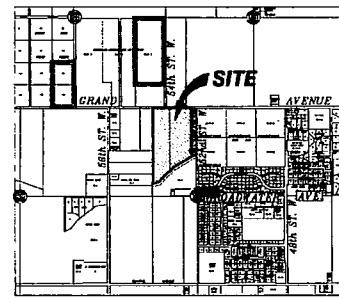


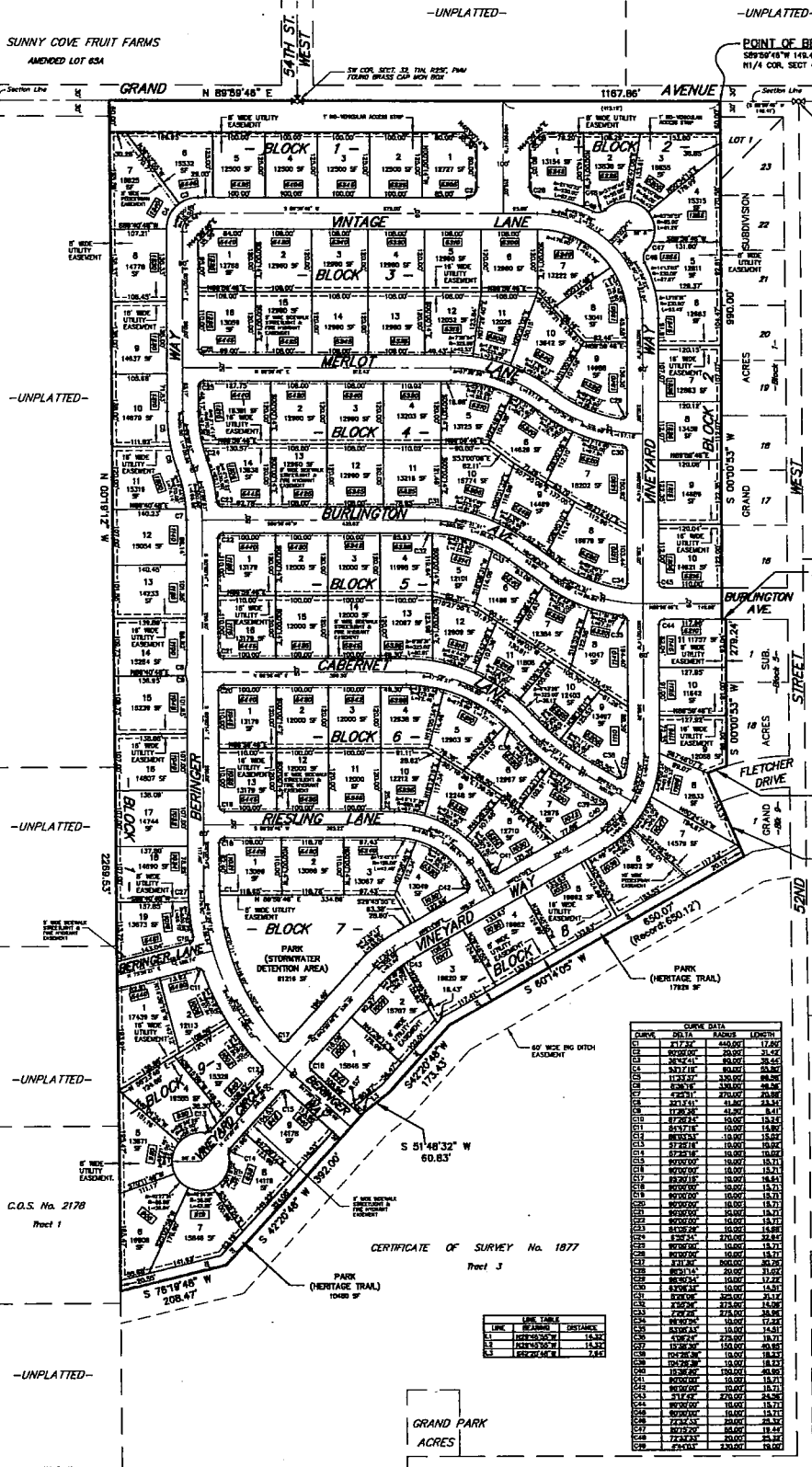
PLAT OF
VINTAGE ESTATES SUBDIVISION
 BEING TRACTS 1 AND 2 OF CERTIFICATE OF SURVEY No. 1877
 SITUATED IN THE NW 1/4 OF SECTION 4 T. 1 S. R. 25 E. P.M.M.
 YELLOWSTONE COUNTY MONTANA

PREPARED FOR : VINTAGE ESTATES LLC
 PREPARED BY : ENGINEERING INC.
 SCALE : 1" = 100'

FEBRUARY, 2005
 BILLINGS MONTANA



VICINITY MAP
 NOT TO SCALE

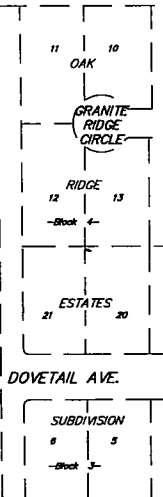


BASIS OF BEARING: CERTIFICATE OF SURVEY No. 1877
 ○ = FOUND SURVEY MONUMENT AS NOTED
 ✕ = SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT"
 [1234] = TYPICAL STREET ADDRESS



Tract 1C
 CERTIFICATE
 OF
 SURVEY
 No. 2990
 Δ=5'32.08"
 R=4000.00'
 L=28.83' (Record:38.64')
 CHORD
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 S 23°22'40" E
 173.49'
 (Record:173.48)

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3329141
 SHEET 1 OF 2

PLAT OF
VINTAGE ESTATES SUBDIVISION
 BEING TRACTS 1 AND 2 OF CERTIFICATE OF SURVEY No. 1877
 SITUATED IN THE NW 1/4 OF SECTION 4 T. 1 S. R. 25 E. P.M.M.
 YELLOWSTONE COUNTY MONTANA

PREPARED FOR : VINTAGE ESTATES LLC
 PREPARED BY : ENGINEERING INC.

