



MRA Project Summary MRA Board Meeting May 8, 2026

Urban Renewal District: URD III

District Sunset Date: June 30, 2040

City Council Ward: 4

Name of Project: Midtown Commons

Project Location: Between Mary Avenue and Dixon Avenue, East of the Bitterroot Rail

Project Description: Multi-use development with between 200 and 300 new housing units and new public infrastructure improvements including a new public park and streets, sidewalks, boulevards, utilities, and trail connections.

Proposed TIF Investment: Initially, \$10.9 million in TIF funds would be used to reimburse public infrastructure improvements. The developer has agreed to provide a \$5 million infrastructure cost-sharing payment in installments as residential units are sold. The overall TIF investment is estimated to be approximately \$5 million.

Board Action Requested: The MRA Board is being asked to endorse the terms of Purchase and Sale Agreements for two properties – Midtown Commons Property and Mary Avenue Property – and the Development Agreement for the Midtown Commons Project, and to forward a recommendation to City Council.

The Board also is being asked to approve up to \$10.9 million in TIF funds from URD III to reimburse the developer for infrastructure improvements, with the understanding that if the current estimate is not adequate additional TIF funds may be requested.

Unique Public Purpose or Benefit: This project will provide 200 to 300 new homes to the community, addressing a critical need as the city experiences a housing crisis. The project also will provide a new public park in an area that is lacking park space, and will make critical street and sidewalk connections have been recommended for 20+ years

This public/private partnership between MRA and Miramonte Companies, LLC allows the City to further the goals of the [URD III Plan](#), the Missoula Midtown Master Plan and the [City's Strategic Plan](#).



MEMORANDUM

TO: MRA Board

FROM: Annette Marchesseault, RLA *ARM*
Sr. Redevelopment Project Manager

DATE: May 5, 2026

SUBJECT: **Midtown Commons Project Development (URD III/Ward 4) – Request to Approve TIF Funding and Recommendation for City Council Approval of Legal Documents**

This memo details requests for the MRA Board to endorse two Purchase and Sale Agreements and to approve a Development Agreement which includes a TIF funding request for the Midtown Commons (formerly Southgate Crossing) project. The Board's actions will be forwarded to City Council with recommendations.

Introduction

The property being considered for sale and redevelopment was purchased by the City in December 2024, with the express intent to assemble miscellaneous parcels then under separate ownership for redevelopment. The goal was to package these parcels and find a developer that could deliver a mixed-use development incorporating housing, commercial, a new neighborhood park, and important transportation and greenway connections. (See Exhibit 1) This request represents the culmination of the last 18 months of work to find a suitable developer and proposed project master plan. This project also represents a great return on community benefit for the amount of public investment. Under these agreements, the developer agrees to acquire the land for the same price the City paid, agrees to contribute the parkland back to the City, and partners to pay for approximately 50 percent of the infrastructure. Total City investment is expected to be approximately \$5.9 million.

History & Background

The vacant property now known as Midtown Commons is located south of Southgate Mall. Between the mid-1950s and mid-1970s a sawmill was located on the northern part of the property. An irrigation ditch traversing the property was rerouted to accommodate sawmill

activities. When the sawmill was closed and dismantled in 1976, the site was left vacant. It has never been redeveloped despite several planning efforts.

There has been a series of plans developed over the last 20+ years including this area beginning with the Urban Renewal District III (URD III) Plan in 2000 and culminating with the Missoula Midtown Master Plan adopted in 2023. The URD III Plan, adopted when the district was created, identified blighting influences such as the transportation system's lack of connectivity, the lack of parks and public spaces, the need for a variety of housing types, and the existence of vacant and underutilized land. It also acknowledged that City acquisition of the property could be a necessary tool for effectively addressing blight in the district.

Shortly after URD III was created MRA engaged the Urban Land Institute (ULI) to provide a more in-depth analysis of challenges and opportunities in the newly created district. "This is where the panel believes that the most intense development in Midtown Missoula should occur," the authors of that report wrote about this property. They envisioned mixed-use development with significantly improved connectivity. Over the next 20+ years a series of other plans recognized the property as a major opportunity if the land could be assembled into a comprehensive redevelopment, but none progressed beyond the conceptual stage.

The most recent and comprehensive planning effort to encompass the project area, the Midtown Master Plan, identified Midtown Commons as a transition area between Midtown Junction (the area adjacent to the Brooks, South, Russell intersection) and primarily residential areas to the east and west, envisioning a wide mix of uses, including residential, office, retail, manufacturing and restaurants along with street and trail connections and new park space.

One long-standing, significant challenge to redevelopment has been varied ownership. The land was subdivided into multiple parcels with platted streets and alleys, with multiple owners controlling the private property. When one of the private property owners made it clear in 2023 that they intended to sell their land, the City engaged the Missoula Economic Partnership (MEP) to bring the two remaining property owners to the table and negotiate a satisfactory deal for the City to purchase the entire property. Under City ownership, the City could partner with a compatible developer to achieve the multiple community goals that had been envisioned for 20+ years.

City Land Purchases and Developer Selection

Informed by this long history of planning, and with an opportunity to finally unlock the development potential of the vacant Midtown Commons property, MRA and the City, as outlined below, have moved decisively to: 1) complete acquisition of key properties; 2) lay the groundwork for acquisition of a final relevant property; and 3) negotiate a plan to sell the

properties and redevelop them to provide critical public benefits such as housing, transportation connectivity, and a new neighborhood park.

Property Purchase #1 – Midtown Commons (aka Southgate Crossing): At its October 31, 2024, meeting the MRA Board approved using \$5.9 million (rounded) of TIF funds to purchase the 9.06 acres of private land at Midtown Commons. This property was crossed by a little over 4 acres of publicly owned right-of-way, so the purchase would give the City control over 13.2 contiguous acres of developable land in a key infill location in Midtown. At its November 18, 2024, meeting City Council authorized the Mayor to sign documents to purchase the property. The City took ownership of the property on December 13, 2024.

Property Purchase #2 – Mary Avenue Property: In late Summer 2025 Tollefson Properties LLC, the owner of a 2.3-acre parcel of property adjacent to the northwest corner of Midtown Commons, offered to sell the parcel to the City for \$1.3 million. A subsequent appraisal of the land values it at \$1.8 million. At its September 18, 2025, meeting the MRA Board approved using up to \$50,000 of TIF funds to conduct due diligence on this property, and \$1.3 million of TIF funds to purchase the property, pending City Council approval. Resolving issues related to some redevelopment restrictions held by former owners extended the due diligence period much longer than expected and, as a result, the property purchase request has not yet been submitted to City Council. The covenants issue was finally resolved last month. Staff is recommending a simultaneous City purchase and sale to the developer, described below.

Developer Selection – Upon acquiring the Midtown Commons property, the City engaged MEP to solicit development proposals. MEP prepared a detailed site brief that included community goals, planning history, project expectations, and available development tools, all of which was informed by public feedback gathered during the Midtown Master Planning process, and the Our Missoula 2045 Land Use Plan and Code Reform community engagement process. MEP vetted an extensive roster of interested developers and provided the City with a short list of qualified developers and facilitated interviews. Miramonte Companies LLC (Miramonte) submitted the development proposal that most closely aligned with the City’s goals. On June 30, 2025, the City signed an Exclusive Negotiation Agreement (ENA) with Miramonte and began negotiating details.

Public Engagement – Multiple public engagement efforts as described above informed development goals for this area over the past 20+ years, with the most recent being the Midtown Master Plan adopted in 2023, which had public engagement at the forefront. MEP drafted its developer solicitation brief around the Master Plan’s vision for this area.

When the ENA was in place with Miramonte the City introduced the development team and project concepts to the community at a public open house on October 22, 2025. Two Engage

Missoula pages, one for the overall development and one for the design of the public park, were established to provide project information and to solicit public input. Additionally, the Department of Parks and Recreation (Parks) conducted a series of public workshops and surveys, to ensure that the neighborhood could actively participate in the design of its park.

Proposed Next Steps – City Land Sale and Development Agreement

Staff is now requesting that the Board review the next steps in the redevelopment of Midtown Commons: 1) City Council consideration of the sale of Midtown Commons and the acquisition and sale of the Tollefson property to Miramonte; 2) MRA Board consideration of a Development Agreement and TIF funding for public infrastructure improvements at Midtown Commons.

Property Sale to the Developer – The City is proposing to sell both the Midtown Commons property and the Mary Avenue property to Miramonte for \$7.2 million, the same price the City paid. (Midtown Commons – \$5.9 million; Mary Avenue Property – \$1.3 million). As described above, the City will request that City Council approve a simultaneous purchase and sale of the Mary Avenue property along with authorization of the sale of the Midtown Commons property.

Development Agreement – Miramonte will complete design and construction of the Midtown Commons Project and public infrastructure improvements consistent with the master plan as shown in Exhibit 2. The development includes 234 units in a mix of townhouses, for-sale condominiums, multi-family rental apartments, and single-family homes, four commercial buildings, new streets and sidewalks, a 1.6-acre public park, and pedestrian and bicycle connections to the Bitterroot Trail. Construction is expected to be completed in five phases over approximately seven years. The first phase would begin this summer. The entire development cost is estimated at approximately \$100 million.

TIF Reimbursement for Public Infrastructure Improvements

TIF funds are being requested to reimburse Miramonte for the public infrastructure improvements in accordance with the URD III Plan, which includes streets, sidewalks, boulevard landscaping, utilities, the public park, and the trail connections. The total public infrastructure cost is estimated at approximately \$10.9 million (\$2.5 million for the park and \$8.4 million for the remainder of the infrastructure). Construction is expected begin this summer with the initial reimbursement request being submitted in early FY27.

Developer Infrastructure Cost-Sharing Payment

In recognition of the City's contribution to the project Miramonte has agreed to provide the City a \$5 million infrastructure cost-sharing payment, which will be paid in installments in connection with the sales of the residential units.

Synopsis of the Development Agreement**City Cost (TIF) for Land Purchase**

Southgate Crossing Property	(\$5,900,000)
Mary Avenue Property	<u>(\$1,300,000)</u>
	(\$7,200,000)

City Cost (TIF) for Public Infrastructure Improvements

Streets, sidewalks, utilities boulevard landscaping, etc.	(\$8,400,000)	estimated
Public Park	<u>(\$2,500,000)</u>	estimated
	(\$10,900,000)	estimated

City Revenue from Developer

Land Payment	\$7,200,000
Developer Infrastructure Cost Sharing	<u>\$5,000,000</u>
	\$12,200,000

Total City (TIF) Cost

Cost for Land Purchase	(\$7,200,000)
Cost for Public Infrastructure Improvements	(\$10,900,000)
Revenue from Developer	<u>\$12,200,000</u>
	(\$5,900,000) estimated

Total Private Development Cost (\$94,100,000) estimated

The ratio of public (TIF) investment to private investment is approximately 1:16. As a general rule the recommended ratio between TIF funds and private investment is 1:10 or more.

Public Benefit

The Midtown Commons project is an infill development that will provide 234 units of new housing in a key location with existing services, employment, and commercial offerings nearby. The mix of housing types will include townhouses, condominiums, multi-family apartments and single-family homes. Some new commercial and office spaces are also tentatively included, further strengthening the area's economic base and employment opportunities.

The new development will also provide critical street and sidewalk connections that have been recommended for more than 20 years, most notably the north/south connection of Johnson Street between South Avenue and Dixon Avenue and ultimately to Brooks Street. New trail connections to the Bitterroot Trail will open up safe and convenient pedestrian and bicycle routes for current and new neighborhood residents.

A new complete public park will provide recreational amenities in a location recommended both in the Midtown Master Plan and the City's Parks Recreation Open Space and Trails (PROST) plan.

The City will be investing approximately \$5 million to achieve an approximately \$100 million development. Land that has been vacant and providing nominal tax revenue for more than 50 years will yield significantly more tax revenue, in addition to providing much needed housing and resolving urban design challenges.

Request for TIF Commitment

As described above the City is proposing to commit TIF funds to reimburse Miramonte for the cost of the public infrastructure improvements, which may be constructed in two phases. The design for the first phase of infrastructure work adjacent to the townhouses on Harve Avenue is sufficiently far enough along to provide a good estimate, with adequate contingency for the unexpected. The second phase of infrastructure work is still in the schematic phase making it harder to estimate at this point.

Staff is recommending that the MRA Board approve TIF funds to reimburse infrastructure improvements at the estimated amount of \$10.9 million, with the understanding that if the current cost estimate is not adequate, additional TIF funding could be requested.

URD III Financial Capacity

There is more than adequate capacity in URD III. As of last month's financial reports the District had approximately \$2.9 million in unobligated funds and FY26 revenues exceeded \$8.3 million. The District's FY27 revenues can be expected to be as much or more than FY26. Reimbursement requests are expected to begin in the beginning of FY27 and extend into FY28.

The District also has a significant amount of bonding capacity. Depending on the impact of future remittances on URD III and how the Franklin Crossing development moves forward, this project could potentially be funded without issuing bonds. However, if that becomes necessary, the capacity is there without jeopardizing any known opportunities.

RECOMMENDATION: Staff recommends that the MRA Board endorse the terms of the Purchase and Sale Agreements for the Midtown Commons Property and for the Mary Avenue Property and the Development Agreement for the Midtown Commons Project and direct staff to forward a recommendation to the City Council that they approve the agreements and the sale of approximately 15.5 acres of City-owned land located in Urban Renewal District III.

Staff further recommends that the MRA Board approve up to \$10.9 million in TIF funds from URD III to reimburse infrastructure improvements work, with the understanding that if the current estimate is not adequate, additional TIF funding may be requested, and authorize the Board Chair to sign all necessary documents.



November 18, 2024

Dear Council Members,

I am writing to request your approval of the City's purchase of the Southgate Crossing property, a strategic acquisition that aligns with our collective vision for Midtown Missoula. The Missoula Redevelopment Agency (MRA) has approved this purchase, which presents a significant opportunity to transform this long-vacant 13.5-acre site into a vibrant, community-oriented development.

Key Details:

- **Purchase Price:** The agreed purchase price is \$15 per square foot, totaling approximately \$5.9 million—below the appraised values of \$16.47 per square foot "As-Is" and \$21.03 per square foot with entitlements. This favorable price reflects a generous contribution from the sellers.
- **Due Diligence:** Comprehensive assessments, including environmental reviews and title examinations, confirmed no significant environmental risks and clear property boundaries, ensuring a sound investment for the City.
- **Planned Redevelopment:** Acquiring this property allows the City to engage in a public process to master plan the site, achieving community-identified goals such as affordable housing, mixed-use commercial spaces, public parks, and enhanced transit connectivity. These initiatives are in alignment with the 2023 Midtown Missoula Master Plan.

This acquisition is funded through the City's Tax Increment Financing (TIF) tool within Urban Renewal District III. With your approval, we can move forward to finalize the purchase and begin the collaborative planning process with our community partners.

This transformative project is a major goal for me and for the City's Administration. Thank you for your thoughtful consideration.

I regret being unable to be with you tonight. I am the keynote speaker at the Burton K. Wheeler Center for Public Policy's Montana Housing Crisis Summit in Bozeman. I wish you a productive meeting.

Andrea Davis
Mayor

EXHIBIT 2

MIDTOWN COMMONS MASTER PLAN



DEVELOPMENT AGREEMENT
(Midtown Commons Project)

This DEVELOPMENT AGREEMENT (this “Agreement”) is dated _____, by and between MIRAMONTE COMPANIES, LLC, a Montana limited liability company (“**Developer**”) the CITY OF MISSOULA, MONTANA, a municipal corporation of the State of Montana (“**City**”), and the MISSOULA REDEVELOPMENT AGENCY, a component unit of the City (“**MRA**”). Developer, City and MRA are each individually referred to herein as a “**Party**” and collectively as the “**Parties**.”

RECITALS:

WHEREAS, under the provisions of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “**Act**”), the City is authorized to create urban renewal areas, prepare and adopt an urban renewal plan therefor and amendments thereto, undertake urban renewal projects therein, provide for the segregation and collection of tax increment with respect to property taxes collected in such areas, issue its bonds to pay the costs of such projects and pledge to the repayment of the bonds all or a portion of the tax increment and other revenues derived from projects undertaken within the urban renewal area; and

WHEREAS, pursuant to the Act and Ordinance No. 3163, adopted by the Council on December 11, 2000, as amended by Ordinance No. 3557, adopted by the Council on November 9, 2015, the City has created the City of Missoula Urban Renewal District III as an urban renewal area (“**District**”) and has approved the City of Missoula URD III Urban Renewal Plan (“**Plan**”) as an urban renewal plan. The Plan provides for the segregation and collection of tax increment revenues with respect to the District in accordance with the provisions of the Act; and

WHEREAS, City previously acquired approximately thirteen (13) acres of property located south and west of 3015 Paxson Street (“**Property**”) to be redeveloped for mixed uses and housing; and

WHEREAS, in June 2025, and amended in December 2025, City and Developer executed an Exclusive Negotiation Agreement relating to a framework for the Parties to conduct due diligence and evaluated a shared redevelopment vision consistent with the Missoula Midtown Master Plan and Developer’s proposed concept plan, and City and Developer have engaged in regular meetings and negotiated in good faith; and

WHEREAS, the redevelopment of the Midtown Commons property requires public infrastructure improvements, including a new public park, connections to the Bitterroot Trail, street construction, landscaping in the right-of-way, sidewalks, street lighting, extension of water and sewer mains, installation of storm water treatment, irrigation ditch relocation and improvements, and related improvements consistent with the Midtown Master Plan (collectively, the “**Infrastructure Improvements**”); and

WHEREAS, the “**Midtown Commons Project**” will be made up of for sale and for rent residential structures in a mixture of building types (presently envisioned as townhomes, condos

and multifamily apartments), along with the possibility of adding commercial office spaces, completed in five (5) phases, as shown in the Master Plan and attached as Exhibit A; and

WHEREAS, under the Act, permissible uses of tax increment and tax increment financing include the acquisition, construction and improvement of public improvements or infrastructure; and

WHEREAS, the Parties desire to enter into this Agreement which sets forth the obligations and commitments of the Parties with respect to the Midtown Commons Project and Infrastructure Improvements.

NOW, THEREFORE, City, MRA and Developer, pursuant to the Act, each in consideration of the representations, covenants and agreements of the other, as set forth herein, mutually represent, covenant and agree as follows:

Section 1. Definitions; Rules of Interpretation; Exhibits.

1.1. Definitions. For all purposes of this Agreement, except as otherwise expressly provided or unless the context clearly requires otherwise, the following terms have the meanings given such terms in the Recitals, in the Supplemental Resolution, or as follows:

“Environmental Laws and Regulations” means and includes the Federal Comprehensive Environmental Compensation Response and Liability Act (“CERCLA” or the “Federal Superfund Act”) as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”), 42 U.S.C. §§ 9601 et seq.; the Federal Resource Conservation and Recovery Act of 1976 (“RCRA”), 42 U.S.C. §§ 6901 et seq.; the Clean Water Act, 33 U.S.C. § 1321 et seq.; and the Clean Air Act, 42 U.S.C. §§ 7401 et seq., all as the same may be from time to time amended, and any other federal, state, county, municipal, local or other statute, code, law, ordinance, regulation, requirement or rule which may relate to or deal with human health or the environment including without limitation all land use, zoning, and stormwater control regulations as well as all regulations promulgated by a regulatory body pursuant to any statute, code, law, ordinance, regulation, requirement or rule.

“Indemnified Parties” has the meaning given to it in Section 6.1.

“Land Use Regulations” means all federal, state and local laws, rules, regulations, ordinances and plans relating to or governing the development or use of the Land or the Midtown Commons Project.

“Prevailing Wage Rates” means the Montana Prevailing Wage Rate for public works projects as published from time to time by and available from the Montana Department of Labor and Industry, Employment Standards Division, P.O. Box 8011, Helena, Montana 59604, telephone number (406) 444-3904.

“Midtown Commons Project” has the meaning given in the recitals hereto.

“State” means the State of Montana.

“Unavoidable Delay” means a delay resulting from a cause over which the Party required to perform does not have control and which cannot or could not have been avoided by the exercise of reasonable care, including but not limited to, acts of God, accidents, war, civil unrest, embargoes, strikes, unavailability of raw materials or manufactured goods, litigation, pandemics, epidemics, labor shortages, unusually inclement weather and the delays of the other Party or its contractors, agents or employees in the performance of their duties under or incident to this Agreement.

