

# PURCHASE AND SALE AGREEMENT

This **PURCHASE AND SALE AGREEMENT** (“Agreement”) is effective as of the execution date of the last party to sign this Agreement (“Effective Date”), by and between **WC Commercial, LLC**, an Alaska limited liability company, (“Seller”), and **The City of Billings, Montana** (“Buyer”) with respect to the following:

## BACKGROUND

- A. Seller is the owner of certain real property located in Yellowstone County, more commonly known as the Stillwater Building.
- B. Seller desires to sell the real property, more particularly described in **Exhibit A**, of this Agreement (the “Property”) and Buyer desires to purchase the Property from Seller upon the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the parties agree as follows:

## AGREEMENT

1. Purchase and Sale. Upon all the terms and conditions of this agreement Buyer agrees to purchase the following from Seller:
  - a. Land. The real property, including all right, title, and interest therein, located in Yellowstone County, Montana, together with all rights, privileges, easements, and rights of way appurtenant to the Land (the “Land”);
  - b. Improvements. All improvements, structures, and fixtures now existing or installed on the Land;
  - c. Personal Property. Except for items sold by Seller prior to closing, personal property of Seller located at the Property shall transfer to Buyer via a Bill of Sale at Closing.
  - d. Other Land Rights. All mineral, oil and gas, and other subsurface rights, development rights, air rights, water rights, and other rights appurtenant to the land or associated with the Property.

Purchase Price; Payment. The total combined purchase price shall be Seventeen Million and no/100 dollars (\$17,000,000.00).

Buyer Shall pay Seventeen Million and no/100 dollars (\$17,000,000.00) to Seller at Closing. The Purchase Price (as adjusted to reflect any credits for prorations customary for a transaction this size and type) shall be paid by Buyer on the Closing Date.

2. Conveyance.

- a. Property. Seller shall convey the Property by Warranty Deed, free and clear of all liens and encumbrances, only subject to the standard and usual printed exceptions and exclusions found in title commitments and title policies, including the following:
  - i. Liens to secure payment of general real property taxes and assessments, not yet due and payable;
  - ii. All exceptions and easements prior to July 1, 2016, and those easements of record. All easements for sprinklers, data cables, and the emergency telephone line for use by the adjacent sky bridge, whether or not of record and to be recorded subject to an Encroachment and Easement Agreement concurrent with the closing of this transaction; and those exceptions and easements disclosed in the Commitment (defined below) which are either approved or waived by Buyer;
  - iii. Any exceptions, easements, or restrictions as specifically agreed by the parties under this Agreement; and
  - iv. All applicable laws, ordinances, rules, and governmental regulations (including, but not limited to, those relative to building, zoning, and land use) affecting the development, use, occupancy, or enjoyment of the Property.

The warranty deed shall be given with the usual covenants expressed in § 30-11-110, Montana Code Annotated, subject to and with respect to the items specifically enumerated above.

Seller shall deliver the finished portions of the Property in broom clean condition and shall deliver all unfinished portions of the Property with all waste removed prior to Closing. For the avoidance of doubt, drywall and other personal property conveyed from Seller to Buyer under this Agreement and the bill of sale does not constitute waste under this paragraph.

3. Title Matters. Buyer shall obtain or order an ALTA Standard Coverage Owners Title Insurance Policy (as evidenced by an ALTA title insurance commitment – the “Commitment”). The Commitment shall be equal to the purchase price, committing to insure merchantable title to the Property in Buyer's name, free and clear of all liens and encumbrances, if any, which will be assumed by Buyer at closing. Notwithstanding the foregoing, reasonable exceptions for easements necessary for the fire system and data cables for the security system and cameras associated with the Sky Bridge shall not be an objectionable exception to Property title.

Buyer shall provide a copy of the Commitment to Seller no later than ten (10) days after the Effective Date. Buyer shall pay and be solely responsible for the Standard Coverage Policy along with any additional premiums or other costs in addition to the premium for standard coverage if Buyer elects to obtain ALTA extended coverage or any title endorsements to the title insurance policy.

