

Return to:  
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**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
COPPER RIDGE SUBDIVISION, NINTH FILING  
CITY OF BILLINGS  
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RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT  
DISTRICTS  
COPPER RIDGE SUBDIVISION, NINTH FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **WH COPPER RIDGE 54, LLC**, whose address for the purpose of this agreement is 21080 Centre Pointe Parkway, Santa Clarita, CA 91350, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

**WHEREAS**, the preliminary plat of Copper Ridge Subdivision, Ninth 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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the Yellowstone County Board of Planning, the Board recommended for approval, subject to certain conditions, an area known as Copper Ridge Subdivision, Ninth Filing, and

**WHEREAS**, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, the City Council approved, subject to certain conditions, a preliminary plat of Copper Ridge Subdivision, Ninth 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 Copper Ridge Subdivision, Ninth 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. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.
- B.** 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.
- C.** 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 the Ninth Filing.
- D.** Lot owners shall be advised that land in proximity to the northern boundary of Copper Ridge Subdivision 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 Copper Ridge Subdivision, 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 Copper Ridge Subdivision 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.

- 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.** 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.
- G.** Certain lots as shown on the final plat of Copper Ridge Subdivision, Ninth Filing contain storm water drainage easements with a drainage swale along property lines. This storm water drainage easement and drainage swale is for conveying storm water and shall not be altered in any way to inhibit the conveyance of storm water. It shall be the lot owners' responsibility to maintain and perpetuate this storm water swale, as a fully functional swale.
- H.** The lowest finished floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb measured from the highest location along the lot frontage.
- I.** The lowest openings on each home (window well, walk-out basement doors, and equivalent openings) shall be located outside drainage paths. If this is not possible, the homebuilder and lot owners must take necessary measures to protect these openings from being inundated from surface water flows. Allow enough space between window wells and property lines to provide sufficient swales and drainage away from window wells, and meet applicable building codes for drainage requirements.
- J.** 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**

Shiny Penny Way, Bronze Boulevard and Street 1 (Temporary Name), shall be 56-foot rights-of-ways. Shiny Penny Way, Bronze Boulevard and Street 1 (Temporary Name) shall be 34 feet back of curb to back of curb. These roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance and city subdivision regulations. No street improvements will be constructed on Rimrock Road west of 70th Street West at this time.

#### **B. Sidewalks**

City and Subdivider agree that developer will install handicap accessibility ramps at time of private contract construction. Subdivider shall install a 5-foot wide boulevard sidewalk along the Shiny Penny Way frontage of the public park on Lot 15, Block 3 of Copper Ridge Subdivision, Ninth Filing, at the time of private contract construction. No additional boulevard 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.

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

Construction or installation of streetlights in subdivision shall not be required at this time, but streetlights are included in the Waiver, which also includes a maintenance district for street light energy and maintenance.

**D. Traffic Control Devices**

1. 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.
2. Street name signs shall be installed at all intersections.
3. The City and Subdivider agree that the Subdivider will make cash contributions to improvements at the following intersections:

|                                   |        |
|-----------------------------------|--------|
| Rimrock Road/62nd Street West     | 11.17% |
| Grand Avenue/70th Street West     | 7.89%  |
| 70th Street West/Colton Boulevard | 9.04%  |

The percentages are based on 378 total lots in the subdivision. Each filing will contribute their proportionate share of the contributions.

The amount and timing of these contributions shall be as outlined below. These contributions represent a fair and equitable amount based on subdivision traffic using these intersections and may be used by the City for design and construction of geometric improvements, auxiliary turn lanes, or intersection controls such as traffic signals or roundabouts, at these intersections. Improvements will not be constructed until the City determines they are needed and the timing and extent of the improvements shall be at the City's sole discretion.

The amount of the contributions for the Rimrock Road/62nd Street West, Grand Avenue/70th Street West, and 70th Street West/Colton Boulevard intersections shall be as follows:

|                                   |       |            |
|-----------------------------------|-------|------------|
| Rimrock Road/62nd Street West     | 1.36% | \$3,400.00 |
| Grand Avenue/70th Street West     | 0.96% | \$2,400.00 |
| 70th Street West/Colton Boulevard | 1.10% | \$2,750.00 |

The contributions for Copper Ridge Subdivision, Ninth Filing shall be made prior to final plat approval. No building permits will be issued until Subdivider has made the cash contribution to the City.

It is anticipated that Lot 21, Block 8 will be developed with a future separate filing of the subdivision. Any cash contribution attributable to Lot 21, Block 8 shall be included with a future subdivision. The contribution may be apportioned over the various phases based on the amount of traffic each is expected to generate.

