

AGREEMENT TO PURCHASE AND SELL REAL PROPERTY

This Agreement is entered into by and between **Stockman Bank of Montana**, P.O. Box 250, Miles City, MT 59301-0250 ("Stockman") and, **City of Billings**, P.O. Box 1178, Billings, MT 59101-1178 ("City").

For good and valuable consideration, receipt of which is acknowledged by the parties' signatures below, the parties agree as follows:

REAL PROPERTY: Subject to the terms and conditions set forth herein, Stockman agrees to purchase, and City agrees to sell 414 North Broadway (a/k/a 28th Street), Billings, Montana, consisting of 7,000 square feet and more particularly described as:

Lots 07 and 08, Block 053, of Foster's Addition, as set forth in the map or plat on file in the office of Clerk and Recorder, Yellowstone County, Montana.

TOGETHER WITH all tenements, hereditaments and appurtenances thereunto belonging. The foregoing shall be referred to collectively as "the Property."

PURCHASE PRICE AND TERMS: The purchase price for the Property shall be Two Hundred Twenty Thousand U.S. Dollars (\$220,000.00). Within ten (10) business days of City's acceptance of this Agreement, Stockman shall deposit Twenty Five Thousand U.S. Dollars (\$25,000.00) with the Closing Agent as earnest money, subject to all of the terms and conditions stated herein. The balance of the purchase price shall be paid by Stockman at time of closing.

SPECIAL PROVISIONS: City, in City's sole discretion, has the right to exercise the following Special Provisions, however City can only exercise paragraph (2) or paragraph (3) not both:

- (1) Stockman agrees to trade the Property back to City, upon City's commitment to build a parking structure (the "Structure") on the Property. This exchange will be referred to as the "Trade".
 - a. Stockman shall transfer the Property back to City upon City advertising bids for construction of the Structure.
 - b. Stockman shall receive parking spaces in the Structure equal to the fair market value of the Property at time of Trade; however, these spaces shall not exceed 10% of the total parking spaces in the Structure. Any spaces owing Stockman due to the Trade, over and above the 10%, shall be purchased by City for cash at fair market value at time of Trade.
 - c. Additionally, Stockman shall have the right to long term leases, with standard terms and conditions, on parking spaces in the Structure equivalent to the number of spaces designated on the Property at time of Trade.
 - d. All parking spaces covered in this Provision shall be located as close to Stockman's building at 402 N. Broadway as possible.
 - e. If City fails to begin construction of the Structure within nine (9) months of the Trade, then City must immediately transfer the Property back to Stockman. Any cash paid to Stockman in the Trade shall immediately be returned to City. Likewise, any agreements executed in furtherance of the Trade shall become null and void after City returns the Property to Stockman.
 - f. This Provision shall be added as a deed restriction and expire on December 31st, 2016.

- (2) Stockman agrees to trade the Property back to City if the Property is necessary for expansion of the existing Parmly Billings Library building or construction of a new public library building (the buildings shall collectively be referred to as "the new Library").
 - a. Stockman shall transfer the Property back to City upon City advertising bids for construction of the new Library.
 - b. In return for the Property, Stockman shall receive similar property (the "Replacement Property"), with like improvements, located within five hundred (500) feet of Stockman's building at 402 N. Broadway.
 - c. The term "necessary" is defined as locating any portion of the new Library, reasonable landscape for the new Library, and/or parking adjoining the new Library on the Property.
 - d. If City fails to begin construction of the new Library within nine (9) months of reacquiring the Property, then City must immediately transfer the Property back to Stockman. Stockman shall immediately transfer the Replacement Property back to City. Any cash exchanging hands in furtherance of this transaction shall immediately be returned to the paying party and all further obligations under this Agreement shall be extinguished.
 - e. This Provision shall be added as a deed restriction and expire on December 31st, 2016.