Buyer shall have twenty (20) days after receipt of the Commitment (the “Review Period”) to examine the Commitment and to notify Seller in writing of any objections Buyer has to matters shown or referred to in the Commitment. Buyer shall provide written notice to Seller of any objection under the Commitment (other than any mortgage, judgment, or liens which Seller shall satisfy at Closing) (the “Title Objections”). Seller shall proceed with reasonable diligence to cure

any Title Objections and have the objections removed from the Commitment. If Seller is unable to cure or remove the Title Objections within thirty (30) days of receipt of Buyer's notice, then either party may terminate this Agreement by providing written notice of termination to the other party. If Buyer makes no objections to the Commitment within the Review Period, then Buyer shall: (a) accept the Commitment and (b) waive objection to the exceptions in the Commitment, which exceptions shall become "Permitted Exceptions".

4. Representations and Warranties of Seller. In addition to any other representations or warranties contained in this Agreement or in any documents delivered by Seller at Closing, Seller represents and warrants the following, all of which shall be true as of the Closing Date:

- a. Seller has full right, power, and authority to enter into and perform all of the obligations required of Seller under this Agreement, including, without limitation, transferring the Property to Buyer without obtaining any further consents or approvals from, or the taking of any other actions with respect to, any governmental agency, department, or body, or any third parties.
- b. Neither the execution, delivery, and performance of this Agreement, nor the consummation of the transactions contemplated hereby is prohibited by, or requires Seller to obtain any consent, authorization, approval, or registration under any law, statute, rule, regulation, judgment, order, writ, injunction, or decree which is binding upon Seller.
- c. Seller has good and merchantable title in fee simple to the Property. The Property has not been assigned or conveyed to any party. Seller has the right to convey the Property under the terms of this Agreement. No person (other than Buyer) has a right to acquire any interest in the Property. The Property will be transferred free of all liens or other encumbrances at the Closing, other than the Permitted Exceptions.
- d. There are no unrecorded judgments, lawsuits, or legal proceedings outstanding, pending or threatened against Seller that encumber the Property.
- e. There is one suit over a construction lien for the parking garage to be settled and the lien dismissed before closing. As of closing there will be no judgments presently outstanding and unsatisfied against Seller. Seller is not involved in any litigation at law or in equity, or any other proceeding before any court, or by or before any governmental or administrative agency, whether relating to the transaction contemplated hereby or otherwise, and no such litigation or proceeding is threatened or pending but not yet served against Seller or the Property.
- f. The subject property is known to have contained a significant quantity of Asbestos Containing Materials ("ACMs") in the existing construction materials. Seller reportedly performed abatement of the ACMs in 2016 and 2017. Seller shall provide Buyer all relevant reports and documentation demonstrating the proper removal and disposal of the ACMs from the subject property, along with detailed information regarding any remaining ACMs, including their location and quantity, encapsulated or otherwise, within two business days after execution of this Agreement.

Beside the hazardous substances described in environmental site assessments or other documents that have been disclosed to Buyer, Seller has no knowledge of any other hazardous substances that exist on, under, or at the Property, or that have been disposed of

at the Property. Seller has not received written notice that the Property is or may be in violation of any applicable federal, state, or municipal law or regulation regarding hazardous substances. Seller has no knowledge of underground fuel storage tanks on the Property, or Seller has fully disclosed the location and existence of all underground fuel storage tanks currently existing or historically located on the Property.

- g. To Seller's knowledge, except for the sky bridge, there are no encroachments upon the Property nor does any improvement on the Property encroach upon any property owned by others.
- h. To Seller's knowledge, except for easements for the sky bridge as described in this Agreement, there are no easements, rights-of-way, or claims thereof over or across the Property that are not recorded in the office of the Clerk and Recorder of Yellowstone County, Montana.
- i. Seller has no knowledge of any fact or condition that materially and adversely affects the Property other than those facts or conditions set forth in this Agreement or in other documents, certificates, or written statements furnished to Buyer in connection with the transactions contemplated by this Agreement. Seller has no knowledge of any asbestos, lead paint, mold or pesticides remaining or being present on the Property, except for asbestos in the transformer room and above the soffits where asbestos in or around second floor cantilevers over the first floor walls has been encapsulated.
- j. There is legal access to and from all of the parcels of the Property from a publicly dedicated right-of-way, through other parcels included in the Property and transferred under this Agreement, through easements of access between the public right-of-way and the parcel, or through easements of access that will be placed upon land retained by Seller as part of this transaction, if necessary, to provide access to the Property.
- k. All utilities (water, wastewater, electricity, and internet) are connected to the Property and are connected to the building.