FEBRUARY, 2005
 BILLINGS MONTANA

NOTICE OF PLANNING BOARD APPROVAL

STATE OF MONTANA)
) ss
 County of Yellowstone)

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date: 1/10/05
 President: [Signature]
 Executive Secretary: [Signature]



CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that annexed and foregoing plat conforms with Section 76-4-125(2)(d) M.C.A. for the removal of sanitary restrictions above the plat in those a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this 15 day of February, 2005.

By: [Signature]
 City Engineer's Office

ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting and find that said plat conforms with the requirements of the laws of the State of Montana and that said plat conforms to the adjoining sections and plots of the City of Billings already platted or as may be or circumstances will permit.

By: [Signature] 3-15-05
 Examining Land Surveyor Date

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-811(1)(b) M.C.A.

Date: April 14, 2005
 Yellowstone County Treasurer:
 Deputy: [Signature]

CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney's office and is acceptable as to form.

Date: 4-1-05
 Reviewed by: [Signature]

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
) ss
 County of Yellowstone)

We hereby certify that we have examined the annexed and foregoing PLAT VINTAGE ESTATES SUBDIVISION and find that said plat conforms with the requirements of the laws of the State of Montana and the requirements of the Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF we have set our hands and the seal of the CITY OF BILLINGS MONTANA this 11th day of April, 2005.

CITY OF BILLINGS MONTANA
 Mayor: [Signature]
 City Clerk: [Signature]



CERTIFICATE OF DEDICATION

STATE OF MONTANA)
) ss
 County of Yellowstone)

KNOW ALL MEN BY THESE PRESENTS: That VINTAGE ESTATES LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, blocks and streets as shown on the annexed plat, said tract being situated in the NW 1/4 of Section 4, T. 1 S. R. 25 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point which bears S 89°58'48" W a distance of 148.41 feet from the NW 1/4 Corner said Section 4; thence S 00°07'53" W a distance of 890.00 feet; thence N 89°58'48" E a distance of 8.00 feet; thence S 00°07'53" W a distance of 278.24 feet; thence along a non-tangent curve to the right with a radius of 400.00 feet a distance of 28.64 feet (chord bearing S 89°58'48" W chord length 28.63 feet); thence S 23°24'07" E a distance of 173.49; thence S 80°14'05" W a distance of 850.07 feet; thence S 42°27'45" W a distance of 173.45 feet; thence S 51°49'32" W a distance of 861.83 feet; thence S 42°27'45" W a distance of 382.00 feet; thence S 78°18'42" W a distance of 208.47 feet; thence N 00°18'12" W a distance of 2288.33 feet; thence N 89°58'48" E a distance of 1187.86 feet to the point of beginning.

Pursuant to Section 76-3-811(3)(a), M.C.A., the part requirement for this subdivision has been met by a combination of land dedication and cash donation in the amount of \$327,323.22.

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever. Said tract to be known and designated as VINTAGE ESTATES SUBDIVISION, and the lands included in all streets, easements, and parks as shown on the annexed plat are hereby granted and donated to the use of the public forever.

VINTAGE ESTATES, LLC
 By: [Signature]
 Title: Member
 By: [Signature]
 Title: Member

STATE OF MONTANA)
) ss
 County of Yellowstone)

On this 14 day of March, 2005, before me the undersigned Notary Public for the State of Montana, personally appeared [Signatures] and [Signatures] known to me to be the persons who signed the foregoing instrument as [Signatures] and [Signatures] of VINTAGE ESTATES, LLC, and acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

[Signature]
 Notary Public in and for the State of Montana
 Printed Name: [Name]
 Residing at: [Address]
 My commission expires [Date]

CONSENT TO PLATING

The undersigned hereby consents to the plating of the tract of land herein described and included in a mortgage to the undersigned, and hereby releases and conveys from said mortgage all portions of the tract dedicated to the public.

IN WITNESS WHEREOF, the undersigned has caused this consent and release to be executed and acknowledged. This consent is made pursuant to Section 76-3-812(1), M.C.A.

First Interstate Bank
 By: [Signature]
 Title: Vice President

STATE OF MONTANA)
) ss
 County of Yellowstone)

On this 14 day of March, 2005, before me, a Notary Public in and for the State of Montana, personally appeared [Signatures] known to me to be the person who signed the foregoing instrument as [Signatures] of First Interstate Bank, and who acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

[Signature]
 Notary Public in and for the State of Montana
 Printed Name: [Name]
 Residing at: [Address]
 My commission expires [Date]



CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
) ss
 County of Yellowstone)

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of February, 2005, a survey was performed under the supervision of a tract of land to be known as VINTAGE ESTATES SUBDIVISION, in accordance with the request of the owner thereof and in conformity with the Montana Subdivisions and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown thereon and that the gross area is 2,171,603 acres and the net area is 1,532,477 acres.

ENGINEERING, INC.
 By: [Signature]
 Montana Registration No. 8377-S

Subscribed and sworn to before me, a Notary Public in and for the State of Montana, this 14th day of March, 2005.

[Signature]
 Notary Public in and for the State of Montana
 Printed Name: [Name]
 Residing at: [Address]
 My commission expires [Date]



SUBDIVISION IMPROVEMENT AGREEMENT

Document No. 3329142
 Resubmitted as Tracts 6 & 7 - 3329143



Return To:
Vintage Estates, LLC
2680 Overland Avenue, Ste F
Billings, MT 59102
3-91319



3333409
Page: 1 of 6
05/19/2005 10:36A

DECLARATION OF RESTRICTIONS AND COVENANTS

VINTAGE ESTATES SUBDIVISION

This DECLARATION, made this 18 day of May, 2005, by VINTAGE ESTATES, L.L.C. with its principal office in Billings, Yellowstone County, Montana (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, the undersigned is the owner of all of the lots in the Vintage Estates Subdivision, and

WHEREAS, the above- described property is being developed pursuant to that certain Subdivision Improvements Agreement dated April 11, 2005 (The "SLA"), between Declarants and the City of Billings, Montana; and

WHEREAS, the aforesaid owner desires to place building and use restrictions on all of the lots within said Subdivision for the use and benefit of the presents and future owners of any of said lots.

NOW, THEREFORE, in consideration of the premises, the undersigned hereby establishes and declares the following building restrictions and protective covenants which shall be applicable to all the hereinafter described real estate.

