

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

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
WESTERN SKY SUBDIVISION, 2ND AMENDED**

This Agreement is made and entered into this ____ day of _____, 20____, by and between **MONT VISTA, LLC**, whose address for the purpose of this Agreement is 2680 Overland Avenue, Unit F, Billings, Montana 59102, hereinafter referred to as “Subdivider” or “Developer,” and the **CITY OF BILLINGS**, Montana, a municipal corporation, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, at a regular meeting conducted on the ____ day of _____, 20____, the Board of Planning recommended conditional approval of a preliminary plat of Western Sky Subdivision, 2nd Amended; and

WHEREAS, at a regular meeting conducted on the ____ day of _____, 20____, the City Council conditionally approved a preliminary plat of Western Sky Subdivision, 2nd Amended; and

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

WHEREAS, the provisions of this Agreement shall be effective and applicable to Western Sky Subdivision, 2nd Amended, (the “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; and

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 hereby grants, the following variance by the City Council from the strict interpretation of the City of Billings Subdivision Regulations:

The Subdivider request a variance for the length of the cul-de-sac for Crescent Street. The total distance from the property line at King Avenue West and South 46th Street West to the end of the cul-de-sac on Crescent Street is approximately 801 feet.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** Lot owners will be required to construct or cause to be constructed 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 open agricultural areas and contains wildlife migratory routes. Consequently, owners are advised that wildlife indigenous to the prairies is 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.
- 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. A comprehensive geotechnical study was done at the time of this plat submittal. Lot owners are encouraged to review that document and obtain additional analysis as may be required.
- D.** There is attached hereto a Waiver, waiving the right to protest the creation of the special improvement district or districts that may be created by the City to finance the costs of the off-site public improvements pursuant to the terms of this Agreement. The Waiver will be filed with the plat, shall run with the land,

and may be employed when public improvements that benefit this subdivision are required or requested. 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.

- E. 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 which are still in operation shall remain in place and shall not be altered by the Subdivider or subsequent owners.

III. TRANSPORTATION

A. Streets

All internal access roads and site improvements within the subdivision will be installed in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, the Uniform Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations, unless otherwise stipulated below.

Subdivider and City agree that the required street improvements are as follows:

1. A Traffic Impact Study has been submitted to the Engineering Division for review and approval prior to final plat approval. Construction and/or financial contribution for improvements along King Avenue West and South 48th Street West, and within the subdivision, shall be in general accordance with that document and as specifically described herein.

King Avenue West is a Principal Arterial and requires a half right-of-way width of sixty feet.

South 48th Street West is an arterial and requires a half right-of-way width of sixty feet.

The proposed extension of South 46th Street West and Crescent Street will be classified as a Local Commercial/Residential Access by the City of Billings that shall accommodate multiple travel lane,

parking, and bike lane configurations which will be defined at time of design. The proposed street section shall be a minimum of forty-five feet back of curb to back of curb transitioning to a Local Residential Access which shall have two drive lanes and two parking lanes that shall have a minimum width of thirty-four feet back of curb to back of curb. The required minimum right-of-way shall be seventy-four feet for the commercial access and fifty-six feet for the proposed residential access.

All streets shall be built based off of centerline location with the exception of the future extension of South 46th Street West. The west right-of-way line shall be located fifty feet from the east property line and the west back of curb shall be located twenty-two and a half feet from the east property line of the subdivision. This shall allow for the installation of fully functioning surface improvements, including a thirty foot asphalt section without further contributions or participation from the adjacent landowner.

It is anticipated that the initial development of Western Sky Subdivision, 2nd Amended will commence at the intersection of South 46th Street West from King Avenue West. This initial development shall construct additional lane widening east and west of South 46th Street West in order to provide for a west bound left turn lane onto south bound South 46th Street West. These costs shall be born by the developer.

A portion of the public right-of-way surface improvements will need to be completed in King Avenue West in conjunction with the development of Lot 1, Block 1 and will require the construction of a raised median, widening and street lights at the location of the 3/4-turn access which is approximately located at South 47th Street West. These physical costs shall be borne by the developer. In addition, there may be a cash-in-lieu payment for future improvements based on one-half (1/2) of a commercial street section less a credit for existing surfacing plus the curb and gutter. Contribution shall be made prior to approval of site development for that lot.

