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**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
AMENDED PLAT OF LOTS 1 AND 5, BLOCK 1  
PRICE SUBDIVISION  
CITY OF BILLINGS  
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Return to:  
City Clerk  
City of Billings  
P.O. Box 1178  
Billings, MT 59101

**SUBDIVISION IMPROVEMENTS AGREEMENT  
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IMPROVEMENT DISTRICTS  
AMENDED PLAT OF LOTS 1 AND 5, BLOCK 1  
PRICE SUBDIVISION**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **JOCK CLAUSE & KATHY CLAUSE**, whose address for the purpose of this agreement is P.O. Box 53, Meeteetse, Wyoming 82433, **TYLAND, LLC.**, an Idaho Limited Liability Company, whose address for the purpose of this agreement is 5635 Canyonwoods Drive, Billings, Montana 59106, hereinafter referred to as “Subdividers,” and the **CITY OF BILLINGS**, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

**WHEREAS**, the Amended Plat of Lots 1 and 5, Block 1, Price Subdivision, hereafter referred to as “the Subdivision”, located in the City of Billings, Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Board of Planning recommended conditional approval of a preliminary plat of Amended Plat of Lots 1 and 5, Block 1, Price Subdivision; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City Council conditionally approved a preliminary plat of Amended Plat of Lots 1 and 5, Block 1, Price Subdivision; and

**WHEREAS**, the plat of Amended Plat of Lots 1 and 5, Block 1, Price Subdivision, located in the City of Billings, Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning as an expedited plat which was 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, and

**WHEREAS**, the provisions of this Agreement shall be effective and applicable to 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.

**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**

None requested.

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

- A.** Lot owners are advised that Price Subdivision is in close proximity to a large natural park and contains wildlife migratory routes. Consequently, owners are advised that wildlife indigenous to the prairie and to the rimrock environments, including but not limited to deer, antelope, mountain lions, and wild turkeys, are 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, unless they take steps to deter the animals. Any impacts associated with wildlife and damage arising therefrom is the responsibility of the lot owners. Lot owners shall be advised that Montana Fish, Wildlife, and Parks does not provide assistance unless there is damage to commercial agricultural crops, or a threat to public health and safety.
- B.** Due to steep slopes and large drainage basins, there is a possibility during a storm event of surface runoff damaging property and there is also a risk of rocks and boulders dislodging from the steep slopes and damaging property.
- C.** Lot owners are advised that there is a Declaration of Restrictions and Protective Covenants recorded in conjunction with this Subdivision which outlines additional requirements specific to this Subdivision.

- D.** Lots owners are advised that a lot specific geotechnical study will be required to be submitted at the time of application for a building permit.
- 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 Subdividers 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 Subdividers and property owner or owners specifically agree that they are waiving valuable rights and do so voluntarily.
- F.** The Subdividers 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.
- G.** Individual lot owners are advised that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

### **III. TRANSPORTATION**

#### **A. Streets**

The section of Canyonwoods Drive within Price Subdivision is a private road and is improved to meet City emergency access road standards. A cul-de-sac turn-around is constructed near the westerly boundary of Price Subdivision. A security gate at the end of the cul-de-sac restricts public access beyond the security gate.

#### **B. Sidewalks**

There is no requirement for sidewalks within Price Subdivision.

**C. Street Lighting**

There is no requirement for street lighting within Price Subdivision.

**D. Traffic Control Devices**

An access control gate has previously been installed at the Price Subdivision entrance. In addition to providing access to lot owners and their guests within the Subdivision, the gate provides access to emergency personnel as well as City of Billings personnel and other authorized persons needing access to the city reservoir site and public water main facilities. Specific details regarding access, and maintenance of the road and public water main facilities are as outlined within the easement document recorded at the Yellowstone County Clerk and Recorder's office under document number 3369930.

In the event of power failure, the access control gate shall automatically open on battery back-up power and remain open until primary power is restored. In the case of emergency, including emergency access to the city reservoir site, should the gate operations fail, the gate may be destroyed or removed. The Subdividers will be responsible for all costs related to reinstalling or repairing the gate.

**E. Access**

Lots 1A, 1B, 5A, and 5B will access the private Canyonwoods Drive via individual drive approaches.