I. PERSONS BOUND BY THE COVENANTS AND RESTRICTIONS

All persons, corporations, partnerships, associations, or other entities who shall hereafter acquire any interest in and to the real estate described herein, or any part thereof, shall be taken and held to agree and covenant with the owners of the lots and with their heirs, devisees, trustees, and assigns, to conform to and observe the following Covenants and Restrictions as to the use thereof, and the construction of residences and improvements thereon.

II. REAL ESTATE TO WHICH COVENANTS APPLY

These Covenants and Restrictions shall apply to the following described lots and blocks in the Vintage Estates Subdivision (the "Subdivision"):

Lots 1 through 10, inclusive, Block 1; Lots 1 through 9, inclusive, Block 2; Lots 1 through 16, inclusive, Block 3; and Lots 1 through 7, inclusive, Block 4, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (42 lots total).



III. BUILDING AND USE RESTRICTIONS

Each lot in the above-described Subdivision shall be known and described as a residential lot. None of the said lots may be used or improved for other than private residential purposes. No building or other structures shall be located on any lot less than 20 feet from the front lot line nor shall any building or other structure be located less than 8 feet from the side lot line or less than 20 feet from the rear lot line, but the side lot line shall be considered the outer property line when the structure encompasses more than one lot.

The ground floor or main floor minimum living area of all ranch-style dwellings erected on the lots, exclusive of open porches, breezeways, and garages, shall contain not less than 1,900 square feet (without basement) or 1,650 square feet (with full basement). Two-story dwellings exclusive of open porches, breezeways, and garages, with a minimum of 1,800 square feet of a total finished living area above ground level. Tri-level dwellings shall contain not less than 1,650 square feet of living area on the upper two levels, exclusive of open porches, breezeways, and garage, with a minimum of 2,300 square feet of livable area.

No lot shall be subdivided, resubdivided, split, altered, or reduced in size in any way or manner whatsoever. The foregoing shall not prohibit an adjustment or relocation of common boundary lines between two or more of said lots, provided that:

- (i) No additional tracts or lots are created in connection therewith
- (ii) Each such tract or lot affected by such adjustment or relocation has an area (in square feet) equal to a least 90 percent of the area contained in such tract or lot as set forth and depicted on the original plat of Vintage Estates Subdivision.

Lot aggregations shall also be allowed such that the net result is a reduction in total number of lots, and that no resulting lot of said aggregation has an area less than any of the affected lot areas prior to said aggregation.

No building of any kind shall be moved upon said premises. All buildings or residences erected on said lots shall be new construction. Storage or detached buildings shall be of the same exterior materials and finishes as the residence and shall be no higher than 25 feet or the height of the residence whichever is less. No log homes or homes with log siding shall be allowed. No modular homes shall be allowed. All homes must be constructed with a two stalls or larger garage.

None of the above described property or any buildings erected thereon, shall at any time be used for purposes of any trade or for any commercial, professional or manufacturing business of any description, and no noxious or offensive activities shall be carried on, nor shall anything be done thereon which may become an annoyance or a nuisance to the neighborhood. No hospital, church, duplex, or apartment house shall be erected on said



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05/19/2005 10:36A

lots. This provision shall prohibit the construction of a multi-family dwelling of the condominium type.

Nothing in this paragraph or in the Declaration shall be deemed to preclude the use of a portion of any building or residence erected on a lot as a home office provided that such use complies in all respects with the definitions, restrictions, and requirements for a "home occupation" in a residential district under the City Zoning Ordinance for the City of Billings, Montana, as the same may be amended from time to time.

No trailer, mobile home, motor home, basement, tent, shack, garage, or barn shall at any time be used as a residence, temporarily or permanently, on said lots.

No dogs or pets shall be raised, kept, or cared for on a commercial basis and no swine, poultry, goats, horse, or other livestock (including chickens) shall be permitted upon said premises. Any person who shall keep, feed, harbor, suffer, or allow staying about the premises occupied or controlled by him within the Subdivision, including a dog at large or insecurely confined, could be guilty of maintaining a public nuisance.

No fence, living hedge, or wall of any kind shall be created or placed on the front or side of the front yard setback area of any lot.

No signs, billboards, posters, or advertising devices of any kind or character shall be erected or displayed upon any of the lots with the exception of signs displayed to identify the occupants of a dwelling sale or resale signs, which shall not exceed 30 square feet in area.

Off-street covered parking shall be provided on each lot for all automobiles kept upon the premises. No streets or other open areas shall be used for the purpose of dismantling or repair of vehicles. Only motor-driven vehicles capable of being moved under their own power may be parked upon said streets for a maximum of 30 days. Unregistered or inoperable vehicles must be parked in an enclosed garage.

No trailer, boat, camper, motor home, vehicle, or other equipment generally associated with recreation or leisure time activities shall be situated on or parked on any lots for more than seven (7) consecutive days in any calendar year unless parked on a concrete slab next to the house.

No structure on any lot may be used for dwelling purposes until after its area, as defined by foundations, is completely enclosed according to plan. In addition, no structure on any lot may be used for dwelling purposes until it has been substantially completed, and until sanitary facilities and utilities have been permanently installed.

No excavation, except that necessary for the construction of improvements, shall be permitted on any lot until such time as the actual construction of the house is to begin. However, the owner may test the supply of the water under said land, and may drill and



excavate for those purposes. In addition, the owner is permitted to test the subsoil conditions for planting of trees and shrubs.

All garbage shall be kept within building enclosures or recessed in the ground. The burning of garbage and trash in incinerators or barrels is prohibited.

Any and all utilities which shall serve the said land or lots, as now located or to be located thereon, shall be underground. Said utilities include the distribution system and all service connections. However, temporary above ground construction power services shall be allowed.

All fence products must be vinyl.

Basketball backboards must be supported on a separate post and be of manufactured quality. No homemade backboards will be allowed.

Above ground swimming pools will not be permitted with the exception of children's wading pools.

No permanent clothesline posts will be erected on any of said lots. Any clothesline posts must be of the removable type.

Television or communication towers or structures shall not extend in excess of 3 feet above the building or roofline.

An Architectural Control Committee shall be formed at the time of filing of the Subdivision Plat. Said committee shall be composed of two individuals, one each representing:

- (i) KW Signature Homes, Inc.
- (ii) Dan Lowe Construction, Inc.

In the event of the death or resignation of any member or members of the committee, the remaining committee members shall have full authority to designate a successor or successors. Members of the committee shall not be entitled to any compensation for services performed pursuant to the duties outlined herein.

