

## RESOLUTION NO. 3780

### A RESOLUTION APPROVING AND GRANTING AN EASEMENT FOR ACCESS AND UTILITIES ACROSS CITY OWNED PROPERTY TO LANDMARK LAND COMPANY, LLC

WHEREAS, Landmark Land Company, LLC, a North Dakota Limited Liability Company registered to do business in Montana, has requested an access and utilities easement for certain property owned by them which is separated from a public highway and utilities by City owned property;

AND WHEREAS, the City of Miles City finds that granting such easement is appropriate under certain conditions, which are set forth in an Easement which has been presented to the City for its review and approval and which has been reviewed by the City Attorney;

### NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. The Easement attached hereto as Exhibit "A", is hereby approved by the City of Miles City, and the Mayor of the City of Miles City is hereby authorized and empowered to execute such Easement on behalf of the City.
2. Landmark Land Company, LLC, shall be responsible for reimbursing the City for the cost of recording such easement.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 24TH DAY OF FEBRUARY 2015.

  
C. A. Grenz, Mayor

ATTEST:

  
Lorrie Pearce, City Clerk

Return to:

City of Miles City  
P. O. Box 910  
Miles City, Montana 59301

**162925 Fee: \$42.00**

**Custer County Recorded 4/1/2015 At 10:46 AM**

**Linda Corbett, Clk & Rcdr By**   
**Return to: City of Miles City P.O. Box 910**  
**MILES CITY MT 59301**

### EASEMENT

The undersigned, **CITY OF MILES CITY, MONTANA**, a Montana municipal corporation of 17 S. Eighth Street, Miles City, Montana 59301, hereinafter referred to as "Grantor," for and in consideration of \$1.00 and other good and valuable consideration, receipt of which is hereby acknowledged, hereby grants and conveys to **LANDMARK LAND COMPANY, LLC**, a North Dakota limited liability company registered to do business in Montana, of P.O. Box 1881, Dickinson, ND 58602, its successors and assigns, hereinafter referred to as "Grantee," a perpetual, non-exclusive, and permanent easement and right to use for ingress and egress to and from Grantee's land located in Custer County, Montana, and more particularly described as follows:

Township 8 North, Range 47 East, M.P.M.

Section 32: Lots 3 and 4

With said easement to be sixty (60) feet wide over, across, and in the same position as the existing private roadway on the following lands owned by Grantor in the State of Montana, County of Custer, to-wit:

An easement for ingress and egress across the southeast quarter of the southwest quarter of Section 29, Township 8 North, Range 47 East of the Principal Meridian Montana, Custer County, Montana. Said easement being 60.0 feet wide, 30.0 feet on each side of the following described centerline: Beginning at a point on the south line of said Section 29 lying South 89 degrees 55 minutes 28 seconds West, a distance of 283.55 feet from the south quarter corner of said Section 29; thence North 23 degrees 59 minutes 09 seconds East, a distance of 697.02 feet to the north-south mid-section line of said Section 29. Said ending point lies North 00 degrees 01 minutes 08 seconds West, a distance of 636.57 feet

from the south quarter corner of said Section 29. Said easement containing 0.96 acres more or less.

Subject to the following terms and conditions:

**A. Description of Easement Route.**

The easement created hereby is sixty (60) feet in width and is approximately shown by the map attached hereto and marked Exhibit "A" and by this reference made a part hereof as if set out in full herein.

**B. Purpose of Easement.**

The purpose of the Easement is for the residential access and utilities to and from Grantee's lands. This easement is private and is limited to the use of Grantee, its agents, guests, service companies, and the parties' successors and assigns. In no way does this grant of easement create a public right to travel across said lands hereinbefore described. This easement may be used for public or private utility purposes including to construct, operate, repair, maintain, relocate, and replace utilities such as water, sewer, electric, gas, and communications.

**C. Repair and Maintenance; Indemnification.**

Grantee shall have the right and obligation to repair and maintain the easement in a good and safe condition for the purposes for which it was granted.

Grantee, its successors and assigns, shall indemnify, defend and hold Grantor harmless from any and all claims arising out of Grantee's use or maintenance, or failure to maintain, such roadway and utilities, or use by Grantee's guests and invitees, or those of Grantee's successors and assigns.

