



Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59102

**SUBDIVISION IMPROVEMENTS AGREEMENT  
REFLECTIONS AT COPPER RIDGE SUBDIVISION,  
THIRD FILING  
CITY OF BILLINGS  
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**SUBDIVISION IMPROVEMENTS AGREEMENT**  
**REFLECTIONS AT COPPER RIDGE SUBDIVISION,**  
**THIRD FILING**

**THIS AGREEMENT** is made and entered into this 13<sup>TH</sup> day of MAY, 2013, by and between Reflections at Copper Ridge, LLC., 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 Reflections at Copper Ridge Subdivision, Third 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 24th day of April, 2012, by the Yellowstone County Board of Planning, the Board recommended for approval, subject to certain conditions, an area known as Reflections at Copper Ridge Subdivision, Third Filing, and

**WHEREAS**, at a regular meeting held on the 14th day of May, 2012, the City Council approved, subject to certain conditions, a preliminary plat of Reflections at Copper Ridge Subdivision, Third 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 Reflections at Copper Ridge Subdivision, Third 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.** The Subdivider has retained an engineering firm to prepare a geotechnical analysis for this property. A copy of the entire geotechnical report prepared by Rimrock Engineering dated February 28, 2012, is available for review at the City Building and/or Planning Division offices. Owners and homebuilders are encouraged to review this report in its entirety and follow recommendations therein. General geotechnical recommendations from that report are as follows:

- Spread footing foundations bearing on over-excavated and recompacted structural fill can be used. Over-excavation should consist of 2 feet in depth and 2 feet laterally beyond the foundation.
- Structural fill consisting of medium dense to dense gravels are required for over-excavation underlain by geotextile fabric such as Mirafi HP370 or Tensar GT-3x3HF prior to placing structural fill. Existing soils at foundation levels are not capable of meeting requirements for structural fill.
- If shale bedrock is encountered at footing elevation, the entire building envelope should be over-excavated by one foot prior to placing structural fill. The weathered shale will not require the geotextile fabric.



- Exterior footings should be embedded a minimum of 42 inches below the lowest adjacent exterior finished grade for frost protection and confinement.
- Compaction requirements for various elements of construction are listed in the geotechnical report.
- Allowable bearing capacity on over-excavated and replaced compacted granular structural fill is 2,000 pounds per square foot with estimated settlements of ¾- to 1-inch.
- Final elevations at each home site should be planned so that drainage is directed away from all foundations. The underlying soils on this site are hydro-collapsible and care needs to be taken to keep site drainage and landscaping water away from foundation soils. Landscaping plants should not be placed within three feet of exterior foundations.

A copy of the entire geotechnical report prepared by Rimrock Engineering is available for review at the City Building and/or Planning Division offices. If the foundation type or loading is different than indicated in the said report, Rimrock Engineering should be notified prior to construction and provided an opportunity to modify recommendations as needed.

- C. 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.
- D. 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.
- E. 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 each phase of Second Filing.
- F. Lot owners shall be advised that land in proximity to the northern boundary of Reflections at Copper Ridge Subdivision, Third Filing, 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 Reflections at Copper Ridge Subdivision, Third Filing, 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 Reflections at Copper Ridge Subdivision, Third Filing, 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.

- G.** Lot owners shall be advised that water distribution system pressure may fall below the generally accepted minimum pressure at home fixtures on some lots within the subdivision. Assessment and mitigation, if required, of these conditions, including potential installation of booster pumping units on individual homes, shall be the responsibility of the lot owner.
- H.** 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.
- I.** 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.
- J.** 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.
- K.** 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**

Western Bluffs Boulevard and Reflections Circle shall be 34 feet back of curb to back of curb within 56-foot rights-of-way. These internal access roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. A temporary turnaround will be constructed to City standards at the terminus of Western Bluffs Boulevard. All streets shall be built in accordance with the City of Billings' site development ordinance, City Subdivision Regulations, and Uniform Building Code.

#### **B. Sidewalks**

City and Subdivider agree that developer will install handicap accessibility ramps at time of private contract construction. However, no 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. Some areas of boulevard sidewalks will run outside of the public rights-of-way and will be located within easements as recorded with the final plat of Reflections at Copper Ridge Subdivision, Third Filing.

#### **C. Street Lighting**

Construction or installation of street lights shall not be required at this time; provided, however, that in the contract for the street improvements required hereunder, the Subdivider shall include conduits at street crossings at the time of street and sidewalk construction to accommodate the future wiring of street lights for the development. If street lights are installed, 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 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.

**E. Access**

Access will be provided for the subdivision from the extension of Western Bluffs Boulevard, Reflections Circle, and from future access to undeveloped property to the east.

**F. Off-Site Intersections**

City and Subdivider agree that Subdivider will make no cash contributions to improvements at any area intersections as a result of this subdivision. A cash contribution was previously made for all impacts with Reflections at Copper Ridge 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 two locations off Rimrock Road. It is anticipated this subdivision will be constructed in one phase; therefore, two accesses to the subdivision will be available for emergency access. 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 the City of Billings Stormwater Management Manual, February 2011. 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 an existing stormwater detention pond in the southern portion of Reflections at 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. All stormwater facilities will be designed in accordance with the City of Billings Stormwater Management Manual and will be reviewed and approved by the City Engineering Department.

