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**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
AMENDED PLAT OF LOT 4E-2, BLOCK 1,
SHILOH CROSSING SUBDIVISION
CITY OF BILLINGS
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AMENDED PLAT OF LOT 4E-2, BLOCK 1,
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THIS AGREEMENT is made and entered into this ____ day of _____, 20____, by and between **MAJ BILLINGS, LLC.**, a Washington limited liability company, whose address for the purpose of this agreement is 300 W. 15th Street, Vancouver, WA 98660, and **AE BILLINGS, LLC.**, a Washington limited liability company, whose address for the purpose of this agreement is 1518 Bellerive Lane, Coeur d'Alene, ID 83814, hereinafter referred to as "Subdividers," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the Amended Plat of Lot 4E-2, Block 1, Shiloh Crossing 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 the ____ day of _____, 20____, the City Council conditionally approved a preliminary plat of the Subdivision; 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 the Subdivision upon the filing of the amended 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 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 five (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 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.
- 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.
- D.** 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.
- 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 owners, 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 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 should be aware 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

Adjacent to the Subdivision to the west is Shiloh Road. No street improvements are anticipated at this time for the Subdivision.

Adjacent to the Subdivision to the east is Shiloh Crossing Boulevard, which has a 47' wide public sewer, water, and access easement. No street improvements are anticipated at this time for the Subdivision.

B. Sidewalks

Adjacent to frontage of Shiloh Crossing Boulevard, within the Subdivision, is a 14' wide utility, lighting, and sidewalk easement. A 5' wide concrete sidewalk with a variable-width boulevard shall be constructed within the easement along the frontage of Shiloh Crossing Boulevard.

C. Street Lighting

Street lighting currently exists along Shiloh Crossing Boulevard in the vicinity of the Subdivision. No new street lighting will be required as a result of the subdivision.

D. Traffic Control Devices

No street traffic control devices are anticipated at this time for the subdivision but is included in the Waiver of Right to Protest Future Special Improvement Districts.

E. Access

Access to the Subdivision will be provided by a single approach from Shiloh Crossing Boulevard. A reciprocal access easement will be filed to provide shared access to the lots within the Subdivision.

F. Billings Area Bikeway and Trail Master Plan

No additional improvements are anticipated at this time for the subdivision relating to the Billings Area Bikeway and Trail Master Plan.

G. Public Transit

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

IV. EMERGENCY SERVICES

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.

The City of Billings Fire and Police Departments will provide emergency services. Emergency access shall be provided to the Subdivision via Shiloh Crossing Boulevard. An existing fire hydrant is located near the northeast corner of the Subdivision along the west side of Shiloh Crossing Boulevard.

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 of individual lots at the time of development.

The subdivision stormwater will be handled on site through surface flow on parking lots; collection through a network of catch basins, inlets, and piping. The subdivision will discharge to an existing 24-inch storm service that ultimately outfalls into an existing retention pond located on Certificate of Survey No. 866. A reciprocal drainage agreement will be filed to allow a common drainage system for all lots in 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

Currently in the Subdivision, there are two (2) existing 4” and one (1) 2” water service connections to the 12” main line in Shiloh Crossing Boulevard.

At the time of lot development, each lot shall connect to the existing service lines. If the service line sizes are insufficient, a new service shall be installed, and existing service line abandoned.

New water service easements will be filed for this Subdivision.

B. Sanitary Sewer

Currently in the Subdivision, there are two (2) existing 6” sanitary sewer service connections to the 8” main line in Shiloh Crossing Boulevard. At the time of development, the Subdividers shall install an additional sanitary sewer service connection to the main line in Shiloh Crossing Boulevard for Lot 4E-2B. Lots 4E-2A and 4E-2C shall use the existing services. The sanitary sewer service size and location to be determined at the time of lot development.

New sanitary sewer service easements will be filed for this Subdivision.

C. Power, Telephone, Gas, and Cable Television

Services to this Subdivision will be provided from existing facilities. No additional new easements are required for the private utilities.

VII. PARKS/OPEN SPACE

Pursuant to MCA 76-3-621(3)(b), there is no parkland requirement for a non-residential subdivision.

VIII. IRRIGATION

There are no active agricultural facilities within the Subdivision.

IX. SOILS/GEOTECHNICAL STUDY

A project/building specific Geotechnical report may be required at the time of development of the Subdivision.

X. PHASING OF IMPROVEMENTS

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

XI. FINANCIAL GUARANTEES

All required improvements will be financially guaranteed or constructed prior to recording of the final plat.

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.

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

“SUBDIVIDER”

MAJ BILLINGS, LLC.,
a Washington limited liability company

By: _____

Title: _____

STATE OF _____)

:ss

County of _____)

On this _____ day of _____, 20____, before me, the undersigned Notary Public for the State of _____, personally appeared _____, known to me to be the person who signed the foregoing instrument as _____ of **MAJ BILLINGS, LLC.**, and who acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

Notary Public in and for the State of _____

This agreement is hereby approved and accepted by the City of Billings, 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

