

Return after recording to:
City of Miles City
PO Box 910
17 S 8th Street
Miles City, MT 59301

FOURTH AMENDED SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of April, 2026 by and between the City Council of the City of Miles City, Montana, Party of the First Part and hereinafter referred to as the City, and L & L Development LLC, a Limited Liability Company, located at 2323 South Haynes Avenue, Miles City, MT 59301, Party of the Second Part and hereinafter referred to as the Subdivider.

WHEREAS, the Subdivider is the Subdivider of a platted subdivision known as City View Subdivision, recorded in Envelope 592A, Document No. 179435, records of the Custer County Clerk & Recorder's Office; and

WHEREAS, the City Council of the City of Miles City and the Subdivider entered into a Subdivision Improvements Agreement to allow the Subdivider to bond for certain improvements on February 9, 2022; and

WHEREAS, the Subdivision Improvements Agreement dated February 9, 2022 gave a period of one year and a deadline of February 9, 2023 for the required improvements to be completed; and

WHEREAS, the City Council and Subdivider entered into an Amended Subdivision Improvements Agreement in February 2023, which gave a deadline of December 31, 2023 for the required improvements to be completed; said agreement was recorded as Document No. 181829, records of the Custer County Clerk & Recorder's Office; and

WHEREAS, the City Council and Subdivider entered into a Second Amended Subdivision Improvements Agreement in February 2024, which gave a new deadline of November 1, 2024 for the required improvements to be completed; and

WHEREAS, the City Council and Subdivider entered into a Third Amended Subdivision Improvements Agreement in January 2025, which gave a new deadline of July 1, 2025 for the required improvements to be completed; said agreement was recorded as Document No. 185458, records of the Custer County Clerk & Recorder's Office; and

WHEREAS, the improvements specified in the Third Amended Subdivision Improvements Agreement were secured by an Letter of Credit in the amount of \$605,866.00, and on August 18, 2025, the City informed the Subdivider that the Subdivider had failed to comply with the terms of the Third Amended Subdivision Improvements Agreement and was therefore drafting the entire funds of the Letter of Credit pursuant to the Third Amended Subdivision Improvements Agreement; and

WHEREAS, the City has been holding 100% of the funds from the Letter of Credit until such time as the Subdivider complies with the terms of the Third Amended Subdivision Improvements Agreement or the City completes and provides for installation and certifications of the required improvements according to the Third Amended Subdivision Improvements Agreement; and

WHEREAS, the Subdivider has since completed and certified some of the improvements secured by the Third Amended Subdivision Improvements Agreement and funds being held by the City; and

WHEREAS, the Subdivider's engineer has since certified some of the improvements secured by the Third Amended Subdivision Improvements Agreement and funds being held by the City; and

WHEREAS, the Subdivider has requested a variance to the Miles City Subdivision Regulations, amendments to the conditions of approval for the City View Subdivision, and a partial release of funds for the improvements and associated certifications of improvements secured by the Third Amended Subdivision Improvements Agreement and funds being held by the City; and

WHEREAS, the City Council has granted the Subdivider a variance to the Miles City Subdivision Regulations, amendments to the conditions of approval for the City View Subdivision, and accepted the improvements that have been certified by the Subdivider and engineer as complete, and therefore has granted a partial release of funds for of the improvements and associated certifications of improvements secured by the Third Amended Subdivision Improvements Agreement and funds being held by the City; and

WHEREAS, the required improvements listed in Exhibit A have not been completed and certified at this time; and

WHEREAS, the Subdivider has requested additional time, until August 31, 2026, to complete and certify the remaining improvements listed in Exhibit A; and

WHEREAS, the City Council has determined it is in the City's best interest to grant additional

time to allow the Subdivider until August 31, 2026 to complete the remaining improvements listed in Exhibit A; and

WHEREAS, the City Council has determined it is in the City's best interest to authorize the City staff, Subdivision Administrator, and City Attorney to act without delay and cause the remaining funds from the letter of credit being held by the City of Miles City to be utilized to complete and have certified by an engineer if the improvements are not completed and certified in full compliance with this agreement by the deadline of August 31, 2026; and

WHEREAS, the City Council intends for this to be the final extension of the deadline to complete the improvements; and

WHEREAS, the City Council requires a financial security of 150% of the estimated cost of the remaining improvements, which is calculated in Exhibit A; and

WHEREAS, the estimated cost of construction and final engineering certification of said remaining improvements is the sum of \$17,700.00, and 150% of the estimated cost of the remaining improvements is \$26,550.00, which is the amount of the required financial security at this time.