5. Representations and Warranties of Buyer. In addition to any other representations or warranties contained in this Agreement or in any documents delivered by Buyer at Closing, Buyer represents and warrants the following, all of which shall be true as of the Closing Date:

- a. Buyer enters into this Agreement in full reliance upon Buyer's independent investigation and judgment, and neither Seller nor Seller's agents or attorneys make any warranties or representations to Buyer about the Property (or the associated personal property), except as specifically stated herein. Buyer agrees to take the property "AS IS" and in its present condition and state of repair.

6. Mutual Conditions to Closing. Each party's obligation to perform under this Agreement is contingent upon:

- a. The representations and warranties of the other party being true and correct as of the Effective Date of this Agreement and upon the Closing Date; and
- b. Each and every obligation of the Buyer and Seller being fully performed in accordance with this Agreement.

7. Buyer's Conditions to Closing. In addition to any other contingencies contained in this Agreement, Buyer's obligation to perform under this Agreement is contingent upon:

- a. The Property remaining in the same condition at Closing as it was on the Effective Date;
- b. Buyer's satisfaction of the Commitment or Seller's agreement to eliminate or ameliorate any title exceptions to the satisfaction to Buyer on or before Closing, subject to the provisions of paragraph 3 above;
- c. All mortgages, judgments, and liens encumbering the Property being discharged prior to Closing;
- d. Final approval of the terms of the purchase must be approved by the Billings City Council during a regular business meeting prior to Closing; and
- e. No additional encumbrances, restrictions, or other adverse title conditions being attached or placed against the title to the Property after the Effective Date, other than conditions specifically entered between the Parties to this Agreement as part of this transaction.

8. Buyer's Review of the Property; Related Documents and Materials. Buyer and Buyer's agents shall have the right to inspect and assess the Property and any Property conditions identified through any independent inspections of the property from qualified inspectors or advisors selected by Buyer. Buyer, in Buyer's sole judgment, may elect to terminate this Agreement following Buyer's inspection and assessment, with or without cause. If Buyer chooses to terminate this Agreement, Buyer must notify Seller in writing within sixty (60) days of the Effective Date of this Agreement (the "Due Diligence Period"). Upon termination under this section, neither Buyer nor Seller shall have any further obligations to the other. These inspections include, but are not limited to:

- a. The Buyer's Review of the Property and Related Matters. Buyer shall be satisfied with certain aspects of the Property and its condition and suitability for Buyer's intended use thereof, including, without limitation, the condition of the soil, environmental matters, engineering matters, and the zoning of the Property. During the Due Diligence Period, Buyer, its agents, employees, contractors and subcontractors shall have the right to enter upon the Property, at reasonable times during ordinary business hours following not less than twenty-four (24) hours' prior notice to Seller, to conduct such inspections, surveys and tests as may be necessary in Buyer's reasonable discretion, including, without limitation, soils tests; environmental analysis; structural, geological, or engineering studies; and land use or related studies. If Buyer elects to conduct any tests in connection with any Phase II environmental report or any other tests which involve drilling, boring, or other similar intrusive or invasive action on or under the Property, then Buyer shall provide Seller with at least twenty-four (24) hours' notice prior to conducting any such tests. Buyer

shall use care and consideration in connection with any of its inspections or tests and Seller shall have the right to be present during any inspection of the Property by Buyer or its agents. Buyer shall restore the Property to its original condition after any and all tests or inspections. If Buyer chooses to terminate the Agreement for any reason, all surveys, engineering, and studies shall be passed to Seller without obligation to Seller.