1.2. Rules of Interpretation.

(a) The words “herein,” “hereof” and words of similar import, without reference to any particular section or subdivision, refer to this Agreement as a whole rather than to any of its particular sections or subdivisions.

(b) References to any particular section or subdivision hereof are to the section or subdivision of this Agreement in its original signed form, unless otherwise indicated.

(c) The word “or” is not exclusive but is intended to contemplate or encompass one, more or all of the alternatives conjoined.

1.3. Exhibits. The following Exhibits are attached to and by reference made a part of this Agreement:

Exhibit A: Midtown Commons Master Plan

Exhibit B: Property Description

Exhibit C: Park Master Plan

Exhibit D: Right-of-Way to be Vacated/Dedicated and Proposed Parcel Map

Exhibit E: Public Infrastructure Phasing Plan

Exhibit F: Non-Discrimination and Equal Opportunity Policies

Section 2. Representations.

2.1. City and MRA Representations. The City and MRA hereby represent as follows:

(a) Pursuant to the Act, and after a public hearing duly called and held, the City by the Ordinance has duly created the District.

(b) Pursuant to the Supplemental Resolution, the City has duly authorized the execution and delivery of this Agreement. The Missoula City Council and the MRA Board have approved this Agreement in conformance with applicable legal requirements.

2.2. Developer Representations. Developer hereby represents as follows:

(a) Developer is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Montana and with full power and authority to enter into and perform this Agreement in accordance with the terms and conditions hereof.

(b) Developer has full right, power, authority, and ability to execute, deliver, and perform this Agreement and by all necessary corporate action has duly authorized the execution and delivery of this Agreement.

(c) With the MRA Infrastructure funds described below Developer has the financial capability or financing commitments to complete the Infrastructure Improvements and the Midtown Commons Project.

(d) Developer is not aware of any facts the existence of which would cause Developer to be in violation in any material respect of any Environmental Laws and Regulations applicable to the Midtown Commons Project and Infrastructure Improvements. Developer has not received from any local, State or federal official any notice or communication indicating that the activities of Developer have been, may be or will be in violation of any Environmental Laws and Regulations applicable to the Midtown Commons Project or the Infrastructure Improvements.

(e) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof is prohibited or limited by, conflicts with or results in a breach of the terms, conditions or provisions of the certificate of formation, partnership agreement or operating agreement of Developer or any evidence of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(f) There is no action, suit, investigation or proceeding now pending or, to the knowledge of Developer, threatened against or affecting Developer or its business, operations, properties or condition (financial or otherwise) before or by any governmental department, commission, board, authority or agency, or any court, arbitrator, mediator or grand jury, that could, individually or in the aggregate, materially and adversely affect the ability of Developer to complete the Midtown Commons Project and Infrastructure Improvements.

Section 3. City and MRA Undertakings.

3.1. City to Convey Lands to Developer. City hereby commits that it will convey to Developer lands at Midtown Commons for its original acquisition cost of Seven Million Two Hundred Thousand Dollars (\$7,200,000) as described in the Real Property Purchase and Sale Agreements executed by the Parties concurrently with this Agreement.

3.2. MRA to Provide Funding for Infrastructure Improvements. MRA will provide funding for Infrastructure Improvements with an estimated cost of \$10.9 million which includes the cost to design and construct the park improvements shown in Exhibit C with an estimated cost of \$2.5 million (collectively, the “**City Contribution**”). Payment or reimbursement by MRA (for and on behalf of the City) for the Infrastructure Improvements shall be subject to the following conditions and in accordance with the following procedures:

- a. Subject to the satisfaction of the following conditions, Developer shall be entitled to monthly reimbursement payments no more frequently than monthly for the actual invoiced costs of the Infrastructure Improvements so long as a Performance and Payment Bond payable to the City is in effect, a minimum of five percent (5%) retainage has been withheld from payments to the contractor, and Developer is in full compliance with the provisions of this agreement.
- b. Any payment or reimbursement by MRA for costs of the Infrastructure Improvements will be based on paid invoices for costs incurred by Developer, its contractors and subcontractors or utility companies. MRA may reject, in its sole discretion, any invoice to the extent it is not part of the Infrastructure Improvements.
- c. The Parties agree that MRA will not be required to pay or reimburse costs of the Infrastructure Improvements unless at the time of such request (A) all of Developer's representations as set forth in Section 4 are true and correct and (B) Developer is not in breach of any covenant or undertaking as set forth in Section 4.
- d. The request for payment or reimbursement must be accompanied by a signed draw request in a form acceptable to MRA, accompanied by the invoices and lien waivers from the contractors or subcontractors performing the work to be paid or reimbursed.
- e. MRA will cause payment or reimbursement for all properly submitted and allowable expenses to be paid within 30 days of satisfaction of the requirements of this Section 3, subject to compliance with MRA's reimbursement request procedures as described in this Section 3.2.
- f. Final reimbursement shall be made to Developer upon City's approval and acceptance of the Infrastructure Improvements. Final request for payment or reimbursement shall be accompanied by documentation that the Work has achieved full completion and lien releases or similar documentation from contractors or subcontractors providing evidence that all claims have been paid in full.

3.3 Creation of Parcels for Project Master Plan. The Property is currently made up of several dozen lots within the Carline Addition and the Carline Addition No. 3 subdivisions. In order to effectuate the Master Plan for the Midtown Commons Project, within 60 days following the execution of the Purchase and Sale Agreement for the Property the City will initiate vacation proceedings for the right-of-way to be vacated, as shown on the attached Exhibit D. The proposed vacation will be subject to City Council review and approval and will be contingent upon the Developer preparing a Certificate of Survey to be approved by the City and County for execution and filing, with such Certificate of Survey dedicating new right-of-way, as shown in Exhibit D, and further rearranging lot boundaries to create the parcels shown in the proposed Parcel Map in Exhibit D in compliance with state and local law. The rearrangement of lot boundaries may relocate or aggregate lots as needed by the Developer so long as no new lots are created. If approved by City Council, the vacation resolution and the new Certificate of Survey shall be filed with the County Clerk and Recorder simultaneously.

Section 4. Developer Undertakings.

4.1. Construction of Midtown Commons Project and Infrastructure Improvements. Developer hereby agrees and commits to MRA that, following acquisition of Property, it will diligently undertake and complete the design and construction of the Midtown Commons Project and Infrastructure Improvements consistent with the Midtown Commons Master Plan and as shown in Exhibit A. Developer shall, and shall cause its designers, engineers, and contractors to, act in accordance with all applicable federal, State and local laws, rules, regulations, ordinances and plans relating to or governing the development or use of the Midtown Commons Project and Infrastructure Improvements, including applicable Land Use Regulations and Environmental Laws and Regulations. Subject to timely payment of the cost of the Infrastructure Improvements by MRA and absent Unavoidable Delay, Developer agrees and commits to MRA that construction of the Infrastructure Improvements will be completed by December 31, 2029 unless modified by a mutually agreed upon phasing plan that the Mayor is hereby authorized to execute. Developer anticipates that the construction of the Midtown Commons Project will be completed by December 31, 2033; provided, however, the parties understand and appreciate that market conditions and other factors outside of Developer's control may prevent Developer's completion by such date.

Developer agrees to permit City and MRA and any of its officers, employees or agents access to the Land for the purpose of inspection of all work being performed in connection with the Midtown Commons Project and Infrastructure Improvements; provided, however, that MRA shall have no obligation to inspect such work.

4.2 Completion of Certificate of Survey to Dedicate Right-of-Way and Rearrange Lot Boundaries. Developer agrees to have the work identified in Section 3.3 above completed in a timely fashion in order to comply with the conditions imposed on the right-of-way vacation resolution passed by City Council.

4.3 Developer Participation Payment. Developer acknowledges that City, through MRA, is providing funding for certain public infrastructure improvements benefiting the Project. In recognition of the City Contribution, Developer agrees that City shall have the opportunity to participate in the financial success of the Project through a payment from Developer of Five Million Dollars and No/100 Dollars (\$5,000,000.00) (the "**Developer Participation Payment**"), as may be subject to offset as herein described. The parties agree that the Developer Participation Payment will be paid in installments in connection with the consummation of sales to unaffiliated third-party purchaser (each a "**Payment Trigger**") of a residential condominium unit constructed within the Condos contemplated by the Midtown Commons Master Plan (each a "**Unit**"). The Developer Participation Payment shall be allocated and paid equally among all Units. Upon the consummation of the sale of a Unit, the numerator being the Development Participation Payment and the denominator is the total number Units constructed or to be constructed (each a "**Unit Sale Payment**"). By way of example, if a total 200 Units are to be constructed among the two Condos, then the Unit Sale Payment would be \$25,000.

The Developer Participation Payment is not a repayment or reimbursement of the City Contribution and is not intended to be a gift or donation, but rather a negotiated participation in the value created by the Project. Except as expressly provided in this Section, nothing herein

shall be construed to create a present debt or fixed repayment obligation prior to the occurrence of a Payment Trigger and the parties' agreement as described above. Notwithstanding the foregoing, in the event that Developer has not received all or a portion of the City Contribution in violation of this Agreement, Developer shall have the right to offset a Unit Sale Payment by any amounts Developer paid for the Infrastructure Improvements that MRA was required to pay in accordance with this Agreement or with respect to a payment required pursuant to a Seller Loan (as defined in the Real Property Purchase and Sale Agreements referenced in Section 3.1 hereof).

4.4. Land for Public Park and Trail Connections. Developer will dedicate to City approximately 1.6 acres of land for a public park (which includes a portion of Harve Street right-of-way) and 0.2 acres for trail connections as shown in the Midtown Commons Master Plan in Exhibit A. The City agrees that this park dedication along with the construction of the park improvements included as part of the Infrastructure Improvements shall satisfy any Activity Area requirements for the Land and Midtown Commons Project pursuant to Missoula Municipal Code Title 22, Section 4.9.02-D.2(b). The City or MRA shall be solely responsible for acquiring any easements from the Montana Rail Link that are necessary for the construction of the trail connections shown in the Midtown Commons Master Plan.

4.5. Condominium Site Development. The parties acknowledge that the Condos identified in the Midtown Commons Master Plan may be constructed in phases but shall be designed under a master site development plan. Accordingly, for purposes of Missoula Municipal Code Title 22, Section 4.9.02-B (General Landscaping), the landscaping requirements set forth therein shall be applied to the parcels constituting the Condos taken as a whole, irrespective of phasing of construction and ownership pursuant to the Phased Construction approach laid out in Missoula Municipal Code Title 22, Section 4.12.02. However, in order to secure performance for subsequent installation or construction required to comply with any required landscaping standards, Developer agrees to enter into a development agreement or similar, prior to issuance of a certificate of occupancy for a unit, to guarantee the completion of the required landscaping items located on the southern condo parcel that are necessary to meet the zoning requirements applicable to the northern condo parcel. Alternatively, the City may grant Developer an easement to complete the required items that are located within the southern condo parcel allowing the Developer to complete the required site landscaping.

4.6. Prevailing Wage Rates. Developer understands that City and MRA are obligated to follow certain laws, including with respect to Prevailing Wage Rates, with respect to the expenditure of public funds, which includes tax increment. Developer agrees that through its contract with its contractor, it will require its general contractor/construction manager to pay the Prevailing Wage Rates on contracts related to Infrastructure Improvements including sewer, water, electric, streets, sidewalks, park, trail connections, and landscaping. Developer will provide to City or MRA all documentation requested to verify the compliance of Developer and its general contractor/construction manager with the foregoing requirement.

4.7. Utilities. Developer shall not interfere with, or construct any improvements over, any public street or utility easement without the prior written approval of the City. All connections to public utility lines and facilities shall be subject to approval of the City and any utility provider involved. Developer at its own expense shall replace any public facilities or

utilities damaged during the Midtown Commons Project by Developer or its agents or by others acting on behalf of or under their direction or control of Developer.

4.8. Irrigation Ditch. Any work within the existing irrigation ditch or on either side of the irrigation ditch will require coordination and likely approval of the ditch company. Developer agrees to work in good faith with the City to obtain irrigation ditch company approval before conducting any construction activities in proximity to the ditch.

4.9. Permits and Compliance With Laws. Developer will obtain, in a timely manner, all required permits, licenses and approvals, and will meet all requirements of all local, state and federal laws, rules and regulations which must be obtained or met in connection with the acquisition and construction of the Midtown Commons Project. Without limiting the foregoing, Developer will request and seek to obtain from City or other appropriate governmental authority all necessary land use, zoning, and building permits. Developer will comply in all material respects with all Environmental Laws and Regulations applicable to the construction, acquisition, and operation of the Midtown Commons Project, will obtain any and all necessary environmental reviews, licenses or clearances under, and will comply in all material respects with, Environmental Laws and Regulations. In addition, Developer shall comply fully with all applicable State and federal laws, regulations, and municipal ordinances related to worker safety including but not limited to the Occupational Safety and Health Act (OSHA), the safety rules, codes, and provisions of the Montana Safety Act in Title 50, Chapter 71, MCA, all applicable City, County, and State building and electrical codes, and the Americans with Disabilities Act.

4.10. Nondiscrimination. Developer agrees to require its contractor(s) to be in compliance with the City's Non-Discrimination and Equal Opportunity Policies attached hereto as Exhibit D, as well as Montana Code Annotated, Title 49, regarding activities related to the Midtown Commons Project.

4.11. Worker's Compensation Insurance. Developer shall require in its construction contracts related to the Midtown Commons Project with all of its respective contractors that such contractors are to be covered by a Worker's Compensation insurance program with the State, a private insurance carrier, or an approved self-insurance plan in accordance with State law.

Section 5. Construction License. Upon execution of this Agreement, and the related Purchase and Sale Agreement for the Property, the City grants to Developer a revocable construction license to enter the Property to (1) undertake any activity necessary to construct the Infrastructure Improvements; and (2) conduct any necessary site grading or preparation activities for the townhomes to be constructed south of Harve Avenue. Developer agrees to indemnify, defend and hold harmless the City and its officers and employees from any claims or actions brought by third parties arising in any way from the construction activities authorized in this Section, except to the extent caused by the City's negligence. In the event the purchase of the Property does not close for any reason, the Developer shall cease activities under this Section, and the Parties shall have no further obligations to complete construction or restore the site.

Section 6. Covenants to Pay Taxes. So long as Developer is the owner of the Midtown Commons Project, Developer shall pay or cause to be paid when due and prior to the imposition of penalty all Taxes and all installments of any special assessments payable with respect to the

Midtown Commons Project (or the portions thereof that it owns) and any improvements thereto or extension thereof.

Section 7. Indemnification and Insurance.

7.1. Indemnification. Developer agrees to indemnify, defend and hold harmless MRA and all MRA board members, the City, and their officers, agents and employees (“**Indemnified Parties**”) against any loss, damage, cost (including reasonable attorneys’ fees), claim, demand, suit, action or other proceeding whatsoever (collectively, “**Losses**”) arising out of any third-party claim: (i) arising or purportedly arising out of, or resulting or purportedly resulting from, the acquisition and construction of the Midtown Commons Project and Infrastructure Improvements by Developer, or any material violation by Developer of a condition or covenant of this Agreement; or (ii) arising or purportedly arising out of, or resulting from or purportedly resulting from any negligent or more culpable act or omission of the Developer or its officer, agents, contractors, consultants or employees in connection with the performance of its obligations under this Agreement.

7.2. Exceptions and Limitations on Indemnification. Notwithstanding anything to the contrary in this Agreement, Developer is not obligated to indemnify, hold harmless, or defend any of the Indemnified Parties against any claim (whether direct or indirect) if such claim or corresponding Losses arise out of or result from, in whole or in part, an Indemnified Parties’ gross negligence or more culpable act or omission (including recklessness or willful misconduct).

7.3. Insurance. Developer shall keep and maintain Midtown Commons Project at all times insured against such risks and in such amounts, with such deductible provisions, as are customary in connection with facilities of the type and size comparable to the Midtown Commons Project, and Developer shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for direct damage insurance covering all risks of loss, including, but not limited to, the following:

1. fire
2. extended coverage perils
3. vandalism and malicious mischief
4. boiler explosion (but only if steam boilers are present)
5. collapse

on a replacement cost basis in an amount equivalent to the Full Insurable Value thereof. “Full Insurable Value” shall include the actual replacement cost of the Midtown Commons Project, exclusive of foundations and footings, without deduction for architectural, engineering, legal or administrative fees or for depreciation. The policies required by this Section 5.3 shall be subject to a no coinsurance clause or contain an agreed amount clause and must contain a deductibility provision not exceeding \$100,000.

During construction of the Midtown Commons Project, any and all of the foregoing insurance policies may be maintained by Developer’s contractor; provided that once the Midtown Commons Project is placed into service, Developer or successor owners (including,

e.g., owners of various components of the Project and homeowners' association for the Condos) shall maintain all of the foregoing insurance policies for the term of this Agreement.

In addition to and independent of the above, Developer shall at Developer's expense secure liability insurance through an insurance company or companies duly licensed and authorized to conduct insurance business in Montana. The insurance shall not contain any exclusion for liabilities specifically assumed by Developer in this Section. The insurance shall cover and apply to all claims, demands, suits, damages, losses, and expenses that may be asserted or claimed against, recovered from, or suffered by MRA in relation to construction of the Midtown Commons Project and Infrastructure Improvements caused by Developer, except for any claims related to the negligence or willful misconduct of MRA. Developer must furnish to MRA an accompanying certificate of insurance and accompanying endorsements in amounts not less than as follows:

Commercial General Liability - \$1,000,000 per occurrence; \$2,000,000 annual aggregate

The above amounts shall be exclusive of defense costs. City, MRA, its officers, agents, and employees, shall be endorsed as an additional or named insured on a primary non-contributory basis on the Commercial General Liability policy. The insurance and required endorsements must be in a form suitable to MRA and shall include no less than a thirty (30) day notice of cancellation or non-renewal. Developer must notify MRA within two (2) business days of Developer's receipt of notice that any required insurance coverage will be terminated or Developer's decision to terminate any required insurance coverage for any reason.

Section 8. General Provisions.

8.1. Conflicts of Interest; MRA's Representatives Not Individually Liable. Developer represents that it does not employ, retain, or contract with an officer or employee of MRA and that no member, officer or employee of MRA has a personal or financial interest, direct or indirect, in this Agreement or in the Midtown Commons Project. No member, officer or employee of MRA shall be personally liable to Developer in the event of any default under or breach of this Agreement by MRA, or for any amount that may become due to Developer for any obligation issued under or arising from the terms of this Agreement.

8.2. Rights Cumulative. The rights and remedies of the Parties of this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any Party hereto of any one or more of such remedies shall not preclude the exercise by such Party, at the same or different times, of any other remedy for the same default or breach or of any of its remedies for any other default or breach of the Party subject to the limitation of remedies provided herein. No waiver made by such Party with respect to the performance or the manner or time thereof, of any obligation under this Agreement, shall be considered a waiver with respect to the particular obligation of the other Party or a condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver of any obligations of the other Party. Delay by a Party hereto instituting or prosecuting any cause of action or claim hereunder shall not be deemed a waiver of any rights hereunder.

8.3. Term of Agreement. This Agreement shall automatically terminate if the PSA is terminated (other than by merger with the deed at closing). Subject to the foregoing, this Agreement shall remain in effect until such time as the Project is completed or by mutual agreement of the Parties once all outstanding promissory notes to the City are repaid. Notwithstanding the foregoing provisions of this Section 8.3, Sections 6.1 and 7.1 of this Agreement shall in all events survive the termination of this Agreement.

8.4. Limitation on City and MRA Liability. No agreements or provisions contained in this Agreement nor any agreement, covenant or undertaking by MRA contained in any document in connection with the Midtown Commons Project and Infrastructure Improvements shall give rise to any pecuniary liability of MRA or a charge against its general credit or taxing powers, or shall obligate City or MRA financially in any way except with respect to then-available Tax Increment. No failure of City or MRA to comply with any term, condition, covenant or agreement herein shall subject City or MRA to liability for any claim for damages, costs or other financial or pecuniary charge except to the extent that the same can be paid or recovered from then-available Tax Increment; and no execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general funds or taxing powers of City (except as such constitute then-available Tax Increment). MRA has no taxing powers. Nothing herein shall preclude a proper party in interest from seeking and obtaining specific performance against City or MRA for any failure to comply with any term, condition, covenant or agreement herein; provided that no costs, expenses or other monetary relief shall be recoverable from City or MRA except as may be payable from then-available Tax Increment or as an offset to the Developer Participation Payment . This Agreement shall not constitute or be construed to give rise to a debt of City.