All construction plans for structures to be erected within the Subdivision shall be submitted by the lot owner or their representative to the Architectural Control Committee for review and approval. Said approval relates to the conformance of said plans to the intent of these restrictions.

The Architectural Control Committees approval or disapproval, as required herein, shall be in writing. In the event the Committee fails to approve or disapprove within 30 days after plans and specifications have been submitted in writing, or in any event, if no suite to enjoin the construction has been commenced prior to the completion thereof,



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Page: 5 of 6
05/19/2005 10:36A

approval will not be required and the related requirements outlined herein shall be deemed to have been fully complied with.

Approval or disapproval of plans and specifications shall be by simple majority vote of the Architectural Control Committee.

IV. DURATION

These Covenants and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 30 years from the date the Covenants and restrictions are recorded, after which time said Covenants and Restrictions shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the owners of the lots has been recorded agreeing to change said Covenants and Restrictions in whole or in part. Invalidation of any of these Covenants by judgments or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

V. RIGHT TO ENFORCE

The Restrictions and Covenants herein shall run with the land and bind present owners, their heirs, devisees, trustees, and assigns. Any and all other parties claiming by, through, or under them, shall be taken to hold, agree and covenant with the owners of said lots, their heirs, devisees, trustees and assigns, and with each of the owners of said lots, to conform to and observe said Covenants and Restrictions as to the use of said lots and the construction of improvements thereon. However, no Covenants or Restrictions herein set forth shall be personally binding upon any person or persons, corporation, partnership, association, or other entity, except in respect to breach which is committed during its, his, or their seizing of, or title to said land. The owner or owners of any of the above lands shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of, or to enforce the observance of the Covenants and Restrictions above set forth, in addition to ordinary legal action for damages. The failure of the present owners, or the owner or owners of any lot, to enforce the Covenants and Restrictions herein set forth at the time of any violation thereof, shall be in no event deemed as a waiver to the right to do so. In the event of any legal action to enforce this Declaration or to prevent a breach of the terms and conditions hereof, the prevailing party in such action shall be entitled to recover costs and fees, including reasonable attorney's fees.



VI. AMENDMENTS

The above Covenants and Restrictions may be altered or amended at any time upon the placing of record at the office of the County Clerk and Recorder of Yellowstone County, Montana, of an instrument showing the written consent thereto by the owners of at least 60 percent of the above-described lots. Notwithstanding the foregoing sentence, so long as Declarant owns at least 20 percent of the lots in Vintage Estates Subdivision then the consent of Declarant shall be required before these Covenants and Restrictions may be altered or amended, but such consent may be considered in the calculation and determination of the said 60 percent minimum consent requirement.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

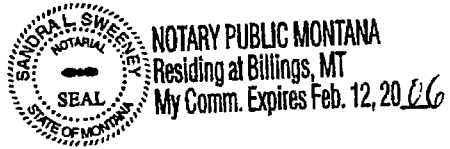
VINTAGE ESTATES, L.L.C., a Montana Limited Liability Corporation

By: Richard A. Down
Its: PRESIDENT

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this 18 day of May, 2005, before me, a Notary Public for the State of Montana, personally appeared Richard A. Down, known to me to be the President of VINTAGE ESTATES LLC., who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Sandra L. Sweeney
Notary Public for the State of Montana
Printed Name: Sandra L. Sweeney
Residing in Billings, Montana
My Commission expires: 2-12-2006





SUBDIVISION IMPROVEMENTS AGREEMENT

PLAT OF VINTAGE ESTATES SUBDIVISION

THIS AGREEMENT is made and entered into this 11th day of April, 2005, by and between **VINTAGE ESTATES, LLC**, whose address for the purpose of this agreement is 2680 Overland Avenue Suite F, Billings, MT 59102 hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH

WHEREAS, the plat of Vintage Estates Subdivision (the "Subdivision"), located in the City of Billings, Yellowstone County, Montana, was submitted to the City-County Planning Department which recommended its approval to the Yellowstone County Board of Planning; and

WHEREAS, at a meeting held by the Yellowstone County Board of Planning on the 11th day of JANUARY, 2005, the Board recommended for approval, subject to certain conditions, an area known as Vintage Estates Subdivision; and

WHEREAS, at a regular meeting held on the 24th day of JANUARY, 2005, the City Council approved, subject to certain conditions of the Board and the City Council, a preliminary plat of Vintage Estates Subdivision; and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to approval of the final plat.

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:

1. The provisions of this Agreement shall be effective and applicable to Vintage Estates Subdivision, upon filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana.

Subdivider has requested, and the City grants, the following variances by the City Council from the strict interpretation of the City Subdivision Regulations as listed in Billings, Montana, City Code, BMCC.

**BMCC CODE SECTION**

23-601(k) to allow a 50-foot right-of-way width in lieu of a 60-foot right-of-way width for residential streets.

23-605(d) to allow double frontage lots along Grand Avenue.

2. **General Conditions that Run with the Land**

- A. Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.
- B. Lot owners should be aware that this subdivision is being built adjacent to open agricultural areas and contains wildlife migratory routes. Consequently, owners are advised that wildlife indigenous to the praries is 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 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 investigation prior to construction. Assessment and mitigation, if any, of these conditions shall be the responsibility of the lot owner.
- 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 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. Due to the potential flood waters from the Cove Creek Drainage, the main finish floor of each house is recommended to be a minimum of 18 inches above the top of curb elevation in the front of each lot.
- G. Lot owners should be aware that they will be required to participate in park maintenance districts for Vintage Estates Subdivision and for Cottonwood Park.
3. Subdivider hereby agrees to construct the following improvements as required in conformance with City of Billings Subdivision Regulations:

A. STREETS

1. *Street Construction*

All internal access roads and site improvements within the Subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, the Uniform Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.

Subdivider and City agree that the required street improvements are as follows:

- a. Vintage Lane, Beringer Way, Vineyard Way, Merlot Lane, Burlington Avenue, Cabernet Lane, Beringer Lane, Riebling Lane and Vineyard Circle within the Subdivision shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. The design section of said streets shall be submitted to, and approved by, the City Engineer.
- 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 improvements. The developer shall build a westbound left turn lane as part of Phase I improvements. In addition, the developer would be responsible for 1.9% of the cost to construct a westbound right-turn lane at the Grand Avenue-54th Street West intersection and 1.2% of the cost of intersection improvements at the 54th Street West-Rimrock Road intersection. These costs shall be \$3040.00 and \$1800.00, respectively, and shall be submitted at the time of Phase II improvements.