The 62nd Street Emergency Access Road serving Ironwood Subdivision will also serve as the required secondary access for Amended Plat of Lots 1 and 5, Block 1, Price Subdivision. Individual drive approaches exceeding 150-feet shall have an approved turnaround at their terminus.

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

The Billings Area Bikeways and Trail Master Plan does not identify trails or bike lanes within the area of this subdivision. No trails or bike lanes are proposed.

**G. Public Transit**

No additional improvements are anticipated at this time for the subdivision relating to public transit.

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

Emergency service access to the Subdivision is provided by Canyonwoods Drive. The access control gate will permit emergency vehicles to access the subdivision.

##### **A. Construction of Buildings**

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 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: (except as noted in IV.B., herein)

- 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 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.

##### **B. Residential Fire Sprinkler Systems**

All residences built within this subdivision will be required to install residential fire sprinkler systems as they exceed the 600-foot dead-end access requirement per City of Billings Subdivision Regulations and also exceed 600-foot distance requirement from a fire hydrant to the furthest portion of a residence per 2012 International Fire Code Requirements.

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

No additional improvements are anticipated at this time for the subdivision relating to storm drainage.

## **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**

Lots 1A and 5A have existing service connections to the main from the City of Billings water reservoir. No Water service for Lots 1B and 5B will be provided by connecting individual lot services to the existing water main from the City of Billings water reservoir as those parcels are subject to a 'No Build' provision. The water main is located within the existing easement as shown on the plat. If water services are longer than 250-feet from the curb valve to the dwelling, a meter vault shall be installed at the time a dwelling requests water service. The meter vault shall be appropriately sized to also include the installation of a back flow preventer on the fire line. The fire line shall be a separate and independent line, in addition to the domestic water service, from the curb valve locations near the edge of the roadway to the dwellings. The vault shall be placed immediately downstream of the curb valves.

### **B. Sanitary Sewer**

Lots 1A and 5A have existing service connections to the private sanitary sewer main in Canyonwoods Drive, maintained by the Homeowner's Association. No sanitary sewer services are being provided for Lots 1B and 5B as those parcels are subject to a 'No Build' provision. 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**

Lots 1A and 5A are currently served by existing utilities located within the public right-of-way of Canyonwoods Drive. Services to Lots 1B and 5B will be provided from existing facilities if needed, however, Lots 1B and 5B are subject to a 'no build', provision. No additional new easements are required for the private utilities.

**VII. PARKS/OPEN SPACE**

There is no parkland requirement for this subdivision, for lots larger than 5 acres [MCA 76-3-621(3)(a)].

**VIII. IRRIGATION**

There are no active agricultural facilities within the Subdivision.

**IX. SOILS/GEOTECHNICAL STUDY**

Lots 1A and 5A are already developed at this time. A project/building specific Geotechnical report may be required at the time of development of Lots 1B and 5B.

**X. PHASING OF IMPROVEMENTS**

No public improvements are required at this time by the Subdividers.

**XI. NO BUILD PROVISION**

The original platting of Price Subdivision was provisioned on a maximum of five lots for single family occupancy and any outbuildings that may be associated with those residences. The creation of these lots shall continue to comply with that provision in that they will not be intended to be developed for additional single-family residences over and above the original five as contemplated. This is not to preclude the development of associated out or accessory buildings to the original five residences. This also does not preclude the owners or developers of pursuing changes to this provision should they desire to pursue such in the future. Those

provisions and any changes thereto requiring review, recommendation, and approval by the City of Billings.

**XII. FINANCIAL GUARANTEES**

Except as otherwise provided, the Subdividers 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 City of Billings. 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.

**XIII. LEGAL PROVISIONS APPLYING TO SUBDIVIDERS**

- A. The Subdividers agree to guarantee all public improvements for a period of two years from the date of final acceptance by 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. The Subdividers shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledge and agrees that nothing contained herein shall relieve or exempt them from such compliance.





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

“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: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

**WAIVER OF RIGHT TO PROTEST  
FUTURE SPECIAL IMPROVEMENT DISTRICTS**

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdividers 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 the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and are 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.

This Waiver is in addition to any other recorded waiver related to the property described herein and is not intended to replace, supersede, or invalidate any such waiver.

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

AMENDED PLAT OF LOTS 1 AND 5, BLOCK 1, PRICE SUBDIVISION

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



