

July 18, 2014

Ms. Juliet Spalding
City of Billings Planning Department
2825 3rd Avenue North, 4th Floor
Billings, MT 59102

Reference: Modified Subdivision Improvement Agreement
Vintage Estates Subdivision
Project No. 79017.25

Dear Ms. Spalding:

This letter is to explain the reason for revising the Subdivision Improvements Agreement (SIA) recorded with Vintage Estates Subdivision. The traffic study originally submitted with the original SIA was re-examined using the actual traffic data for Grand Avenue. This was done to better determine at what point the Grand Avenue left turn lane would be required for Vintage Estates Subdivision. The modified SIA redefines the timing for when the Grand Avenue left turn lane will be required. The proposed revisions to the SIA would be to include the Grand Avenue turn lane improvements with the Phase IV of the Subdivision, or providing a cash-in-lieu contribution if the turn lane is constructed by a City of Billings project. We have discussed this topic with the City of Billings Traffic Department and they agree with the recommendation to make the Grand Avenue turn lane a requirement of the Phase IV improvements of Vintage Estates Subdivision. Please review the modified SIA and let me know if you have any questions or if you need any additional information, please contact me at 406/656-5255.

Sincerely,



Gary T. Owen, PE
Project Manager

GTO/hg

Enc.

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Billings, Montana 59102
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MODIFICATION OF SUBDIVISION IMPROVEMENTS AGREEMENT VINTAGE ESTATES SUBDIVISION

This Modification of Subdivision Improvements Agreement (this "Modification") is made this _____ day of _____, 20__, by and between **VINTAGE ESTATES, LLC**, whose address for the purpose of this agreement is PO Box 20875, Billings, MT 59104 hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City".

RECITALS

WHEREAS, the plat of Vintage Estates Subdivision (the "Subdivision"), located in the City of Billings, Yellowstone County, Montana, is subject to the terms of that certain Subdivision Improvements Agreement by and between the Subdivider and City recorded April 15, 2005, under Document No. 3329141, in the office of the Yellowstone County Clerk and Recorder (the "Agreement"); and

WHEREAS, the Agreement has been previously modified and recorded April 3, 2013, under Document No. 3662867, in the office of the Yellowstone County Clerk and Recorder; and

WHEREAS, pursuant to Section 5. H of the Agreement, the Agreement may be modified in writing and executed in the same manner as the Agreement.

AGREEMENT

The parties hereby agree as follows:

1. Amendment. Section 3. A. 1. b; Section 4. C; and Section 4. D; of the Agreement shall be deleted and replaced with the following:

3. Subdivider hereby agrees to construct the following improvements as required in conformance with City of Billings Subdivision Regulations:

- A. STREETS

1. *Street Construction*

- b. According to the *Billings Urban Area 2000 Transportation Plan*, Grand Avenue is classified as a principal arterial. The Subdivider and City agree that the development of existing Tracts 1 and 2 of Certificate of Survey No. 1877 would trigger improvements to the south half of the Grand Avenue right-of-way. These improvements include curb and gutter on the south side of the right-of-way adjacent to the property, 5-foot wide boulevard walk along the south side of Grand Avenue adjacent to the Subdivision and paving necessary to construct a westbound left-turn lane at the primary access on Grand Avenue. The improvement plans and specifications will be approved by the City Engineer and be in accordance with City of Billings requirements. Because of the uncertain grade information along Grand Avenue, these improvements may not be constructed at this time but shall, in this event, be secured by a suitable financial guarantee as may be approved by the City of Billings. The financial guarantee shall be submitted at the time of ~~Phase II~~ ~~Phase III~~ Phase IV improvements. The developer shall build a westbound left turn lane as part of ~~Phase I~~ ~~Phase III~~ Phase IV improvements or provide a cash-in-lieu contribution as a part of Phase IV improvements if the westbound left turn lane is constructed by a separate future City of Billing project. In addition, the developer would be responsible for 1.9 percent of the cost to construct a westbound right-turn lane at the Grand Avenue-54th Street West intersection and 1.2 percent of the cost of intersection improvements at the 54th Street West-Rimrock Road intersection. These costs shall be \$3,040.00 and \$1,800.00, respectively, and shall be submitted at the time of Phase II improvements.

4. PHASING

- C. The Phase III improvements shall be constructed utilizing a private contract. The Phase III improvements shall include construction of those portions of Beringer Way, Vineyard Way, Riesling Lane, Beringer Lane, and Vineyard Circle and Cabernet Lane adjacent to Phase III lots, including all necessary utilities within said streets. In addition, a westbound left turn lane shall be installed as part of Phase III improvements. Phase III will also include additional stormwater retention area as defined within an approved stormwater management report.
- D. The Phase IV improvements shall be constructed utilizing a private contract. The Phase IV improvements shall include construction of those portions of Beringer Way, Vineyard Way, Riesling Lane, Beringer Lane, and Vineyard Circle adjacent to Phase IV lots, including all necessary utilities within said streets. In addition, a westbound left-turn lane shall be installed as part of Phase IV improvements, or provide a cash-in-lieu contribution as a part of Phase IV improvements if the westbound left turn lane is constructed by a separate future City of Billing project.
2. Ratification. But for the amendment expressly made in this Modification, Subdivider and City hereby ratify and confirm the provisions of the Agreement.

“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 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 in 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: _____
Residing at: _____
My commission expires: _____

Approved as to Form:

City Attorney