- c. With the development of existing Tracts 1 and 2 of Certificate of Survey No. 1877, the Subdivider and City agree that the irrigation ditch currently running along the north side of the property shall be perpetuated. Any improvements to this ditch shall be permitted and approved by the ditch owner.
- d. In the event that Tract 3 of Certificate of Survey No. 1877 is subdivided or improved in the future, a connection utilizing arch culvert across the Big Ditch will be constructed, with the developer and the owning entity of Tract 3 of Certificate of Survey No. 1877 each responsible for half of the total cost of materials and construction. Any connection across the ditch would require permission from the Big Ditch. A cash-in-lieu contribution for this improvement would be made by the developer at the time of Phase III improvements. At time of construction, a cost share agreement would be negotiated between the two parties and be would approved by the City of Billings.
- e. Subdivider and City agree that 52nd Street West shall be constructed to a 20-ft wide gravel surface. Construction shall take place as part of Phase II improvements.

2. *Street Section Design*

The design thickness of street improvements shall be determined from actual field tests conducted by a responsible testing



laboratory. The design section shall be submitted to, reviewed by, and approved by the City Engineer.

3. *Street Name/Traffic Control Signs*

Street name and traffic control signs shall be furnished and installed as required by the City Engineer.

4. *Storm Drainage*

Storm drainage shall be provided by a combination of surface drainage and curb and gutters. Stormwater detention shall be provided near the south end of the property. The stormwater storage swale will be provided with an overflow pipe structure that would pipe excess water to the Big Ditch. Written permission from the Big Ditch must be obtained by the developer before discharging stormwater into the ditch. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and shall be in accordance with the recommendations of the approved storm drain study to be submitted to the Engineering Department by the Subdivider.

- a. The *Billings West End Storm Drain Master Plan* recommends the extension of a 48-inch diameter trunk storm sewer main west in Grand Avenue adjacent to the property. The subdivider will construct their portion of these trunk mains or pay cash to the City for its portion.

A cost share for the regional component of this trunk storm drain will be provided by the City of Billings. The details of this cost share shall be negotiated with the City of Billings Public Works Department. Any such cost share will require specific budgetary authority from the City Council, and nothing herein shall be deemed to constitute or imply such funding approval by the City Council.

No storm drainage improvements on Grand Avenue will be triggered until further development has taken place in the general area.

5. *Sidewalks*



Sidewalks will be 5-foot wide boulevard walk on Grand Avenue and shall be installed at the time of the street improvements. The remainder of the sidewalks shall be 4-foot boulevard walk and shall be installed at the time of lot development by the lot owner. The developer agrees that prior to construction on Phase II, sidewalk must be installed on at least one side of the street connecting Phase II lots to Grand Avenue.

6. *Heritage Trail*

The Heritage Trail Non-Motorized Trail System Plan recommends a multi-use trail along the southern boundary of the subdivision. Vintage Estates Subdivision proposes that the Heritage Trail be located along the north side of the Big Ditch, adjacent to the Big Ditch Easement.

A 20-ft right-of-way shall be provided by the developer for the multi-use trail. The trail shall connect to the pedestrian network of Vintage Estates Subdivision. The Heritage Trail shall be constructed during Phase III development of Vintage Estates Subdivision.

7. *Traffic Control Devices*

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 and street improvements will be as outlined in the approved traffic accessibility study provided to the City by the Subdivider. The traffic circles shall be approximately 10-ft inside diameter and shall contain landscaping within the island. Maintenance of said landscaping shall be part of the Vintage Estates Park Maintenance District. The traffic accessibility study will be subject to review and approval by the City Traffic Engineer.

Traffic circles shall be installed by the Subdivider at the Vineyard Way-Burlington Avenue and Beringer Way-Cabernet Lane intersections. Design of said traffic circles shall be approved by the City Traffic Engineer.



Any change of anticipated use of any lot from that estimated in the original traffic accessibility study will require an update of the traffic analysis and recommendations.

8. *Access*

Access to the Subdivision will be permitted from Grand Avenue. All right-of-way accesses and breaks in the 1-foot no access strip shall be as shown on the plat. In addition, a 1-foot no access strip will extend at along Vintage Lane to Beringer Way and Vineyard Way. Emergency access to the subdivision will be provided via Burlington Avenue. In addition, an access will be provided to the west for connection to future development.

Emergency access will be provided for the subdivision on Burlington Avenue from 52nd Street West. Gates or other approved barricades shall be required at the end of Burlington Avenue to restrict through traffic. A sign shall be fixed to each gate in a conspicuous manner. The sign shall read "EMERGENCY ACCESS ONLY" using red letters not less than 2 inches wide and 6 inches high on a white reflective background.

9. *Street Lighting*

Construction or installation of street lights shall not be required at this time; provided however, that in the private contract for the public improvements required hereunder, the Subdivider shall include conduits at street crossings at the time of sidewalk construction to accommodate the future wiring of street lights. If street lights are installed, a street light maintenance district will be formed for the entire Subdivision to accommodate maintenance of street lights. Street lights and the associated maintenance district shall be included in the waiver of right to protest.

B. UTILITIES

1. *Water*

Currently, a 20-inch City of Billings water main runs adjacent to the subdivision in Grand Avenue. It is anticipated an 8-inch water main would tie into the 20-inch water main at the Grand Avenue-Vintage Lane intersection. Provisions shall be made for the



looping of the interior Vintage Estates Subdivision water mains to connect to the main in Grand Avenue. Interior mains will be 8-inch along Vintage Lane, Beringer Way, Vineyard Way, Merlot Lane, Burlington Avenue, Cabernet Lane, Beringer Lane, Riebling Lane and Vineyard Circle.

2. *Sanitary Sewer*

Currently, a 27-inch sanitary sewer main runs adjacent to the subdivision in Grand Avenue. It is anticipated the Subdivider will extend 8" lateral sanitary sewer lines from the existing main in Grand Avenue along Vintage Lane, Beringer Way, Vineyard Way, Merlot Lane, Burlington Avenue, Cabernet Lane, Beringer Lane, Riebling Lane and Vineyard Circle.

