

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (the “Agreement”) dated as of this [] day of [], 2015, is entered into by and between GSA Billings, L.C., a Utah limited liability company, with an address of 90 South 400 West, Suite 200, Salt Lake City, Utah 84101 (“GSA Billings LC”) and the City of Billings, a municipality of the State of Montana, with an address of 210 North 27th Street, Billings, Montana 59103 (the “City” and, together with GSA Billings LC the “Parties”).

WITNESSETH:

WHEREAS, GSA Billings LC and the City are parties to that certain Development Agreement dated as of September 10, 2013 (the “Development Agreement”) pursuant to which (i) GSA Billings LC agreed to construct an office facility (the “Project”), including certain qualified public improvements (the “Public Improvements”), in the City’s East Billings Urban Renewal District (the “District”) and (ii) the City agreed to reimburse GSA Billings LC out of tax increment generated by the Project (the “Project Tax Increment”) the costs of the Public Improvements (the “Reimbursement Obligation”);

WHEREAS, the City desires to undertake one or more urban renewal projects in the District and to finance the costs of such projects with the proceeds of bonds, notes or other similar obligations (collectively, the “Bonds”) payable from tax increment revenue received in the District (including the Project Tax Increment) (“District Tax Increment”) as a way of stimulating development in the District which benefits property owners in the District, including GSA Billings LC;

WHEREAS, the current outstanding principal amount of the Reimbursement Obligation is \$541,578.60 and, upon execution of this Agreement, the City agrees to prepay the Reimbursement Obligation in the amount of \$144,326 (representing two Annual Reimbursement Payments (as defined in the Development Agreement));

WHEREAS, upon the issuance of Bonds, the City intends to extend the sunset date of the District until approximately 2040 which will help to ensure that the remaining amount of the Reimbursement Obligation is able to be repaid in full; and

WHEREAS, in order to reduce interest costs and enhance the marketability of the Bonds, the City and GSA Billings LC desire that the City be able to issue Bonds secured by a first pledge of and lien on all District Tax Increment and that the Reimbursement Obligation be payable from District Tax Increment on a subordinate basis to the Bonds.

NOW THEREFORE, for good and valuable consideration, the Parties hereto hereby agree, covenant and represent as follows:

1. Subordination; District Sunset Date. The Bonds shall be secured by a first pledge of and lien on all District Tax Increment and all other moneys from time to time in the tax

increment accounts created pursuant to one or more resolutions to be adopted by the City in connection with the issuance of Bonds. The Reimbursement Obligation and, pursuant to a separate agreement between the City and First Interstate Bank, the existing obligation of the City to First Interstate Bank pursuant to a Development Agreement dated as of April 27, 2009 (the "Bank Reimbursement Obligation") shall constitute subordinate obligations payable equally and ratably from District Tax Increment on a subordinate basis to the Bonds. Notwithstanding anything herein to the contrary, without the prior written consent of GSA Billings LC, the City shall not issue (i) Bonds in an aggregate principal amount greater than \$3.3 million or (ii) bonds, notes or other similar obligations payable from District Tax Increment on a parity with the Reimbursement Obligation and the Bank Reimbursement Obligation. Nothing herein shall prevent the City from issuing bonds, notes or other similar obligations payable from District Tax Increment on a subordinate basis to the Reimbursement Obligation and the Bank Reimbursement Obligation. Notwithstanding anything herein to the contrary, so long as all amounts then due and owing under the Bonds have been paid, the City will pay the Annual Reimbursement Payment pursuant to the Development Agreement, equally and ratably with the Bank Reimbursement Payment. Upon the issuance of Bonds, the City shall extend the sunset date of the District until 2040.

2. Prepayment of Annual Reimbursement Payments. On the date of execution of this Agreement by each of the Parties, the City shall pay to GSA Billings LC the amount of \$144,326 (the "Prepayment Amount"), such amount representing two Annual Reimbursement Payments. The Prepayment Amount shall be applied to the outstanding principal amount of the Reimbursement Obligation and upon payment thereof, the Reimbursement Obligation shall be reduced to \$397,252.60. Thereafter, the remaining outstanding principal amount of the Reimbursement Obligation shall continue to be paid in annual installments pursuant to the Development Agreement, beginning with the next scheduled payment in July 2015.

3. City Undertaking. In order to ensure that there is sufficient District Tax Increment to pay the Reimbursement Obligation, calculated as set forth in the Development Agreement, the City covenants and agrees that it shall not issue Bonds for the purpose of paying the cost of one or more urban renewal projects and any expenses in connection with such financing unless:

(a) the District Tax Increment received by the City in the last completed fiscal year prior to the issuance of such Bonds was equal to at least 120% of the maximum principal and interest requirements for any future calendar year for all outstanding Bonds and any additional Bonds proposed to be issued; *and*

(b) the District Tax Increment received by the City in the last completed fiscal year prior to the issuance of such Bonds, adjusted as provided in this clause (b), was, and the District Tax Increment estimated to be received in the next succeeding three fiscal years following the issuance of such Bonds, adjusted as provided in clause (c) below, is estimated to be, equal to at least 120% of the maximum principal and interest requirements for any future calendar year for all outstanding Bonds and any additional Bonds proposed to be issued. For this purpose, the District Tax Increment received by the City in the last completed fiscal year prior to the issuance of such Bonds may be

adjusted by adding any increase in District Tax Increment which would have resulted from applying the aggregate tax rates of the taxing jurisdictions effective for the last completed fiscal year prior to the issuance of such Bonds to the value, as determined by certification of the County Assessor, of any projects which have been completed in the District before the date of issuance of such additional Bonds and the taxable values of which as so completed are not included in the actual taxable value of the District; and

(c) For purposes of the foregoing subsection (b), in estimating the District Tax Increment to be received in any future fiscal year, the Mayor and the City Finance Director shall assume that: (i) 90% of the taxes levied in the District will be collected in any fiscal year; (ii) no taxes delinquent in a prior fiscal year will be collected in any subsequent fiscal year; and (iii) there will be no increase in the District Tax Increment to be received in any future fiscal year resulting from projected inflation in property values or projected increases in taxes.

This Section 3 shall not apply to Bonds issued for the purpose of refunding or refinancing other Bonds, including the payment of any redemption premium thereon and interest which will accrue on such Bonds to any redemption date or the stated maturities thereof, and any expenses in connection with such financing.

4. Governing Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of Montana. Venue shall be in Yellowstone County, Montana.

5. Construction. If any provision of this Agreement is found to be invalid to any extent, the remainder of this Agreement shall not be affected thereby, and any such provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6. Successors and Assigns. The stipulations and agreements of this Agreement shall be binding upon the Parties' successors and assigns.

7. Notices. Any notice, demand or request under this Agreement shall be delivered in person or sent via U.S. Certified Mail, postage prepaid, to the Parties at the following addresses:

City of Billings
210 North 27th Street
Billings, MT 59101
Attn: City Attorney

GSA Billings LC
90 South 400 West, Suite 200
Salt Lake City, UT 84101
Attn: Nate Boyer

8. Amendments. Amendments or modifications to this Agreement or any provisions herein shall be made in writing by the party requesting the change and upon written acceptance and execution by all parties shall become a part of this Agreement.

IN WITNESS WHEREOF, the Parties have set their hands and seals the day and year first written above.

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

GSA BILLINGS, L.C., by its Manager

Boyer Project Company, L.C.

The Boyer Company, L.C.

By: _____
Its: Manager