A Stormwater Design Report for all of Reflections at Copper Ridge Subdivision has been previously submitted, reviewed, and approved with the private contract design documents for First Filing, along with grading and detention plans shown on the preliminary plat.

- A. There are no existing or proposed detention facilities within Third Filing, but those facilities constructed within First Filing were sized in accordance with the design for the entire subdivision. New facilities will be constructed, if necessary, in the private contract for Third Filing.
- B. There are no contemplated improvements to the existing system, but the subdivision may be required to participate in the costs of future area-wide storm drainage improvements, which requirement is hereby acknowledged and included in the Waiver attached hereto.

## 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 water main stub at the intersection of Western Bluffs Boulevard/Butte Ridge Drive. 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.

The water distribution system shall be designed to maintain a minimum normal working pressure of 35 psi; minimum pressure under all conditions of flow (e.g., fire flows) shall be 20 psi. Minimum required pressures shall be based on those occurring at ground level at the highest building sites served by the proposed water mains (excluding service line head losses).

Owners of lots within Reflections at Copper Ridge Subdivision, Third Filing, shall be advised that water distribution system pressure may fall below the generally accepted minimum pressure at home fixtures on some lots within the subdivision. Assessment and mitigation, if required, of these conditions, including potential installation of booster pumping units on individual homes, shall be the responsibility of the lot owner.



Residences requiring individual booster pumps shall, at the expense of the lot owner, install a double check assembly backflow prevention device immediately downstream of the water meter and upstream of the booster pump suction/discharge connections.

**B. Sanitary Sewer**

Service to the subdivision will be from the existing sanitary sewer manhole located just north of the terminus of Western Bluffs Boulevard and Butte Ridge Drive constructed as part of Reflections at Copper Ridge Subdivision, Second Filing, public improvements. 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; 44,315 square feet of parkland was originally platted with Reflections at Copper Ridge Subdivision. Within Third Filing, parkland is vacated and replatted coincident with the rewording of the final plat of Reflections at Copper Ridge Subdivision, Third Filing, resulting in a net dedication of 44,429 square feet. Therefore, no additional park dedication is required.

**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



Rimrock Engineering dated February 28, 2012, is available for review at the City Building and/or Planning Division offices. Owners and homebuilders are encouraged to review this report in its entirety and follow recommendations therein. General geotechnical recommendations from that report are as follows:

- Spread footing foundations bearing on over-excavated and recompacted structural fill can be used. Over-excavation should consist of 2 feet in depth and 2 feet laterally beyond the foundation.
- Structural fill consisting of medium dense to dense gravels are required for over-excavation underlain by geotextile fabric such as Mirafi HP370 or Tensar GT-3x3HF prior to placing structural fill. Existing soils at foundation levels are not capable of meeting requirements for structural fill.
- If shale bedrock is encountered at footing elevation, the entire building envelope should be over-excavated by one foot prior to placing structural fill. The weathered shale will not require the geotextile fabric.
- Exterior footings should be embedded a minimum of 42 inches below the lowest adjacent exterior finished grade for frost protection and confinement.
- Compaction requirements for various elements of construction are listed in the geotechnical report.
- Allowable bearing capacity on over-excavated and replaced compacted granular structural fill is 2,000 pounds per square foot with estimated settlements of ¾- to 1-inch.
- Final elevations at each home site should be planned so that drainage is directed away from all foundations. The underlying soils on this site are hydro-collapsible and care needs to be taken to keep site drainage and landscaping water away from foundation soils. Landscaping plants should not be placed within three feet of exterior foundations.

## **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.

## **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.







### WAIVER OF RIGHTS TO PROTEST

**FOR VALUABLE CONSIDERATION**, the undersigned, being the Subdivider and sole owner of the hereinafter described real property, do hereby waive for a period of 20 years after the date that the final subdivision plat is filed, the right to protest the formation of one or more special improvement district(s) 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 incident to the above which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and are supported by sufficient independent consideration to which the undersigned is a party, and shall run with the land and shall be binding upon the undersigned, its successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

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

Reflections at Copper Ridge Subdivision, Third Filing

“SUBDIVIDER”

**REFLECTIONS AT COPPER RIDGE, LLC.**

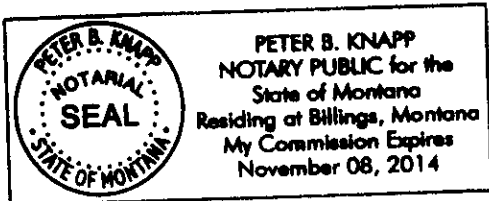
By: \_\_\_\_\_

Its: Manager

STATE OF MONTANA     )  
  : ss  
County of Yellowstone    )

On this 19<sup>th</sup> day of April, 2013, before me, a Notary Public in and for the State of Montana, personally appeared Landall C. Loop, known to me to be the person who signed the foregoing instrument as the Manager of **REFLECTIONS AT COPPER RIDGE, 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.



P.B. Knapp  
Notary Public in and for the State of Montana  
Printed name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_