

SUBDIVISION AGREEMENT

THIS AGREEMENT, made and entered into this 6th day of April 2009 by and between M & R LLC, Wayne Ransbottom and Ed Machalk; and First Interstate Bank hereinafter referred to as "Subdivider", and the TOWN OF DAYTON, SHERIDAN COUNTY, WYOMING, a municipal corporation, hereinafter referred to as "Town".

WITNESSETH:

THAT WHEREAS, at a meeting held by the Dayton Planning Committee, on the 10th day of February 2009, the Committee recommended approval of the preliminary plat of the premises known as the Owl's Roost Subdivision, and

WHEREAS, at a regular meeting held on the 18th day of February, 2009 the Town Council approved the preliminary plat of the Owl's Roost Subdivision addition to the Town of Dayton, Wyoming, and

WHEREAS at a regular meeting held on the 6th day of April 2009, the Town Council approved said final plat of the Owl's Roost Subdivision;

NOW 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. Subdivider agrees to submit plans of, and construct at its cost and expense, the following improvements to the premises in accordance with the plans approved by the Town Engineer:

A. STREETS:

1. A street design plan shall be submitted to the Town Engineer for approval. Plans shall show the alignment, elevation, grade and profile of all street sections being constructed within dedicated street rights-of-way. Construction of streets and related improvements shall be in accordance with applicable portions of the current edition of the Wyoming Public Works Standard Specifications.

2. All streets being dedicated shall be built to grade with approved sub-base, base course, surfacing and surface sealing.

a. The depth of sub-base and base shall be approved by the Town Engineer. Design of the depth of sub-base and base shall be by actual field tests as applied to appropriate design criteria. Material tests shall be made and submitted to the Town Engineer by a testing laboratory acceptable to the Town Engineer.

b. The asphaltic surface and surfacing sealing for streets shall be in accordance with the applicable portions of the Wyoming Public Works Standard Specifications and Town of Dayton standards. A specific mix design shall be provided to the Town Engineer for approval prior to beginning work. A seal coat shall be provided when determined necessary in the sole opinion of the Town Engineer.

637274 AGREEMENT
BOOK 504 PAGE 0741
RECORDED 04/09/2009 AT 03:20 PM
AUDREY KOLTISKA, SHERIDAN COUNTY CLERK

3. Concrete curb and gutter shall be placed on both sides of streets being platted and all around blocks being platted.

4. Sidewalks will be required to be built by the owner of the lot during construction of his home. At such time that there are ten (10) lots built upon with sidewalks completed, the developer will construct sidewalks on the remaining vacant lots within ninety (90) days of the completion of sidewalks on the 10th lot. Allowances for winter weather and winter shutdown will be made for this ninety (90) day period. If construction of a new home has begun on one of the vacant lots within this ninety (90) day time period, the developer will not be required to construct sidewalks on that lot. (This paragraph shall not apply to Owl's Roost Subdivision.)

5. Surface drainage plans showing the routing of surface water shall be submitted to the Town Engineer for approval.

6. If Subdivider requests street lighting facilities which would result in greater expense to the Town than those facilities normally installed. Subdivider shall assume, and does hereby agree to pay a greater portion of the cost of installation of such facilities, which in the Town's opinion will offset resultant additional monthly expenses to the Town of operation and maintenance of such facilities.

B. UTILITIES

1. Construction of utilities and related improvements shall be in accordance with applicable portions of the current edition of the Wyoming Public Works Standard Specifications, and the Town municipal code.

2. A water supply distribution plan shall be submitted to the Town Engineer for approval. Plans shall show the size and type of water system lines, depth and location of all lines, valves and appurtenant equipment within dedicated street right-of-way or utility easements. Fire hydrants shall be located in accordance with the Town of Dayton specifications, and shall be shown on the water distribution plan which is to be submitted to the Town Engineer and Fire Chief for approval. Water lines to fire hydrants shall conform to recommendations of the National Board of Fire Underwriters.

3. Sanitary sewers connected to the Town's sewerage system shall have slopes sufficient to provide a sewage velocity therein of not less than two feet (2') per second. A sewer system design plan and profile showing manhole locations, size and location of mains shall be submitted to the Town Engineer for approval.