- (3) Stockman agrees to grant City an option to trade for Stockman's two (2) lots located at 516 North Broadway, more particularly described as Lots 07 and 08, Block 049, of Foster's Addition (collectively the "North Lots").
 - a. If City, in City's sole discretion, exercises this option to trade:
 1. Stockman shall receive Lots 09 and 10, Block 053, of Foster's Addition in return for the North Lots. These lots and the North Lots shall all be free and clear of all liens and encumbrances at time of trade.
 2. To exercise this option City must notify Stockman in writing at least sixty (60) days in advance of the trade of City's intention to exercise this option.
 - b. Stockman agrees that all property acquired under this paragraph (3) shall be subject to the Special Provisions paragraph (1), the same as and in addition to the Property.
 - c. If Stockman offers to sell the North Lots to a third party prior to City exercising its option, and before expiration of this sub-paragraph as set forth in d. below, then City shall have first right of refusal to purchase the North Lots.
 - d. This Provision shall survive closing, and expire on December 31st, 2016 or when Stockman sells the North Lots, whichever is earlier.

CLOSING AGENT: First Montana Title Company of Billings shall act as the Closing Agent.

CLOSING DATE AND PLACE: The date of Closing shall be 1:00 p.m., May _____, 2010, at the Closing Agent's office at 204 North 29th Street, Billings, Montana. The parties may agree to close the transaction at any other mutually convenient time or place. Stockman and City will deposit with the Closing Agent all instruments and monies necessary to complete the purchase in accordance with this Agreement.

CLOSING FEES: All costs associated with closing, including recording fees, will be split equally by the parties.

POSSESSION: Stockman shall have possession of the Property upon completion of the closing.

CONVEYANCE: City shall convey the Property by Warranty Deed, free and clear of all liens and encumbrances, subject to:

- (a) All reservations and exceptions to title existing in patents from the United States or the State of Montana, and;
- (b) Any federal, state or local building use regulations, zoning ordinances and the like, and;
- (c) Real property taxes assessed against the real property for 2010 and subsequent years, and;
- (d) Any prior conveyance, lease or other transfer of any interest in minerals, including oil, gas and other hydrocarbons.

Except with respect to the items enumerated above, subject to which title is conveyed, the warranty deed shall be given with the usual covenants expressed in § 30-11-110, Montana Code Annotated.

The Warranty Deed shall also include the deed restriction language memorializing the Special Provisions as set forth above in this Agreement.

CONDITION OF TITLE: City shall convey the Property free and clear of all liens, claims, leases, demands or encumbrances of any nature whatsoever. All mortgages, judgments and liens shall be paid or satisfied by City at or prior to closing. City agrees that no additional encumbrances, restrictions, easements or other adverse title conditions will be placed against the title to the Property subsequent to the effective date of this Agreement.

CONDITION OF PROPERTY: City represents and warrants as a material condition of this Agreement that during its possession and at no time to the best of their knowledge and belief has the Property been utilized to generate, transport or store any hazardous or toxic wastes or illegal substances of any kind or nature as defined under state and federal law. This warranty shall be deemed to survive the closing. Excepting the foregoing, City makes no additional representations or warranties of any kind as to the condition of the Property, including without limitation warranties of fitness for a particular purpose.

NO CHANGE IN PHYSICAL CONDITION/RISK OF LOSS: City shall maintain the Property in the same or better condition as existed at the effective date of this Agreement, normal wear and tear excepted. City shall bear the risk of loss between the effective date of this Agreement and the time title is transferred to Stockman.

TITLE INSURANCE: The cost of an ALTA Standard Coverage Owners Title Insurance Policy (as evidenced by an ALTA title insurance commitment – referred to as the “Commitment”) to be obtained by City shall be deducted from City’s proceeds at time of closing. The Commitment shall be in an amount equal to the purchase price, committing to insure merchantable title to the Property in Stockman's name, free and clear of all liens and encumbrances except: zoning ordinances, building and use restrictions, reservations in federal patents, and easements of record. If City's title is not merchantable and cannot be made merchantable before the stated closing date, THIRTY (30) ADDITIONAL DAYS SHALL BE ALLOWED FOR CITY TO MAKE

SUCH TITLE MERCHANTABLE. Encumbrances to be discharged by City shall be satisfied prior to closing or from City's proceeds at time of closing. City shall provide said Commitment within ten (10) days of signing this Agreement.

TAXES AND ASSESSMENTS: City and Stockman agree to prorate property taxes owed for 2010 and any other special assessments that may be owed at time of closing.

NOXIOUS WEEDS DISCLOSURE: Buyers of property in the State of Montana should be aware that some properties contain noxious weeds. The laws of the State of Montana require owners of property within this state to control, and to the extent possible, eradicate noxious weeds. For information concerning noxious weeds and your obligations as an owner of property, contact either your local County extension agent or Weed Control Bureau.

