

Fourth Amendment to Purchase and Sale Agreement

Seller: The City of Billings

Buyer: Honaker Realty, LLC & JWT Capital, LLC

FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (“PSA Amendment”) is made effective as of the last date set out below in the signature block (“Effective Date”), by and between **Honaker Realty, LLC** and **JWT Capital, LLC** or their assigns (“Buyer”), and the **City of Billings** (“Seller”).

RECITALS

- A. Effective March 1, 2024, Buyer and Seller executed that certain Purchase and Sale Agreement concerning Real and Personal Property referenced therein (“Agreement”).
- B. The Agreement provides certain matters for due diligence review by Buyer within the “Contingency Period” referenced at Section 11 of the Agreement, certain deadlines for which the parties agree should be extended. The parties originally extended certain deadlines to November 15, 2024 through the First Amendment to Purchase and Sale Agreement.
- C. Following execution of the First Amendment to Purchase and Sale Agreement, the parties, on November 14, 2024, executed a Second Amendment to Purchase and Sale Agreement to extend the Contingency Period for certain matters until December 6, 2024, and executed a Third Amendment to Purchase and Sale Agreement on December 18, 2024 to extend certain Contingency Period matters until January 31, 2025.
- D. The parties again desire to extend the Contingency Period for certain Contingency Period items, as more particularly described below.
- E. Consequently, the parties agree that the Agreement should be amended as provided below.

FOR VALUABLE CONSIDERATION, IT IS AGREED:

1. Contingency Period. Seller and Buyer agree that, in addition to any Contingencies previously waived specifically by Buyer in the First, Second and Third Amendments to the Purchase and Sale Agreement, the following Contingency set forth in the Agreement at Section 11 may be deemed to be waived by Buyer effective as of January 31, 2025:

(g) approval of DBP for removal or use of the portable rest room located on Parcel B referenced in Section 11(c)(10) of the Agreement.

The following Contingencies within the Agreement at Section 11 will be extended until March 31, 2025, without additional consideration:

(j) Seller will provide an agreement acceptable to Buyer for management of the parking on Parcels A and B as required in Section 11(c)(9);

(k) agreements satisfactory to Buyer regarding the sky bridge encroachments and title to the same as referenced in Section 11(c)(11); and

(l) any other due diligence type matter either not specifically deemed to be waived by Buyer in subsection 1(g) above or any prior specifically waived item in the First, Second and Third Amendments to the Purchase and Sale Agreement.

The following Contingency within the Agreement at Section 11 will be extended until on or before the Closing Date without additional consideration: Buyer obtaining and putting into place financing deemed satisfactory by it for the acquisition and development of the Property.

2. Closing Date/Vacating Date by Seller from Property. Despite the extensions to the Contingency Period as set forth above, the parties anticipate that the Closing Date chosen in the Third Amendment to Purchase and Sale Agreement of May 15, 2025 (“Closing Date”), will remain in place unless the parties should mutually agree in writing to an earlier Closing Date. Seller will vacate the Property by no later than the Closing Date. Seller will retain possession and risk of loss for the Property until the Closing Date, and Buyer will assume possession and risk of loss for the Property following the Closing Date. It is understood and agreed by Seller that, provided that its Contingencies are satisfied, Buyer must complete its purchase of the Property on or before June 1, 2025 in order to qualify for certain aspects of its funding for the Project, thus Buyer will not be able to accord Seller any extension of the Closing Date beyond that set out herein.

3. Full Force and Effect. Unless expressly amended herein, all terms, agreements, conditions, covenants, warranties and representations of the parties within the Agreement will remain in full force and effect and are deemed to be incorporated by reference herein.

IN WITNESS WHEREOF, the parties hereunto have set their hands the date appearing at their respective signatures.

SELLER

The City of Billings

Date

By: _____
William A. Cole
Mayor

By: _____
Denise R. Bohlman
City Clerk

BUYER

Honaker Realty, LLC

Date

By: _____
Printed Name: _____
Title: _____

JWT Capital, LLC

Date

By: _____
Printed Name: _____
Title: _____