8.5. Assignment. This Agreement is unique among the City, MRA and the Developer and no Party may assign any rights or privileges, or delegate any duties or obligations under this Agreement, without first obtaining the written consent of MRA (on behalf of itself and the City); provided, however, Developer may assign this Agreement, in whole or in part, without the consent of the City or MRA, to (i) any entity controlling, controlled by, or under common control with Developer, or (ii) any entity in which Developer or its principals hold, directly or indirectly, a majority ownership interest (each, a “Permitted Assignee”). For purposes hereof, “control” means the direct or indirect power to direct the management and policies of an entity, whether through ownership of voting interests, by contract, or otherwise. Any such assignment shall be effective upon written notice to the City and MRA, and delivery of the assignee’s contact information. Any such assignment shall relieve Developer of its obligations, whether in whole or in part, under this Agreement but not the obligations associated with the construction of the Infrastructure Improvements. Developer shall not assign this Agreement to any party other than a Permitted Assignee without the prior written consent of the City and MRA, which may be granted or withheld in the sole and absolute discretion of the City and MRA.

8.6. Successors Bound By Agreement; No Third Party Beneficiary; No Property Interest. Subject to compliance with Section 8.5, this Agreement will inure to the benefit of and be binding upon the Parties to this Agreement and their respective successors in interest and a Permitted Assignee. This Agreement is for the exclusive benefit of the Parties, does not constitute a third-party beneficiary agreement, and may not be relied upon or enforced by a third

party. This Agreement, by itself, does not create or give rise to a property interest in the Land or the Midtown Commons Project and Infrastructure Improvements.

8.7. Amendments, Changes and Modifications. This Agreement may be amended and any of its terms may be modified only by written amendment authorized and signed by the Parties hereto.

8.8. Headings. The headings of articles and sections in this Agreement are inserted for convenience of reference only and do not limit or amplify the terms and provisions of the Agreement in any manner. The headings will be ignored and will not affect the construction of any provisions of this Agreement.

8.9. Notice. Any formal notice, demand or communication required or permitted by the terms of this Agreement to be given to MRA or Developer will be in writing and will be delivered to such Party either: (i) by personal hand-delivery; (ii) by depositing the same in the United States mail, certified mail with return receipt requested; (iii) by depositing the same with a nationally recognized overnight delivery service; or (iv) with respect to notice to Developer, by email (in which case the notice shall be effective as of the date of confirmed delivery). Notice will be deemed complete upon receipt of the notice pursuant to any of the foregoing methods of notice. Notices and communications to the parties must be addressed to and delivered at the following addresses:

If to City:

City of Missoula
435 Ryman St
Missoula, MT 59802
Attention: Chief Administrative Officer

If to MRA:

Missoula Redevelopment Agency
140 West Pine
Missoula, Montana 59802
Attention: Director

If to Developer:

Miramonte Companies, LLC
729 West Central Avenue
Missoula, Montana 59801
E-Mail: chris@kemmerly.com
Attention: Christopher Kemmerly

With a copy to:

Hursh & Saffer, PLLC
6720 East Camino Principal, Suite 101
Tucson, Arizona 85715
E-Mail: jhursh@hurshaffer.com
Attn: Jeff Hursh

MRA and Developer, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications should be sent.

8.10. Severability. If any provision of this Agreement is declared void or held invalid, such provision will be deemed severed from this Agreement and the remaining provisions of this Agreement will otherwise remain in full force and effect.

8.11. Place of Performance. The place of performance of this Agreement will be in the City of Missoula, Missoula County, Montana.

8.12. Governing Law. This agreement and the legal relations between the Parties hereto will be governed by and construed in accordance with the laws of the State of Montana, without giving effect to any choice of law statutes, rules, or principles.

8.13. Further Assurances and Corrective Instruments. The Parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Midtown Commons Project, the Infrastructure Improvements or for carrying out the expressed intention of this Agreement. City, on behalf of its various agencies and departments, agrees to use reasonable best efforts to promptly review and process all plans and permit applications submitted by Developer in connection with the Project, including, without limitation, plans and permits for the public park, trails and trail connections, and other Infrastructure Improvements. City further agrees to cooperate in good faith with Developer to resolve any comments or deficiencies in a timely manner, with the mutual goal of facilitating the prompt and efficient completion of the Infrastructure Improvements and the timelines set forth herein.

8.14. Execution Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute one and the same instrument. Electronic and emailed signatures shall be valid in all respects and treated as if they were originals.

IN WITNESS WHEREOF, the Parties hereto have caused this Development Agreement to be executed as of the date first set forth above.

MISSOULA REDEVELOPMENT AGENCY

By: _____

Printed Name: _____
Title: Board Chair

By: _____
Printed Name: _____
Title: Director

CITY OF MISSOULA, MONTANA

By: _____
Printed Name: Andrea Davis
Title: Mayor

ATTEST:

By: _____
Printed Name: Claire Trimble, CMC
Title: City Clerk

[Signature Page to Development Agreement]

MIRAMONTE COMPANIES, LLC, a Montana
limited liability company

By: _____
Name: Christopher Kemmerly
Title: Manager

[Signature Page to Development Agreement]

EXHIBIT A

MIDTOWN COMMONS MASTER PLAN



EXHIBIT B

LAND DESCRIPTION

Midtown Commons Property:

Lots 23 through 31, Block Q, of Carline Addition #3, a platted subdivision in Missoula, Montana, according to the official recorded plat thereof and recorded at Book 2 Plats, Page 24 in the records of Missoula County, Montana.

Lots 13 through 33, Block R, of Carline Addition #3, a platted subdivision in Missoula, Montana, according to the official recorded plat thereof and recorded at Book 2 Plats, Page 24 in the records of Missoula County, Montana.

Lots 11-19, Block 59, of Carline Addition, a platted subdivision in Missoula, Montana, according to the official recorded plat thereof.

Lots 1-4, Block 58, of Carline Addition, a platted subdivision in Missoula, Montana, according to the official recorded plat thereof.

Lots 20 and west half of Lot 21, Block 59, of Carline Addition, a platted subdivision in Missoula, Montana, according to the official recorded plat thereof.

Lots 23-24, Block 59, of Carline Addition, a platted subdivision in Missoula, Montana, according to the official recorded plat thereof.

Lots 25-28, Block 59, of Carline Addition, a platted subdivision in Missoula, Montana, according to the official recorded plat thereof.

Tollefson Property Purchase:

Lot 4-C1-A of certificate of survey No. 6541, located in the northwest quarter of Section 32, Township 13 North, Range 19 West, principal meridian, Montana, Missoula County, Montana.

EXHIBIT C
PARK MASTER PLAN

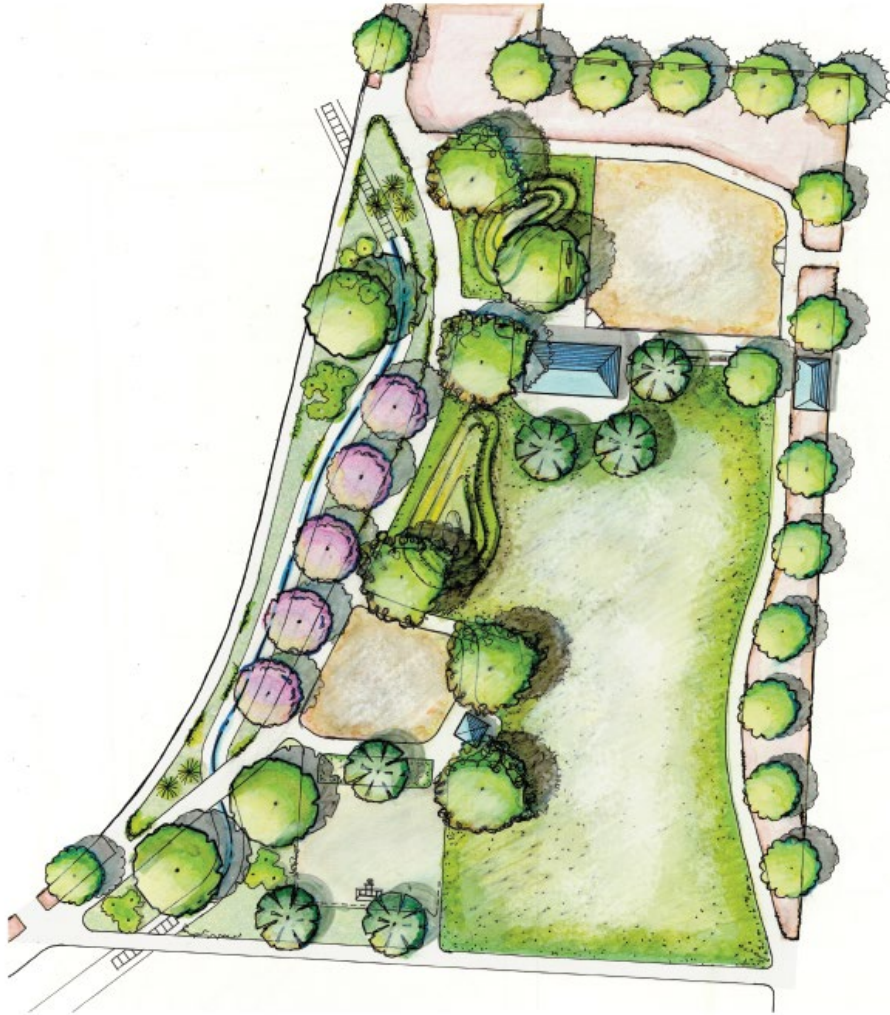
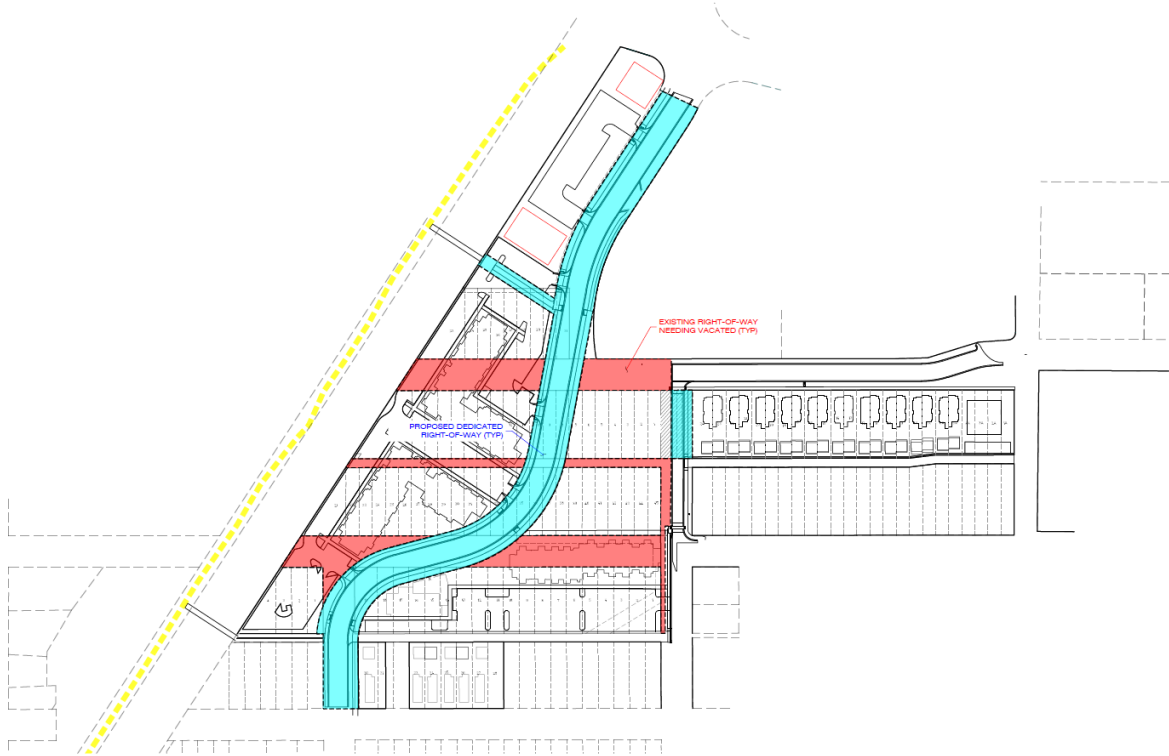
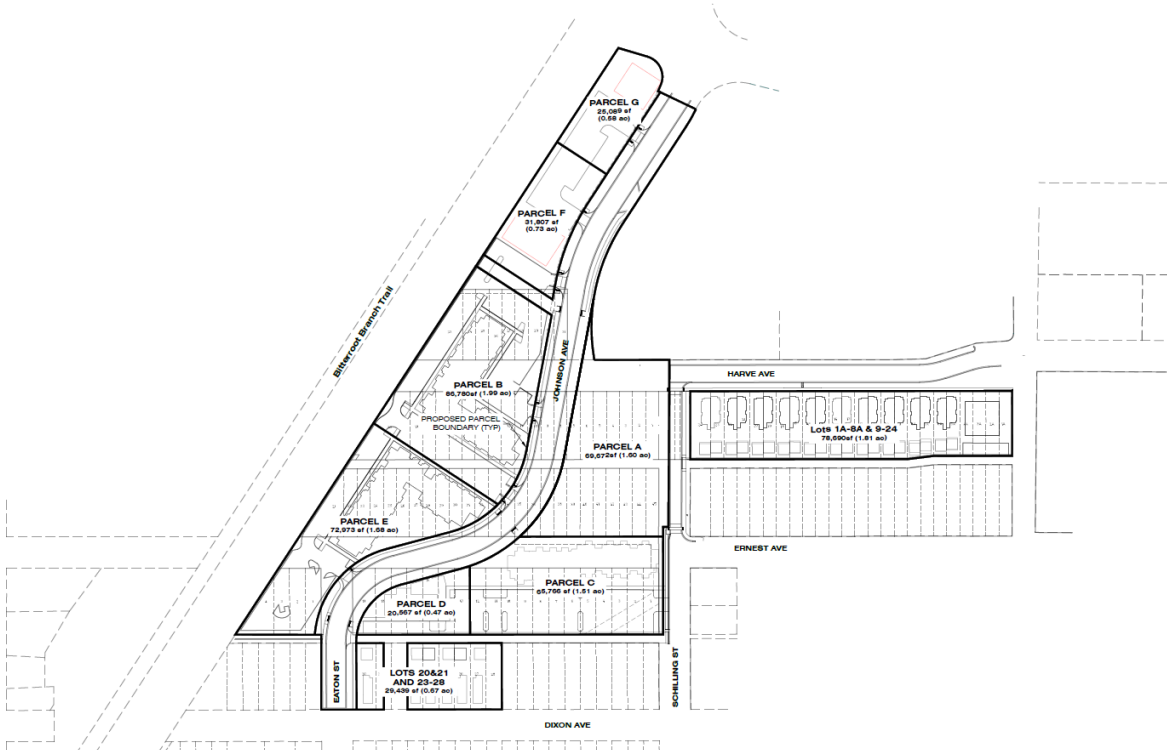


EXHIBIT D

RIGHT-OF-WAY TO BE VACATED/DEDICATED AND PROPOSED PARCEL MAP



Midtown Commons Right-of-way Vacation/Dedication



Midtown Commons Proposed Parcel Map

EXHIBIT E
PUBLIC INFRASTRUCTURE PHASING PLAN



Midtown Commons Public Infrastructure Phasing Plan

EXHIBIT F

CITY'S NON-DISCRIMINATION AND EQUAL OPPORTUNITY POLICIES

NON-DISCRIMINATION. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, or gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications.

EQUAL OPPORTUNITY POLICY. Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Equal Opportunity Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

The City's Equal Opportunity Policy Statement is:

The Mayor of the City of Missoula or the Mayor's designee may adopt an Equal Opportunity Plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, marital status or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, or gender identity or expression. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Personnel staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.

REAL PROPERTY PURCHASE AND SALE AGREEMENT

THIS REAL PROPERTY PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made effective as of _____ (“**Effective Date**”), by and between the City of Missoula (the “**City**” or “**Seller**”), and Miramonte Companies, LLC, a Montana limited liability company (the “**Buyer**”), Seller and Buyer are referred to individually as a “**Party**” and collectively as the “**Parties**”.

WHEREAS, for the purposes described in the Development Agreement by and among the Seller, the Buyer and the Missoula Redevelopment Agency, dated as of ____, 2026 (the “**Development Agreement**”), the Seller desires to sell and Buyer desires to purchase a parcel of real property depicted on the Certificate of Survey attached hereto as Exhibit A (the “**Property**”) upon the terms, covenants and conditions hereinafter provided; and

WHEREAS, the Development Agreement outlines the proposed site plan for the Property, to include for-sale units (made up of condominiums and fee simple residential units), multi-family rental units, a 1.6 acre public park, new public right-of-way, and another parcel to be developed with either commercial offices or additional multi-family residential units, to be determined later, all as shown on the preliminary site plan attached hereto as Exhibit B (the “**Site Plan**”); and

WHEREAS, the Parties are entering this Agreement in reliance upon the general neighborhood character outlined in the Site Plan and the covenants set forth in the Development Agreement, and substantial deviations from the Site Plan may have precluded the Parties from reaching this Agreement.

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

1. **Purchase of Property.** Subject to the terms and conditions of this Agreement, Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, the Property.

2. **Purchase Price.** The total purchase price for the Property is Five Million Nine Hundred Thousand and No/100 Dollars (\$5,900,000.00) (“**Purchase Price**”). This Purchase Price represents the amount the City paid for the Property based on an appraisal done prior to its acquisition and the Parties agree represents a reasonable fair market value as of the Effective Date.

The Parties anticipate that the Buyer’s acquisition of the Property will occur in phases, and the allocable Purchase Price for each Phase (as defined below) is identified in the Phase Purchase Price Schedule. Existing public rights-of-way which may be vacated in advance of closing or after closing are not to be included in the allocable Purchase Price of each Phase as Buyer anticipates dedicating new public right-of-way as part of the development (as shown on the Site Plan).

3. **Earnest Money Deposit.** Buyer will deposit in escrow with Fidelity National Title, 320 West Broadway Street, Missoula, MT 59802; Attn: Kimberly Jones; 406-370-6943 (“**Title Company**”), an earnest money deposit in the amount of Twenty Five Thousand and No/100 Dollars (\$25,000.00) (“**Earnest Money Deposit**”) within two (2) business days after the Effective Date. The Earnest Money Deposit will be credited to the Purchase Price at the closing of the first

phase that is purchased. At Closing, the Title Company will disburse the Earnest Money Deposit in accordance with the written directions of Seller. If available, the Title Company will invest the Earnest Money Deposit in interest bearing accounts mutually acceptable to Buyer and Seller. All interest accruing on the Earnest Money Deposit will become part of the Earnest Money Deposit and will be payable to the party entitled to receive it under this Agreement. If Buyer terminates this Agreement pursuant to a right to do so set forth in this Agreement, the Earnest Money Deposit will be returned to Buyer so long as Buyer is not in default or breach of this Agreement.

4. Closing.

(a) Phased Conveyances. The Property shall be conveyed in a series of phases (each, a “**Phase**”), with the parties currently anticipating five (5) Phases as shown on the Site Plan, but acknowledging that the final number of Phases may be greater or fewer as determined by the Buyer. In addition, Phase 4 shown on the Site Plan is being acquired with Phase 1 pursuant to that companion Real Property Purchase and Sale Agreement dated as of _____, 2026 (the “**Phase 4 Transaction**”). Each Phase may be comprised of one or more parcels (each a “**Parcel**”), except for those parcels of real property that constitute lots pursuant to a prior subdivision. Each closing (“**Closing**”) of this purchase and sale transaction will take place within thirty (30) days following written notice from Buyer to Seller of its desire to close on a Phase so long as any applicable Conditions to Closing as set forth in Section 7 have been satisfied (“**Closing Date**”).