- b. Review and Approval of Documents and Materials. Within ten (10) days of the Effective Date, Seller will deliver to Buyer the following:
- i. Copies of any lease agreements affecting the Property, together with any exhibits or amendments to the lease agreements;
  - ii. Copies of documentation in Seller's possession relating to the CAM charges under the lease agreement with Yellowstone County. Documents shall include contracts, insurance policies, budgets, prorations, budgets, financial statements, statements, expenses, etc.;
  - iii. Copies of any Phase I, Phase II or other environmental reports, engineering reports, or surveys completed for the Property, if any;
  - iv. A list documenting the operating expenses incurred by Seller associated with the Property for the previous two (2) years along with any reimbursements made by tenant(s);
  - v. Existing blueprints, site plans (which shall, among other things, show all infrastructure and easements pertaining to the Property), engineering data, grading plans, topographical maps, surveys, field notes and maintenance records, and service or maintenance contracts relating to the use, ownership or development of the Property (including identification of all utility infrastructure) that are in Seller's possession or control, if any;
  - vi. Copies of any documentation establishing that the artwork within the Property has been offered to the United States Government through the Administrator of General Services Administration, in accordance with the covenants and restrictions contained in the Quitclaim Deed dated July 31, 2013, and recorded August 2, 2013 under Document No. 3678005;
  - vii. Copies of any warranty agreements relating to the construction or remodel of the Property, if any;
  - viii. Any and all other documents in Seller's possession relating to the property including, but not limited to, Certificates of Occupancy, Easement Agreements, any notices of encroachment or eminent domain, Property Condition Reports, tenant sales reports for the most recent three years, tenant financials (if reported to Seller), zoning letter, and tax statements, as applicable; and
  - ix. Copies of all existing contracts related to the Property, including but not limited to elevator contracts, service contracts, janitorial contracts, maintenance contracts, security systems, fire suppression systems, etc.
- c. Confirmation of Intended Use and Feasibility. Buyer is entitled to inquire as to the feasibility of obtaining all developmental approvals for Buyer's intended use of the

Property (“Developmental Approvals”) from any governmental authority having jurisdiction over the Property.

If Buyer determines that it is dissatisfied with any aspect of the Property, its condition, its suitability for Buyer’s intended use, or any of the Documents and Materials, then Buyer may terminate this Agreement, by delivering written notice to Seller and Closing Agent of Buyer’s election to terminate on or before the expiration of the Due Diligence Period. Except as otherwise expressly provided in this Agreement, neither party shall have any further rights or obligations under this Agreement following a termination under this Section 8.

9. Sky Bridge. The terms of this agreement do not include any transfer of ownership of the Sky Bridge, generally located on the East side of the building, crossing over N 26th Street, and connecting to the Stillwater Garage. Any utilities or infrastructure for the Sky Bridge that rely on the subject property for service shall be limited to the fire system riser, data cables for the security system, and cameras.

10. Indemnification. Each party shall indemnify and hold the other harmless from and against any and all liabilities, claims, actions, suits, damages, and costs (including attorney fees) arising out of any inaccuracy, misrepresentation, breach, or default of any representation, warranty, covenant, or obligation of the party under this Agreement.

11. Default and Remedies.

- a. If Seller accepts the offer contained in this Agreement, but fails to timely close as required by this Agreement, Buyer may:
  - i. Demand that Seller specifically perform Seller’s obligations under this Agreement;
  - ii. Demand that Seller pay monetary damages for Seller’s failure to perform the terms of this Agreement; and
  - iii. Demand any other remedy at law or in equity.
- b. If Seller accepts this Agreement and satisfactorily performs but Buyer fails to timely close as required by this Agreement, Seller may:
  - i. Demand that Buyer pay monetary damages for Buyer’s failure to perform the terms of this Agreement; and
  - ii. Demand any other remedy at law or in equity, including specific performance.

The rights and remedies provided by this Agreement and granted to Buyer and Seller under this section are cumulative and are not exclusive of any rights and remedies provided by law.

12. Termination. This Agreement may be terminated, upon delivery of proper notice, as follows:

- a. By the mutual agreement of the parties in writing;
- b. By either party if any condition precedent to the terminating party's obligation to perform this Agreement is not satisfied and such condition is not waived by the terminating party at or prior to the Closing;
- c. By either party if the other party refuses, neglects or otherwise fails to perform in material breach of this Agreement; or
- d. By any other method expressly permitted under this Agreement.

