

## CONTRIBUTION AND REIMBURSEMENT AGREEMENT

This CONTRIBUTION AND REIMBURSEMENT AGREEMENT (this “*Agreement*”) dated as of [\_\_\_\_], 2024 (the “*Effective Date*”), is by and among CITY OF BILLINGS, MONTANA, a municipality and political subdivision of the State of Montana (“*Owner*”), FORMER FEDERAL BUILDING MANAGER, LLC, a Montana limited liability company (the “*Manager*”), and FORMER FEDERAL BUILDING LANDLORD, LLC, a Montana limited liability company (the “*Landlord*”).

### RECITALS

A. Owner is the owner of all of that tract of land located at 316 N. 26<sup>th</sup> Street, Billings, MT 59101, together with all rights, alleys, ways, waters, privileges, roads, appurtenances, and advantages, to the same belonging or in any way appertaining thereto (collectively, the “*Land*”) and the historic building or buildings located on the Land, together with all fixtures and personal property, all off-street parking areas on the Land, all common areas at the Land, and all replacements, additions, and alterations thereto (collectively, the “*Improvements*” and, together with the Land, the “*Property*”).

B. Owner has agreed to lease to Landlord pursuant to that certain Ground Lease Agreement dated as of the date hereof (the “*Ground Lease*”) with respect to the Property.

C. Landlord desires to cause the acquisition, renovation, rehabilitation, construction, and development of the Property into a city hall and related uses (the “*Project*”), and for the financing of the Project.

D. Prior to the date hereof, Owner has expended certain funds in connection with the Project in the amount of \$\_\_\_\_, including, but not limited to, costs incurred in connection with the construction contract, architect’s agreement and all other contracts entered into in connection with the Project (the “*Pre-Incurred Costs*”), as summarized on **Exhibit A**, attached hereto and incorporated herein by this reference.

E. Owner is the managing member and sole member of Manager.

F. Manager owns a 1% membership interest in the Landlord and is the managing member of Landlord.

G. The parties desire for the Pre-Incurred Costs to be transferred to Landlord (the “*Contribution*”), as a capital contribution from Owner to Manager and Manager desires to make a capital contribution to the Landlord in the amount of the Pre-Incurred Costs in connection with its membership interest in the Landlord.

H. Accordingly, the parties are accounting for the Pre-Incurred Costs as a capital contribution from Owner to Manager in the amount of \$\_\_\_\_, followed by net capital contribution by Manager to Landlord in the same amount pursuant to Section 721(a) of the Internal Revenue Code of 1986, as amended (the “*Code*”).

I. THEREFORE, for and in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Contribution of Pre-Incurred Costs. The parties hereto agree that the Pre-Incurred Costs will be deemed to be a capital contribution from Owner to Manager and from Manager to Landlord.

2. Capital Account Credit. The parties agree that Manager will receive capital account credit on the books of Landlord in the amount of the Pre-Incurred Costs.

3. Governing Law. This Agreement is governed by and construed in accordance with the internal, substantive laws of the State of Montana applicable to agreements made and to be performed entirely within such State, without regard to its conflicts of law provisions.

4. Severability. In the event that any covenant, condition, or other term herein contained is held to be invalid, void, or illegal by any court of competent jurisdiction, the same will be deemed to be severable from the remainder of this Agreement and will in no way affect, impair, or invalidate any other covenant, condition, or other term contained herein.

5. Further Assurances. From time to time on and after the date hereof, each party hereto will promptly execute and deliver all such further instruments and assurances, and will promptly take all such further actions, as the other parties hereto may reasonably request (but at the requesting party's expense) in order more effectively to effect or confirm the transactions hereby contemplated and to carry out the purposes of this Agreement.

6. Tax Treatment. All of the parties will treat and report the transactions contemplated in accordance with this Agreement in the manner described herein. The parties will not take any actions or positions which are inconsistent with this Agreement and the obligations set forth herein.

7. No Third-Party Beneficiaries. This Agreement binds and inures to the benefit of the parties hereto and their respective successors and permitted assigns. Except as expressly set forth herein, nothing in this Agreement is intended to or does confer any rights or remedies on any person other than the parties hereto and their respective successors and permitted assigns.

8. Counterparts. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered will be an original, but all of which together will constitute one and the same agreement. In pleading or proving this Agreement, it will not be necessary to produce or account for more than one copy of this Agreement executed (in counterparts or otherwise) by all of the parties.

(The remainder of this page is intentionally left blank.)

**IN WITNESS WHEREOF**, parties have caused this Contribution and Reimbursement Agreement to be duly executed effective as of the Effective Date.

OWNER:

CITY OF BILLINGS, MONTANA,  
a municipality and political subdivision of the State of  
Montana

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MANAGER:

FORMER FEDERAL BUILDING MANAGER, LLC,  
a Montana limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LANDLORD:

FORMER FEDERAL BUILDING LANDLORD, LLC, a  
Montana limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**DESCRIPTION OF PRE-INCURRED COSTS**

All costs to date incurred by Landlord in connection with the rehabilitation of the Project including, but not limited to, costs incurred in connection with the construction contract, architect's agreement and all other contracts entered into in connection with the Project.