(b) Phase Identification. Prior to each Closing, Buyer shall identify the Parcel(s) of the Property to be acquired in the applicable Phase (each a “**Phase Parcel**”), together with a survey or legal description sufficient for conveyance. The Phase Parcels are identified on Schedule 4(b) attached hereto and incorporated herein (the “**Phase Parcel Map**”).

(c) Purchase Price Per Phase. The purchase price for each Phase (each a “**Phase Purchase Price**”) and the allocable purchase price for Parcels within a Phase is set forth on Schedule 4(c) attached hereto and incorporated herein (the “**Phase Purchase Price Schedule**”).

(d) Separate Closings. Each Phase shall be conveyed at a separate closing (each, a “**Phase Closing**”). Each Phase Closing shall occur on the Closing Date.

(e) Closing Mechanics. For each Phase Closing, Seller will execute and/or deliver to the Title Company the following: (i) the Deed; (ii) a settlement statement (“**Settlement Statement**”) prepared by Title Company and approved by Buyer and Seller; (iii) the real estate transfer certificate; and (iv) affidavits and evidence of authority or other documents, if any, as may be reasonably required by Title Company. On the Closing Date, Buyer will execute and/or deliver to the Title Company the following: (i) the net Phase Purchase Price evidenced by an executed promissory note in favor of the Seller for the net Phase Purchase Price in the form attached hereto as Exhibit C (the “**Seller Note**”) and secured by a deed of trust encumbering the Phase Parcel being acquired in the form attached hereto as Exhibit D (the “**Seller Trust Indenture**,” together with the Seller Note, the “**Seller Loan**”); (ii) the real estate transfer certificate; and (iii) affidavits and evidence of authority or other documents, if any, as may be reasonably required by Title Company. Seller acknowledges that Buyer may establish special purpose entities to acquire Parcels within a Phase and that a Seller Loan may be created for separate Parcels within a Phase based on the Parcel Purchase Price Schedule in Schedule 4(C).

(f) Independent Obligations. Each Phase Closing shall be treated as a separate transaction for purposes of conveyance and payment; provided, however, that the terms and conditions of this Agreement shall continue to govern all subsequent Phases unless otherwise amended in writing.

(g) Subordination of Seller Loan. Buyer shall have the right to obtain one or more loans from a third-party lender (the “**Construction Lender**”) to finance the construction of improvements on the applicable Phase or Parcel (the “**Construction Loan**”), which Construction Loan shall be secured by a deed of trust (the “**Construction Trust Indenture**”) encumbering the Phase or individual Parcels within a Phase. Seller hereby agrees that the Seller Trust Indenture and Seller Note shall be **subordinate in all respects** to the lien, terms, covenants, and conditions of the Construction Loan and the Construction Trust Indenture, including any renewals, modifications, increases, or replacements thereof (collectively, the “**Senior Loan**”), provided that: (i) Loan proceeds shall be used primarily for the costs of constructing improvements on the Property and related soft costs; (ii) the Construction Lender shall agree in writing that, so long as Seller is not in default under the Seller Loan, Seller’s rights to receive payments under the Seller Note shall not be disturbed except as expressly set forth in a subordination agreement; and (iii) Seller shall execute and deliver, at no cost to Seller (other than nominal recording fees), such subordination, intercreditor, and related agreements as are reasonably required by the Construction Lender, provided such agreements are consistent with the provisions of this Section 4(g) and do not materially increase Seller’s obligations or decrease Seller’s rights beyond customary subordination terms. None of the Senior Loans shall be cross-defaulted or cross-collateralized with other Phases or Parcels.

(h) Seller Loan Terms. The principal amount of the Seller Loan representing the Phase Purchase Price shall bear no interest and the maturity date of the Seller Loan shall mature no earlier than the maturity date of the Construction Loan for the applicable Phase Parcel. Buyer shall be entitled to partial releases of legally subdivided units within a Phase Parcel by payment to Seller of an amount equal to the quotient of the applicable Phase Purchase Price divided by the total number of legally subdivided units within a Phase Parcel. In addition, Buyer shall have the right to offset repayment of a Seller Loan in accordance with Section 4.3 of the Development Agreement. Notwithstanding any of the foregoing, the Seller Loan shall be repaid no later than five (5) years from the Closing Date of the applicable Phase or Parcel(s) and Seller Loan.

(i) Contingent Obligation to Close on Additional Phases. Except as expressly provided elsewhere in this Agreement, neither party shall be obligated to proceed with any subsequent Phase beyond Phase 2 if fifty percent (50%) of each outstanding obligation under a prior Seller Loan(s) remain unpaid (the “**Phasing Threshold**”). If Buyer satisfies the Phasing Threshold Buyer has the right to purchase additional Phases without Seller consent. If the Phasing Threshold remains unsatisfied, and Buyer desires to purchase additional Phases, the parties may mutually agree in writing to move forward with Closing on the applicable Phase Parcel and provide for the timing of the related Phase Closing.

5. **Prorations.** All real property taxes, special taxes, and assessments, if any, will be prorated (employing a 365-day year) between Buyer and Seller as of the Closing Date based upon the most recent property tax assessment.

6. **Closing Costs.** Seller and Buyer shall each be responsible for the following fees and costs associated with Closing: (a) one half of any survey fees incurred to produce the legal description or survey documents necessary for Closing; (b) one half of the Title Company's cost of the title commitment, title policy, and other title related costs; (c) one half of escrow or closing fees; and (d) one half of all of clerk's and indexing fees related to the deed, all costs of recording the deed, and any other fees and costs. Buyer shall pay any and all costs related to its due diligence investigation.

7. **Conditions to Closing.**

(a) The obligation of Buyer to close, fund, and consummate the transaction contemplated by this Agreement is specifically contingent on the fulfillment, satisfaction, and/or completion of the following:

(i) Seller's representations and warranties set forth herein will be true and correct on the Closing Date.

(ii) Seller having performed all of Seller's covenants and agreements contained in this Agreement that are required to be performed by Seller on or before the Closing.

(iii) Prior to Closing on any Phase which includes the Public Park Parcel shown on the Site Plan (currently within Phase 1 shown on the Site Plan), Buyer and Seller must agree to the terms and conditions of a public park easement to be granted by Buyer to Seller immediately following Closing on the Phase including the Public Park Parcel. This easement should allow the City access to the park area to construct whatever public park amenities as it deems prudent. The easement shall also authorize public access to the completed park parcel. This easement is intended to be temporary, and will be released once the Public Park Parcel is dedicated to the public or conveyed to the City for use as a public park.

(iv) Closing for Phase 3 or subsequent Phases shall not occur until after the first Certificate of Occupancy for a unit in Phase 1 is issued unless agreed to in writing by the Parties.

(b) In the event that the conditions set forth above in Section 7(a) have not been satisfied on or before the expiration of the Closing Date, then Buyer will have the rights defined within Section 16(a), including the right to terminate this Agreement by written notice to Seller whereupon the Earnest Money Deposit will be returned to Buyer (unless the Earnest Money Deposit has already been applied to an earlier Phase closing). In the event of termination under Section 16, all obligations, duties and responsibilities of the Parties will be immediately terminated and of no further force or effort, except with respect to those obligations which, by their terms, specifically survive any such termination or cancellation. The foregoing conditions precedent are for the sole benefit of Buyer.

(c) The obligation of Seller to close, fund, and consummate the transaction contemplated by this Agreement is specifically contingent on the fulfillment, satisfaction, and/or completion of the following:

(i) Buyer's representations and warranties set forth herein will be true and correct on the Closing Date.

(ii) Buyer having performed all of Buyer's covenants and agreements contained in this Agreement that are required to be performed by Buyer on or before the Closing.

(d) In the event that any of the conditions set forth above in Section 7(c) have not been satisfied on or before the expiration of the Closing Date, then Seller will have the rights defined within Section 16(b), including the right to terminate this Agreement by written notice to Buyer whereupon the Earnest Money Deposit will be released to Seller (unless the Earnest Money Deposit has already been applied to an earlier Phase closing). In the event of termination under Section 16, all obligations, duties and responsibilities of the Parties will be immediately terminated and of no further force or effort, except with respect to those obligations which, by their terms, specifically survive any such termination or cancellation. The foregoing conditions precedent are for the sole benefit of Seller.

8. **Due Diligence.**

(a) As of the Effective Date the Buyer has already completed substantial due diligence efforts. Buyer shall have an additional sixty (60) days from the Effective Date ("**Due Diligence Period**") to complete, at its sole cost and expense any inspections, surveys (including an ALTA survey), environmental diligence (including a Phase I and Phase II Environmental Assessment), and zoning/subdivision review, as Buyer deems necessary or appropriate to inspect or evaluate the Property.

(b) If Buyer determines, in its sole and absolute discretion, that it is unsatisfied with any aspect of the Property prior to the expiration of the Due Diligence Period, then Buyer shall have the right to terminate this Agreement, and the Earnest Money Deposit will be released to Buyer. However, prior to terminating this Agreement pursuant to this provision, Buyer shall notify the Seller of any defect in the Property and allow Seller a reasonable opportunity to cure any such defect. If Seller timely cures the defect identified by Buyer, in Buyer's satisfaction as determined by Buyer, Buyer may not terminate this Agreement pursuant to this provision. Seller shall provide to Buyer within five (5) days of the Effective Date, all material and information and documentation, that is in the possession of the Seller, and which is stored in an electronic medium, including but not limited to leases, covenants, conditions, and restrictions, drawings, and plans if any, which is in its possession, its affiliates, and/or property manager possession.

(c) Buyer understands and agrees that any on-site inspections of the Site shall occur at reasonable times agreed upon by the Buyer and Seller after reasonable prior written notice from Buyer to the Seller (which shall, in all cases, be at least 24 hours in advance). If Buyer desires to do any invasive testing at the Site, then Buyer shall do so only after reasonable prior written notice to the Seller (which shall, notwithstanding anything to the contrary contained above, be at least three (3) business days in advance) and obtaining the Seller's prior written consent thereto, which consent shall not be unreasonably withheld, conditioned, or delayed, and which consent, if given, may be subject to any terms and conditions imposed by the Seller in its reasonable discretion, including, without limitation, the prompt restoration of the Site to substantially the same

condition as existed prior to any such inspections or tests, at Buyer's sole cost and expense. Prior to conducting any physical inspection or testing at the Site, other than a mere visual examination, by Buyer or its agents, employees, contractors, or representatives, Buyer shall deliver insurance certificates to the Seller evidencing that Buyer carries and maintains such general liability insurance policies with such companies and in such scope and amounts as are acceptable to the Seller in its reasonable discretion, and in all cases, naming the Seller as an additional insured party and loss payee thereunder. At the Seller's request, Buyer shall promptly furnish to the Seller copies of any reports received by Buyer relating to its inspections of the Site.

(d) Buyer agrees to protect, indemnify, defend, and hold the City, its partners, members, and affiliates and each of their respective officers, directors, shareholders, employees, agents, successors, and assigns (collectively the "**Indemnified Parties**") harmless from and against any claims for liabilities, losses, expenses (including reasonable attorneys' fees), damages, or injuries actually incurred by any of the Indemnified Parties arising out of, resulting from, relating to, or connected with: (a) any inspections or testing of the Site by Buyer or its agents, representatives, contractors, or employees and (b) any breach or violation of the provisions of this Section on the part of Buyer.

(e) Buyer agrees that Seller or its employees or agents may accompany Buyer when Buyer conducts any physical inspection of the Property. Buyer's physical inspection of the Property may include soils and geotechnical assessments and an ASTM Phase I survey, or equivalent environmental due diligence investigation, of the Property to determine or confirm the condition of the Property.

(f) Buyer will not suffer or permit to be enforced against the Property, or any part of the Property, any preconstruction or construction liens arising from the work of the Buyer or any of its contractors or agents, and Buyer will pay or cause to be paid (or otherwise resolved through bonding or other appropriate security instrument as provided by applicable law) all of the liens, claims, or demands before any action is brought to enforce the same against the Property. Buyer hereby indemnifies, defends, and holds harmless Seller from and against all loss, cost, expense, liability, damage, fine, or other claim (including attorneys' fees and related costs) arising out of or in any way connected with work performed or materials or supplies furnished for Buyer or its contractor, agents, or employees.

(g) The provisions of this Section 8 will survive Closing or earlier termination of this Agreement.

9. **Title Commitment.** Within ten (10) days of the Effective Date, Seller will cause to be delivered to Buyer a title commitment ("**Title Commitment**") from the Title Company committing to issue to Buyer a standard coverage owners policy of title insurance in the amount necessary to cover the Purchase Price for the entire Property and copies of all documents listed on Schedule B to the Title Commitment as exceptions to coverage. Buyer will have thirty (30) days from receipt of the Title Commitment ("**Title Review Period**") to notify Seller in writing of any objections ("**Title Objections**") to title as revealed in the Title Commitment, which writing will set forth the specific basis for Buyer's objection(s). If Buyer fails to notify Seller of any Title Objections prior to the expiration of the Title Review Period, then Buyer will be deemed to be satisfied with the condition of title and to have waived all Title Objections. If Buyer does deliver

written notice of its Title Objections within the Title Review Period, Buyer will be deemed to have waived any objections to matters shown on the Title Commitment and not objected to in Buyer's notice of Title Objections. As to those Title Objections raised by Buyer during the Title Review Period, Seller will work with the Title Company to resolve, if reasonably possible, the objections. If Seller notifies Buyer that Seller is unable to cure or obtain insurance over the Title Objections prior to the Closing, Buyer will, at Buyer's sole option: (a) notify Seller in writing prior to the expiration of the Due Diligence Period that Buyer elects to terminate this Agreement, in which event this Agreement will terminate and the Earnest Money Deposit will be returned to Buyer and neither Party will have any further rights, liabilities or other obligations under this Agreement, except with respect to those matters intended to survive termination; or (b) waive the Title Objections and proceed to Closing. After the expiration of the Title Review Period and so long as Buyer has not terminated this Agreement or the Parties are not actively working to resolve such items, the remaining title exceptions will be deemed "**Permitted Exceptions**". Notwithstanding the foregoing, Seller will cause to be removed from title to the Property any recorded deeds of trust, mechanics' or materialmen's liens, delinquent tax liens or judgment liens.

10. **Ongoing Development Coordination; Construction Easements.** The Parties shall continue to negotiate and coordinate in good faith the contracts and agreements necessary to effectuate the development shown on the Site Plan and discussed in the Development Agreement. Additionally, the City shall grant temporary construction easements covering portions of the Property deemed prudent by Buyer for use in developing the Property as shown in the Site Plan.

11. **Conveyance of Title.** At each Phase Closing, Seller shall convey to Buyer title to the Property by warranty deed ("**Deed**") which shall be prepared by Buyer's counsel and reasonably agreed to by Seller and subject only to: (a) taxes and assessments not yet due and payable for the year of Closing and subsequent years; and (b) the Permitted Exceptions.

12. **Acceptance of Property.** Except as otherwise stated in this Agreement, BUYER REPRESENTS AND WARRANTS TO, AND COVENANTS AND AGREES WITH, SELLER THAT BUYER IS PURCHASING THE PROPERTY IN AN "AS IS" "WHERE IS" AND "WITH ALL FAULTS" IN ITS PRESENT CONDITION AND STATE OF REPAIR, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE, AND SPECIFICALLY EXCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

13. **Representations and Warranties.**

(a) Buyer hereby represents, warrants, and covenants as follows, all of which are true on the date hereof and which will be true on the date of each Phase Closing:

(i) Buyer represents that it is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Montana and with full power and authority to enter into and perform this Agreement in accordance with the terms and conditions hereof.

(ii) Buyer has full right, power, authority, and ability to execute, deliver, and perform this Agreement. This Agreement and all documents to be executed and

delivered by Buyer at or before the Closing Date are and will be on the Closing Date duly authorized, executed and delivered by Buyer.

(iii) The execution, delivery and performance of this Agreement by Buyer will not violate or constitute a breach under: (a) the terms of any contract or other agreement to which Buyer is a party or by which Buyer is bound; or (b) any court order, injunction, stay, or similar matter to which Buyer is subject or by which Buyer is bound.

(iv) The individuals executing this Agreement and any and all related documents have been validly authorized by Buyer to sign on Buyer's behalf.

(v) Buyer represents that it is aware of, and fully understands the limitations on use and the continuing obligations imposed by the Environmental Restrictions associated with the Property.

(b) Buyer acknowledges that Seller is relying upon the foregoing Buyer warranties, representations, and covenants in reaching its decision to enter into this Agreement to sell the Property. The foregoing representations, warranties, and covenants will be deemed made on the date of this Agreement and again on the Closing Date. If Buyer becomes aware of any fact or circumstances that would change a representation or warranty, then Buyer will immediately give notice of such changed fact or circumstance to Seller.

(c) Seller hereby represents, warrants, and covenants as follows, all of which are true on the date hereof and which will be true on the Closing Date:

(i) Seller represents that it is a municipal corporation, validly existing and in good standing under the laws of the State of Montana, and with full power and authority to enter into and perform this Agreement in accordance with the terms and conditions hereof.

(ii) Seller has full right, power, authority, and ability to execute, deliver, and perform this Agreement. This Agreement and all documents to be executed and delivered by Seller at or before the Closing Date are and will be on the Closing Date duly authorized, executed and delivered by Buyer.

(iii) The execution, delivery and performance of this Agreement by Seller will not violate or constitute a breach under: (a) the terms of any contract or other agreement to which Seller is a party or by which Seller is bound; or (b) any court order, injunction, stay, or similar matter to which Seller is subject or by which Seller is bound.

(iv) The individuals executing this Agreement and any and all related documents have been validly authorized by Seller to sign on Seller's behalf.

(v) To Seller's knowledge, no investigation, action, suit or proceeding is pending or threatened before any court or governmental body adversely affecting the Property or seeking to restrain, prohibit or otherwise challenge the consummation of the purchase and sale of the Property pursuant to this Agreement.

(vi) Seller is not a foreign owner subject to withholding of proceeds from the sale under the Foreign Investment in Real Property Tax Act (FIRPTA) under § 1445 of the Internal Revenue Code of 1986, as amended

The foregoing representations, warranties, and covenants will be deemed made on the date of this Agreement and again on the Closing Date. If a Party becomes aware of any fact or circumstances that would change any of its representations or warranties, then it will promptly notify the other Party of such changed fact or circumstance to Buyer.

(d) The provisions of this Section 13 will survive each Closing.

14. **Brokerage Commission.** Buyer and Seller represent and warrant that each has not engaged any broker or finder in connection with this particular transaction.

15. **Damage or Condemnation Prior to Closing.** If any material portion of the Property is taken by condemnation or eminent domain or there is any actual or threatened condemnation or eminent domain affecting any material portion of the Property (a "**Condemnation Act**") prior to Closing, then Buyer will have the right to terminate this Agreement by notice to the other and to the Title Company, in which case neither Seller nor Buyer will thereafter have any obligation to each other except for those matters intended to survive.

16. **Default and Remedies.**

(a) Buyer's Remedies. Seller will be in default under this Agreement if, after written notice from Buyer, Seller fails to perform any of Seller's obligations under this Agreement within ten (10) days of receipt of such notice (or such longer period as is reasonably required in the exercise of due diligence not to exceed an additional ten (10) days, provided Seller commences such cure within the initial ten-day period). In the event of a default by Seller not cured within the applicable cure period, Buyer may: (i) waive the effect of such matter and proceed to consummate the Closing (provided that in no event will Buyer have the right to waive any of Seller's conditions precedent hereunder); (ii) terminate this Agreement in which case the Earnest Money Deposit (together with any accrued interest thereon) will be returned to Buyer; or (iii) bring an appropriate action for specific performance of this Agreement. Notwithstanding the foregoing, if after completion of all Pre Closing Conditions waivable by Seller, Seller shall willfully default in its obligation to close the transaction hereunder on the Closing Date, including by initiating a Condemnation Act and specific performance shall not be a legally available remedy to Buyer as a result thereof, then Buyer shall: (x) have the right to receive a return of the Earnest Money Deposit; and (y) be entitled to (and Seller shall reimburse Buyer for) Buyer's Costs (which reimbursement obligation shall survive the termination of this Agreement). The term "**Buyer's Costs**" is defined for the purpose of this Agreement as the expenses, if any, actually incurred by Buyer for: (x) title examination, survey, and municipal searches, including the issuance of the Title Commitment and any continuation thereof, without issuance of a title insurance policy; (y) fees paid to Buyer's engineer and architect for preparing any environmental and engineering reports with respect to the Property and all Project design work; and (z) the actual and reasonable third-party costs incurred by Buyer in connection with the negotiation of this Agreement and Buyer's due diligence with respect to the Property, including, without limitation, reasonable attorneys' fees.