**D. Rights of Grantor; Restrictions on Grantee.**

This easement runs along the southern edge of the Miles City Airport property. Due to the nature of the land north of where the Easement is located, the following rights and restrictions apply:

1. The airspace defined by 14 Code of Federal Regulations (CFR) Part 77 will have precedence over the easement and the Grantor retains a right to remove or lower any object, natural or otherwise, from the easement area as necessary to comply with 14 CFR Part 77.
2. Grantor retains the right to conduct all airport operations; even if such operations interfere with Grantee's use of easement.

3. Grantor retains the right to modify the route of this Easement as necessary for development of the Miles City Airport at Grantee's expense.
4. Construction and maintenance of the road excepted, Grantee shall not make improvements to the easement without Grantor's written consent. A notice of proposed construction consistent with the requirements of 14CFR Part 77 shall be filed prior to constructing any facility, structure or other item within the easement area.
5. Grantee shall not create electrical interference with communication between the installation on the airport and aircraft, install lights or reflectors that would make it difficult for pilots to distinguish between airport lights and others, impair visibility in the vicinity of the airport, or endanger the landing, take off, or maneuvering of aircraft.
6. Grantee shall not develop any of the real property described above in a manner that has potential for attracting birds or other wildlife that may pose a hazard to airport operations.
7. The Grantee acknowledges a right of flight for the passage of all types of aircraft over the Grantee's land described above, and further accepts that noise, vibrations, fumes, deposits of fumes, deposits of dust or other particulate matter, fuel particles (which are incidental to the normal operation of said aircraft), fear, interference with sleep and communication and any and all other effects that may be alleged to be incident to or caused by the operation of aircraft over or in the vicinity of Grantees' property or in landing at or taking off from, or operating at or on said Miles City Airport; and Grantee does hereby full waive, remise, and release any right or cause of action which they may now have or which they may have in the future against Grantor, its successor and assigns, due to such noise vibrations, fumes, dust, fuel particles and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from, or operating at or on said Miles City Airport.
8. The Grantee will be responsible for all cost associated with relocating the access road and utilities should future development of the Miles City Airport require its relocation.

**E. Subdivision.**

This easement is appurtenant to two lots owned by Grantee. Grantee, its legal representatives and assigns, may only develop one residence per lot and shall not subdivide either lot.

**162925 Fee: \$42.00**

**F. Assignment.**

**Custer County Recorded 4/1/2015 At 10:46 AM**

Grantee shall have the right, without need for Grantor's consent, to assign or grant easements to Montana-Dakota Utilities Co. or other utility companies, upon their request, prior to constructing, operating, repairing, maintaining, relocating, or replacing utilities such as water, sewer, electric, gas, and communications. Such assignment or additional easement shall be in the same location as described above.

**G. Appurtenant.**

This easement shall run with the land and be binding upon the heirs, successors and assigns of all parties.

**H. Headings.**

The article and paragraph headings herein contained are for convenience only and do not define, limit or construe the contents of the corresponding article or paragraph.

DATED this 24th day of February, 2015.

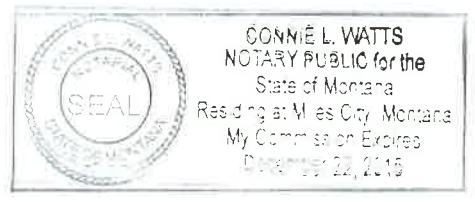
CITY OF MILES CITY

By: X *C. A. Grenz*

STATE OF MONTANA )  
 ) ss  
 COUNTY OF CUSTER )