13. Closing. The closing of this Agreement ("Closing") shall occur on or before September 15, 2021, unless mutually extended by the parties, at the office of the Closing Agent. The parties may agree to close the transaction at any other mutually convenient time or place. The actual date of the Closing is referred to as the "Closing Date" in this Agreement. Buyer and Seller will deposit with the Closing Agent all instruments and monies or deliverables necessary to complete the purchase in accordance with this Agreement. Possession and risk of loss shall pass from Seller to Buyer on the Closing Date.

- a. Closing Agent. First Montana Title Company of Billings, MT at 2737 Montana Ave., Billings, MT shall act as the Closing Agent for this transaction.
- b. Closing Costs & Fees. The costs and fees associated with Closing, including recording fees, will be paid by Buyer.
- c. Prorations. Buyer and Seller shall prorate any real property taxes, assessments, and Property Owners Association dues for the current year as of the Closing Date.

14. Related Agreements.

- a. County Lease. Buyer's obligation to perform under this Agreement is contingent upon Buyer's approval of the lease agreements affecting the Property and execution of an assignment and assumption agreement (including a release of Seller) for such leases, assigning Seller's interest in the lease(s) to Buyer. Buyer, at Buyer's option, may require that Seller provide tenant estoppel certificates or other documentation from lease tenant(s) to establish the lease terms and provisions.
- b. Sky Bridge Encroachment Agreement. Buyer's obligation to perform under this Agreement is contingent upon Buyer and Seller entering an encroachment agreement relating to the Sky Bridge with terms and conditions acceptable to Buyer in its sole discretion.

15. Miscellaneous.

- a. 1031 Exchange. The parties mutually acknowledge that either or both may intend to complete a tax deferred exchange under IRC Section 1031, and each party represents that any exchange will not delay the Closing or cause additional expense to the other party. The parties' rights under this Agreement may be assigned to a Qualified Intermediary selected by them for the purpose of completing the exchange. The parties agree to cooperate with

one another and the Qualified Intermediary selected (in the manner described in this paragraph) to complete the exchange.

- b. Captions. The captions and the sections of this Agreement are inserted only as a matter of convenience and for reference and in no way confine, limit or describe the scope or intent of any section of this Agreement.
- c. Assignment. Buyer may not assign or otherwise transfer this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Seller, which shall not be unreasonably withheld. Notwithstanding the foregoing, Buyer may assign or otherwise transfer its respective rights under this Agreement to another entity or department of Buyer authorized to take title to the Property to be purchased under this Agreement.
- d. Binding Effect. This Agreement is binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto.
- e. Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision of this Agreement.
- f. Time is of the Essence. Time is of the essence with respect to the performance of each of the covenants and conditions of this Agreement. If the date for performance of any act or expiration of time period falls on a Saturday, Sunday or legal holiday, then the time for performance or the date of expiration of time period shall be extended to the next successive day which is not a Saturday, Sunday or legal holiday.
- g. Further Assurances. The parties shall deliver to each other (without additional compensation) any additional documentation and shall perform any additional acts and execute and deliver any instruments, notices, receipts, and documents, to carry out and give effect to the terms and intent of this Agreement.
- h. Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected and each term, covenant, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- i. Entire Agreement. This Agreement, together with any attached exhibits and any addenda or amendments signed by the parties, shall constitute the entire agreement between Buyer and Seller, and supersedes any other written or oral agreements between Buyer and Seller.
- j. Modification. This Agreement can be modified only in writing, signed by Buyer and Seller. No provision of this Agreement may be changed, waived, discharged, or terminated orally, by telephone or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.
- k. Attorney's Fees; Costs. In the event of any dispute or litigation arising out of this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable costs and expenses, including reasonable attorneys' fees, costs, and expenses.



With a copy to (but which shall not constitute notice to Seller)  
Hendrickson Law Firm PC  
c/o Mark E. Noennig  
208 North Broadway, Suite 324  
Billings, MT 59101  
Email: mark@hendricksonlawmt.com  
Phone: 406-245-6238

To Escrow Holder: First Montana Title Company  
2737 Montana Ave.  
Billings, MT 59101  
Phone: 406-248-3000

- p. Exhibits. The following exhibits and schedules are attached to this Agreement and are incorporated by this reference into this Agreement:

Exhibit A. Legal Description of Property.