3. *Standards and Participation*

The water and sanitary sewer lines shall be sized and installed in conformance with City of Billings design standards and specifications and the rules and regulations of the City of Billings. The participation by the City in the construction of any water mains/sanitary sewers requires that the cost of construction be placed in the approved Capital Improvements Project List and as such, its timing and participation cannot be guaranteed.

4. *Water and Sanitary Sewer Extension and Fees*

The Subdivision Improvements Agreement does not constitute an approval of extension or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water and sanitary sewer to the Public Works Department. Water and Wastewater Interior and Local Mains Construction Fees in effect are due at the time of submittal of the extension applications. The extension/connection to water and sanitary sewer is subject to the approval of the applications and the conditions of approval. Applications will need to be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The property is subject to water and wastewater system development fees in effect at the time of obtaining said services.



All fees paid to the Public Works Department are subject to the franchise fee in effect at the time of payment.

5. *Power, Telephone, Gas, and Cable Television*

All power, telephone, gas, and cable television lines within the public right-of-way shall be installed underground prior to street paving. Appropriate utility easements will be provided across the Subdivision lots for service to the proposed development.

6. *Irrigation*

A lateral irrigation supply and waste ditch runs along the north edge of the property. The subdivider agrees that this ditch shall be perpetuated. All irrigation rights associated with this property shall be terminated and no longer transferred to any properties undergoing residential development.

C. GEOTECHNICAL ANALYSIS

A preliminary geotechnical analysis will be performed for this property. This preliminary investigation will not include testing for foundation design and settlement analysis.

According to the International Building Code, most of the soils classified on this site would require foundation drainage. This issue would be addressed at the time the foundation elevation is determined for each specific site. Because of these potential soil and foundation issues, a design level geotechnical investigation will be completed by the subdivider prior to constructing structures on this site.

D. PARKS AND OPEN SPACE

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Paragraph (1) calls for park area to be 11 percent of the land proposed to be subdivided into parcels of one-half acre or smaller. A portion of this 11% will be provided as an on-site park. A Park Maintenance District will be set up for this portion. As part of Phase I improvements, 1.290 acres of parkland will be dedicated. As part of Phase II improvements, .768 acres of parkland will be dedicated and a cash-in-lieu payment for .522 acres for the development of Cottonwood Park will be contributed. As part of Phase III improvements, a cash-in-lieu payment for 1.290 acres will be contributed for the development of Cottonwood Park. Park development will occur as part of Phase III improvements. The cash-in-lieu contribution amount will be determined



by a vacant land appraisal or a recent conveyance document establishing the value of the unsubdivided land. This land value will be determined at the time of Phase II and Phase III development. Along with this, the subdivider agrees that it will be part of the Park Maintenance District associated with Cottonwood Park.

E. SURVEY MONUMENTS

Survey monuments shall be installed as required by City ordinance and the rules and regulations of the State of Montana.

4. PHASING

The Subdivider does not desire to commence development of all lots within the Subdivision, but does desire to file the approved final plat of Vintage Estates Subdivision and to sell and convey lots in said Subdivision in phases. In accordance with the foregoing, the Subdivider and the City agree as follows:

- A. The Phase I improvements shall be constructed utilizing a private contract. The Phase I improvements shall include construction of those portions of Vintage Lane, Beringer Way, Vineyard Way and Merlot Lane adjacent to the Phase I lots, including all necessary utilities within said streets. In addition, a westbound left-turn lane shall be installed as part of Phase I improvements. Phase I construction will also include construction of a temporary stormwater retention area as defined within an approved stormwater management report.
- B. The Phase II improvements shall be constructed utilizing a private contract. The Phase II improvements shall include construction of those portions of Beringer Way, Vineyard Way, Burlington Avenue and Cabernet Lane adjacent to the Phase II lots, including all necessary utilities within said streets. Phase II will also include additional stormwater retention area as defined within an approved stormwater management report.
- 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 adjacent to Phase III lots, including all necessary utilities within said streets.
- D. The Subdivider and the City agree that the final plat may be filed, but the Subdivider will construct or provide monetary guarantee as outlined herein for the Phase I improvements before the building permits will be



issued for any of the Phase I lots in the Subdivision. The Phase I improvements referred to herein shall be installed using a private contract which shall be secured by a letter of credit or a letter of commitment to lend funds from a commercial lender. The letter of credit or letter of commitment to lend funds shall be in place prior to recording the final plat or commencement of the private contract. As used herein, the lots to be served by Phase I are more particularly described as follows:

Phase I

Lots 1 through 10, inclusive, Block 1; Lots 1 through 9, inclusive, Block 2; Lots 1 through 16, inclusive, Block 3; and Lots 1 through 7, inclusive, Block 4, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the clerk and Recorder of Yellowstone County, Montana (42 lots total).

- E. The Subdivider will install the Phase II improvements in the future. The subdivider agrees not to sell or convey any lots in the subdivision to be served by the Phase II improvements, and the Subdivider further acknowledges that no building permits for lots within Phase II shall be issued until a private contract has been executed for the construction and installation of the public improvements to serve said lots, and to provide necessary access and traffic circulation for the traffic generated by those lots. As used herein, the lots to be served by the said Phase II are more particularly described as follows:

Phase II

Lots 11 through 15, inclusive, Block 1; Lot 10, Block 2; Lots 8 through 14, inclusive, Block 4; Lots 1 through 16, inclusive, Block 5; Lots 1 through 7, inclusive, Block 6; and lots 6 through 11, inclusive, Block 8, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (42 lots total).

- F. The subdivider will install the Phase III improvements in the future. The subdivider agrees not to sell or convey any lots in the Subdivision to be served by the Phase III improvements, and the Subdivider further acknowledges that no building permits for lots within Phase III shall be issued until a private contract has been executed and necessary funding guarantees have been provided for the construction and installation of the public improvements to



serve said lots, and to provide necessary access and traffic circulation for the traffic generated by those lots. As used herein, the lots to be served by the said Phase III are described as follows:

Phase III

Lots 16 through 19, inclusive, Block 1; Lots 8 through 13, inclusive, Block 6; Lots 1 through 4, inclusive, Block 7; Lots 1 through 5, inclusive, Block 8; and lots 1 through 9, inclusive, Block 9, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (28 lots total).