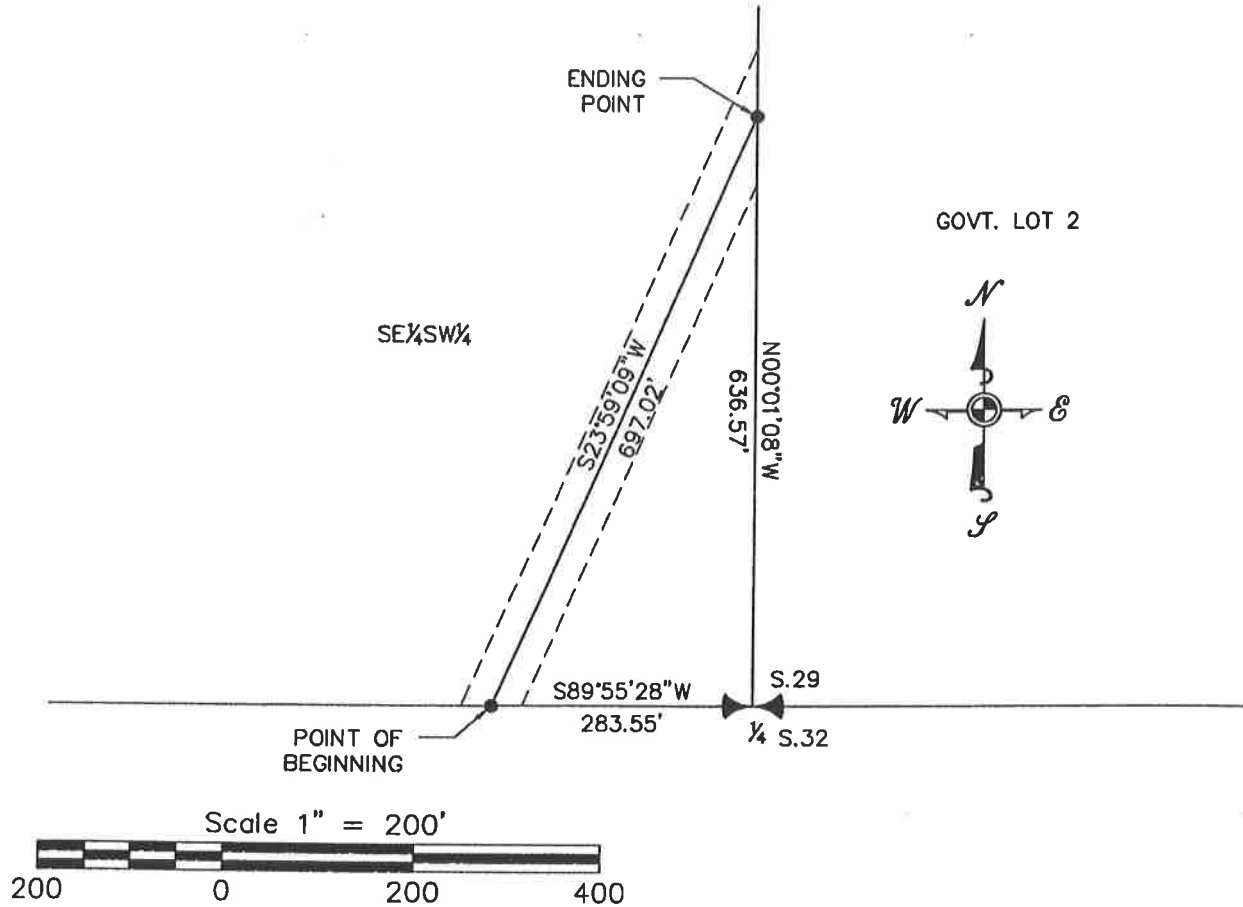
On this 25<sup>th</sup> day of February, 2015, before me, the undersigned, a Notary Public for the State of Montana, personally appeared **C. A. Grenz**, known to me to be the Mayor for the City of Miles City, and acknowledged to me that he executed the same on behalf of the City of Miles City.

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



*Connie L. Watts*  
 Signature of Notary

# INGRESS & EGRESS EASEMENT EXHIBIT 1



## DESCRIPTION

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**INGRESS AND EGRESS EASEMENT**  
**SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 29, T.8N., R.47E.**

Exhibit

<b>DOWL HKM</b>	
4127.20374.01	B-10-06

0:\07\41272037401 Misc 2012\33 Landmark Land LLC\dwg\PRIMAVISTA.dwg 8/10/2012 3:44:35 PM MDT

PV - 3780

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C. A. Grenz, Mayor

ATTEST:

  
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