No physical surface improvements to South 48th Street West are anticipated at this time. Instead, the Developer shall make a cash contribution to the City of Billings for future improvements in South

48th Street West. Said contribution shall be made at the time of development of Lot 1, Lot 4 and Lot 5, Block 1, Contribution shall be based on one-half (1/2) of the required surface improvements for a residential street section less a credit for existing surfacing plus the curb and gutter. Contribution shall be made prior to approval of site development for those lots. Any turn lane, street widening or intersection improvements necessary for individual lot development along South 48th Street West shall be at the expense of the developer.

The Traffic Impact Study is based on the premise that internal north/south traffic movements will be maintained. Future site development designs shall provide for this north/south traffic movement. If this movement is not desired, the Traffic Impact Study shall be amended, and the provisions determined therein applied to any updates or future development of the subdivision and the cost contributions included herein.

2. Intersection contributions are also identified within the Traffic Impact Study and noted herein. The costs for these intersection improvements shall be paid for at time of each lot development.

Based on the Traffic Impact Study and direction from the City of Billings, the following intersection contributions shall be paid at the time of initial lot development:

•	<u>Central Ave. and South 48th St. West (3.0%)</u>	<u>\$7,500.00</u>
	Total	\$7,500.00

Based on the platted area of each lot, the costs associated with and to be paid with each lot development is as follows:

•	Lot 1, Block 1	\$ 997.50
•	Lot 2, Block 1	\$ 363.35
•	Lot 3, Block 1	\$ 715.50
•	Lot 4, Block 1	\$ 1783.50
•	<u>Lot 5, Block 1</u>	<u>\$ 3640.15</u>
	Total	\$ 7,500.00

3. Developer acknowledges that future improvements to the intersection at King Avenue West and South 46th Street West shall include a roundabout or signalized intersection. Western Sky

Subdivision, 2nd Amended shall be responsible for one quarter of the costs of those improvements at the time of construction of those improvements. It is anticipated that the City will create a Special Improvement District (SID) for the installation of those improvements that contemplates the other three large development areas abutting this intersection being responsible for the other three quarters of the cost under the SID.

4. The Montana Department of Transportation controls the right-of-way for King Avenue West. Any access locations and improvement installation shall be subject to their review and approval.

B. Sidewalks

1. A five-foot-wide boulevard sidewalk shall be constructed along the frontage of King Avenue West at time of lot development fronting King Avenue West.
2. A ten-foot-wide multi-use trail shall be constructed along the east side of the Shiloh Drain as it lies along South 48th Street West at time of development along South 48th Street West.
3. A ten-foot-wide multi-use trail shall be constructed along the north side of the Hogan's Slough adjacent to the development at time of Lot 5, Block 1 development.
4. A five-foot-wide boulevard sidewalk shall be constructed along the west side of South 46th Street West at the time of road development of South 46th Street West.
5. On-site pedestrian facilities shall be provided throughout the Subdivision, as necessary. Pedestrian facilities throughout the subdivision shall be five to eight feet in width and be constructed of concrete or asphalt. The cost of all pedestrian facilities within the development shall be borne by the lot owner and shall be completed at the time of lot development.

C. Street Lighting

Street lighting along external streets as well as commercial internal rights-of-ways shall be installed at time of right-of-way improvement as part of

the project development. Installation shall be as approved by the City of Billings and/or the Montana Department of Transportation.

In conjunction with the installation of the first street lights within or adjacent to this subdivision, a Street Light Improvement Maintenance District (SLIMD) shall be created for the entire subdivision. As additional street lighting is completed as required within this SIA, the assessment under the SLIMD will be adjusted to reflect the then current costs to operate and maintain such improvements.