(b) Seller's Remedies. Buyer will be in default under this Agreement if, after written notice from Seller, Buyer fails to perform any of Buyer's obligations under this Agreement within ten (10) days of receipt of such notice (or such longer period as is reasonably required in the exercise of due diligence not to exceed an additional ten (10) days, provided Buyer commences such cure within the initial ten-day period). In the event of a default by Buyer not cured within the applicable cure period, Seller may: (i) waive the effect of such matter and proceed to consummate the Closing; or (ii) terminate this Agreement in which case the Earnest Money Deposit (together with any accrued interest thereon) will be retained by Seller. Notwithstanding the foregoing, if after completion of all Pre Closing Conditions waivable by Buyer, Buyer shall willfully default in its obligation to close the transaction hereunder on the Closing Date, then Seller shall: (x) have the right to keep the Earnest Money Deposit; (y) be entitled to obtain from Buyer all plans, designs and project documents related to any improvement contemplated for the Property and have the right to use the same for any purpose whatsoever (and Buyer shall be obligated to convey to the extent Buyer is permitted to convey, the same to Seller upon demand, and assign any rights to Seller to authorize the use of such documents by Seller); and (z) have the right to have the Property returned to the state it was in prior to entering into this Agreement, including having Buyer clear any liens or encumbrances created on the Property arising from any action or contemplated action by Buyer or its agents (any improvements made by Buyer or Buyer's agent(s) may remain). Buyer agrees that the preceding subsections (y) and (z) may be enforced by specific performance, or by any other legal means.

(c) THE PARTIES HERETO EXPRESSLY AGREE AND ACKNOWLEDGE THAT A PARTY'S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO ASCERTAIN AND THAT THE AMOUNT OF THE EARNEST MONEY DEPOSIT (TOGETHER WITH ACCRUED INTEREST THEREON IF ANY) REPRESENTS THE PARTIES' REASONABLE ESTIMATE OF SUCH DAMAGES.

SELLER'S INITIALS: _____ **BUYER'S INITIALS:** _____

17. **Notices.** During the term of this Agreement, notices required or contemplated by this Agreement must be in writing and deemed given: (a) when delivered personally; (b) on the day said communication is received or refused to be received when delivered by the U.S. mail, registered or certified mail, return receipt requested, postage prepaid; (c) the next business day after delivery of said notice to a nationally recognized overnight courier service; or (d) upon electronic delivery during normal business hours or if not delivered during normal business hours, the next business day:

To Buyer: Miramonte Companies, LLC
Attention: Christopher Kemmerly; Eric Entringer
6400 East El Dorado Circle, Suite 300C
Tucson, Arizona 85715
E-Mail: chris@kemmerly.com;
eentringer@miramontehomes.com

With a copy to: Hursh & Saffer, PLLC
Attention: Jeff Hursh

6720 East Camino Principal, Suite 101
Tucson, Arizona 85715
Telephone: 520-404-9761
E-Mail: jhursh@hurshsaffer.com

To Seller: The City of Missoula
Attention: Mayor
435 Ryman
Missoula, MT 59802
Telephone: 406-552-6001
E-Mail: StaffM@ci.missoula.mt.us

With a copy to: City Attorney's Office
435 Ryman St.
Missoula, MT 59802
Attention: City Attorney
Telephone: 406-552-6020
E-Mail: civilattorney@ci.missoula.mt.us

or to such other address as the Parties may from time to time designate by notice in writing to other Parties.

18. **Assignment by Buyer.** Buyer may assign this Agreement, in whole or in part, without the consent of Seller, to (i) any entity controlling, controlled by, or under common control with Buyer, or (ii) any entity in which Buyer or its principals hold, directly or indirectly, a majority ownership interest (each, a "**Permitted Assignee**"). For purposes hereof, "control" means the direct or indirect power to direct the management and policies of an entity, whether through ownership of voting interests, by contract, or otherwise. Any such assignment shall be effective upon written notice to Seller and delivery of the assignee's contact information. Any such assignment shall relieve Buyer of its obligations, whether in whole or in part, under this Agreement but not the obligations associated with any Seller Loan. Buyer shall not assign this Agreement to any party other than a Permitted Assignee without Seller's prior written consent, which may be granted or withheld in Seller's sole and absolute discretion.

19. **Seller's Disclosures.**

(a) Water Rights Ownership Disclosure. Under Montana law, failure of the parties at a closing or other 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 penalty. Additionally, in the case of water rights being exempted, severed or divided, failure of the parties to comply with Mont. Code Ann. § 85-2-424 could result in a penalty against the transferee and rejection of the deed for recording.

(b) Noxious Weeds Disclosure. Mont. Code Ann. § 7-22-2116, provides that it is unlawful for any person to permit any noxious weeds to propagate or go to seed on the person's

land, with the exception stated in the statute. The parties recognize that there are noxious weeds on vacant lands in Montana and noxious weeds may exist on the Property.

(c) Megan's Law Disclosure. Pursuant to the Montana Sexual and Violent Offender Registration Act, certain individuals are required to register their address with law enforcement agencies. Law enforcement officers may make such information concerning registered offenders available to the public. If you would like information regarding the registration of offenders, contact your local law enforcement agency, the Montana Department of Justice or a probation office in your community.

20. **Miscellaneous.**

(a) No Third Party Beneficiary. No term or provision of this Agreement or its schedules is intended to be, nor will any such term or provision be construed to be, for the benefit of any person, firm, corporation or other entity not a Party to this Agreement (including, without limitation, any broker), and no other person, firm, corporation or entity will have any right or cause of action under this Agreement.

(b) Amendment. Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the Party against which enforcement of the change, amendment, modification, waiver or discharge is sought.

(c) Legal Fees. In the event legal action is instituted by either of the Parties to enforce the terms of this Agreement or arising out of the execution of this Agreement, the Parties shall bear their own attorneys' fees and costs.

(d) No Recording. Neither this Agreement nor any memorandum or notice thereof may be recorded by Buyer.

(e) Applicable Law; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of Montana. Venue shall be Missoula, Montana.

(f) Waiver. Failure of either Buyer or Seller to exercise any right given hereunder or to insist upon strict compliance with regard to any term, condition or covenant specified herein, will not constitute a waiver of Buyer's or Seller's right to exercise such right or to demand strict compliance with any term, condition or covenant under this Agreement.

(g) No Partnership. This Agreement is not intended to create and does not create a joint venture or partnership between Buyer and Seller.

(h) Captions. All captions, headings, paragraph and subparagraph numbers and letters are solely for reference purposes and will not be deemed to supplement, limit, or otherwise vary the text of this Agreement.

(i) Severability. The invalidity or unenforceability of a particular provision of this Agreement will not affect the other provisions hereof, and this Agreement will be construed in all respects as if the invalid or unenforceable provision were omitted.

(j) Time. Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays, or any state or national holidays. If the date or last date to perform any act or to give any notice is a Saturday, Sunday, or state or national holiday, that act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday, or state or national holiday. Time is of the essence of this Agreement.

(k) Construction. Seller and Buyer acknowledge that they and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be employed in the interpretation of this Agreement or any schedules, exhibits or amendments hereto.

(l) Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties and is binding upon Seller and Buyer, their successors, legal representatives and assigns. The recitals to this Agreement are by this reference incorporated herein.

(m) Counterparts. This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together will constitute one and the same Agreement. E-mailed signatures will be treated as if they were originals.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Real Property Purchase and Sale Agreement as of the dates written below to be effective as of the Effective Date.

SELLER:

The City of Missoula

Dated: _____, 2026

By: _____
Print Name: Andrea Davis
Title: Mayor

Dated: _____, 2026

By: _____
Print Name: Claire Trimble
Title: City Clerk

BUYER:

Miramonte Companies, LLC, a Montana limited liability company

Dated: _____, 2026

By: _____
Print Name: Christopher Kemmerly
Title: Manager

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LEGAL DESCRIPTIONS****

TITLE COMMITMENT NO. TSI-55850-1



PARCEL 1:
LOTS 23 THROUGH 31 INCLUSIVE, IN BLOCK Q OF CAR LINE ADDITION NO. 3, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF, TOGETHER WITH THE SOUTH ONE-HALF OF THE VACATED ALLEY LYING ADJACENT TO LOTS 23 THROUGH 31 INCLUSIVE, IN BLOCK Q OF CAR LINE ADDITION NO. 3.

PARCEL 2:
LOTS 13 THROUGH 33 INCLUSIVE, IN BLOCK R OF CAR LINE ADDITION NO. 3, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

PARCEL 3:
LOTS 11 THROUGH 19 INCLUSIVE, IN BLOCK 59 OF CAR LINE ADDITION, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

PARCEL 4:
LOTS 1 THROUGH 4 INCLUSIVE, IN BLOCK 58 OF CAR LINE ADDITION, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

PARCEL 5:
LOT 20 AND THE WEST ONE-HALF OF LOT 21 IN BLOCK 59 OF CAR LINE ADDITION, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.
RECORDING REFERENCE: BOOK 750 OF MICRO RECORDS AT PAGE 164

PARCEL 6:
LOTS 23 AND 24 IN BLOCK 59 OF CAR LINE ADDITION, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

PARCEL 7:
LOTS 25 THROUGH 28 INCLUSIVE, IN BLOCK 59 OF CAR LINE ADDITION, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

TITLE COMMITMENT NO. 1129539-M



PARCEL I:
LOTS 1A THROUGH 8A, INCLUSIVE, OF CARLINE ADDITION NO. 3, BLOCK S, LOTS 1A-8A & 41A-48A, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

AND

LOTS 9 THROUGH 19, INCLUSIVE, IN BLOCK S OF CAR LINE ADDITION NO. 3, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

PARCEL II:
LOTS 1 THROUGH 12, INCLUSIVE, BLOCK 'R' AND LOTS 20 THROUGH 24, INCLUSIVE, BLOCK 'S' OF CAR LINE ADDITION NO. 3, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF, TOGETHER WITH PORTION OF VACATED SCHILLING STREET AS SHOWN IN RESOLUTION NUMBER 3443 RECORDED IN BOOK 69 OF MICRO RECORDS AT PAGE 1302.

AND

LOTS 34 THROUGH 45, INCLUSIVE, BLOCK 'R' OF CAR LINE ADDITION NO. 3, A PLATTED SUBDIVISION IN MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

PARCEL III:
LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10 IN BLOCK 59 OF CAR LINE ADDITION, A PLATTED SUBDIVISION IN THE CITY OF MISSOULA, MISSOULA COUNTY, MONTANA, ACCORDING TO THE OFFICIAL RECORDED PLAT THEREOF.

CERTIFICATION*****

TO CITY OF MISSOULA, FLYING S TITLE & ESCROW AND TITLE SERVICES INC.:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 6(a), 6(b), 8, 11(a), 13, 16, AND 17 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON APRIL 19, 2024.

DATE OF PLAT OR MAP: 05/06/2024


JEFFREY A. DUNCAN, P.L.S.
MONTANA REGISTRATION NO. 19133LS
FOR WGM GROUP, INC.



UNLESS SIGNED, SEALED, AND DATED, THIS IS A PRELIMINARY OR UNOFFICIAL DOCUMENT AND CANNOT BE RELIED UPON IN WHOLE OR PART.

EXHIBIT B

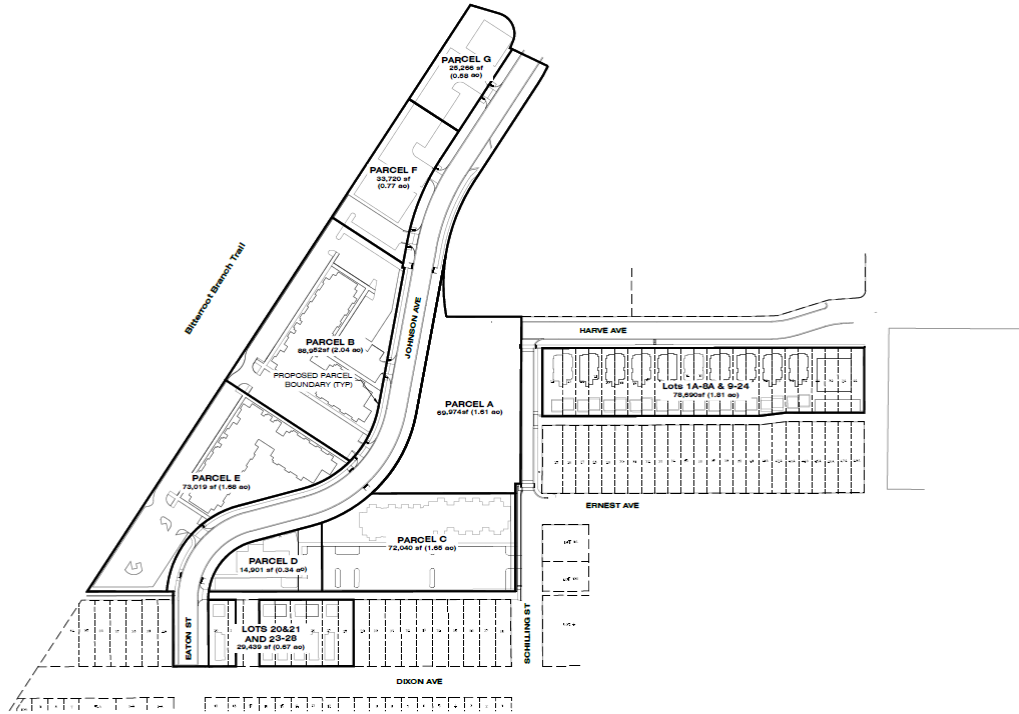
SITE PLAN



Midtown Commons Purchase and Vertical Construction Phasing Plan

Schedule 4(b)

Phase Parcel Map



Midtown Commons Proposed Parcel Map

Schedule 4(c)

Phase/Parcel Purchase Price Schedule

Land Allocation	SF	Acres	% Allocation	% Allocation Excluding Park and Tollefson Parcel	\$ Allocation
Lots 1A-8A & 9-24 (townhomes + 1-commercial bldg)	78,690	1.81	16.2%	22.0%	\$ 1,300,330
Parcel A (Park)	69,974	1.61	14.4%		
Parcel B (North Condo Tower Site)	88,952	2.04	18.3%	24.9%	\$ 1,469,906
Phase I Total	237,616	5.45	48.9%	47.0%	\$ 2,770,236
Parcel C (Multifamily Site)	72,040	1.65	14.8%	20.2%	\$ 1,190,440
Parcel D (Commercial Site)	14,901	0.34	3.1%	4.2%	\$ 246,235
Phase II Total	86,941	2.00	17.9%	24.4%	\$ 1,436,675
Parcel E (South Condo Tower Site)	73,019	1.68	15.0%	20.5%	\$ 1,206,618
Phase III Total	73,019	1.68	15.0%	20.5%	\$ 1,206,618
Parcel F (South Commercial Site - Tollefson Parcel)	33,720	0.77	6.9%		
Parcel G (North Commercial Site - Tollefson Parcel)	25,266	0.58	5.2%		
Phase IV Total	58,986	1.35	12.1%		
Lots 20&21 and 23-28 (SFD Lots)	29,439	0.68	6.1%	8.2%	\$ 486,471
Phase V Total	29,439	0.68	6.1%	8.2%	\$ 486,471
Total	486,001	11.16	100.0%	100.0%	\$ 5,900,000

*Phase 4 is being acquired pursuant to the Phase 4 Transaction and the purchase price allocable to Phase 4 is not included in the \$5,900,000 total Purchase Price for the Property.

EXHIBIT C

SELLER NOTE

\$ _____, 2026

PROMISSORY NOTE

FOR VALUE RECEIVED, _____ of _____ (collectively, "**Maker**"), promises to pay to the order of _____, or its lawful assign, of _____ ("**Holder**"), or at such other place as is designated from time to time by Holder, in lawful money of the United States, the sum of \$ _____, together with no interest and shall be payable in one lump sum amount no later than five (5) years from the date hereof.

Prepayments of principal may be made by Maker at any time without penalty.

This Note is secured by a Trust Indenture (the "**Trust Indenture**") of even date herewith on certain real property in Missoula County, Montana, more particularly described in the Trust Indenture (the "**Property**"). The repayment of this Note is also subject to and may be modified by the provisions set forth in Section 4.3 of that certain Development Agreement (Midtown Commons Project) dated _____, 2026, by and between Holder and Miramonte Companies, LLC, a Montana limited liability company.

If Maker sells, divests, transfers, relinquishes or loses any of Maker's right, title or interest in any of the property serving as security for this Note, either voluntarily or by operation of law, without the express prior written consent of Holder, then Holder, at Holder's option, may accelerate all or any part of the indebtedness evidenced hereby and thereafter enforce the collection of the same as provided in any documents securing this Note, or in any other manner provided by law.

This Note shall become due and payable at the option of Holder immediately upon default in payment of any installment of principal or interest payable hereunder, or any part thereof, or upon failure to comply with any of the terms, covenants, conditions or agreements contained in any document securing this Note. Any sum payable hereunder not paid when due and payable shall bear simple interest at the rate of 5% per annum until paid.

Waiver by Holder of any default by Maker shall not constitute a waiver by Holder of a subsequent default. Failure by Holder to exercise any right, power or privilege which Holder may have by reason of a default by Maker shall not preclude the exercise of such right, power or privilege so long as such default remains uncured or if a subsequent default occurs.

This Note is made and executed under, and is in all respects to be governed by, the laws of the State of Montana.

Maker agrees to pay all costs of collection, including a reasonable attorney fee, if this Note is placed in the hands of an attorney for collection after default, and hereby waives demand, presentment for payment, protest, notice of protest, and notice of dishonor.

Maker shall be entitled partial releases of the Property in accordance with the terms and conditions set forth in Section 23 of the Trust Indenture and the payment of \$ _____ per

Unit (as defined in the Trust Indenture) (the “**Release Price**”). Any common area shall not require the payment of a Release Price.

Maker has executed this Note on the day and year first above written.

By: _____
_____, Its _____

“Maker”

EXHIBIT D

SELLER TRUST INDENTURE

When recorded, return to:

Attn: _____

TRUST INDENTURE

This **Trust Indenture** is made this ____ day of _____, 2026, by and among _____, of _____ (collectively, "**Grantor**"), _____ of _____ ("**Trustee**"), and _____ of _____ ("**Beneficiary**").

WITNESSETH: Grantor hereby irrevocably GRANTS, CONVEYS and WARRANTS to Trustee, its successors and assigns, in trust, with power of sale, the following described real property, now owned or hereafter acquired, in Missoula County, Montana, which does not exceed forty (40) acres in area, as described on Exhibit A attached hereto (the "**Property**"), together with all buildings, fixtures, and improvements thereon and all tenements, hereditaments, privileges and appurtenances thereto, and all rents, issues, royalties and profits therefrom. Grantor may construct [townhomes; condos; single family residences] on Property and associated common areas (each a "**Unit**").

FOR THE PURPOSE OF SECURING: (a) Payment of that Promissory Note given by Grantor to Beneficiary of even date herewith for the principal sum of \$ _____ with interest and other charges thereon (if any), under which the final payment is due on _____; (b) performance of each agreement and covenant of Grantor contained herein and in all other obligations of the Grantor described herein; and (c) any and all extensions, renewals, modifications, substitutions, or replacements of any and all of the foregoing. All of the obligations described above shall be included in the term "**Note**" whenever and wherever that term is used in this Trust Indenture.

TO PROTECT THE SECURITY OF THIS TRUST INDENTURE, AND FOR OTHER PURPOSES, IT IS AGREED:

1. **GRANTOR WARRANTIES.** Grantor represents and warrants to Beneficiary that: (a) Grantor is the lawful owner of marketable fee simple title to the Property free and clear of all mortgages and liens except real estate taxes not yet due; (b) this Trust Indenture and the Note have been duly and validly executed and delivered by Grantor; and (c) the Property is free of

contamination by asbestos, oil, petroleum or petroleum products or by any hazardous waste or hazardous substance as defined under laws of the United States or the State of Montana.

