

MEDIATED SETTLEMENT AGREEMENT

This Agreement is entered into to resolve that lawsuit filed in the Thirteenth Judicial District Court, Yellowstone County, Montana, entitled City of Billings and City of Billings in the name of the State of Montana vs. Christopher Shane Tucker, Cause No. DV 23-145 (“Lawsuit”).

RECITALS

WHEREAS, the City of Billings and City of Billings in the name of the State of Montana (“Plaintiffs”) allege in the Lawsuit now pending that Christopher Shane Tucker (“Defendant”) is owner of land and a structure thereon located at 802 Yellowstone Avenue in Billings, Montana (collectively the “Property”).

WHEREAS, Plaintiffs allege that the Property constitutes a public nuisance in violation of the law by way of its deteriorated condition and request an abatement of same by demolition.

WHEREAS, Defendant has answered Plaintiffs’ allegations by general denial.

WHEREAS, the costs to either Plaintiffs or Defendant to abate the nuisance conditions of the Property, including remediation of asbestos found to be in existence on the Property, is expected to be extensive.

WHEREAS, Plaintiff City of Billings has determined that as a public entity certain grant funding opportunities are or may be available to it for abatement of certain conditions on the Property if it were owner of same that would not be available to Defendant in his personal capacity.

WHEREAS, Plaintiff City of Billings has further determined that certain funding opportunities are or may be available for development of the Property for a beneficial public purpose, such as public housing, that it is interested in pursuing.

WHEREAS, it is the desire of the Parties to resolve finally and permanently all disputes, asserted or unasserted, arising out of, or related to the matters set forth, alleged, embraced by, or otherwise referred to in the Lawsuit.

NOW THEREFORE, in consideration of the foregoing Recitals and mutual promises contained herein, including the discontinuation of the pending Lawsuit, and for other good and valuable consideration hereby deemed received, the parties, having met with Judge Michael Moses (ret.) for mediation on July 17, 2024 and at that time executed a Memorandum of Understanding outlining the terms of this Agreement, now agree as follows:

1. This Agreement is contingent upon formal approval by the City Council of the City of Billings which shall not be unreasonably withheld.

2. Plaintiffs acknowledge having the capacity to resolve all issues, subject to the foregoing contingency in paragraph 1 above and compliance with such processes as may be required by state and city law relating to the transfer to and acquisition of real property by a public entity.

3. Defendant acknowledges having the capacity to resolve all issues.

4. The parties agree to the terms and conditions of this Mediated Settlement Agreement (“Agreement”) in full settlement of any and all claims which have been or could have been asserted in the Lawsuit.

5. Upon completion of the contingency set forth in paragraph 1 above, the following shall occur as expeditiously as possible thereafter:

a.) Defendant shall transfer by Warranty Deed, a copy of which is attached hereto and incorporated herein as Exhibit “A”, all his right, title and interest to the Property to Plaintiff, City of Billings.

b.) Defendant shall remove all personal property presently located at the Property on or before December 1, 2024. Any personal property not removed by December 1, 2024 will be deemed abandoned.

c.) Upon receipt of the executed Warranty Deed from Defendant, Plaintiffs' shall file a motion to dismiss this action with prejudice. The Court shall retain jurisdiction to enforce the terms and conditions of this Agreement.

d.) Defendant shall be responsible for property taxes from January 1, 2024 to the closing date for transfer of the Property. The City shall be responsible for taxes from the closing date for transfer of the Property through December 31, 2024 and thereafter.

6. This Agreement is subject to all applicable laws and regulations concerning the transfer of real property from Defendant to Plaintiff City of Billings.

7. The parties each agree to release, discharge, and forever hold the other harmless from any and all claims, demands, or suits, known or unknown, fixed or contingent, liquidated or unliquidated whether or not asserted in the Lawsuit, arising from or related to the Property. This release shall include money claims and expenses incurred by Plaintiffs during the pendency of the Lawsuit as to the Property. This mutual release and hold harmless shall be effective as of the date of the Court's Order granting Plaintiffs' motion to dismiss referred to in paragraph 5(c) above.