D. Traffic Control Devices

1. Traffic signals, signage, and striping shall be installed in accordance with the Traffic Impact Study. The timing, extent and level of participation in those improvements shall be in accordance with approval by the City of Billings. Work within the King Avenue West right-of-way shall also be in accordance with the Montana Department of Transportation regulations.
2. Directional signage and traffic control devices required throughout the subdivision shall be installed by Subdivider at time of lot development. All traffic control devices will be designed in accordance with the Manual on Uniform Traffic Control Devices and shall be subject to review and approval by the City Traffic Engineer.

E. Access

1. Location of accesses shall be in accordance with the Traffic Impact Study. Access to the site shall include a new full access from King Avenue West at South 46th Street West, a 3/4-turn approach from King Avenue West at approximately South 47th Street West, a new 3/4 -turn access from South 48th Street West approximately 650 feet south of King Avenue West, new full access approximately 1,320 feet south of King Avenue West from South 48th Street West, and a right-in/right out access from South 48th Street West at the south end of the property.
2. The City and Subdivider agree that access and placement of public and private utilities shall be provided between lots to provide interconnectivity where appropriate. Access and placement of public and private utilities provided between subdivision lots shall

be in accordance with a Reciprocal Easement Agreement to be filed with the final plat or in accordance with specific easements as may be noted on the plat. Note that during the site development review process for individual lots within the subdivision, such as Lot 1, Block 1, it may be necessary to further consider public dedication of certain surface access ways. Such dedication will be considered on a case by case basis concurrent with the individual site development reviews.

F. Billings Area Bikeway and Trail Master Plan (BABTMP)

The subdivision is included in the Billings Area Bikeway and Trail Master Plan. Improvements identified in that plan shall be made at time of lot development. The Subdivider shall construct a ten-foot wide multi-use trail along South 48th Street West and in conjunction with the reconstruction of the Shiloh Drain and along the reconstruction of the Hogan's Slough.

G. Public Transit

Strong internal street circulation and interconnectivity is provided in the development plan for Western Sky Subdivision, 2nd Amended. This will, in turn, provide sidewalks for pedestrians to access public transit routes. No other specific public transit provisions are proposed at this time.

IV. EMERGENCY SERVICES

Access is provided to this subdivision from King Avenue West, South 46th Street West, Crescent Street and South 48th Street West. In addition, fire hydrants will be installed at the required locations as reviewed and approved by the City of Billings Fire Department. This shall include fire hydrants spaced at a distance no greater than three hundred feet along the frontages of King Avenue West, future southerly access at South 46th Street West and South 48th Street West at the time of construction of those right-of-way improvements. At the time of development of each lot within the subdivision, a Site Development Plan shall be submitted to the City of Billings Fire Department in sufficient detail to verify compliance with all required emergency ingress, egress and circulation requirements.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrants in place to allow for fire suppression requirements. Prior to 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 drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC and shall be in accordance with the stormwater management plan to be submitted to and accepted by the Engineering Division. All storm drainage improvements not located within a publicly dedicated right-of-way or easement shall be considered a private installation and shall be operated and maintained under a private party agreement. That portion of storm drain to be extended from the southerly end of South 46th Street West and Crescent Street along and within the public right-of-way or storm drain easement south to the Hogan's Slough shall be considered a public installation and shall be operated and maintained by the City of Billings.

Stormwater on site will be conveyed to the collection system via surface flows on the street and parking lots and through a network of catch basins, inlets, and piping which will convey runoff to the Shiloh Drain along South 48th Street West (the South 48th Street West Drain) and Hogan's Slough along the south boundary of the project site. Discharges directly tied to these drains shall be terminated with an acceptable back flow prevention device to prevent large storm events flowing in the South 48th Street West Drain and Hogan's Slough Drain from back-flowing into the storm drain lines that service the subdivision.

The developer shall reconstruct the portion of Hogan's Slough that runs along the south lot line of Lot 5, Block 1 in order to accommodate the difference between the pre-development and the post-development rates of runoff. The amount of this capacity increase will be determined at the time of lot development and shall be in

accordance with the storm drain report submitted to and accepted by the City Engineer's Office.