Exhibit B. Warranty Deed.

Exhibit C. Bill of Sale.

Exhibit D. Assignment and Assumption Agreement.

16. Offer Expiration. This offer expires at 5:00 P.M. MDT on June 30, 2021. Failure by Seller to execute and give proper notice to Buyer of Seller's acceptance renders this Agreement null and void, unless extended in writing and signed by both parties.

17. Statutory disclosures.

MOLD DISCLOSURE: The following disclosure is given pursuant to Montana Mold Disclosure Act, Montana Code Annotated § 70-16-703. There are many types of mold. Inhabitable properties are not, and cannot be, constructed to exclude mold. Moisture is one of the most significant factors contributing to mold growth. Information about controlling mold growth may be available from your county extension agent or local health department. Certain strains of mold may cause damage to property and may adversely affect the health of susceptible persons, including allergic reactions that may include skin, eye, nose and throat irritation. Certain strains of mold may cause infections particularly in individuals with suppressed immune systems. Some experts contend that certain strains of mold may cause serious and even life-threatening diseases. However, experts do not agree about the nature and extent of the health problems caused by mold or about the level of mold exposure that may cause health problems. The Center for Disease Control and Prevention is studying the link between mold and serious health conditions. The Seller, its partners, agents and attorney cannot and do not represent or warrant the absence of mold. It is the Buyer's obligation to determine whether a mold problem is present. To do so, the Buyer should hire a qualified inspector and make any contract to purchase, rent, or lease contingent upon the results of that inspection. A seller, landlord, seller's agent, buyer's agent, or property manager who provides this mold disclosure statement, provides for the disclosure of any prior testing and any subsequent mitigation or treatment for mold, and discloses any knowledge of mold is not liable in any action

based on the presence of or propensity for mold in a building that is subject to any contract to purchase, rent, or lease.

RADON DISCLOSURE STATEMENT: The following disclosure is given pursuant to the Montana Radon Control Act, Montana Code Annotated § 75-3-606. RADON GAS: RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT. If the Property has been tested for radon, the Seller will provide a copy of the test results concurrent with an executed copy of this Agreement. If the Property has received radon mitigation treatment, the Seller will provide the evidence of the mitigation treatment concurrent with an executed copy of this Agreement.

SMOKE DETECTORS: Seller represents that the Property is equipped with smoke detectors.

WATER RIGHT OWNERSHIP UPDATE DISCLOSURE. By Montana law, failure of the parties at closing or transfer of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the parties to comply with Montana Code Annotated § 85-2-424, could result in a penalty against the transferee and rejection of the deed for recording. The parties acknowledge and agree that the Buyer shall pay the fee required to be paid in connection with the transfer of the water rights.

MEGAN'S LAW. Certain individuals are required to register their address with the local law enforcement agencies as part of Montana's Sexual and Violent Offender Registration Act. In some communities, law enforcement offices will make the information concerning registered offenders available to the public. If Buyer desires further information, Buyer may contact the local County Sheriff's office, the Department of Justice in Helena, Montana, and the probation officers assigned to the area.

[Signature Page to Follow]

IN WITNESS WHEREOF, Buyer and Seller hereby execute this Agreement to Purchase and Sell Real Property.

**BUYER:**

**CITY OF BILLINGS, MONTANA**

\_\_\_\_\_  
By: William A. Cole

\_\_\_\_\_  
Its: Mayor

Date: \_\_\_\_\_

**SELLER:**

**WC COMMERCIAL, LLC**

An Alaska limited liability company

  
\_\_\_\_\_  
By: Joseph W. Holden

\_\_\_\_\_  
Its: Member

Date: \_\_\_\_\_

## EXHIBIT A – PROPERTY LEGAL DESCRIPTION

This legal description is subject to change based on the receipt of the Commitment. Based on a review of publicly available data, the Property includes the following described real property located in Yellowstone County, Montana:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block 43, of the Original Town (Now City) of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 16312.

Together with all rights in and to lands lying in streets, alleys and roads adjoining the real property and all buildings, fixtures and improvements thereon and all water and ditch rights, rights of way, tenements, hereditaments, privileges and appurtenances thereto, now owned or hereafter acquired, however evidenced, used or enjoyed with said property.

