

**SUBDIVISION IMPROVEMENTS AGREEMENT  
 & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT  
 DISTRICTS  
*Big Sky King Subdivision*  
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 (City of Billings)**

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**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS**

***Big Sky King Subdivision***

This agreement is made and entered this 26th day of October, 2021 by and between Big Sky King Properties, LLC whose address for the purpose of this agreement is **4401 US HIGHWAY 3, BILINGS, MT 59106**, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

**WITNESSETH:**

**WHEREAS**, the plat of Big Sky King Subdivision located in the City of Billings, Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning as an expedited plat which is deemed to not require preliminary review; and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to Big Sky King 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.

**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 has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1101, BMCC):

1. No variances are requested.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

- A. 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 by the completion of the conditions set forth in the Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

- B.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- C.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined with Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

### **III. TRANSPORTATION**

#### **A. Streets**

- No streets are proposed as part of this subdivision agreement. Access to the proposed Big Sky King Subdivision exists off Grand Avenue through an access easement previously dedicated through the proposed Lot 1. An address marker will be required to be placed on the access from Grand Avenue showing an address of 1436 Grand Avenue.

#### **B. Sidewalks**

- No sidewalks are proposed as part of this subdivision agreement. Sidewalk currently exists along Grand Avenue and along 15<sup>th</sup> Street West.

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

- No street lighting is proposed as part of this subdivision agreement as lighting already exists within the boundary of the proposed Big Sky King Subdivision.

#### **D. Traffic Control Devices**

- No traffic control devices or modifications are proposed as part of this subdivision.

**E. Access**

- No new access points are proposed as part of this subdivision agreement. Access to the proposed Big Sky King Subdivision currently exists through an approach off Grand Avenue and an access easement previously dedicated through Lot 1, that will remain in place with the submittal of the corresponding plat of the proposed Big Sky King Subdivision. An address marker will be required to be placed on the access from Grand Avenue showing an address of 1436 Grand Avenue.

**F. Billings Area Bikeways and Trail Master Plan**

- The subdivision is located within the planning area of the Billings Area Bikeway and Trails Master Plan. The plan identifies a visionary long range bikeway along Grand Avenue.

**G. Public Transit**

- Access to public transit services from the proposed subdivision currently exists.

**IV. EMERGENCY SERVICE**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) 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 the 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 twenty (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 set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of

development. A complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of development.

Two (2) flat grate inlets currently serve the subject property. No improvements or additions to the current drainage system are proposed as a part of the subdivision.

## **VI. UTILITIES**

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension/connection of/to water mains and sanitary sewers is subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

### **A. Water**

Lot 1 of the proposed Big Sky King Subdivision is currently being served with a 2” water service. As per the original site plan for the existing building on Lot 1, a 1-1/2” water service as been extended south from an existing curb valve near Grand Avenue through Lot 1 and ending with a cap on Lot 2.

### **B. Sanitary Sewer**

Lot 1 of the proposed Big Sky King Subdivision is currently being served with sanitary sewer. As per the original site plan for the existing building on Lot 1, a 6” sanitary sewer service has been extended south from an existing sewer service near Grand Avenue through Lot 1 ending with a cap on Lot 2; however, this sewer service is presently tied to a storm drain main in Grand Avenue. The property owner shall re-route the sanitary sewer service to the sanitary sewer main in Grand Avenue prior to the occupancy permit being issued for the future building on Lot 2.

**C. Power, Telephone, Gas, and Cable Television**

The subdivision is currently served by power, telephone, gas, and cable providers through a 24' access and utility easement running along the western edge of the property. Not additions or improvements to the current system are proposed.

**VII. PARKS/OPEN SPACE**

There is no parkland requirement for proposed Big Sky King Subdivision, as this is a minor subdivision [MCA 76-3-621(3)(b)]. Additionally, the property is zoned commercial therefore no parkland is required per City of Billings Subdivision Regulations.

**VIII. IRRIGATION**

There are no irrigation facilities located on or adjacent to the Big Sky King Subdivision.

**IX. SOILS/GEOTECHNICAL STUDY**

No geotechnical investigation was required.

**X. PHASING OF IMPROVEMENTS**

No phasing is proposed as part of this subdivision.

**XI. 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 Engineer and Utility Department Manager.

**XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- A.** Subdivider agrees to guarantee all public improvements for a period of two years from the date of final acceptance by the City of Billings.
- B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.

- C.** The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.
- D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.





# 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 describe as follows:

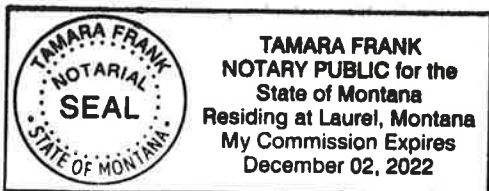
*Big Sky King Subdivision*

Signed and dated this 26<sup>th</sup> day of October, 2021

*Big Sky King Properties, LLC*  
By: Jamie Rehberg  
Its: member

STATE OF MONTANA     )  
  : ss  
County of                     )

On this 26<sup>th</sup> day of October, 2021, before me, a Notary Public in and for the State of Montana, personally appeared Jamie L. Rehberg, known to me to be the member of Big Sky King Properties, LLC, who executed the foregoing instrument and acknowledged to me that he/she executed the same.



Tamara Frank  
Notary Public in and for the State of Montana  
Printed Name: TAMARA FRANK  
Residing at: Laurel MT  
My commission expires: 12-02-2022