**E. Access**

Access will be provided in two locations for the subdivision. Extension of Shiny Penny Way and Bronze Boulevard will provide access

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

The Billings Area Bikeway and Trail Master Plan identifies the BNSF Railroad right of way adjacent to the subdivision as a potential future trail alignment. As such, a potential future trail alignment is nearby to this subdivision; therefore, City and the Subdivider agree that no additional trails will be required with this 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 existing locations. The Copper Ridge Subdivision, Ninth Filing, will complete a street connection from Shiny Penny Way and Bronze Boulevard. 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**

- A. All storm drainage improvements shall comply with the provisions of Chapter 28, BMCC, and shall be in accordance with the recommendations of an approved storm drain study to be submitted to the City of Billings Engineering Department by the Subdivider. The stormwater in the subdivision will be managed on-site through surface flow on the streets, inlets, piping, and stormwater detention facilities. The stormwater design for Copper Ridge Subdivision, Ninth Filing, will conform to the current City of Billings Stormwater Management Manual and be reviewed by the City of Billings Public Works Department.
- B. A detention basin has been previously constructed with Copper Ridge Subdivision, 8th Filing along the southern boundary of the subdivision. This detention facility is located on Lot 9, Block 3 of Copper Ridge Subdivision, 7th Filing. This existing stormwater detention facility has been previously sized to include Copper Ridge Subdivision, 9th Filing. The detention facility is located on Home Owner’s Association (HOA) owned lot and shall be operated and maintained by the HOA. The stormwater detention facilities for the subdivision has an outlet to Rimrock Road and is piped to a City of Billings owned stormwater management facility located near the intersection of 62nd Street West and Rimrock Road via the Birely Drain.
  - i. The Subdivider may direct runoff from this filing and future filings to the City of Billings stormwater management facility located near the intersection of Rimrock Road and 62nd Street West. The City of Billings will review the stormwater storage provided on-site to ensure compliance with the City of Billings Stormwater Management Manual (SWMM). The Subdivision will be required

- to retain, or provide treatment, of the water quality volume/flow on-site in accordance with the SWMM.
- ii. All required stormwater storage for the subdivision will be provided on-site. Therefore, no off-site stormwater contributions to the City of Billings stormwater management facility will be required.

## **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 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 12-inch water main stub located in Shiny Penny Way and an existing 8-inch water main stub in Bronze Boulevard. The Subdivider will extend the existing 12-inch water main from the existing terminus in Shiny Penny Way to the intersection of Shiny Penny Way/Street 1 (temporary name) and continue the extension from the intersection of Shiny Penny Way/Street 1 (temporary name) to the southwest in Street 1 (temporary name) adjacent to Lot 1, Block 9 and stub for future connection. The remaining streets in Copper

Ridge Subdivision 9th Filing shall be 8-inch diameter. No water main will be installed in Rimrock Road west of 70th Street West at this time.

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.

**B. Sanitary Sewer**

Service to the subdivision will be from the existing 8-inch sanitary sewer stub located in Shiny Penny Way. No sanitary sewer main will be installed in Rimrock Road west of 70th Street West with this subdivision but is anticipated to be extended to the west from the intersection of 70th Street West and Rimrock Road with future filings.

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.

**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**

Per Section 76-3-621 of the Montana Code Annotated, 0.982 acres of parkland dedication is required for Copper Ridge Subdivision, Ninth Filing. The parkland provided with the platting of Copper Ridge Subdivision, Ninth Filing is 4.809 acres. The excess parkland dedication will be applied to future filings of Copper Ridge Subdivision. The Subdivider proposes to dedicate land as public park. The Subdivider will improve the public park by private contract.

Operation and maintenance of the public park areas will be by a park maintenance district created for the subdivision and administered by the City of Billings.

A park masterplan for the public parkland with Copper Ridge Subdivision, Ninth Filing will be prepared by the Subdivider for review and approval by the City of Billings Parks and Recreation Department. The park masterplan shall be submitted within 120 days of filing of the final plat, or sooner. The park masterplan will define the improvements and timing of construction of the park improvements.

#### **VIII. HOMEOWNER'S ASSOCIATIONS**

A homeowner's association (HOA) will be established for this subdivision. The HOA will have the following responsibilities:

##### **A. Contact Information**

HOA shall provide contact information of the senior board official to the City Engineering Department upon the establishment of the HOA and/or changing of board members.

##### **B. Stormwater Drainage Facilities**

The HOA shall be responsible for the maintenance of the on-site stormwater drainage facilities located on Lot 19, Block 1 and Lot 9, Block 3, Copper Ridge Subdivision Seventh Filing. The HOA shall share the cost of maintenance of the community stormwater facilities.

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

A geotechnical report was performed within the area of this subdivision and is available for review at the City of Billings Planning Department. The Geotechnical Investigation Report for Copper Ridge Subdivision, 9th Filing Billings, Montana was completed by Rimrock Engineering Inc. and dated November 15, 2021.

It is recommended that owners, purchasers, realtors, builders, and developers fully familiarize themselves with the information contained in this report prior to design or construction. There are variable soil conditions throughout the Subdivision, and the potential exists for collapsible soils within the Subdivision.

#### **X. 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, Distribution and Collection Division.

**XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- A.** Subdivider agrees to guarantee all public improvements for a period of two 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 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 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.





