. 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.

III. TRANSPORTATION

A. Streets

1. *Right-of-way widths.* All streets in Sixth Filing shall be in 56-foot rights-of-way.

Palladium Drive and the temporary turnaround easement at the terminus of Palladium Drive shall be vacated, as shown on the plat.

2. *Pavement widths.* All interior subdivision streets shall be 34 feet back of curb to back of curb. 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, city subdivision regulations, and Uniform Building Code.

Rimrock Road will be completed with a pavement width of 24-feet and borrow ditch swales from its existing terminus at West Copper Ridge Loop to the western boundary of the subdivision. Subdivider will contribute payment via cash-in-lieu for the future curb and gutter for this portion of Rimrock Road.

B. Sidewalks

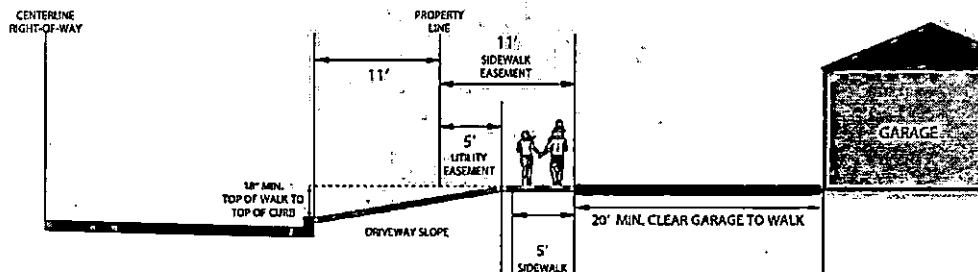
City and Subdivider agree that developer will install handicap accessibility ramps at time of private contract construction. No additional boulevard



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 boulevard sidewalks. Certain sidewalks for Lot 94, Block, 4 shall be constructed a minimum of 18 inches above the top back of curb and shall be placed within an 11-foot-wide public sidewalk easement as shown in Figure 1. below. Sidewalks shall be continuous through and a minimum of 18 inches above the top back of curb even at drive approach locations for these lots.

FIGURE 1. SIDEWALK LOCATION & ELEVATION DETAIL



Sidewalks within park areas to be constructed by the Subdivider include the continuation of the 6-foot-wide sidewalk in the park adjacent to Rimrock Road.

C. Street Lighting

1. Construction or installation of streetlights in subdivision shall not be required at this time, but streetlights are included in the Waiver, which also includes a maintenance district for street light energy and maintenance.
2. Park Maintenance District No. 4031 has been created upon all lots within the subdivision and includes street light energy and maintenance of the installed lighting system.

D. Traffic Control Devices

1. The Subdivider shall furnish and install all necessary traffic control devices 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.

2. Street name signs shall be installed at all intersections.

3. Subdivisions in the vicinity have made cash contributions to the future intersection improvements at 62nd Street West and Rimrock Road. The updated Traffic Analysis Update requires a total contribution for all of Copper Ridge Subdivision of **\$51,080.00**. A summary of previous contributions is shown below.

Filing	Total Lots	Contribution Amount
First	78	\$10,015.38
Second	63	\$33,384.60
Third	18	\$2,311.20
Fourth	25	\$3,210.06
Fifth		\$1,240.00
Sixth	60	\$918.75
TOTAL	318	\$51,080.00

The Subdivider will pay **\$918.75**, as the proportionate share of the contribution for the Sixth Filing at the time of the final plat submittal.

E. Access

Access will be provided in three locations for the subdivision. The first will be an extension of Copper Ridge Loop, from Copper Ridge Subdivision, Fifth Filing. The second and third access is from West Copper Ridge Loop.

A future street and utility access to the west is provided by Copper Bluffs Circle by a 56-foot public right-of-way width at the northern end of said street.

**F. 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 three existing locations. It is anticipated this subdivision will be constructed in one phase. The Copper Ridge Subdivision, Sixth Filing, will complete a street connection between Copper Ridge Loop and West Copper Ridge Loop, and will complete the West Copper Ridge Loop connection. In addition, fire hydrants will be installed at the required locations as reviewed and approved by the City of Billings Fire Department.

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 effect the current minimum subdivision requirements for fire apparatus access and water supply.

V. STORM DRAINAGE

All storm drainage improvements shall comply with the provisions of Chapter 28 BMCC and the 2011 Billings Stormwater Management Manual previously reviewed and approved by the City of Billings. Because the City of Billings storm drain system is not available in the area of the subdivision, stormwater will be handled on site through surface flow on the streets, inlets, and piping and will be



routed to a stormwater detention facility in the southern portion of Copper Ridge Subdivision. City and Subdivider previously agreed these ponds will be located in City of Billings park area and will be maintained by the City of Billings through the park maintenance district that has already been created. A discharge to Rimrock Road in accordance with the City of Billings Stormwater Management Manual shall be allowed for predeveloped flows. All stormwater facilities will be designed in accordance with the City of Billings Stormwater Management Manual and will be reviewed by the City Engineering Department.