4. A plan showing underground power, telephone and television wires and conduit, shall be approved by the utility companies and submitted to the Town Engineer for approval.

SURVEY MONUMENTS:

1. Permanent survey monuments shall be set at all boundary corners and boundary deflection points, and ordinarily such monuments shall not be more than 1320 feet nor less than 660 feet apart. Monuments shall be, at a minimum, an iron pipe or ferrous rod monument not less than twenty-four (24) inches in length and not less than five-eighths (5/8) inches in diameter, and shall include a permanently attached identifying marker. In addition, one iron pipe or ferrous rod monument, with aforementioned dimensions, shall be set at all lot corners.

2. Subdivider agrees to notify the Town Engineer prior to work on any of the following items:

- A. Laying of sewer main and service lines;
- B. Backfilling of sewer main and service lines;
- C. Laying of water main and service lines;
- D. Backfilling of water main and service lines.
- E. Placing of concrete for curb, gutter, valley gutters, storm drain structures and manholes;
- F. Placing of sub-base material;
- G. Placing of base course;

- H. Priming of base course;
- I. Placing of A.C. surfacing;
- J. Sealing pavements.

3. It is understood and agreed whenever the Town Engineer, or his duly authorized representative, inspects portions of the work as mentioned hereinbefore and finds the work performed to be a satisfactory condition for inclusion in the completed project, the Town Engineer or his duly authorized representative shall issue a statement of inspection which shall permit the Subdivider to perform the next phase of the construction. Inspection and approval of any item of work shall not forfeit the right of the Town to require the correction of faulty workmanship or materials. Town will inspect completed work within twenty-four (24) hours after proper notification (excluding Saturdays and Sundays).

4. Subdivider agrees to provide for any necessary adjustment or alteration to existing utilities because of the work required by this Agreement, without cost to the Town.

5. Subdivider agrees to furnish to the Town Engineer, upon completion of all the improvements within public ways or rights-of-ways required hereby, a map on which is accurately indicated by lettered dimensions, the location of all manholes, size and depth of all sewer mains, laterals and wyes for the connection of service lines, and size, depth, and location of all water lines, valves, service lines and fire hydrants, the location, grade and specific construction section for all streets.

6. Subdivider agrees that all improvements shall be made in accordance with the general regulations, applicable Standards and Specifications and Ordinances of said Town and that approval of the final plat shall not be made until all street plans and profiles, typical street sections, sewer plans and profiles and all other such plans and specifications as may be required have been submitted to and approved by the Town Engineer.

7. Town shall have the right to require the correction by the Subdivider at any time before release of the security required herein, of any item, or items, to be installed under this Agreement which do not conform to Town standards, specifications or ordinances, except for such item of items as may have been approved by the Town Engineer, whether in the plans or otherwise noted.

8. If the Subdivider fails to complete any of the required improvements that it undertakes, either individually or in cooperation with other abutting property owners, the Town may at its sole option, proceed to complete said improvements at the expense of the Subdivider and as a charge against its security as hereinafter provided.

9. Subdivider agrees to execute a surety and performance bond or a letter of credit to provide such other security for performance as is approved by the Town Attorney; or to deposit in favor of the Town, funds in escrow in the amount of \$31,622.01, which is equal to 100% of the cost of required improvements as estimated by the Town Engineer.

A. The condition of the security is that the Subdivider shall complete the improvements within the period specified in this Agreement. If Subdivider fails to complete the improvements as required in this Agreement, the Town may at its option use the security to pay for completion of required improvements, either using its own forces or independent contractors selected by the Town.

B. If the Town takes action to participate in any improvements required by this Agreement, Subdivider is entitled to make application for the release of the security to the extent of 100% of the cost of the Town's participation as estimated by the Town Engineer.

C. Upon completion of any phase of the required improvements, Subdivider may apply for the release of the security in proportion to the relationship between the completed and approved work and the total of required improvements. Any such release of security is limited to 100% of the Town Engineer's original estimate of the cost of the completed and approved improvements. An application for the release of security upon completion of any improvements shall not be granted unless accompanied

by the written certificate of the Town Engineer, stating that all requirements of the completed portions have been satisfactorily completed in accordance with the terms of this Agreement.

