

## RESOLUTION NO. 3774

### A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN AGREEMENT WITH M&L ENTERPRISES FOR SUBDIVISION PHASE DEADLINE EXTENSION

*WHEREAS*, the City of Miles City granted M&L Enterprises (Developer) approval of a preliminary plat for its Southgate Meadows Major Subdivision, with completion deadlines for each phase;

*AND WHEREAS*, Developer has reasonably requested an extension of time for the completion of such phases, which is in the best interest of the Developer and the City;

*NOW THEREFORE BE IT RESOLVED* by the City Council of Miles City, Montana, as follows:

1. The "AGREEMENT REGARDING THE PRELIMINARY APPROVAL PERIOD GRANTED TO THE "SOUTHGATE MEADOWS PHASE II, III, AND IV" MAJOR SUBDIVISION" attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Contract on behalf of the City of Miles City and bind the City of Miles City thereto; and

3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Agreement and bind the City of Miles City thereto.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A DULY CALLED MEETING THIS 10<sup>TH</sup> DAY OF FEBRUARY, 2015.**



C.A. Grenz, Mayor

ATTEST:



Lorrie Pearce, City Clerk

**AGREEMENT REGARDING THE PRELIMINARY APPROVAL PERIOD GRANTED TO THE "SOUTHGATE MEADOWS PHASE II, III, AND IV" MAJOR SUBDIVISION.**

This agreement is made this 10th day of February, 2015 between M & L Enterprises (DEVELOPER) and the City of Miles City, Montana, a Montana Municipal Corporation.

WHEREAS, the City Council granted the DEVELOPER of the four-phase Southgate Meadows Major Subdivision a three-year preliminary approval for Phase I on June 12, 2012, allowing for Phase I to be filed on or before June 12, 2015;

AND WHEREAS, the City Council approved the final plat of Phase I on January 28, 2014, with Phase II to be filed within one year of the filing of the final plat of Phase I (January 28, 2015); and Phase III to be filed within two years of the filing of the final plat of Phase II; and Phase IV to be filed within three years of the final plat of Phase III;

AND WHEREAS, Section 76-3-610 of the Montana Code Annotated stated that "(1) Upon approving or conditionally approving an application and preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval must be in force for not more than 3 calendar years or less than 1 calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a mutually agreed upon period of time. Any mutually agreed upon extension must be in writing and dated and signed by the members of the governing body and the subdivder or subdivider's agent. The governing body may issue more than one extension.";


AND WHEREAS, the DEVELOPER submitted a letter on November 24, 2014 requesting that the preliminary approval period be extended to allow for the completion of the required improvements, as authorized by Section 76-3-610 of the Montana Code Annotated;

AND WHEREAS, the City of Miles City finds it to be in the best interest of the public's health, safety and welfare to extend the preliminary approval period, but also to provide specific time period for the DEVELOPER to perform under the rules in effect when the preliminary subdivision application was reviewed and approved;

NOW, THEREFORE, the parties hereto agree as follows:

1. The City of Miles City hereby agrees to an extension to the preliminary approval period for the Southgate Meadows Major Subdivision Phases II, III and IV so that the final plat for Phase II shall be filed on or before January 28, 2020; the final plat for Phase III shall be filed on or before January 28, 2023; and the filing of the final plat for Phase IV shall be filed on or before January 28, 2026.
2. It is understood that the parties may agree to additional extensions of the preliminary approval period upon the request of the DEVELOPER as allowed under Section 76-3-610, Montana Code Annotated.


Agreed to and dated this 10<sup>th</sup> day of February, 2015 DEVELOPER:

  
By: M & L Enterprises

  
By: M & L Enterprises

Agreed to and dated this 10<sup>th</sup> day of February, 2015.

THE CITY OF MILES CITY, MONTANA:

  
By: Chris A. Grenz, Mayor

  
Attest: Lorrie Pearce, City Clerk