

**SUBDIVISION IMPROVEMENTS AGREEMENT  
STILL RIVER ESTATES SUBDIVISION**

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(Yellowstone County)**

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# SUBDIVISION IMPROVEMENTS AGREEMENT

## Still River Estates Subdivision

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between *ACK Holdings, Inc.*, whose address for the purpose of this agreement is **3132 Western Bluffs Blvd., Billings, MT 59106**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY**, Montana, hereinafter referred to as “County.”

### WITNESSETH:

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Board of Planning recommended conditional approval of a preliminary plat of *Still River Estates Subdivision*; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Still River Estates Subdivision*; and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to *Still River Estates 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 Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, 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 County hereby grants, the following variances by the Board of County Commissioners from the strict interpretation of the County’s Subdivision Regulations (Chapter 11, Yellowstone County Subdivision Regulations):

1. No variances requested.

### **II. CONDITIONS THAT RUN WITH THE LAND**

- A.** 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 damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

- B.** 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.
- C.** 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.
- D.** 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.
- E.** Culverts and associated drainage swales shall not be filled in or altered by the Subdivider or subsequent lot owners.
- F.** When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G.** Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.
- H.** Lot owners or their agent will obtain an Access Permit from County Public Works prior to any construction on any lot within the subdivision. The application will include a site plan showing the desired location of the access and show that it meets the requirements outlined by the DEQ storm water requirements for the subdivision. Failure to do so will result in the lot owner or their agent removing what has been installed and locating the access in an approved location at the lot owner's expense.
- I.** It is the obligation of the property owners within this subdivision to pay for the maintenance of the community water system whether it is handled by a third-party contractor or through the HOA.

### **III. TRANSPORTATION**

#### **A. Streets**

*Right-of-way Widths:* All internal streets within Still River Estates Subdivision are public roadways and have a minimum right-of-way width of 60 feet. South 64th Street

West is a public roadway classified as a principal arterial road and shall have a minimum right-of-way width of 120 feet. South 60<sup>th</sup> Street West is classified as a collector road, for which 60 feet of right-of-way is dedicated. An additional 30 feet of right-of-way has been dedicated adjacent to the property on the east side as part of Woodgate Estates Subdivision providing a total right-of-way width of 90 feet.

*Pavements Widths and Surface Types:* All streets shall be built to grade with a satisfactory engineered subbase, base course, and asphalt surface. All internal roads shall have a minimum pavement width of 24 feet with 2-foot gravel shoulders. The engineered designed cross-sections of said streets shall be submitted to the Yellowstone County Public Works Department.

*Other Required Street Improvements:* Drainage ditches shall be constructed adjacent to the roadways in accordance with Yellowstone County Public Works standards and DEQ requirements to convey stormwater. Culverts shall be provided to convey stormwater across roadways and driveways.

## **B. Sidewalks**

Individual lot owners, and the Subdivision HOA in instances of open spaces/parks, are responsible for the installation of sidewalks within the designated private sidewalk easements located along lot frontages as shown on the plat. Sidewalks shall be 5' wide and installed at the time of lot development. The subdivision HOA will be responsible for the maintenance and repair of sidewalks following initial installation.

## **C. Traffic Control Devices**

*Traffic Control Devices:* Subdivider shall furnish the necessary traffic control devices within and adjacent to the subdivision as required by the County. Traffic control devices shall comply with the Manual on Uniform Traffic Control Devices (MUTCD) and County standards.

*Street Name Signs:* Subdivider shall furnish and install street name signs for streets within the subdivision, or located immediately adjacent thereto, in accordance with the specifications of the County Publics Works and Fire Departments.

## **D. Access**

Access to Still River Estates Subdivision shall be provided by two primary access points off South 64<sup>th</sup> Street West. A 60-foot minimum right-of-way shall be dedicated to the public by Subdivider for all internal streets.

No Access strips shall be provided along the frontages of South 64<sup>th</sup> Street West with exception to the primary access point depicted on the Plat.

#### **E. Billings Area Bikeways and Trail Master Plan (BABTMP)**

The subdivision is located within the planning area of the Billings Area Bikeway and Trail Master Plan. The plan identifies proposed long-range bike lane and shared use path along 64th Street West. Sufficient right-of-way (120 feet total) is being dedicated to help facilitate the implementation of this plan in the future.