EXHIBIT B – WARRANTY DEED

[Separately Attached]

Upon recording, return to:  
Doug James  
Moulton Bellingham PC  
P.O. Box 2559  
Billings, MT 59103-2559  
Telephone (406) 248-7731

## Warranty Deed

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, **WC Commercial, LLC**, an Alaska limited liability company (“**Grantor**”) does hereby grant and convey unto **The City of Billings, Montana** ("**Grantee**"), all of Grantor’s right, title, and interest in and to the following real property, located in Yellowstone County, Montana, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, Block 43, of the Original Town (Now City) of Billings, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 16312.

Together with all rights in and to lands lying in streets, alleys and roads adjoining the real property and all buildings, fixtures and improvements thereon and all water and ditch rights, rights of way, tenements, hereditaments, privileges and appurtenances thereto, now owned or hereafter acquired, however evidenced, used or enjoyed with said property.

Together with all rights-of-way, tenements, hereditaments, privileges, and appurtenances thereto used in connection with such an undivided interest in the real property described herein, and together with all minerals and mineral interests, including, without limitation, any and all oil, gas, hydrocarbons, coal, clay, gravel, sand, scoria, and other similar minerals or mineral interests, including, without limitation, royalties, overriding royalties, leasehold interests, working interests, or similar interests, in and to the above-described real property not heretofore conveyed to or excepted or reserved by others.

TO HAVE AND TO HOLD unto Grantee, and to Grantee's heirs and assigns forever, subject to the following:

- a. Reservations and exceptions in patents from the United States and the State of Montana;
- b. Covenants, rights, restrictions, reservations, agreements, and easements prior to July 1, 2016, and those of record;

- c. All building, use, zoning, sanitary, and environmental restrictions of record;
- d. Taxes and assessments for the current year and thereafter; and
- e. All outstanding mineral, oil and gas interests, royalties, leases, reservations, and conveyances of record.

EXCEPT with reference to the items referred to in paragraphs (a) to (e) inclusive, this Deed is given with the usual covenants expressed in Section 30-11-110, MCA.

IN WITNESS WHEREOF, Grantor has executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 2021.

**WC COMMERCIAL, LLC**  
An Alaska limited liability company

\_\_\_\_\_  
Printed Name: Joseph W. Holden  
Its: Member

STATE OF Montana  
COUNTY OF Yellowstone

This instrument was signed or acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2021 by JOSEPH W. HOLDEN, the member of WC Commercial, LLC

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

EXHIBIT C – BILL OF SALE

**BILL OF SALE**

**THIS BILL OF SALE** (“Bill of Sale”) is dated as of \_\_\_\_\_, 2021, from **WC Commercial, LLC**, an Alaska limited liability company (“**Seller**”), to **The City of Billings, MT** (“**Buyer**”).

1. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby sells, conveys, transfers, assigns and delivers to Buyer, and Buyer hereby accepts from Seller, all of the right, title and interest that Seller possesses and has the right to transfer in and to the personal property located within the Stillwater Building, as more particularly described in the Purchase and Sale Agreement between the parties (the “Assets”).
2. Seller warrants to Buyer that on the date hereof, Seller is the true and lawful owner of the Assets, holds good, absolute, and marketable title in and to the Assets, and has full corporate power and authority to sell and convey the Assets.
3. By accepting delivery of this Bill of Sale, Buyer acknowledges that Seller makes no additional representations or warranties with respect to the Assets being conveyed, unless specifically set forth in the Purchase and Sale Agreement, and Buyer accepts the personal property “as is.”

**IN WITNESS WHEREOF**, Seller has caused this Bill of Sale to be executed and delivered on the date first above written.

**SELLER:**

**WC COMMERCIAL, LLC**  
An Alaska limited liability company

\_\_\_\_\_  
Printed Name: Joseph W. Holden  
Its: Member

EXHIBIT D – ASSIGNMENT AND ASSUMPTION AGREEMENT

[Separately Attached]

## ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT (“Assignment”), is made, entered into and effective as of \_\_\_\_\_, 2021 (“Effective Date”), by and between **WC COMMERCIAL, LLC**, an Alaska limited liability company (“Assignor”), the **CITY OF BILLINGS**, (“Assignee”) and **Yellowstone County**, (“Tenant”).