2. **ESCROWS.** If requested by Beneficiary, Grantor agrees to pay to Beneficiary, in addition to any other payments secured hereby, on dates specified by Beneficiary, an amount estimated by Beneficiary to be sufficient to pay, as they become due, all taxes, assessments, water charges and other charges upon the Property and all insurance premiums on policies of insurance required hereunder; such amounts shall be held by Beneficiary without interest and applied to the payment of such taxes, assessments, insurance premiums and other charges, provided that, in the event of any default hereunder, Beneficiary may, at Beneficiary's option, apply any amounts held pursuant to this paragraph to the indebtedness secured hereby.

3. **PAYMENT OF IMPOSITIONS.** Grantor shall pay when due and before any penalty all taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Property or any interest therein, or the indebtedness secured hereby ("Impositions"); and will upon demand furnish to the Beneficiary proof of the payment of any such Impositions.

4. **INSURANCE.** Grantor shall obtain and maintain continuously in effect with respect to the Property policies of insurance against such risks, in such amounts and with such companies satisfactory to Beneficiary, with a mortgagee clause satisfactory to Beneficiary. Policies or certificates evidencing the insurance shall be deposited with Beneficiary. Each policy shall provide that the insurer will not cancel, refuse to renew, or materially modify the policy without giving at least thirty (30) days advance written notice to Beneficiary. Grantor agrees to maintain in effect an existing life insurance policy with a collateral assignment to Webb Mandeville and June Mandeville and securing repayment of the obligations imposed by the Note and this Trust Indenture. The Beneficiary's interest in and to the life insurance policy shall be limited at all times to the unpaid principal, interest, late fees and charges which may be collected pursuant to the Note and this Trust Indenture.

5. **LIENS.** Grantor shall keep the Property free from statutory liens of every kind and shall pay promptly and discharge all encumbrances, charges and liens on the Property whether inferior or superior to the lien of this Trust Indenture. Grantor shall keep and maintain the Property free from the claims of all persons supplying labor or materials which will enter into the construction, repair, alteration or improvement of any and all buildings now on, now being erected, or which hereafter may be erected on the Property.

6. **MAINTENANCE.** Grantor agrees to keep and maintain the Property in good condition, repair and operating condition free from any waste or misuse, and to comply with all requirements of law, municipal ordinances, regulations, restrictions, and covenants affecting the Property and their use, and will promptly repair or restore any buildings, improvements or structures now or hereafter on the Property and all fixtures therein which may become damaged or destroyed to their condition prior to any such damage or destruction. Grantor will not, without the prior consent of Beneficiary, remove, alter, or demolish any building on the Property. Beneficiary may enter upon and inspect the Property at any reasonable time and effect whatever repairs or replacements the Beneficiary may reasonably require to maintain the Property in good condition (provided the Beneficiary shall have no duty to make inspections and shall not incur any liability or obligation for making or not making any inspections).

7. **CONDEMNATION AND INSURANCE ACTIONS AND PROCEEDS.** Grantor shall immediately notify Beneficiary of the commencement of any condemnation proceedings, actual or threatened, affecting the Property or of any loss that may be covered by insurance. Grantor hereby assigns to Beneficiary any insurance proceeds and any award for property taken and for damages to remaining property, in connection with an actual or threatened

condemnation proceeding, whether fully adjudicated or settled, and such proceeds and awards (less expenses of collection) shall, at the option of Beneficiary, be applied to the liabilities and indemnification obligations, if any, secured hereby then most remotely to be paid, whether due or not, without the application of any prepayment premium, or to the restoration or repair of the Property. Beneficiary shall have full authority, but shall not be obligated, to make proof of loss and adjust and collect insurance and to intervene in any condemnation proceeding in the name of Grantor and settle, collect and receive any award from the condemning authorities. Any insurer or condemning authority is hereby authorized and directed to make payment directly to Beneficiary. Any expenses incurred by Beneficiary in intervening in any action or collecting such proceeds shall be reimbursed to Beneficiary first out of the proceeds.

8. **PROTECTION OF SECURITY.** If Grantor defaults hereunder in any respect, or if Beneficiary in its sole judgment and discretion deems it necessary to expend funds, appear in actions or take other action to protect the full security interest intended to be created by this instrument, then Beneficiary or Trustee, without obligation to do so, without notice to or demand upon Grantor, and without releasing Grantor from any obligation hereof, may make such appearances, expend such funds and take such action as either may deem necessary to protect the security hereof, Beneficiary and Trustee being authorized to enter upon the Property for such purposes. Grantor will on demand reimburse Beneficiary and Trustee for all amounts expended, including reasonable attorneys' fees, pursuant to this paragraph, together with interest thereon at the maximum rate allowed by law.

9. **ASSIGNMENT OF RENTS.** Grantor hereby assigns to Beneficiary all rents, issues, royalties and profits of the Property, provided that Grantor shall have the right to collect all such rents, issues, royalties and profits, but only as they become due and payable and only until Grantor defaults hereunder in any respect, at which time Beneficiary shall have the right, with or without taking possession of the Property, to collect the same, and apply the same, less costs and expenses of operation and collection including reasonable attorneys' fees, upon any indebtedness or obligations secured hereby. Nothing contained herein, nor the exercise of rights hereunder by Beneficiary, shall be construed or considered an affirmation of any tenancy, lease or option, nor an assumption of liability under nor subordination of the lien or charge of this Trust Indenture to, such tenancy, lease or option.

10. **POWERS OF BENEFICIARY AND TRUSTEE.** Without affecting the liability of any person, including Grantor, for the payment of any indebtedness or indemnification obligations secured hereby or the lien of this Trust Indenture on the remainder of the Property for the full amount of any indebtedness or indemnification obligations unpaid, Beneficiary and Trustee are respectively empowered as follows: Beneficiary may from time to time, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens thereon: (a) release any person liable for the payment of any of the indebtedness or indemnification obligations; (b) extend the time or otherwise alter the terms of payment of any of the indebtedness or indemnification obligations; (c) alter, substitute or release any property securing the indebtedness and indemnification obligations; or (d) accept any additional security or resort to any security in such order as Beneficiary may determine. Trustee may from time to time, upon the written request of Beneficiary: (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restrictions thereon; (c) join in any subordination or other agreement affecting this Trust Indenture or the lien or charge thereof; or (d) reconvey, without warranty, all or any part of the Property.

11. **DUE ON SALE OR ENCUMBRANCE.** If all or any part of the Property or any interest therein is sold, conveyed, transferred or further mortgaged or encumbered, or if the rents of the Property or any part thereof are assigned, or if all or any part of the ownership interest in Grantor is transferred, assigned, or pledged, or if any person other than Grantor, Beneficiary and Trustee obtains any interest in or right to acquire the Property, without the prior written consent of

Beneficiary, Beneficiary may, at Beneficiary's option, declare all indebtedness secured hereby immediately due and payable, in full together with any applicable prepayment premiums (if no prepayment privilege exists at that time, then with the prepayment premium provided in the Note at the earliest day on which the indebtedness secured hereby could be prepaid) provided, however, the granting of a leasehold interest of three (3) years or less, not containing an option to purchase, shall not be cause for such acceleration. Beneficiary shall exercise such option to accelerate by mailing notice of acceleration to Grantor within sixty (60) days after Beneficiary has actual knowledge of one of the events mentioned above. Failure by Grantor to pay the accelerated balance within thirty (30) days after written notice from Beneficiary shall constitute an Event of Default hereunder. Consent as to any one transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions.

12. **EVENTS OF DEFAULT.** If any one or more of the following events (the "**Events of Default**") shall occur:

- (a) Default in the punctual payment of any payment of money required to be made pursuant to the Note, or in any payment of money to be made pursuant to this Trust Indenture, or any other instrument securing the Note,
- (b) Default by Grantor under any terms, covenants and conditions of this Trust Indenture, the Note, or of any other instrument securing the Note, not involving the payment of money, or
- (c) Any representation or warranty made by Grantor to Beneficiary in connection with the indemnification obligations of the Note secured hereby proves to be untrue in any material respect,

then, in any such case, the Beneficiary or its attorney, may, at its option, without further written notice to the Grantor, declare all sums due pursuant to the Note, with interest, to be immediately due and payable, and thereupon the Note, including both principal and all interest accrued thereon, and including any prepayment premium then applicable, and all sums advanced hereunder and interest thereon, shall be and become immediately due and payable without presentment, demand or further notice of any kind.

13. **BENEFICIARY'S REMEDIES.** Upon the happening of any Event of Default, or in case the indemnification obligations of Grantor under the Note shall have become due and payable, whether by lapse of time or by acceleration, then and in every such case Beneficiary may:

- (a) Proceed to protect and enforce its rights by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in the Note, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Trust Indenture as a mortgage, or for the enforcement of any other appropriate legal or equitable remedies. Beneficiary may be the purchaser at any foreclosure sale, and Beneficiary shall have the right to credit upon the amount of its bid at sale the amount payable to Beneficiary out of the net proceeds of the sale.
- (b) Cause the Property to be sold by the Trustee pursuant to the power of sale granted herein, in accordance with the laws of Montana. The Property shall be sold either as a whole or in such parcels and in such order as designated by Beneficiary.
- (c) In any action to foreclose, appoint a receiver of the rents, issues and profits of the Property as a matter of right and without notice, with power to collect the rents, issues and profits of the Property due and coming due during the pendency of such

sale hereunder or any suit hereunder, without regard to the value of the Property or the solvency of any person or persons liable for the indemnification obligations of the Note involved in the suit. Grantor, for itself and any subsequent owner or owners, hereby waives any and all defenses to the application for a receiver as above provided, and hereby specifically consents to such appointment without notice; but nothing herein contained is to be construed to deprive Beneficiary of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provision for the appointment of a receiver of the rents and profits is made an express condition upon which the obligations evidenced by the Note are made.

14. **COSTS OF INVOKING REMEDIES.** Except as may be otherwise provided herein, Grantor agrees to pay to Beneficiary or Trustee the costs and expenses, including reasonable attorney and paralegal fees, incurred by either of them, (a) in instituting, prosecuting or defending any court action in which Grantor does not prevail, if the action involves the interpretation hereof or performance hereunder by a party hereto or the breach of any provision hereof, including but not limited to an action to obtain possession of the Property after exercise of the power of sale granted hereunder; and (b) in attempts, which fall short of instituting an action or commencing foreclosure, to secure performance hereof.

15. **WAIVERS AND CUMULATIVE RIGHTS.** Waiver by Beneficiary of any default by Grantor, or acceptance of payment in default or partial payment, shall not constitute a waiver by Beneficiary of any continuing or subsequent default. Failure by Beneficiary to exercise any right, power, privilege or remedy which Beneficiary may have by reason of a default by Grantor shall not preclude the exercise of such right, power, privilege or remedy so long as the default remains uncured or if a subsequent default occurs. Each right, power, privilege and remedy herein conferred upon the Beneficiary is cumulative and in addition to every other right, power, privilege and remedy available to Beneficiary at law or in equity, under the Uniform Commercial Code, or under any other agreement, and each and every right, power, privilege and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Beneficiary and such exercise shall not be a waiver of the right to exercise at any time thereafter any other right, power, privilege or remedy.

16. **RECONVEYANCE.** Upon written request of Beneficiary stating that all obligations under the Note have been satisfied, surrender of this Trust Indenture and all notes secured hereby to Trustee for cancellation and retention and upon payment by Beneficiary of its fees, Trustee shall reconvey the Property to Grantor, without warranty. The Grantee in the reconveyance may be described as “the person or persons legally entitled thereto.”

17. **GOVERNING LAW.** This Trust Indenture is made within the State of Montana pursuant to the Small Tract Financing Act of Montana, and the parties intend that said Act and any other applicable Montana law govern this Trust Indenture, and all rights, obligations and indebtedness secured hereby. This Trust Indenture is not taken in substitution for a mortgage in existence on the effective date of said Act.

18. **SEVERABILITY.** The unenforceability or invalidity of any provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

19. **TIME.** Time shall be of the essence of this Trust Indenture.

20. **TRUSTEE.** Trustee accepts this trust when this Trust Indenture, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of a pending sale under any other Trust Indenture or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless brought by Trustee.

21. **NOTICES.** Any notices which any party hereto may desire or may be required to give to any other party shall be in writing and the mailing thereof by certified mail to the respective addresses as set forth herein, or to such other places any party hereto may hereafter by notice in writing designate, shall constitute service of notice.

22. **BINDING ON SUCCESSORS, HEADINGS, WORDS AND PHRASES.** Subject to the "Due on Sale or Encumbrance" paragraph hereof, this Trust Indenture shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, lessees, licensees, tenants, successors and assigns. All obligations of Grantor hereunder are joint and several. The term "Beneficiary" shall include any successor or assignee of the Note. The headings of the paragraphs are for convenience only and shall not be construed as limiting in any way the scope of the provisions hereof.

23. **PARTIAL RELEASE.** Beneficiary will consent to the sale of a Unit pursuant to the terms of the Note, and a partial release of such Unit from the lien and operation of this Trust Indenture upon Trustor's written request and at Trustor's expense, subject to the following terms and conditions:

(a) As of the time the Grantor's request for the partial release and at all times thereafter, the representations and warranties contained in this Trust Indenture and in the Agreement are true, correct and complete, and no default has occurred under the Note, and no Event of Default or event which, with notice or the lapse of time or both would constitute an Event of Default, has occurred under this Trust Indenture or the Note.

(b) Receipt by Beneficiary of a legal description of the Unit to be released, which description must be satisfactory to Beneficiary.

(c) Receipt by Beneficiary of the Release Price as set forth in the Note.

(d) All release instruments shall be prepared by Grantor's counsel at Grantor's expense and shall be in form and substance satisfactory to Beneficiary's counsel. Beneficiary shall be furnished in connection with such release, and at Grantor's expense, with such evidence of title and other documentation as Beneficiary may, in its reasonable discretion, deem necessary.

(e) Unless otherwise agreed by Beneficiary in writing, releases shall be made only in connection with the sale of a Unit to an arm's length bona fide purchaser for value.

In addition to the foregoing, Beneficiary will consent to the conveyance of any common areas located on the Property to a homeowners association established with respect to the Property, and a partial release of such property from the lien and operation of this Trust Indenture, upon Grantor's written request and at Grantor's expense.

IN WITNESS WHEREOF, Grantor has executed this instrument the day and year first above written.

By: _____
_____, Its _____

“Grantor”

STATE OF MONTANA)
 : ss.
County of _____)

This instrument was acknowledged before me on this ____ day of _____, 202_,
by _____, **as** _____ **of** _____.

(SEAL)

Notary Public

Exhibit A to Trust Indenture
Legal Description of Property
[to follow]

REAL PROPERTY PURCHASE AND SALE AGREEMENT

THIS REAL PROPERTY PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made effective as of _____ (“**Effective Date**”), by and between the City of Missoula (the “**City**” or “**Seller**”), and Miramonte Companies, LLC, a Montana limited liability company (the “**Buyer**”), Seller and Buyer are referred to individually as a “**Party**” and collectively as the “**Parties**”.

WHEREAS, the City entered into a Purchase Agreement with Tollefson Properties, LLC, to acquire the following described real property (the “**Tollefson Property Purchase**”):

Lot 4-C1-A, COS 6541, located in the northwest quarter of Section 32, Township 13 North, Range 19 West, Principal Meridian, Montana; containing 2.29 acres, more or less (the “**Property**”);

Whereas, the Parties plan to develop the Property alongside adjacent property currently under contract for purchase and sale between the Parties (the “**Companion Transaction**”), as shown on the preliminary site plan attached as Exhibit A (the “**Site Plan**”); and

WHEREAS, for the purposes described in the Development Agreement by and among the Seller, the Buyer and the Missoula Redevelopment Agency, dated as of ____, 2026 (the “**Development Agreement**”), the Seller desires to sell and Buyer desires to purchase the Property.

Whereas, contingent upon the City closing the Tollefson Property Purchase, the City desires to the Property to Seller and Seller desires to buy from City the Property pursuant to the terms and conditions of this Agreement and the Parties are entering this Agreement in reliance upon the general neighborhood character outlined in the Site Plan and the covenants set forth in the Development Agreement, and substantial deviations from the Site Plan may have precluded the Parties from reaching this Agreement.

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

1. **Purchase of Property.** Subject to the terms and conditions of this Agreement, Buyer agrees to purchase from Seller, and Seller agrees to sell to Buyer, the Property.

2. **Purchase Price.** The total purchase price for the Property is One Million Three Hundred Thousand and No/100 Dollars (\$1,300,000.00) (the “**Purchase Price**”). This Purchase Price represents the amount the City paid for the Property pursuant to the Tollefson Property Purchase.

3. **Earnest Money Deposit.** In the event the closing anticipated by this Agreement does not occur simultaneous with this Tollefson Property Purchase, the Buyer will deposit in escrow with Fidelity National Title, 320 West Broadway Street, Missoula, MT 59802; Attn: Kimberly Jones; 406-370-6943 (“**Title Company**”), an earnest money deposit in the amount of Twenty Five Thousand and No/100 Dollars (\$25,000.00) (“**Earnest Money Deposit**”) within two (2) business days after the closing of the Tollefson Property Purchase. The Earnest Money Deposit

will be credited to the Purchase Price at the closing of the first phase that is purchased. At Closing, the Title Company will disburse the Earnest Money Deposit in accordance with the written directions of Seller. If available, the Title Company will invest the Earnest Money Deposit in interest bearing accounts mutually acceptable to Buyer and Seller. All interest accruing on the Earnest Money Deposit will become part of the Earnest Money Deposit and will be payable to the party entitled to receive it under this Agreement. If Buyer terminates this Agreement pursuant to a right to do so set forth in this Agreement, the Earnest Money Deposit will be returned to Buyer so long as Buyer is not in default or breach of this Agreement.

4. **Closing.**

(a) Closing Date. The Parties intend for the transaction contemplated in this Agreement to close simultaneously with the Tollefson Property Purchase. Closing will take place at Title Company (the “**Closing Agent**”) at the time identified by Seller as the closing date for the Tollefson Property Purchase, which shall be within thirty (30) days from execution of this Agreement (the “**Closing**”).

The Parties acknowledge and agree that the final closing date will depend, in part, upon satisfaction of the contingencies contained herein including City Council’s approval to acquire the Tollefson Property. Closing may be delayed upon mutual written agreement of both Seller and Purchaser.

Prior to closing, Purchaser and Seller shall deposit in escrow with Closing Agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. As used herein, “closing or “date of closing” means the date on which all required documents are recorded and proceeds of sale are available for disbursement to Seller.

(b) Prorations. Seller shall pay, on or before closing, all property taxes, licenses, SIDs or other special assessments, including interest and penalties, that are due for the prior years. All property taxes, licenses, SIDs or other special assessments, including interest and penalties, that are due for the year during which closing occurs, shall be prorated between the parties as of the date of closing. From and after closing, Purchaser agrees to assume, pay and hold Seller harmless from all property taxes, SIDs, and special assessments relating to the Property.

(c) Closing Costs. At closing, Seller shall pay (a) the premium for a standard owner’s title insurance policy in the face amount of the purchase price, and (b) one-half of the Closing Agent’s escrow/closing fee. At closing, Purchaser shall pay (a) the cost of recording the warranty deed and (b) one-half of the Closing Agent’s escrow/closing fee. Purchaser and Seller shall each pay their own attorneys, accountants and other professional fees.

(d) Possession. Purchaser shall be entitled to possession upon closing.

(e) Payment. At Closing, Seller will execute and/or deliver to the Title Company the following: (i) the Deed; (ii) a settlement statement (“**Settlement Statement**”) prepared by Title Company and approved by Buyer and Seller; (iii) the real estate transfer certificate; and (iv) affidavits and evidence of authority or other documents, if any, as may be reasonably required by Title Company. On the Closing Date, Buyer will execute and/or deliver to

the Title Company the following: (i) the net Purchase Price evidenced by an executed promissory note in favor of the Seller for the Purchase Price in the form attached hereto as Exhibit B (the “**Seller Note**”) and to be secured by a deed of trust encumbering the Property in the form attached hereto as Exhibit C (the “**Seller Trust Indenture**,” together with the Seller Note, the “**Seller Loan**”);; (ii) the real estate transfer certificate; and (iii) affidavits and evidence of authority or other documents, if any, as may be reasonably required by Title Company.