Pursuant to the foregoing Agreement, the Subdivider shall execute and record a Declaration of Restriction on Transfers and Conveyances for said Phase II and Phase III lots (attached hereto) to be recorded concurrently with the recording of this Agreement. Said Declaration notifies all third parties that said lots may not be legally sold, conveyed, or transferred until a release executed by the City of Billings and substantially in the form of Exhibit A attached hereto has been recorded in the office of the Clerk and Recorder of Yellowstone County, Montana. No lots shall be released until a certificate substantially in the form of Exhibit B attached hereto has been executed by the Department of Public Works stating that the above conditions have been met, which certificate must accompany any request for a release. By the acceptance and recording of the Agreement, the City does hereby authorize the Department of Public Works, Mayor, and City Clerk of the City to review any request for release and to execute such certificates and releases as may be necessary to evidence a release from the restriction against sale, conveyance, and transfer of lots in the Subdivision.

5. LEGAL PROVISIONS

A. Subdivider agrees to provide for any necessary adjustments or alterations to existing improvements which are necessary and limited to those improvements required to make the improvements contemplated by this Agreement without cost to the City of Billings. The water and sewer mains, storm drains, and streets shall be sized, designed, and installed in conformance with City of Billings design standards and with the provisions of the Montana Public Works Standard Specifications.



B. Subdivider agrees to notify the City Engineer of the date and hour construction is anticipated to begin on the required improvements and to keep the City Engineer informed of the progress of construction. If the construction is stopped for any other reason than overnight, holidays, and weekends, the Subdivider agrees to notify the City Engineer of stoppage. Further, Subdivider agrees to notify the City Engineer not less than four (4) hours before construction is scheduled to resume.

C. Except as otherwise provided, Subdivider shall install and construct said required improvements utilizing the mechanics of a special improvement district or private contracts 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 special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

D. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by the City of Billings by a requirement that the contractor must guarantee improvements for a period of one year after final acceptance by the City of Billings.

E. The owners of the properties involved in this proposed Subdivision by signature subscribed hereinbelow agree, consent, and shall be bound by the provisions of this Agreement.

F. The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.

G. 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 the 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.

H. Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner at this original document and shall, after execution, become part of this Agreement.

I. Subdivider shall comply with all 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.



Yellowstone County

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Shepherd
Residing in *Billings*, Montana
My commission expires: *9-16-2006*

Approved as to Form:

Brent Brooks
City Attorney



EXHIBIT A

RELEASE

PLAT OF VINTAGE ESTATES SUBDIVISION

THIS RELEASE is made this ____ day of _____, 2004, by the undersigned, **VINTAGE ESTATES, LLC.**, and **THE CITY OF BILLINGS**, a municipal corporation.

WHEREAS, the hereinafter described real property is subject to that certain Declaration of Restriction on Transfers and Conveyances (the "Declaration") dated _____, 2004, and recorded _____, 2004, under Document No. _____, in the office of the Yellowstone County Clerk and Recorder; and

WHEREAS, said real property is also subject to the terms of that certain Subdivision Improvements Agreement by and between the undersigned dated _____, 2004, and recorded _____, 2004, under Document No. _____, in the office of the Yellowstone County Clerk and Recorder; and

WHEREAS, in accordance with the provisions of said Subdivision Improvements Agreement and the Declaration, a private contract has been executed and necessary funding guarantees have been provided, as the case may be, providing for the installation and construction of all required public improvements to serve the hereinafter described real property.

NOW, THEREFORE, in consideration of these premises, the undersigned do hereby declare and agree that all restrictions and conditions contained in said Declaration are hereby released and discharged, and shall be of no further force and effect, as the same relate to the following real property situated in Yellowstone County, Montana:

Lot(s) _____, Block _____, in Vintage Estates Subdivision in the City of Billings, Montana, according to the official plat on file and of record in the office of the Clerk and Recorder of said County, under Document No. _____.

EXHIBIT A



IN WITNESS WHEREOF, the parties have executed this release as of the day and year first above written.

VINTAGE ESTATES, LLC.

STATE OF MONTANA)
: ss.
County of Yellowstone)

On this ___ day of _____, 2004, before me, a Notary Public in and for the State of Montana, personally appeared a representative of Vintage Estates, LLC., known to me to be the person who signed the foregoing instrument and who acknowledged to me that he executed the same. Witness my hand and seal the day and year hereinabove written.

Notary Public in and for the State of Montana
Printed name: _____
Residing at: _____
My commission expires: _____

CITY OF BILLINGS, MONTANA

By _____
Mayor

By _____
City Clerk

STATE OF MONTANA)
: ss
County of Yellowstone)

On this _____ day of _____, 2004, 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, and acknowledged to me that they executed the same on behalf of the City of Billings.

EXHIBIT A

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____



EXHIBIT B

CERTIFICATE

PLAT OF VINTAGE ESTATES SUBDIVISION

The undersigned, the duly authorized representative of the Department of Public Works, City of Billings, Montana, does hereby certify that a private contract has been executed and necessary funding guarantees have been provided to construct and install the public improvements required to serve the following described property in Yellowstone County, Montana:

Lot(s) _____, Block _____, in Vintage Estates Subdivision, in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. _____.

This certificate is being executed to show compliance with the terms of that certain Subdivision Improvements Agreement dated this ___ day of _____, 2004, by and between Vintage Estates, LLC., and the City of Billings, and that certain Declaration of Restriction on Transfers and Conveyances, dated this ___ day of _____, 2004, covering Vintage Estates Subdivision, and to provide the basis for the execution and recording of a release from the terms of said Declaration pursuant to the terms of said Agreements.

Dated this ___ day of _____, 2004.

DEPARTMENT OF PUBLIC WORKS
CITY OF BILLINGS, MONTANA

By _____

Title _____

EXHIBIT B



WAIVER OF RIGHTS TO PROTEST

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and sole owner of the hereinafter described property, does hereby waive the right to protest the creation of one or more concurrent or sequential special improvement districts for the following purpose or purposes:

Construction of streets, curbs, gutter, survey monuments, street name signs, traffic control devices, sanitary sewer lines, water lines, street lights, street light energy, street light maintenance, sidewalks, parks, park maintenance, storm drain system, either within or outside the area, other improvements incidents to the above which the City of Billings may require within and for the benefit of Vintage Estates Subdivision.

The Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned is a party and shall run with the land and shall be binding upon the undersigned, its successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows, to-wit:
All of the Vintage Estates Subdivision, according to the plat thereof on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana.

WAIVER signed and dated this 14th day of March, ~~2004~~ 2005

VINTAGE ESTATES, LLC.

By: Richard A. Doen

Its: Member

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this 14th day of March, ~~2004~~ 2005, before me, a Notary Public for the State of Montana, personally appeared Richard A. Doen, known to me to be the MEMBER of VINTAGE ESTATES, LLC., who executed the foregoing instrument and acknowledged to me that he/she executed the same.



Karen Howe
Notary Public for the State of Montana
Printed Name: Karen Howe
Residing in Billings, Montana
My Commission expires: 4/12/2007

Eng. Inc.



**DECLARATION OF RESTRICTION ON TRANSFERS
AND CONVEYANCES**
PLAT OF VINTAGE ESTATES SUBDIVISION

THIS DECLARATION is made this 14TH day of APRIL, 2005, by **VINTAGE ESTATES, LLC.**, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of all of the lots in Vintage Estates Subdivision situated in the NW¼ of Section 4, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana, hereinafter referred to as the "Subdivision;" and

WHEREAS, in connection with the filing of the plat for the Subdivision, the Declarant executed that certain Subdivision Improvements Agreement dated 11TH of APRIL, 2005, to the City of Billings, which Agreement contains restrictions against the sale, conveyance, or transfer of certain lots in the Subdivision until such time as a private contract has been executed providing for the installation and construction of required public improvements; and

WHEREAS, in order to more fully evidence the restriction against sale, conveyance, or transfer, and to give third parties notice of such restrictions, the Declarant desires to execute and record this Declaration of Restrictions.

NOW, THEREFORE, in consideration of these premises, the Declarant, for itself and its successors and assigns, does hereby declare:

1. Except as hereinafter provided, the Declarant does hereby agree and declare that the following described lots shall not be sold, transferred, or conveyed to any third party unless and until a release has been executed and recorded in accordance with the provisions hereinafter appearing:

Phase II

Lots 11 through 15, inclusive, Block 1; Lot 10, Block 2; Lots 8 through 14, inclusive, Block 4; Lots 1 through 16, inclusive, Block 5; Lots 1 through 7, inclusive, Block 6; and Lots 6 through 11, inclusive, Block 8 all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (42 lots total).



Phase III

Lots 16 through 29, inclusive, Block 1; Lots 8 through 13, inclusive, Block 6; Lots 1 through 4, inclusive, Block 7; Lots 1 through 5, inclusive, Block 8, and Lots 1 through 9, inclusive, Block 9, all in Vintage Estates Subdivision in the City of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (28 lots total).

2. It is the express purpose and intent of this Declaration to restrict or preclude sale, transfer, or conveyance of the above-described lots until such time as a private contract has been executed and necessary funding guarantees provided for the construction and installation of those public improvements required under the above-described Subdivision Improvements Agreement which by reference thereto is hereby incorporated herein as though fully set forth at this point. It is anticipated, however, that the Declarant will develop Vintage Estates Subdivision in distinct phases, upon providing for the installation and construction of the public improvements necessary to serve the particular phase. In that regard, a release of some but not all of the above-described lots may be executed and recorded from time to time, in accordance with the provisions hereinafter appearing, and upon the recording of said release, the covenants and restrictions contained herein with respect to the lots described in said release shall be deemed canceled and terminated, and of no further force and effect.
3. Upon compliance with the requirements for a private contract specified above, a release for the lot or lots affected thereby shall be executed and recorded by the City of Billings, pursuant to the provisions contained in the said Subdivision Improvements Agreement. The execution and recording of said release shall be deemed conclusive evidence to all third parties purchasing or acquiring any lot described therein that the restriction against sale, conveyance, or transfer of said lot has been removed.
4. UNTIL SUCH RELEASE IS EXECUTED AND RECORDED, THIS DECLARATION SHALL SERVE AS NOTICE TO ALL THIRD PARTIES PURCHASING OR ACQUIRING ANY OF THE ABOVE-DESCRIBED LOTS OF THE EXPRESS RESTRICTIONS AGAINST ANY SUCH SALE, CONVEYANCE, OR TRANSFER, AND OF THE TERMS AND CONDITIONS OF THE SAID SUBDIVISION IMPROVEMENTS AGREEMENT, AND SHALL FURTHER SERVE AS NOTICE THAT THE CITY OF BILLINGS



MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED IN THE SUBDIVISION IMPROVEMENTS AGREEMENT SHOULD THE TERMS OF THIS DECLARATION BE VIOLATED.

- 5. The terms, conditions, and restrictions contained in this Declaration shall not preclude or restrict the ability of the Declarant to (a) sell, convey, and transfer all of the above-described lots, or those lots remaining subject to the terms of this Declaration, as one unit or group, to a third party, parties or entities; provided, however, that such sale shall be subject to this Declaration and the lots shall continue to be subject to the restrictions herein provided against the sale, transfer, and conveyance until a release has been executed and recorded; or (b) enter into sale and purchase agreements for individual lots; provided, however, that the deeds or other conveyance documents shall not be delivered to the prospective buyer nor shall the closing under any such sale and purchase agreements occur until such time as a release covering the affected lot has been executed and recorded.
- 6. The terms and conditions of this Declaration shall run with the land and shall be binding upon and shall inure to the benefit of the Declarant, the City of Billings, and their successors and assigns.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the day and year first above written.

VINTAGE ESTATES, LLC.

Richard A. Dorn MEMBER

STATE OF MONTANA)
 : ss.
County of Yellowstone)

On this 14 day of April, 2005, before me, a Notary Public in and for the State of Montana, personally appeared a representative of Vintage Estates, LLC., known to me to be the person who signed the foregoing instrument and who acknowledged to me that he executed the same. Witness my hand and seal the day and year hereinabove written.



Becky J. Young
Notary Public in and for the State of Montana
Printed name: Becky J. Young
Residing at: Billings, MT 59102
My commission expires April 30, 2008