### RECITALS

A. This Assignment and Assumption Agreement relates to a Lease For A Portion Of The Third Floor Of The Stillwater Building in Billings, Montana, pursuant to which Assignor is the Landlord and Yellowstone County is the Tenant, (the “Lease”). A true and correct copy of the foregoing Lease is attached hereto as Exhibit “A”. The Lease is dated January 23<sup>rd</sup>, 2018. Pursuant to the Lease, Yellowstone County is a Tenant in the Stillwater Building with leased premises of approximately 17,395 square feet, (the “Premises”).

B. Assignor and Assignee are parties to that Purchase and Sale Agreement dated \_\_\_\_\_, 2021, wherein Assignor is the Seller and Assignee is the Buyer. Pursuant to the Purchase and Sale Agreement, Assignor as Seller intends to sell and convey to Assignee as Buyer all of Assignor’s right title and interest in and to all of the property known as the Stillwater Building, of which the Premises are a part.

C. This Assignment is being made for the purposes of: (1) assigning the Lease from Assignor to Assignee; (2) obtaining Yellowstone County’s consent to the assignment; and (3) having Yellowstone County release Assignor from all future obligations and duties under the Lease from and after the date of the Assignment to Assignee.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment of Lease. Assignor hereby assigns, transfers, conveys, and delivers to Assignee all interest in and right to the Lease.
2. Assumption of Obligation. Assignee hereby expressly assumes and all of the obligations of the Landlord under the Lease from and after the Effective Date of this Assignment.
3. Consent of the Tenant. Tenant hereby expressly consents to the Assignment of the Lease from Assignor to Assignee.
4. Release of Assignor. Tenant agrees that Assignor shall be and is released from all obligations and liability under the Lease from and after the Effective Date of this Assignment. The County agrees that from and after the Effective Date of this Assignment, it shall look exclusively to Assignee as its Landlord.

5. Representations of County. The County, as Tenant, makes the following representations to the City in connection with the Lease:

A. Tenant is the tenant under the Lease. There have been no amendments, modifications or revisions to the Lease.

B. The Lease has been duly authorized and executed by Tenant and is in full force and effect. Attached hereto as Exhibit A is a true, correct, and complete copy of the Lease together with all amendments, modifications and revisions related to the Lease. No other documents govern the relationship between Landlord and Tenant other than the Lease.

C. The Lease has not been assigned, by operation of law or otherwise, by Tenant. Tenant has not received any notice of the assignment by Landlord to any party of the Landlord's interest in the Lease.

D. The Lease has a Commencement Date of May 23, 2018 and an expiration date of May 22, 2025. There is one (1) consecutive renewal term of three (3) years.

E. As of the date hereof, Rent has been paid through \_\_\_\_\_, 2021.

F. Neither Tenant nor, to the best of Tenant's knowledge, Landlord is in default under the Lease and no event has occurred that, with the giving of notice or passage of time, or both, could result in a default under the Lease.

6. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the successors, assigns, and representatives of the respective parties hereto.

7. Attorneys' Fees. In the event of the bringing of any action or suit by a party hereto against any other party hereunder by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Assignment, then in that event, the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees and costs.

8. Governing Law. This Assignment shall be governed by, interpreted under, and construed and enforceable with, the laws of the State of Montana without regard to conflict of law principles.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same instrument

10. Cooperation. Assignor hereby agrees to and shall execute and deliver to Assignees any and all documents, agreements and instruments necessary to consummate the transactions contemplated by this Assignment.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

**ASSIGNOR: WC COMMERCIAL, LLC**

By: \_\_\_\_\_  
Joseph W. Holden  
Its: Member

**ASSIGNEE: CITY OF BILLINGS**

By: \_\_\_\_\_  
William A. Cole  
Its: Mayor

**TENANT: YELLOWSTONE COUNTY BY AND THROUGH  
ITS BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Donald Jones, Chairman

\_\_\_\_\_  
John Ostlund, Commissioner

\_\_\_\_\_  
Denis Pitman, Commissioner

EXHIBIT A  
Legal Description

4819-6824-2672, v. 2