#### **IV. EMERGENCY SERVICE**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply in place to allow for fire suppression requirements. Prior to the 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 Billings Fire Department.

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.
- The subdivision shall install a 30,000-gallon water storage tank with dry hydrant according to the specification of the Billings Fire Department at the time of development of Phase II. The system design shall be reviewed and approved by the Billings Fire Department prior to construction of the system. The dry hydrant shall be inspected, acceptance tested, and approved by the Billings Fire Department prior to any construction with combustible materials occurring in Phase II. No structure is to be constructed within 100 feet from the edge of the proposed dry hydrant. The tank and dry hydrant require the formation of a new RSID for maintenance thereof. The new RSID will consist of all proposed lots within the Subdivision.
- Prior to Phase II, the Subdivision will be serviced by an existing dry hydrant located on Elder Grove Lane which is within ½ road mile from each lot in Phase I.

The above requirements do not alter or effect the current minimum subdivision requirements for apparatus access and water supply.

#### **V. STORM DRAINAGE**

All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by the Montana Department of Environmental Quality (MDEQ), or its designee.

## **VI. UTILITIES**

### **A. Water**

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, all proposed water systems must obtain approval by the MDEQ, or its designee.

- The Subdivision shall be supplied by community wells. Water will be conveyed to the individual lots utilizing a water distribution system.
- The community water supply system shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- The operation and maintenance of the community water system shall be provided by the Subdivision Home Owners Association(s) or Subdivider, either performed by themselves in accordance with MDEQ and Yellowstone City-County Health Department or by a licensed third-party provider contracted by the association. The costs for such operation and maintenance shall be recuperated from individual lot owners as determined by the Association and its bylaws.
- A MDEQ approval letter will be submitted with the final plat.

### **B. Septic System**

In accordance with Section 4.8 of the Yellowstone County Subdivision Regulations, all sanitary sewer systems must obtain approval by the Montana Department of Environmental Quality, or its designee.

The Subdivider will construct three community sanitary sewer systems in the form of community septic tanks, dosing tanks, and drainfields. Each community system will support 19 lots. The remaining 16 lots will be served with individual wastewater disposal systems as approved by Montana Department of Environmental Quality and as installed by each individual lot owner. These systems shall be located and installed as shown on the site layout approved by Montana Department of Environmental Quality submitted with the final plat.

Lot owners will be responsible for the construction of individual septic tanks, dosing tanks, and drainfields on those lots not identified as being connected to the community wastewater systems. Lot owners with individual septic systems will provide operation and maintenance for their own systems at their own cost. Should it be noted the owners fail to provide proper operation and maintenance of their systems, the Subdivision Home Owners Association(s) reserves the right to perform necessary operation and maintenance, or to have it contracted, at the individual lot owner's expense.

Lot owners of those lots identified as connecting to the community wastewater systems will be responsible for providing the necessary dosing tank and pump system to discharge effluent via the low pressure force main to the designated community wastewater system. Maintenance of the community wastewater systems will be provided by the Subdivision Home Owners Association(s) or Subdivider. The costs for such operation and maintenance shall be recuperated from individual lot owners as

determined by the Association and its bylaws. Power, Telephone, Gas, and Cable Television

Power, natural gas, telephone, and cable will be located within the public right-of-way and utility easements shown on the plat.

All power, natural gas, telephone, and cable (where said utilities are actually available and existing to the subdivision) shall be installed prior to street paving. Extension of private utilities into each lot shall be the responsibility of the individual lot owners. The location of all such off-site facilities within the existing public rights-of-way shall be subject to approval of the County Public Works Department and shall be installed underground. The Subdivider shall coordinate installation with various utility companies.