In consideration of the capacity increase of the Hogan's Slough, the City of Billings shall allow the developer to directly discharge the site's stormwater (with the use of on-site stormwater quality mitigation measures) to the South 48th Street West Drain and Hogan's Slough. In addition, the developer shall make a \$303,000.00 cash contribution, proportioned and based upon individual lot sizes being developed, to the City of Billings for construction of facilities in the City of Billings' Shiloh Conservation Area. Those facilities will then be constructed by the City of Billings in a location and at a time found to be appropriate to the City. This dollar amount is calculated based on the overall subdivision stormwater detention required as shown in the Subdivision Stormwater Report prepared and submitted with this subdivision plat which has been determined to be 447,000 cubic feet and a cost of \$0.6779 per cubic foot for stormwater detention construction as provided by the City of Billings.

Based on those calculations and the platted area of each lot, the costs associated with and to be paid with each lot development for the detention basin cash-in-lieu is as follows:

• Lot 1, Block 1	\$ 30,590.77
• Lot 2, Block 1	\$ 16,965.82
• Lot 3, Block 1	\$ 31,896.43
• Lot 4, Block 1	\$ 74,425.06
• <u>Lot 5, Block 1</u>	<u>\$ 149,121.92</u>
Total	\$ 303,000.00

VI. UTILITIES

This 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. 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 Subdivider acknowledges that the subdivision shall be subject to the applicable system development fees in effect at the time a building permit is issued for new construction.

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.

Only water and sewer installations within dedicated public rights-of-way shall be considered public. All other extensions of water and sewer mains and services shall be considered private installations and shall be operated and maintained under separate private party agreements.

A. Water

The City of Billings has extended a water main in a portion of King Avenue West fronting the subdivision. The developer shall extend a water main from that public main at South 46th Street West to the south and to the west on Crescent Street that will provide water services to each of the subdivision lots. Extension of the water service from the property line to the building within the lot will occur at the time of private development by the developer.

The Developer shall make a cash contribution to the City of Billings for future water main improvements in South 48th Street West. Said contribution shall be made at the time of development of Lot 1, Lot 4 and Lot 5, Block 1, Contributions shall be based on one-half (1/2) of the cost of a 12-inch water main. Contribution shall be made prior to approval of site development for those lots.

The water main will need to be completed in King Avenue West to the intersection of South 48th Street West in conjunction with the development of Lot 1, Block 1. These physical costs shall be borne by the developer and completed at the time of development.

B. Sanitary Sewer

The City of Billings has extended a sanitary sewer main in a portion of King Avenue West fronting the subdivision. The developer shall extend a sanitary sewer main from that public main at South 46th Street West to the south and to the west on Crescent Street that will provide sanitary services to each of the subdivision lots. Extension of the sewer service from the property line to the building within the lot will occur at the time of private development by the developer.

No construction or contribution to a sanitary sewer main in South 48th Street West will be needed at this time. Developer acknowledges that a future sanitary sewer main may be installed in South 48th Street West. Western Sky Subdivision, 2nd Amended shall be responsible for its pro rata share of the costs of that improvement at the time of construction of that improvement. It is anticipated that the City will create a Special Improvement District (SID) for the installation of that improvement that contemplates cost contributions from the other three development areas abutting this improvement being responsible for their share of the cost under the SID.

C. WO 17-23 (King Avenue West Improvements)

The Developer shall make a cash contribution to the Public Works Department for that portion of the public water and sanitary sewer mains that were installed in King Avenue West from the east property line of Western Sky Subdivision, 2nd Amended to the west end of WO 17-23. The cash contribution shall be based on the actual cost of installation of the improvements that front Western Sky Subdivision, 2nd Amended, less oversizing costs that shall be borne by the City. The cost for these improvements is \$346,082.12 and shall be due prior to the filing of the final plat or the issuance of any building permits for the subdivision.

The remainder of the water and sewer improvements in King Avenue West that front Western Sky Subdivision, 2nd Amended shall be installed at the expense of the Developer at the time of development of Lot 1, Block 1. The Developer shall be responsible for all costs associated with these improvements, less an oversizing contribution from the City of Billings that shall be in accordance with the City's oversizing policy in place at the time of construction.