D. The provider of any security for the performance of this Agreement must agree that the security shall remain in effect in the unreleased amount until all improvements required by this Agreement are accepted by the Town. The period within which improvements must be completed may be extended by the Town from time to time, by Town Council action or otherwise, without notice to the provider of the security, and any such extension or extensions shall not relieve the provider of its obligation.

10. Subdivider shall be responsible for the care and maintenance of all improvements until completion and final acceptance by the Town. During moving in, construction, and moving off, Subdivider shall keep the site free and clean from dangerous accumulation of rubbish and debris, and shall maintain sufficient and proper barricades, lights, etc., for the protection of the public. Final acceptance of the improvements will not be made by the Town until the area falling under this Agreement and adjacent property has been cleared of all rubbish, surplus materials and equipment resulting from the Contractor's operations, to the satisfaction of the Town Engineer.

11. This Subdivision Agreement shall inure to the benefit of and be binding upon the successors and assigns of Subdivider. This Agreement shall be recorded in the office of the County Clerk, Sheridan County, Wyoming, and shall constitute a covenant running with all land contained within the final plat of the Owl's Roost Subdivision addition to the Town of Dayton, Wyoming.

12. Unless this Agreement is executed by the Subdivider and returned to the Office of the Town Clerk within 120 days after its approval by the Town Council, approval shall automatically terminate and Subdivider shall not thereafter be entitled to the benefits of this Agreement until it shall again have been approved by the Town Council.

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

Date: Apr. 18, 2009

M&R LLC Subdividers

Wayne Ransbottom

Ed Machalk

First Interstate Bank Donovan McComb

Town of Dayton, Sheridan County, WY

Robert L. Wood

Mayor of Dayton, Wyoming

ATTEST:

Susan McLean
Susan McLean
Clerk/Treasurer

ACKNOWLEDGMENT

STATE OF WYOMING)
) SS
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by Robert L. Wood and Susan McLean, the Mayor and Clerk/Treasurer of the Town of Dayton, this 8 day of April 2009.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires September 5, 2012



ACKNOWLEDGMENT

STATE OF WYOMING)
) SS
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by Wayne Ransbottom this April 9 2009.

Witness my hand and official seal.

[Signature]
Notary Public

My Commission expires Sept 5, 2012



ACKNOWLEDGMENT

STATE OF WYOMING)
) SS
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by Ed Machalk this Sept 5, April 9 2009.

Witness my hand and official seal.

[Signature]
Notary Public

My Commission expires Sept 5, 2012



ACKNOWLEDGMENT

STATE OF WYOMING)
) SS
COUNTY OF SHERIDAN)

The foregoing instrument was acknowledged before me by Donovan McComb this April 8, 2009.

Witness my hand and official seal.

[Signature]
Notary Public

My Commission expires March 13, 2011



746



23-Mar-09
Owl's Roost Subdivision
SHE-08041.01

**Engineer's Opinion of Probable Cost
For
OWL'S ROOST SUBDIVISION
To Provide Sanitary and Water Services
T57N, R86W, Sec. 32**

ALL ITEMS ARE COMPLETE IN PLACE

<u>Water & Sanitary Improvements</u>					
101	1	LS	Mobilization and Insurance	@	\$1,505.81 / LS = \$1,505.81
102	1	LS	Storm Water Management & Erosion Control	@	\$826.20 / LS = \$826.20
103	5	EA	4" PVC Sanitary Sewer Service Pipe	@	\$350.00 / EA = \$1,750.00
104	5	EA	8"x8"x4" PVC Tee	@	\$800.00 / EA = \$4,000.00
105	5	EA	3/4-inch Water Service Pipe	@	\$350.00 / EA = \$1,750.00
106	80	LF	Remove & Replace Concrete Curb & Gutter	@	\$21.50 / LF = \$1,720.00
107	690	SF	4" Deep Patch Asphalt Surface	@	\$28.00 / SF = \$19,320.00
108	150	LF	Sawcut Asphalt	@	\$5.00 / LF = \$750.00

Total Cost of Construction Improvements = \$31,622.01