(f) Subordination of Seller Loan. Buyer shall have the right to obtain one or more loans from a third-party lender (the “**Construction Lender**”) to finance the construction of improvements on the Property (the “**Construction Loan**”), which Construction Loan shall be secured by a deed of trust (the “**Construction Trust Indenture**”) encumbering the Property. Seller hereby agrees that the Seller Trust Indenture and Seller Note shall be **subordinate in all respects** to the lien, terms, covenants, and conditions of the Construction Loan and the Construction Trust Indenture, including any renewals, modifications, increases, or replacements thereof (collectively, the “**Senior Loan**”), provided that: (i) Loan proceeds shall be used primarily for the costs of constructing improvements on the Property and related soft costs; (ii) the Construction Lender shall agree in writing that, so long as Seller is not in default under the Seller Loan, Seller’s rights to receive payments under the Seller Note shall not be disturbed except as expressly set forth in a subordination agreement; and Seller shall execute and deliver, at no cost to Seller (other than nominal recording fees), such subordination, intercreditor, and related agreements as are reasonably required by the Construction Lender, provided such agreements are consistent with the provisions of this Section 4(f) and do not materially increase Seller’s obligations or decrease Seller’s rights beyond customary subordination terms.

(g) Seller Loan Terms. The principal amount of the Seller Loan representing the Purchase Price shall bear no interest and the maturity date of the Seller Loan shall mature no earlier than the maturity date of the Construction Loan for the applicable Phase Parcel. In addition, Buyer shall have the right to offset repayment of a Seller Loan in accordance with Section 4.3 of the Development Agreement. Notwithstanding any of the foregoing, the Seller Loan shall be repaid no later than five years from the Closing Date of the Phase tied to the Seller Loan.

5. **Prorations**. All real property taxes, special taxes, and assessments, if any, will be prorated (employing a 365-day year) between Buyer and Seller as of the Closing Date based upon the most recent property tax assessment.

6. **Closing Costs**. Seller and Buyer shall each be responsible for the following fees and costs associated with Closing: (a) one half of the Title Company’s cost of the title commitment, title policy, and other title related costs; (c) one half of escrow or closing fees; and (d) one half of all of clerk’s and indexing fees related to the deed, all costs of recording the deed, and any other fees and costs. Buyer shall pay any and all costs related to its due diligence investigation.

7. **Conditions to Closing**.

(a) The obligation of Buyer to close, fund, and consummate the transaction contemplated by this Agreement is specifically contingent on the fulfillment, satisfaction, and/or completion of the following:

(i) Seller's representations and warranties set forth herein will be true and correct on the Closing Date.

(ii) Seller having performed all of Seller's covenants and agreements contained in this Agreement that are required to be performed by Seller on or before the Closing.

(b) In the event that the conditions set forth above in Section 7(a) have not been satisfied on or before the expiration of the Closing Date, then Buyer will have the rights defined within Section 16(a), including the right to terminate this Agreement by written notice to Seller whereupon the Earnest Money Deposit will be returned to Buyer (unless the Earnest Money Deposit has already been applied to an earlier Phase closing). In the event of termination under Section 16, all obligations, duties and responsibilities of the Parties will be immediately terminated and of no further force or effort, except with respect to those obligations which, by their terms, specifically survive any such termination or cancellation. The foregoing conditions precedent are for the sole benefit of Buyer.

(c) The obligation of Seller to close, fund, and consummate the transaction contemplated by this Agreement is specifically contingent on the fulfillment, satisfaction, and/or completion of the following:

(i) Buyer's representations and warranties set forth herein will be true and correct on the Closing Date.

(ii) Buyer having performed all of Buyer's covenants and agreements contained in this Agreement that are required to be performed by Buyer on or before the Closing.

(iii) City Council approving the purchase of the Property from Tollefson, and the subsequent sale to Buyer.

(d) In the event that any of the conditions set forth above in Section 7(c) have not been satisfied on or before the expiration of the Closing Date, then Seller will have the rights defined within Section 16(b), including the right to terminate this Agreement by written notice to Buyer whereupon the Earnest Money Deposit will be released to Seller (unless the Earnest Money Deposit has already been applied to an earlier Phase closing). In the event of termination under Section 16, all obligations, duties and responsibilities of the Parties will be immediately terminated and of no further force or effort, except with respect to those obligations which, by their terms, specifically survive any such termination or cancellation. The foregoing conditions precedent are for the sole benefit of Seller.

8. **Due Diligence.** Buyer has completed due diligence investigations as of the Effective Date.

9. **Title Commitment.** As of the Effective Date, the Seller has obtained a title commitment ("**Title Commitment**") from the Title Company committing to issue to Buyer a standard coverage owners policy of title insurance in the amount necessary to cover the Purchase Price for the Property and copies of all documents listed on Schedule B to the Title Commitment

as exceptions to coverage. By executing this Agreement the Parties agreed that the status of the title is understood to the best of the Parties' ability, that the Title Company is issuing the Title Commitment and any endorsements associated therewith, and therefore the Parties desire to move forward with the transaction without additional modifications to the exceptions listed in the Title Commitment.

10. **Ongoing Development Coordination; Construction Easements.** The Parties shall continue to negotiate and coordinate in good faith the contracts and agreements necessary to effectuate the development shown on the Site Plan and discussed in the Development Agreement. Additionally, the City shall grant temporary construction easements covering portions of the Property deemed prudent by Buyer for use in developing the Property as shown in the Site Plan.

11. **Conveyance of Title.** At the Closing, Seller shall convey to Buyer title to the Property by warranty deed ("**Deed**") which shall be prepared by Buyer's counsel and reasonably agreed to by Seller and subject only to: (a) taxes and assessments not yet due and payable for the year of Closing and subsequent years; and (b) the Permitted Exceptions.

12. **Acceptance of Property.** Except as otherwise stated in this Agreement, BUYER REPRESENTS AND WARRANTS TO, AND COVENANTS AND AGREES WITH, SELLER THAT BUYER IS PURCHASING THE PROPERTY IN AN "AS IS" "WHERE IS" AND "WITH ALL FAULTS" IN ITS PRESENT CONDITION AND STATE OF REPAIR, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE, AND SPECIFICALLY EXCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

13. **Representations and Warranties.**

(a) Buyer hereby represents, warrants, and covenants as follows, all of which are true on the date hereof and which will be true upon Closing:

(i) Buyer represents that it is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Montana and with full power and authority to enter into and perform this Agreement in accordance with the terms and conditions hereof.

(ii) Buyer has full right, power, authority, and ability to execute, deliver, and perform this Agreement. This Agreement and all documents to be executed and delivered by Buyer at or before the Closing are and will be upon Closing duly authorized, executed and delivered by Buyer.

(iii) The execution, delivery and performance of this Agreement by Buyer will not violate or constitute a breach under: (a) the terms of any contract or other agreement to which Buyer is a party or by which Buyer is bound; or (b) any court order, injunction, stay, or similar matter to which Buyer is subject or by which Buyer is bound.

(iv) The individuals executing this Agreement and any and all related documents have been validly authorized by Buyer to sign on Buyer's behalf.

(v) Buyer represents that it is aware of, and fully understands the limitations on use and the continuing obligations imposed by the Environmental Restrictions associated with the Property.

(b) Buyer acknowledges that Seller is relying upon the foregoing Buyer warranties, representations, and covenants in reaching its decision to enter into this Agreement to sell the Property. The foregoing representations, warranties, and covenants will be deemed made on the date of this Agreement and again upon Closing. If Buyer becomes aware of any fact or circumstances that would change a representation or warranty, then Buyer will immediately give notice of such changed fact or circumstance to Seller.

(c) Seller hereby represents, warrants, and covenants as follows, all of which are true on the date hereof and which will be true upon Closing:

(i) Seller represents that it is a municipal corporation, validly existing and in good standing under the laws of the State of Montana, and with full power and authority to enter into and perform this Agreement in accordance with the terms and conditions hereof.

(ii) Seller has full right, power, authority, and ability to execute, deliver, and perform this Agreement. This Agreement and all documents to be executed and delivered by Seller at or before the Closing are and will be upon Closing duly authorized, executed and delivered by Buyer.

(iii) The execution, delivery and performance of this Agreement by Seller will not violate or constitute a breach under: (a) the terms of any contract or other agreement to which Seller is a party or by which Seller is bound; or (b) any court order, injunction, stay, or similar matter to which Seller is subject or by which Seller is bound.

(iv) The individuals executing this Agreement and any and all related documents have been validly authorized by Seller to sign on Seller's behalf.

(v) To Seller's knowledge, no investigation, action, suit or proceeding is pending or threatened before any court or governmental body adversely affecting the Property or seeking to restrain, prohibit or otherwise challenge the consummation of the purchase and sale of the Property pursuant to this Agreement.

(vi) Seller is not a foreign owner subject to withholding of proceeds from the sale under the Foreign Investment in Real Property Tax Act (FIRPTA) under § 1445 of the Internal Revenue Code of 1986, as amended

The foregoing representations, warranties, and covenants will be deemed made on the date of this Agreement and again on the Closing Date. If a Party becomes aware of any fact or circumstances that would change any of its representations or warranties, then it will promptly notify the other Party of such changed fact or circumstance to Buyer.

(d) The provisions of this Section 13 will survive Closing.

14. **Brokerage Commission.** Buyer and Seller represent and warrant that each has not engaged any broker or finder in connection with this particular transaction.

15. **Damage or Condemnation Prior to Closing.** If any material portion of the Property is taken by condemnation or eminent domain or there is any actual or threatened condemnation or eminent domain affecting any material portion of the Property (a “**Condemnation Act**”) prior to Closing, then Buyer will have the right to terminate this Agreement by notice to the other and to the Title Company, in which case neither Seller nor Buyer will thereafter have any obligation to each other except for those matters intended to survive.

16. **Default and Remedies.**

(a) **Buyer’s Remedies.** Seller will be in default under this Agreement if, after written notice from Buyer, Seller fails to perform any of Seller’s obligations under this Agreement within ten (10) days of receipt of such notice (or such longer period as is reasonably required in the exercise of due diligence not to exceed an additional ten (10) days, provided Seller commences such cure within the initial ten-day period). In the event of a default by Seller not cured within the applicable cure period, Buyer may: (i) waive the effect of such matter and proceed to consummate the Closing (provided that in no event will Buyer have the right to waive any of Seller’s conditions precedent hereunder); (ii) terminate this Agreement in which case the Earnest Money Deposit (together with any accrued interest thereon) will be returned to Buyer; or (iii) bring an appropriate action for specific performance of this Agreement. Notwithstanding the foregoing, if after completion of all Pre Closing Conditions waivable by Seller, Seller shall willfully default in its obligation to close the transaction hereunder on the Closing Date, including by initiating a Condemnation Act and specific performance shall not be a legally available remedy to Buyer as a result thereof, then Buyer shall: (x) have the right to receive a return of the Earnest Money Deposit; and (y) be entitled to (and Seller shall reimburse Buyer for) Buyer's Costs (which reimbursement obligation shall survive the termination of this Agreement). The term "**Buyer's Costs**" is defined for the purpose of this Agreement as the expenses, if any, actually incurred by Buyer for: (x) title examination, survey, and municipal searches, including the issuance of the Title Commitment and any continuation thereof, without issuance of a title insurance policy; (y) fees paid to Buyer's engineer and architect for preparing any environmental and engineering reports with respect to the Property and all Project design work; and (z) the actual and reasonable third-party costs incurred by Buyer in connection with the negotiation of this Agreement and Buyer's due diligence with respect to the Property, including, without limitation, reasonable attorneys' fees.

(b) **Seller’s Remedies.** Buyer will be in default under this Agreement if, after written notice from Seller, Buyer fails to perform any of Buyer’s obligations under this Agreement within ten (10) days of receipt of such notice (or such longer period as is reasonably required in the exercise of due diligence not to exceed an additional ten (10) days, provided Buyer commences such cure within the initial ten-day period). In the event of a default by Buyer not cured within the applicable cure period, Seller may: (i) waive the effect of such matter and proceed to consummate the Closing; or (ii) terminate this Agreement in which case the Earnest Money Deposit (together with any accrued interest thereon) will be retained by Seller. Notwithstanding the foregoing, if after completion of all Pre Closing Conditions waivable by Buyer, Buyer shall willfully default in its obligation to close the transaction hereunder on the Closing Date, then Seller shall: (x) have the right to keep the Earnest Money Deposit; (y) be entitled to obtain from Buyer all plans, designs

and project documents related to any improvement contemplated for the Property and have the right to use the same for any purpose whatsoever (and Buyer shall be obligated to convey to the extent Buyer is permitted to convey, the same to Seller upon demand, and assign any rights to Seller to authorize the use of such documents by Seller); and (z) have the right to have the Property returned to the state it was in prior to entering into this Agreement, including having Buyer clear any liens or encumbrances created on the Property arising from any action or contemplated action by Buyer or its agents (any improvements made by Buyer or Buyer's agent(s) may remain). Buyer agrees that the preceding subsections (y) and (z) may be enforced by specific performance, or by any other legal means.

(c) THE PARTIES HERETO EXPRESSLY AGREE AND ACKNOWLEDGE THAT A PARTY'S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO ASCERTAIN AND THAT THE AMOUNT OF THE EARNEST MONEY DEPOSIT (TOGETHER WITH ACCRUED INTEREST THEREON IF ANY) REPRESENTS THE PARTIES' REASONABLE ESTIMATE OF SUCH DAMAGES.

SELLER'S INITIALS: _____ **BUYER'S INITIALS:** _____

17. **Notices.** During the term of this Agreement, notices required or contemplated by this Agreement must be in writing and deemed given: (a) when delivered personally; (b) on the day said communication is received or refused to be received when delivered by the U.S. mail, registered or certified mail, return receipt requested, postage prepaid; (c) the next business day after delivery of said notice to a nationally recognized overnight courier service; or (d) upon electronic delivery during normal business hours or if not delivered during normal business hours, the next business day:

To Buyer: Miramonte Companies, LLC
Attention: Christopher Kemmerly; Eric Entringer
6400 East El Dorado Circle, Suite 300C
Tucson, Arizona 85715
E-Mail: chris@kemmerly.com;
eentringer@miramontehomes.com

With a copy to: Hursh & Saffer, PLLC
Attention: Jeff Hursh
6720 East Camino Principal, Suite 101
Tucson, Arizona 85715
Telephone: 520-404-9761
E-Mail: jhursh@hurshsaffer.com

To Seller: The City of Missoula

Attention: Mayor
435 Ryman
Missoula, MT 59802
Telephone: 406-552-6001
E-Mail: StaffM@ci.missoula.mt.us

With a copy to:

City Attorney's Office
435 Ryman St.
Missoula, MT 59802
Attention: City Attorney
Telephone: 406-552-6020
E-Mail: civilattorney@ci.missoula.mt.us

or to such other address as the Parties may from time to time designate by notice in writing to other Parties.

18. **Assignment by Buyer.** Buyer may assign this Agreement, in whole or in part, without the consent of Seller, to (i) any entity controlling, controlled by, or under common control with Buyer, or (ii) any entity in which Buyer or its principals hold, directly or indirectly, a majority ownership interest (each, a "**Permitted Assignee**"). For purposes hereof, "control" means the direct or indirect power to direct the management and policies of an entity, whether through ownership of voting interests, by contract, or otherwise. Any such assignment shall be effective upon written notice to Seller and delivery of the assignee's contact information. Any such assignment shall relieve Buyer of its obligations, whether in whole or in part, under this Agreement but not the obligations associated with any Seller Loan. Buyer shall not assign this Agreement to any party other than a Permitted Assignee without Seller's prior written consent, which may be granted or withheld in Seller's sole and absolute discretion.

19. **Seller's Disclosures.**

(a) Water Rights Ownership Disclosure. Under Montana law, failure of the parties at a closing or other 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 penalty. Additionally, in the case of water rights being exempted, severed or divided, failure of the parties to comply with Mont. Code Ann. § 85-2-424 could result in a penalty against the transferee and rejection of the deed for recording.

(b) Noxious Weeds Disclosure. Mont. Code Ann. § 7-22-2116, provides that it is unlawful for any person to permit any noxious weeds to propagate or go to seed on the person's land, with the exception stated in the statute. The parties recognize that there are noxious weeds on vacant lands in Montana and noxious weeds may exist on the Property.

(c) Megan's Law Disclosure. Pursuant to the Montana Sexual and Violent Offender Registration Act, certain individuals are required to register their address with law enforcement agencies. Law enforcement officers may make such information concerning registered offenders available to the public. If you would like information regarding the

registration of offenders, contact your local law enforcement agency, the Montana Department of Justice or a probation office in your community.

20. **Miscellaneous.**

(a) No Third Party Beneficiary. No term or provision of this Agreement or its schedules is intended to be, nor will any such term or provision be construed to be, for the benefit of any person, firm, corporation or other entity not a Party to this Agreement (including, without limitation, any broker), and no other person, firm, corporation or entity will have any right or cause of action under this Agreement.

(b) Amendment. Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the Party against which enforcement of the change, amendment, modification, waiver or discharge is sought.

(c) Legal Fees. In the event legal action is instituted by either of the Parties to enforce the terms of this Agreement or arising out of the execution of this Agreement, the Parties shall bear their own attorneys' fees and costs.

(d) No Recording. Neither this Agreement nor any memorandum or notice thereof may be recorded by Buyer.

(e) Applicable Law; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of Montana. Venue shall be Missoula, Montana.

(f) Waiver. Failure of either Buyer or Seller to exercise any right given hereunder or to insist upon strict compliance with regard to any term, condition or covenant specified herein, will not constitute a waiver of Buyer's or Seller's right to exercise such right or to demand strict compliance with any term, condition or covenant under this Agreement.

(g) No Partnership. This Agreement is not intended to create and does not create a joint venture or partnership between Buyer and Seller.

(h) Captions. All captions, headings, paragraph and subparagraph numbers and letters are solely for reference purposes and will not be deemed to supplement, limit, or otherwise vary the text of this Agreement.

(i) Severability. The invalidity or unenforceability of a particular provision of this Agreement will not affect the other provisions hereof, and this Agreement will be construed in all respects as if the invalid or unenforceable provision were omitted.

(j) Time. Any period of time described in this Agreement by reference to a number of days includes Saturdays, Sundays, and any state or national holidays. Any period of time described in this Agreement by reference to a number of business days does not include Saturdays, Sundays, or any state or national holidays. If the date or last date to perform any act or to give any notice is a Saturday, Sunday, or state or national holiday, that act or notice may be

timely performed or given on the next succeeding day which is not a Saturday, Sunday, or state or national holiday. Time is of the essence of this Agreement.

(k) Construction. Seller and Buyer acknowledge that they and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party will not be employed in the interpretation of this Agreement or any schedules, exhibits or amendments hereto.

(l) Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties and is binding upon Seller and Buyer, their successors, legal representatives and assigns. The recitals to this Agreement are by this reference incorporated herein.

(m) Counterparts. This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together will constitute one and the same Agreement. E-mailed signatures will be treated as if they were originals.

(n) Right of Rescission; Companion Transaction. Seller and Buyer acknowledge that this Agreement and the consummation of the transaction contemplated hereby are entered into in reliance upon the anticipated closing of the Companion Transaction. Notwithstanding the closing of the transaction contemplated by this Agreement, the Parties agree that the effectiveness and finality hereof are expressly conditioned upon the occurrence of the closing of Phases 1 and 2 of the Companion Transaction on or before December 31, 2027 (the “**Outside Companion Closing Date**”). In the event that the Companion Transaction fails to close on or before the Outside Companion Closing Date for any reason whatsoever, then, at the election of Buyer, exercisable by written notice to the other party within five (5) days after the Outside Companion Closing Date, this Agreement and the consummated closing on the Property shall be deemed rescinded ab initio, and the Parties shall be restored, as nearly as practicable, to their respective positions as of immediately prior to the closing of the transaction contemplated by this Agreement. Upon such rescission, (a) Buyer shall reconvey the Property to Seller by special warranty deed (or deed of the same character as originally delivered), free and clear of any liens, encumbrances, or interests created by or through Buyer; (b) Seller shall return the Earnest Money Deposit to Buyer and accept the Property in full satisfaction of the Seller Loan; (c) the Parties shall cooperate to cancel or unwind all closing documents, including the termination of any title policies to the extent permitted; and (d) each Party shall bear its own costs, including legal/professional fees and any due diligence or hard/soft construction costs or other site development work, except as otherwise expressly provided herein. From and after the Closing until the earlier of: (i) the closing of the Companion Transaction or (ii) rescission pursuant to this Section 20(n), Buyer shall not further encumber, lease, enter into any agreements that will be binding on the Property, or transfer the Property without Seller’s prior written consent. The provisions of this Section 20(n) shall survive the Closing of the Property.