The developer may enter into a reimbursement agreement to recover half of all water and sewer utility costs along their frontage when the properties to the north develop.

D. Power, Telephone, Gas, and Cable Television

Private utilities shall be coordinated prior to construction to serve the Subdivision. Said utilities will serve each lot in private utility easements at locations shown on the face of the plat.

VII. PARKS/OPEN SPACE

Park dedication will be made through a cash-in-lieu of contribution. Cash-in-lieu contribution is calculated on eleven percent of the net area of the residentially zoned parcels with a cost per acre of \$40,000.00 applied. Those parcels are Lot 4 and 5, Block 1. They have a combined net area of 46.4 acres which at \$40,000.00 indicates a total cash-in-lieu contribution of \$204,160.00. Lot 4, Block 1 has a contribution of \$67,320.00 and Lot 5, Block 1 has a contribution of \$136,840.00. Cash contribution to be made at time of development of said lot.

VIII. IRRIGATION

Irrigation ditches that are still operational and servicing this property or downstream properties shall be maintained until no longer needed. Easements for their locations shall be provided.

IX. POSTAL DELIVERY

The Subdivider shall provide centralized delivery boxes with sufficient pullout to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the United States Postal Service.

X. SOILS/GEOTECHNICAL STUDY

A soils/geotechnical study has been performed on the Subdivision. Additional soils/geotechnical investigation may be required for each lot at time of development. Lot owners are encouraged to review that document and obtain additional analysis as may be required.

XI. TIMING OF IMPROVEMENTS

It is anticipated that the initial development of Western Sky Subdivision, 2nd Amended will commence at the intersection of South 46th Street West from King Avenue West. This initial development shall construct additional lane widening east and west of South 46th Street West in order to provide for a west bound left turn lane onto south bound South 46th Street West.

The remainder of the public right-of-way improvements shall be completed in King Avenue West prior to the development of Lot 1, Block 1 and will require the construction of a raised median, widening and street lights at the location of the

3/4-turn access which is approximately located at South 47th Street West. There will be an additional cash-in-lieu contribution required for the remaining proportional share of the surface improvements along this frontage.

The Developer shall make a cash contribution to the City of Billings for future improvements in South 48th Street West. Said contribution shall be made at the time of development of Lot 1, Lot 4 and Lot 5, Block 1, contribution shall be based on one-half (1/2) of 12-inch water main and proportional right-of-way improvements. Contributions shall be made prior to approval of site development for those lots. No contribution shall be required for a sanitary sewer main at this time in South 48th Street West. If it is determined at some point in the future that sanitary sewer is required in South 48th Street West, the entirety of Western Sky Subdivision, 2nd Amended may be responsible for its proportional share of the costs of one-half of a 12-inch sanitary sewer at the time of construction of those improvements. It is anticipated that the City will create a Special Improvement District (SID) for the installation of that improvement.

All water and sewer improvements in King Avenue West and South 48th Street West and any others that abut adjacent development that is owned by others shall have a Reimbursement Agreement submitted for any costs incurred for the installation of water and sewer by the Developer in installation of or contribution to those water and sewer improvements.

XII. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct all required on-site improvements with cash or by utilizing the mechanics of a special improvement district or private contracts secured by bond, 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 Engineer and Utility Department Manager.

XIII. 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. This guaranty shall not apply to any failure or defect caused by changes in design, construction or materials required by the City.

- 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 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, then the prevailing party 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”

MONT VISTA, LLC

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be the person who executed the foregoing instrument as the _____ of MONT VISTA, 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.

Notary Public in and for the State of Montana
Printed name: _____
Residing at: _____
My commission expires: _____

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

Notary Public in and for the State of Montana
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 incident to the above 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.

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

Western Sky Subdivision, 2nd Amended

Signed and dated this ___day of _____, 20___.

MONT VISTA, LLC

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 20___, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be the person who executed the foregoing instrument as the _____ of MONT VISTA, 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.

Notary Public in and for the State of Montana
Printed name: _____
Residing at: _____
My commission expires: _____