NOW THEREFORE, in consideration of the above along with the material reviewed by the City Council at the April 28, 2026 meeting, the City Council and Subdivider hereby agree as follows:

1. The City shall release to the Subdivider the amount of \$579,316.00 from the funds from the Letter of Credit that the City is now holding in an account for the City View Subdivision improvements.
2. The City shall continue to hold and maintain in a bank account a financial security of no less than \$26,550.00, which is 150% of the estimated cost of completing the remaining improvements listed in Exhibit A.
3. Said required improvements shall be fully completed by August 31, 2026, which is intended to be the final deadline.
4. If the Subdivider fails to complete the specified improvements within the required period, the City staff, Subdivision Administrator, and City Attorney shall act without delay and cause the remaining funds being held by the City of Miles City to be utilized to complete and have certified by an engineer the improvements listed in Exhibit A.
5. Upon completion of the required improvements, the Subdivider shall submit to the City statements certifying that:
 - i. All required improvements are complete.
 - ii. The improvements are in compliance with the minimum standards specified

by the City for their construction and that the Subdivider warrants said improvements against any and all defects for a period of one (1) year from the date of acceptance of the completion of those improvements by the City.

- iii. The Subdivider knows of no defects in those improvements.
- iv. These improvements are free and clear of any encumbrances or liens.
- v. All applicable fees and surcharges have been paid.

- 6. The Subdivider shall provide for inspection of all required improvements by a registered professional engineer before the Subdivider shall be released from the Subdivision Improvement Agreement.
- 7. The Subdivider shall submit to the Miles City Community Service and Planning Department copies of final plans, profiles, grades and specifications of said improvements, with the certification of the registered professional engineer responsible for their preparation that all required improvements have been installed in conformance with said specifications.
- 8. If the City determines that any improvements are not constructed in compliance with the specifications, it shall furnish the Subdivider with a list of specific deficiencies and may withhold collateral sufficient to ensure such compliance. If the City determines that the Subdivider will not construct any or all of the improvements in accordance with the specifications, or within the required time limits, it may withdraw the collateral in the financial security and employ such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. The unused portions of the collateral shall be returned to the Subdivider.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year herein before written.

City of Miles City (Party of the First Part):

Mayor C.A. Grenz	Date

Attest:

Mary Rowe, City Clerk	Date

Subdivider (Party of the Second Part), L & L Development LLC, by: Matthew J. Lothspeich and Roger L. Lothspeich:

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Matthew J. Lothspeich, Subdivider

Date

Roger L. Lothspeich, Subdivider

Date

STATE OF MONTANA)

) ss

COUNTY OF CUSTER)

On this ____ day of _____, 202____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Matthew J. Lothspeich and Roger L. Lothspeich, who executed the within instrument and acknowledged to me that they executed the same on behalf of L & L Development LLC.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Signature of Notary Public

(NOTARIAL SEAL)

EXHIBIT A

LIST OF INCOMPLETE IMPROVEMENTS FOR CITY VIEW SUBDIVISION

The following improvements, required by the conditions of approval for City View Subdivision, are not complete as of April 28, 2026:

- Mail Facilities, including Post Office approved cluster boxes in two locations, along with associated concrete and appurtenant improvements, with USPS approval.
- Engineering Costs: Design, Inspection, Certified As-Builts, and Permitting/Approvals of the above.

USPS compliant cluster mailboxes as approved by USPS = \$8,700.00

Concrete/installation of mailboxes = \$4,000.00

Brosz Engineering Costs = \$5,000.00

Total Estimated Cost of Remaining Improvements/Engineering = \$17,700.00

Total Cost x 150% = \$26,550.00