## **VII. PARKS/OPEN SPACE**

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Per 10.2(A) of the Yellowstone County Subdivision Regulations:

- Lots 0.50 acres or less, 11% dedication: 22.31 acres x 11% = 2.45 acres
- Lots 0.50 – 1.0 acres, 7.5% dedication: 1.05 acres x 7.5% = 0.08 acres
- Lots 1.0 acres – 3.0 acres, 5% dedication: 0.00 acres x 5% = 0.00 acres
- Lots greater than 3.0 acres, 2.5% dedication: 0.00 acres x 2.5% = 0.00 acres

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Required parkland dedication is 2.53 acres, with the Subdivider proposing to provide 7.39 acres of open space parkland area with an easement for public use. Said parkland will remain privately owned and provided for public use. Maintenance of the open space parkland will be paid for by the Subdivision HOA and provided by the same HOA or designated third party.

## **VIII. IRRIGATION**

Subdivider agrees there will be no irrigation water available to land owners in this Subdivision. No water shares will be transferred to the individual lot owners. Irrigation of individual lots can be conducted by lot owners utilizing the water service connection dedicated to each lot. Access to the existing ditches and drains on the perimeter of the property for maintenance and operation shall remain. Any modification to the ditches or drains shall be agreed upon by the respective ditch and drain owners.

## **IX. SOILS/GEOTECHNICAL STUDY**

A geotechnical study is not required by the Yellowstone County Subdivision Regulations as part of this plat. 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 limitation for proposed construction on the lots, which may require a geotechnical survey prior to construction.

## **X. PHASING OF IMPROVEMENTS**

Improvements for the subdivision are to be developed in three (3) phases. The phases or defined as follows:

### **A. Phase I**

- Lots 1-8, Block 1; Lots 1-10, Block 2; Lots 1-9, Block 3
- Portions of Skycrest Dr. and Road B to be constructed to Phase 1 extents. Temporary turnarounds and/or approved emergency access must be provided at the terminus of Skycrest Drive and Road B, and a gravel access drive must be provided to the pump house and water system. In lieu of temporary turnarounds at the terminus points of Skycrest Drive and Road B, a temporary access road loop may be constructed to tie Skycrest Drive and Road B together for emergency access. Park 1 and Park 2 will be laid out with the community wells and community septic system number 1, respectively.

### **B. Phase II – Opened by 2026**

- Lots 9-14, Block 1; Lots 11-14, Block 2; Lots 10-18, Block 3
- Skycrest Drive, Road A, Road B, and Road C to be completed. Park 3 to be laid out with the community septic system number 2.
- At the time Phase II is opened, a dry fire hydrant will be constructed on Park 3. Said dry fire hydrant shall be inspected, tested, and approved by the Billings Fire Department.
- A fire apparatus turnaround shall be constructed at the end of Road C at the Phase II/III boundary line. This turnaround can include a hammerhead or cul-de-sac as approved by the Billings Fire Department.

### **C. Phase III – Opened by 2031**

- Lots 15-22, Block 1; Lots 19-27, Block 3; Lots 1-10, Block 4
- Road D, Road E, and South 60<sup>th</sup> Street West to be constructed within Subdivision extents. Park 4 to be laid out with the community septic system number 3.

Utilities for each lot will be constructed at the time of phase development.

## **XI. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be designed and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the State of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvements have been completed in accordance with approved, seal stamped, record drawings, along with all required post-construction certification per Section 4.6.C of the Yellowstone County Subdivision Regulations.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations.

## **XII. LEGAL PROVISIONS**

- A.** Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- 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 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.

- G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

*ACK Holdings, Inc.*

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

Its: \_\_\_\_\_

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 \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *ACK Holdings, Inc.* who executed the foregoing instrument and acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

This agreement is hereby approved and accepted by Yellowstone County, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“COUNTY”  
COUNTY OF YELLOWSTONE  
MONTANA

County of Yellowstone  
Board of County Commissioners

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

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Attest: \_\_\_\_\_  
County Clerk and Recorder

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 Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

# Waiver of Right to Protest

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 Rural Special Improvement Districts (RSID's), for a period of no more than twenty years from the recording of this waiver, which Yellowstone County may require.

This Waiver and Agreement is independent from all the 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:

## Still River Estates Subdivision

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

*ACK Holdings, Inc.*

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

Its: \_\_\_\_\_

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 \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *ACK Holdings, Inc.* who executed the foregoing instrument and acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_