



SUBDIVISION IMPROVEMENTS AGREEMENT KING PLACE SUBDIVISION

THIS AGREEMENT is made and entered into this _____ day of JUN 13 2005, 2005, by and between **King Place LLC**, hereinafter referred to as "Subdivider," and **THE CITY OF BILLINGS, MONTANA**, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, a preliminary plat of an area known as King Place Subdivision, hereinafter referred to as the "Subdivision," was submitted to the Yellowstone County Board of Planning which further recommended its approval to the City Council of the City of Billings; and

WHEREAS, at a regular meeting held on the 13th day of December, 2004, the City Council approved, subject to certain conditions of the Board and the City Council, a preliminary plat of the Subdivision; and

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

WHEREAS, the provisions of this Agreement shall be effective and applicable to King Place Subdivision upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana.

NOW, 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. The Subdivider has requested, and the City of Billings City Council hereby grants, the following variances from the strict interpretation of the City Subdivision Regulations:
 - 1. Variance from the provisions of Section 23-602, BMCC of the City's Subdivision Ordinance requiring platting of alleys in a commercial area.
 - 2. Variance from the provisions of Section 23-601(K), BMCC for right-of-way dedication along Wicks Lane and Bench Boulevard.

II. CONDITIONS THAT RUN WITH THE LAND

- A. Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.



- 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 assistance unless there is damage to commercial crops 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. In accordance with discussions surrounding Zone Change '#750 – King Place Subdivision,' there are certain activities that by listing herein are specifically prohibited within this Subdivision. Those activities are as follows:
- 1) Agricultural production or sales
 - 2) Veterinary services
 - 3) Sand and gravel mining
 - 4) Tobacco products offices
 - 5) Electric, gas, petroleum, sanitary services production, transmission or distribution facilities
 - 6) Communication and broadcasting antennas and structures
 - 7) Convenience stores with or without gas pumps and alcohol sales
 - 8) Coin-operated laundries and dry cleaning services
 - 9) Lodging facilities
 - 10) Car washes
 - 11) Commercial automobile parking
 - 12) Retail health sales
 - 13) Theatrical producers, bands, or orchestras
 - 14) Multi-family or modular homes adjacent to Wicks Lane



- 15) Gasoline service stations
- 16) Rooming or boarding houses
- 17) Restaurants without sale of alcoholic beverages
- 18) Automotive repair services
- 19) Pipeline offices

III. REQUIRED IMPROVEMENTS, CONSIDERATIONS, AND DEDICATIONS

Subdivider hereby agrees to construct the following improvements either by private contract or special improvement district as required and in conformance with the City of Billings Subdivision Regulations:

A. STREETS

- 1) Bench Boulevard. Curb and gutter, sidewalk, and street widening will be constructed on the east side of Bench Boulevard from the existing curb and gutter south of Wicks Lane to the south property line of the Subdivision. Appropriate tapers will be constructed at the south end.
- 2) Wicks Lane. Curb and gutter, sidewalk, and street widening will be constructed on the south side of Wicks Lane from the existing curb and gutter east of Bench Boulevard to the east property line of the Subdivision.
- 3) Street Name Signs. Street name signs for streets within the Subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the City of Billings Public Works Department.
- 4) Street Lights. Construction or installation of street lights shall not be required at this time, but street lights shall be included in the Waiver referenced in this document for construction of the same in the future. Said Waiver shall also include a maintenance district for street light energy and the maintenance of the street lights.
- 5) Traffic Control Devices. The Subdivider shall furnish and install all necessary traffic control devices in accordance with plans and specifications submitted to and approved by the City of Billings Public Works Department. This shall include additional and/or modifications to the pavement marking in Bench Boulevard and Wicks Lane.
- 6) Traffic Accessibility Study. There exists a traffic study for the Subdivision. Due to the variable nature of potential development within the Subdivision, an update to this study shall be required with the development of each lot.