8. The parties acknowledge entering into this Agreement freely and with an understanding of all issues. Each party has carefully read the Agreement, had the opportunity to discuss it with persons of their own choosing if desired, understand the contents thereof, and sign the same of their own free will and accord.

9. No party hereto enters into this Agreement in reliance on any statement or representation from any person or entity which is not set forth in writing in the text of this Agreement.

10. Plaintiffs will be responsible to prepare all further documents necessary to implement this Agreement. The parties will cooperate in the timely execution of this Agreement and in the execution and exchange of all further documents reasonably necessary to implement the terms of this Agreement.

11. The parties acknowledge that the Mediator is not the attorney for any party, and that the mediator's comments were not intended as and should not be accepted as legal advice.

12. This Agreement represents the entire agreement between the parties the terms of which may only be changed in a writing executed by all parties. It is fully intended by the parties that this Agreement constitute a legally binding agreement enforceable in accordance with its terms.

13. This Agreement may be executed in two or more counterparts. A facsimile, electronic, or pdf copy signature shall be deemed an original.

14. The laws of the State of Montana shall apply to the interpretation of this Agreement.

15. This agreement shall be binding on and inure to the benefit of the parties and their respective legal representatives, successors, and assigns.

16. Should any provision of this Agreement be determined to be unenforceable, then so long as each party is able to substantially receive the benefit of the terms bargained for under this Agreement, all remaining terms and clauses shall remain in force.

**PLAINTIFFS: CITY OF BILLINGS AND CITY OF
BILLINGS IN THE NAME OF THE STATE OF
MONTANA**

By: _____
Mayor, William A. Cole

STATE OF MONTANA)
 : ss.
County of Yellowstone)

This instrument was acknowledged before me on this ____ day of _____,
2024, by William A. Cole, Mayor of the City of Billings.

Notary Public for the State of Montana
[Affix seal/stamp to the left]

DEFENDANT: CHRISTOPHER SHANE TUCKER

Christopher Shane Tucker

STATE OF MONTANA)
 : ss.
County of Yellowstone)

This instrument was acknowledged before me on this ____ day of _____,
2024, by Christopher Shane Tucker.

Notary Public for the State of Montana
[Affix seal/stamp to the left]

After recording, return to:
City Clerk
City of Billings
PO Box 1178
Billings, MT 59103

WARRANTY DEED

THIS DEED, made this ___ day of _____, 2024, in consideration by the City of Billings, the receipt of which is acknowledged, **CHRISTOPHER SHANE TUCKER**, 36 Clark Avenue, Billings, MT 59101, ("**Grantor**") does hereby grant and convey to the **CITY OF BILLINGS**, a political subdivision of the State of Montana, 210 North 27th Street, Billings, MT 59103, ("**Grantee**"), all of Grantor's right, title, and interest in and to the following real property, located at the common address of 802 Yellowstone Avenue, Billings, more particularly described as follows:

Lot One (1), in Block Three (3), of Rickman Subdivision, in the 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. 345049.

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

- (a) Reservations and exceptions in patents from the United States or the State of Montana.
- (b) Existing easements and rights-of-way whether of record or as presently located on the ground.
- (c) All building, use, zoning, sanitary, and environmental restrictions.
- (d) All prior conveyances, leases or transfers of any interest in minerals, including oil, gas, and all other hydrocarbons and minerals.
- (e) Taxes and assessments for current year prorated from date of closing and all subsequent years.

This grant is made with the usual covenants expressed in Section 30-11-110, MCA, and warranty that marketable, fee simple title is hereby conveyed, subject to the items referred to in paragraphs (a) to (e) inclusive.

This conveyance is made and accepted upon the express agreement that the consideration heretofore paid constitutes an adequate and full consideration in money or money's worth.

IN WITNESSETH WHEREOF, the undersigned has executed these premises the day and year first above written.