REMEDIES:

A. If City accepts the offer contained in this Agreement, but fails to timely close as required by this Agreement, Stockman may:

1. Demand immediate repayment of all monies that Stockman has paid as earnest money, and upon the return of such money the rights and duties of Stockman and City under this Agreement shall be terminated; and/or
2. Demand that City specifically perform City's obligations under this Agreement; and/or
3. Demand that City pay monetary damages for City's failure to perform the terms of this Agreement; and/or
4. Demand any other remedy at law or in equity, which shall be cumulative to the foregoing.

B. If City accepts this Agreement and satisfactorily performs but Stockman fails to timely close as required hereunder, then City may:

1. Declare the earnest money paid by Stockman forfeited; and upon such forfeiture the rights and duties of Stockman and City under this Agreement shall be terminated; and/or
2. Demand that Stockman specifically perform Stockman's duties and obligations under this Agreement; and/or
3. Demand that Stockman pay monetary damages for Stockman's failure to perform the terms of this Agreement.
4. Demand any other remedy at law or in equity, which shall be cumulative to the foregoing.

STOCKMAN'S AND CITY'S CERTIFICATION: By entering into this Agreement, each person executing this Agreement, as buyer or seller, represents that he/she is eighteen (18) years of age or older, of sound mind, and legally competent to own or transfer real property in the State of Montana; and, if acting on behalf of a governmental body, corporation, partnership, limited liability company or other non-human entity, that he/she is duly authorized to enter into this Agreement on behalf of such entity.

TIME IS OF THE ESSENCE: Time is of the essence in this Agreement and all clauses herein.

BINDING EFFECT: This Agreement is binding upon the heirs, personal representatives, and assigns of each of the parties hereto.

FACSIMILE: The parties agree that a facsimile copy of this Agreement to Sell and Purchase

which contains the parties' signatures may be used as the original.

ENTIRE AGREEMENT: This Agreement, together with any attached exhibits and any addenda or amendments signed by the parties, shall constitute the entire agreement between City and Stockman, and supersedes any other written or oral agreements between City and Stockman. This Agreement can be modified only in writing, signed by City and Stockman.

COUNTERPARTS: A copy of this Agreement may be executed by each party separately, and when each has executed a copy thereof, such executed copies taken together shall be deemed to be a full and complete Agreement between the parties.

NOTICES: Any notice, consent, approval, waiver or election that any party shall be required or permitted to make or give under this Agreement shall be in writing and shall be hand delivered, sent by First Class United States Mail, postage prepaid, or sent by facsimile, with receipt of error free transmission, with the original sent by First Class United States Mail, postage prepaid to the respective parties at the address below:

If to City: Bruce McCandless
 City of Billings
 P.O. Box 1178
 Billings, MT 59101-1178
 Fax (406) 657-8390

If to Stockman: William Coffee
 Stockman Bank of Montana
 P.O. Box 80850
 Billings, MT 59108-0850
 Fax (406) 655-2737

Either party may, from time to time, change the address to which notice shall be sent by notice given to the other party. Any notice given that does not conform to this section shall be effective only upon receipt.

BROKERS: Each party is solely responsible for all commissions and fees due to their respective representatives and/or brokers.

LEGALLY BINDING CONTRACT: The parties represent and acknowledge that this Agreement is a legally binding contract between the parties.

ATTORNEY'S FEES: In the event of a dispute arising under this Agreement, the prevailing parties shall be entitled to their costs of ALTERNATIVE DISPUTE RESOLUTION and/or suit, including their reasonable attorney's fees, commencing upon the first notice of such dispute.

LAW/VENUE: The parties agree that the laws of Montana shall govern the parties' rights and remedies under this Agreement and that Yellowstone County, Montana, is the proper place of venue for any dispute arising under the Agreement.

IN WITNESS WHEREOF, Stockman and City hereby execute this Agreement to purchase and

sell.

STOCKMAN BANK OF MONTANA

By: William E. Coffee
Title: Chief Executive Officer
Date: April _____, 2010

CITY OF BILLINGS

By: Tom Hanel
Title: Mayor
Date: April _____, 2010

PARMLY BILLINGS LIBRARY

By: Tony Hines
Title: Board Chair
Date: April _____, 2010

PARMLY BILLINGS LIBRARY

By: Bill Cochran
Title: Library Director
Date: April _____, 2010