A Stormwater Design Report for all of Copper Ridge Subdivision has been previously submitted, reviewed, and approved with the private contract design documents for First Filing and Fifth Filing.

New facilities will be constructed, as required, in the private contract for Sixth Filing.

The storm water detention facilities serving Copper Ridge Subdivision, Sixth Filing located within the park have been reviewed and approved by the City Engineering Department and the City Parks Department. The grading and storm water control was constructed with Private Contract 660 within Fifth Filing.

VI. UTILITIES

Water and sanitary sewer lines shall be sized and installed in conformance with the City design standards and specifications, and the rules and regulations of the City of Billings.

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/to water mains and sanitary sewers to the Public Works Department, Engineering Division. The extension/connection of/to water mains and sanitary sewers are 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 and franchise fee 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 and 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 12-inch water main stub in West Copper Ridge Loop and also from an existing stub in Copper Ridge Loop. The Subdivider will extend the existing 12-inch water main from the existing terminus in West Copper Ridge Loop westward to the existing terminus within West Copper Ridge Loop, thereby completing a water main loop. An 8-inch water main will be constructed within Copper Bluffs Circle. Subdivider shall pay cash-in-lieu for a 12-inch water main and two fire hydrants, to be extended by others in the future from the existing terminus at West Copper Ridge Loop to the western boundary of Copper Ridge Subdivision, Fifth Filing (about 860 lineal feet). Subdivider shall be eligible for reimbursement for up to 50 percent of the cost of said water main should the property to the south of Rimrock Road develop.

Extension of the water mains will provide a looped system for the subdivision upon full build out of the Sixth Filing. 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 from the existing 8-inch sanitary sewer stubs located in West Copper Ridge Loop and Copper Ridge Loop. The Subdivider shall extend the existing 18-inch sanitary sewer west about 30 feet on a new alignment for future extension by others. Subdivider is not responsible for further extending the 18-inch sanitary sewer with Copper Ridge Subdivision, Sixth Filing, beyond the 30 feet.

Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. Each lot shall be provided with its own service. 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.

Improvements noted herein shall include, but not be limited to, any and all interim improvements that may be deemed necessary due to phased or partial construction.

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 parkland requirement for all of Copper Ridge Subdivision is 11-percent of the net lot area, or 7.7521 acres for the entire subdivision. In order to coordinate and integrate parkland throughout the entire redevelopment, a park master plan was established with the First Filing. A total of 10.3137 acres of parkland have been dedicated in the First through Fourth Filings. The net parkland dedication for all of Copper Ridge Subdivision is 10.47 acres, in excess of the 7.7521 acres that are required. As all parkland has been previously dedicated, no new parkland is required for Copper Ridge Subdivision, Sixth Filing.

VIII. SOILS/GEOTECHNICAL STUDY

The Subdivider has retained an engineering firm to prepare a geotechnical analysis for this property. A copy of the entire geotechnical report prepared by Rawhide Engineering, Inc., dated February 2016, is available for review at the City Building and/or Planning Division offices. There are variable soil conditions throughout the Subdivision, and the potential exists for collapsible soils within the Subdivision.

A lot specific geotechnical report shall be the responsibility of the lot owner.

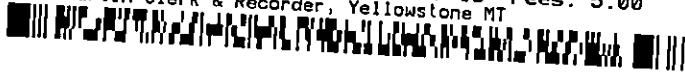
The Subdivider has contracted with Rawhide Engineering to perform a preliminary geotechnical analysis for this property dated February 2016.

Recommendations from the report include:

1. Approximately 6-inches of surface soils should be stripped and removed from the site, or stockpiled for use in non-structural areas.
2. Fill should be placed and compacted to a minimum of 97 percent relative compaction, in accordance with the ASTM D698 compaction test method.
3. Provide positive drainage away from residences.
4. Street subgrade, utility trenches, parking areas and concrete flatwork subgrade should be placed at a minimum of 97 percent of ASTM D698.
5. A large track hoe or specialized equipment may be required during foundation excavations, depending on the location and depth of the excavation. The boring logs should be reviewed for conditions across the site.
6. For home construction, the site has soft/loose to medium stiff/dense soil at the proposed foundation elevations, with some lots having completely weathered shale bedrock. Two alternative foundation recommendations are provided within the geotechnical report.
7. As noted in the Rawhide Engineering February 2016 report, and in accordance with the International Residential Code, downspouts with 6-foot extensions should be used. Positive drainage away from all foundations should have 6 inches of fall in the first 10 feet away from the foundations. If sufficient room is not available to construct the 10-foot slope, drainage swales should be constructed as far from the foundations as possible.

IX. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract 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 private contract, and the improvements shall be installed as approved by the City Engineering Department and Public Works Department, Distribution and Collection Division.



X. LEGAL PROVISIONS

- A. Subdivider agrees to guarantee all public improvements for a period of one 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 provision of the 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 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.