IN WITNESS WHEREOF, the undersigned have executed this Real Property Purchase and Sale Agreement as of the dates written below to be effective as of the Effective Date.

SELLER:

The City of Missoula

Dated: _____, 2026

By: _____

Print Name: Andrea Davis

Title: Mayor

Dated: _____, 2026

By: _____

Print Name: Claire Trimble

Title: City Clerk

BUYER:

Miramonte Companies, LLC, a Montana limited liability company

Dated: _____, 2026

By: _____

Print Name: Christopher Kemmerly

Title: Manager

EXHIBIT A

SITE PLAN



Midtown Commons Purchase and Vertical Construction Phasing Plan

**EXHIBIT B
SELLER NOTE**

SELLER NOTE

\$ _____, 2026

PROMISSORY NOTE

FOR VALUE RECEIVED, _____ of _____ (collectively, "**Maker**"), promises to pay to the order of _____, or its lawful assign, of _____ ("**Holder**"), or at such other place as is designated from time to time by Holder, in lawful money of the United States, the sum of \$ _____, together with no interest and shall be payable in one lump sum amount no later than five (5) years from the date hereof.

Prepayments of principal may be made by Maker at any time without penalty.

This Note is secured by a Trust Indenture (the "**Trust Indenture**") of even date herewith on certain real property in Missoula County, Montana, more particularly described in the Trust Indenture (the "**Property**"). The repayment of this Note is also subject to and may be modified by the provisions set forth in Section 4.3 of that certain Development Agreement (Midtown Commons Project) dated _____, 2026, by and between Holder and Miramonte Companies, LLC, a Montana limited liability company.

If Maker sells, divests, transfers, relinquishes or loses any of Maker's right, title or interest in any of the property serving as security for this Note, either voluntarily or by operation of law, without the express prior written consent of Holder, then Holder, at Holder's option, may accelerate all or any part of the indebtedness evidenced hereby and thereafter enforce the collection of the same as provided in any documents securing this Note, or in any other manner provided by law.

This Note shall become due and payable at the option of Holder immediately upon default in payment of any installment of principal or interest payable hereunder, or any part thereof, or upon failure to comply with any of the terms, covenants, conditions or agreements contained in any document securing this Note. Any sum payable hereunder not paid when due and payable shall bear simple interest at the rate of 5% per annum until paid.

Waiver by Holder of any default by Maker shall not constitute a waiver by Holder of a subsequent default. Failure by Holder to exercise any right, power or privilege which Holder may have by reason of a default by Maker shall not preclude the exercise of such right, power or privilege so long as such default remains uncured or if a subsequent default occurs.

This Note is made and executed under, and is in all respects to be governed by, the laws of the State of Montana.

Maker agrees to pay all costs of collection, including a reasonable attorney fee, if this Note is placed in the hands of an attorney for collection after default, and hereby waives demand, presentment for payment, protest, notice of protest, and notice of dishonor.

Maker shall be entitled partial releases of the Property in accordance with the terms and conditions set forth in Section 23 of the Trust Indenture and the payment of \$_____ per Unit (as defined in the Trust Indenture) (the “**Release Price**”). Any common area shall not require the payment of a Release Price.

Maker has executed this Note on the day and year first above written.

By: _____
_____, Its _____

“Maker”

EXHIBIT D

SELLER TRUST INDENTURE

When recorded, return to:

Attn: _____

TRUST INDENTURE

This **Trust Indenture** is made this ____ day of _____, 2026, by and among _____, of _____ (collectively, "**Grantor**"), _____ of _____ ("**Trustee**"), and _____ of _____ ("**Beneficiary**").

WITNESSETH: Grantor hereby irrevocably GRANTS, CONVEYS and WARRANTS to Trustee, its successors and assigns, in trust, with power of sale, the following described real property, now owned or hereafter acquired, in Missoula County, Montana, which does not exceed forty (40) acres in area, as described on Exhibit A attached hereto (the "**Property**"), together with all buildings, fixtures, and improvements thereon and all tenements, hereditaments, privileges and appurtenances thereto, and all rents, issues, royalties and profits therefrom. Grantor may construct [townhomes; condos; single family residences] on Property and associated common areas (each a "**Unit**").

FOR THE PURPOSE OF SECURING: (a) Payment of that Promissory Note given by Grantor to Beneficiary of even date herewith for the principal sum of \$ _____ with interest and other charges thereon (if any), under which the final payment is due on _____; (b) performance of each agreement and covenant of Grantor contained herein and in all other obligations of the Grantor described herein; and (c) any and all extensions, renewals, modifications, substitutions, or replacements of any and all of the foregoing. All of the obligations described above shall be included in the term "**Note**" whenever and wherever that term is used in this Trust Indenture.

TO PROTECT THE SECURITY OF THIS TRUST INDENTURE, AND FOR OTHER PURPOSES, IT IS AGREED:

1. **GRANTOR WARRANTIES.** Grantor represents and warrants to Beneficiary that: (a) Grantor is the lawful owner of marketable fee simple title to the Property free and clear of all mortgages and liens except real estate taxes not yet due; (b) this Trust Indenture and the Note have been duly and validly executed and delivered by Grantor; and (c) the Property is free of

contamination by asbestos, oil, petroleum or petroleum products or by any hazardous waste or hazardous substance as defined under laws of the United States or the State of Montana.

2. **ESCROWS.** If requested by Beneficiary, Grantor agrees to pay to Beneficiary, in addition to any other payments secured hereby, on dates specified by Beneficiary, an amount estimated by Beneficiary to be sufficient to pay, as they become due, all taxes, assessments, water charges and other charges upon the Property and all insurance premiums on policies of insurance required hereunder; such amounts shall be held by Beneficiary without interest and applied to the payment of such taxes, assessments, insurance premiums and other charges, provided that, in the event of any default hereunder, Beneficiary may, at Beneficiary's option, apply any amounts held pursuant to this paragraph to the indebtedness secured hereby.

3. **PAYMENT OF IMPOSITIONS.** Grantor shall pay when due and before any penalty all taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Property or any interest therein, or the indebtedness secured hereby ("Impositions"); and will upon demand furnish to the Beneficiary proof of the payment of any such Impositions.

4. **INSURANCE.** Grantor shall obtain and maintain continuously in effect with respect to the Property policies of insurance against such risks, in such amounts and with such companies satisfactory to Beneficiary, with a mortgagee clause satisfactory to Beneficiary. Policies or certificates evidencing the insurance shall be deposited with Beneficiary. Each policy shall provide that the insurer will not cancel, refuse to renew, or materially modify the policy without giving at least thirty (30) days advance written notice to Beneficiary. Grantor agrees to maintain in effect an existing life insurance policy with a collateral assignment to Webb Mandeville and June Mandeville and securing repayment of the obligations imposed by the Note and this Trust Indenture. The Beneficiary's interest in and to the life insurance policy shall be limited at all times to the unpaid principal, interest, late fees and charges which may be collected pursuant to the Note and this Trust Indenture.

5. **LIENS.** Grantor shall keep the Property free from statutory liens of every kind and shall pay promptly and discharge all encumbrances, charges and liens on the Property whether inferior or superior to the lien of this Trust Indenture. Grantor shall keep and maintain the Property free from the claims of all persons supplying labor or materials which will enter into the construction, repair, alteration or improvement of any and all buildings now on, now being erected, or which hereafter may be erected on the Property.

6. **MAINTENANCE.** Grantor agrees to keep and maintain the Property in good condition, repair and operating condition free from any waste or misuse, and to comply with all requirements of law, municipal ordinances, regulations, restrictions, and covenants affecting the Property and their use, and will promptly repair or restore any buildings, improvements or structures now or hereafter on the Property and all fixtures therein which may become damaged or destroyed to their condition prior to any such damage or destruction. Grantor will not, without the prior consent of Beneficiary, remove, alter, or demolish any building on the Property. Beneficiary may enter upon and inspect the Property at any reasonable time and effect whatever repairs or replacements the Beneficiary may reasonably require to maintain the Property in good condition (provided the Beneficiary shall have no duty to make inspections and shall not incur any liability or obligation for making or not making any inspections).

7. **CONDEMNATION AND INSURANCE ACTIONS AND PROCEEDS.** Grantor shall immediately notify Beneficiary of the commencement of any condemnation proceedings, actual or threatened, affecting the Property or of any loss that may be covered by insurance. Grantor hereby assigns to Beneficiary any insurance proceeds and any award for property taken and for damages to remaining property, in connection with an actual or threatened

condemnation proceeding, whether fully adjudicated or settled, and such proceeds and awards (less expenses of collection) shall, at the option of Beneficiary, be applied to the liabilities and indemnification obligations, if any, secured hereby then most remotely to be paid, whether due or not, without the application of any prepayment premium, or to the restoration or repair of the Property. Beneficiary shall have full authority, but shall not be obligated, to make proof of loss and adjust and collect insurance and to intervene in any condemnation proceeding in the name of Grantor and settle, collect and receive any award from the condemning authorities. Any insurer or condemning authority is hereby authorized and directed to make payment directly to Beneficiary. Any expenses incurred by Beneficiary in intervening in any action or collecting such proceeds shall be reimbursed to Beneficiary first out of the proceeds.

8. **PROTECTION OF SECURITY.** If Grantor defaults hereunder in any respect, or if Beneficiary in its sole judgment and discretion deems it necessary to expend funds, appear in actions or take other action to protect the full security interest intended to be created by this instrument, then Beneficiary or Trustee, without obligation to do so, without notice to or demand upon Grantor, and without releasing Grantor from any obligation hereof, may make such appearances, expend such funds and take such action as either may deem necessary to protect the security hereof, Beneficiary and Trustee being authorized to enter upon the Property for such purposes. Grantor will on demand reimburse Beneficiary and Trustee for all amounts expended, including reasonable attorneys' fees, pursuant to this paragraph, together with interest thereon at the maximum rate allowed by law.

9. **ASSIGNMENT OF RENTS.** Grantor hereby assigns to Beneficiary all rents, issues, royalties and profits of the Property, provided that Grantor shall have the right to collect all such rents, issues, royalties and profits, but only as they become due and payable and only until Grantor defaults hereunder in any respect, at which time Beneficiary shall have the right, with or without taking possession of the Property, to collect the same, and apply the same, less costs and expenses of operation and collection including reasonable attorneys' fees, upon any indebtedness or obligations secured hereby. Nothing contained herein, nor the exercise of rights hereunder by Beneficiary, shall be construed or considered an affirmation of any tenancy, lease or option, nor an assumption of liability under nor subordination of the lien or charge of this Trust Indenture to, such tenancy, lease or option.

10. **POWERS OF BENEFICIARY AND TRUSTEE.** Without affecting the liability of any person, including Grantor, for the payment of any indebtedness or indemnification obligations secured hereby or the lien of this Trust Indenture on the remainder of the Property for the full amount of any indebtedness or indemnification obligations unpaid, Beneficiary and Trustee are respectively empowered as follows: Beneficiary may from time to time, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens thereon: (a) release any person liable for the payment of any of the indebtedness or indemnification obligations; (b) extend the time or otherwise alter the terms of payment of any of the indebtedness or indemnification obligations; (c) alter, substitute or release any property securing the indebtedness and indemnification obligations; or (d) accept any additional security or resort to any security in such order as Beneficiary may determine. Trustee may from time to time, upon the written request of Beneficiary: (a) consent to the making of any map or plat of the Property; (b) join in granting any easement or creating any restrictions thereon; (c) join in any subordination or other agreement affecting this Trust Indenture or the lien or charge thereof; or (d) reconvey, without warranty, all or any part of the Property.

11. **DUE ON SALE OR ENCUMBRANCE.** If all or any part of the Property or any interest therein is sold, conveyed, transferred or further mortgaged or encumbered, or if the rents of the Property or any part thereof are assigned, or if all or any part of the ownership interest in Grantor is transferred, assigned, or pledged, or if any person other than Grantor, Beneficiary and Trustee obtains any interest in or right to acquire the Property, without the prior written consent of

Beneficiary, Beneficiary may, at Beneficiary's option, declare all indebtedness secured hereby immediately due and payable, in full together with any applicable prepayment premiums (if no prepayment privilege exists at that time, then with the prepayment premium provided in the Note at the earliest day on which the indebtedness secured hereby could be prepaid) provided, however, the granting of a leasehold interest of three (3) years or less, not containing an option to purchase, shall not be cause for such acceleration. Beneficiary shall exercise such option to accelerate by mailing notice of acceleration to Grantor within sixty (60) days after Beneficiary has actual knowledge of one of the events mentioned above. Failure by Grantor to pay the accelerated balance within thirty (30) days after written notice from Beneficiary shall constitute an Event of Default hereunder. Consent as to any one transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions.

12. **EVENTS OF DEFAULT.** If any one or more of the following events (the "**Events of Default**") shall occur:

- (a) Default in the punctual payment of any payment of money required to be made pursuant to the Note, or in any payment of money to be made pursuant to this Trust Indenture, or any other instrument securing the Note,
- (b) Default by Grantor under any terms, covenants and conditions of this Trust Indenture, the Note, or of any other instrument securing the Note, not involving the payment of money, or
- (c) Any representation or warranty made by Grantor to Beneficiary in connection with the indemnification obligations of the Note secured hereby proves to be untrue in any material respect,

then, in any such case, the Beneficiary or its attorney, may, at its option, without further written notice to the Grantor, declare all sums due pursuant to the Note, with interest, to be immediately due and payable, and thereupon the Note, including both principal and all interest accrued thereon, and including any prepayment premium then applicable, and all sums advanced hereunder and interest thereon, shall be and become immediately due and payable without presentment, demand or further notice of any kind.

13. **BENEFICIARY'S REMEDIES.** Upon the happening of any Event of Default, or in case the indemnification obligations of Grantor under the Note shall have become due and payable, whether by lapse of time or by acceleration, then and in every such case Beneficiary may:

- (a) Proceed to protect and enforce its rights by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in the Note, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Trust Indenture as a mortgage, or for the enforcement of any other appropriate legal or equitable remedies. Beneficiary may be the purchaser at any foreclosure sale, and Beneficiary shall have the right to credit upon the amount of its bid at sale the amount payable to Beneficiary out of the net proceeds of the sale.
- (b) Cause the Property to be sold by the Trustee pursuant to the power of sale granted herein, in accordance with the laws of Montana. The Property shall be sold either as a whole or in such parcels and in such order as designated by Beneficiary.
- (c) In any action to foreclose, appoint a receiver of the rents, issues and profits of the Property as a matter of right and without notice, with power to collect the rents, issues and profits of the Property due and coming due during the pendency of such

sale hereunder or any suit hereunder, without regard to the value of the Property or the solvency of any person or persons liable for the indemnification obligations of the Note involved in the suit. Grantor, for itself and any subsequent owner or owners, hereby waives any and all defenses to the application for a receiver as above provided, and hereby specifically consents to such appointment without notice; but nothing herein contained is to be construed to deprive Beneficiary of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provision for the appointment of a receiver of the rents and profits is made an express condition upon which the obligations evidenced by the Note are made.

14. **COSTS OF INVOKING REMEDIES.** Except as may be otherwise provided herein, Grantor agrees to pay to Beneficiary or Trustee the costs and expenses, including reasonable attorney and paralegal fees, incurred by either of them, (a) in instituting, prosecuting or defending any court action in which Grantor does not prevail, if the action involves the interpretation hereof or performance hereunder by a party hereto or the breach of any provision hereof, including but not limited to an action to obtain possession of the Property after exercise of the power of sale granted hereunder; and (b) in attempts, which fall short of instituting an action or commencing foreclosure, to secure performance hereof.

15. **WAIVERS AND CUMULATIVE RIGHTS.** Waiver by Beneficiary of any default by Grantor, or acceptance of payment in default or partial payment, shall not constitute a waiver by Beneficiary of any continuing or subsequent default. Failure by Beneficiary to exercise any right, power, privilege or remedy which Beneficiary may have by reason of a default by Grantor shall not preclude the exercise of such right, power, privilege or remedy so long as the default remains uncured or if a subsequent default occurs. Each right, power, privilege and remedy herein conferred upon the Beneficiary is cumulative and in addition to every other right, power, privilege and remedy available to Beneficiary at law or in equity, under the Uniform Commercial Code, or under any other agreement, and each and every right, power, privilege and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Beneficiary and such exercise shall not be a waiver of the right to exercise at any time thereafter any other right, power, privilege or remedy.

16. **RECONVEYANCE.** Upon written request of Beneficiary stating that all obligations under the Note have been satisfied, surrender of this Trust Indenture and all notes secured hereby to Trustee for cancellation and retention and upon payment by Beneficiary of its fees, Trustee shall reconvey the Property to Grantor, without warranty. The Grantee in the reconveyance may be described as “the person or persons legally entitled thereto.”

17. **GOVERNING LAW.** This Trust Indenture is made within the State of Montana pursuant to the Small Tract Financing Act of Montana, and the parties intend that said Act and any other applicable Montana law govern this Trust Indenture, and all rights, obligations and indebtedness secured hereby. This Trust Indenture is not taken in substitution for a mortgage in existence on the effective date of said Act.

18. **SEVERABILITY.** The unenforceability or invalidity of any provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

19. **TIME.** Time shall be of the essence of this Trust Indenture.

20. **TRUSTEE.** Trustee accepts this trust when this Trust Indenture, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of a pending sale under any other Trust Indenture or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless brought by Trustee.

21. **NOTICES.** Any notices which any party hereto may desire or may be required to give to any other party shall be in writing and the mailing thereof by certified mail to the respective addresses as set forth herein, or to such other places any party hereto may hereafter by notice in writing designate, shall constitute service of notice.

22. **BINDING ON SUCCESSORS, HEADINGS, WORDS AND PHRASES.** Subject to the "Due on Sale or Encumbrance" paragraph hereof, this Trust Indenture shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, lessees, licensees, tenants, successors and assigns. All obligations of Grantor hereunder are joint and several. The term "Beneficiary" shall include any successor or assignee of the Note. The headings of the paragraphs are for convenience only and shall not be construed as limiting in any way the scope of the provisions hereof.

23. **PARTIAL RELEASE.** Beneficiary will consent to the sale of a Unit pursuant to the terms of the Note, and a partial release of such Unit from the lien and operation of this Trust Indenture upon Trustor's written request and at Trustor's expense, subject to the following terms and conditions:

(a) As of the time the Grantor's request for the partial release and at all times thereafter, the representations and warranties contained in this Trust Indenture and in the Agreement are true, correct and complete, and no default has occurred under the Note, and no Event of Default or event which, with notice or the lapse of time or both would constitute an Event of Default, has occurred under this Trust Indenture or the Note.

(b) Receipt by Beneficiary of a legal description of the Unit to be released, which description must be satisfactory to Beneficiary.

(c) Receipt by Beneficiary of the Release Price as set forth in the Note.

(d) All release instruments shall be prepared by Grantor's counsel at Grantor's expense and shall be in form and substance satisfactory to Beneficiary's counsel. Beneficiary shall be furnished in connection with such release, and at Grantor's expense, with such evidence of title and other documentation as Beneficiary may, in its reasonable discretion, deem necessary.

(e) Unless otherwise agreed by Beneficiary in writing, releases shall be made only in connection with the sale of a Unit to an arm's length bona fide purchaser for value.

In addition to the foregoing, Beneficiary will consent to the conveyance of any common areas located on the Property to a homeowners association established with respect to the Property, and a partial release of such property from the lien and operation of this Trust Indenture, upon Grantor's written request and at Grantor's expense.

IN WITNESS WHEREOF, Grantor has executed this instrument the day and year first above written.

By: _____
_____, Its _____

“Grantor”

STATE OF MONTANA)
 : ss.
County of _____)

This instrument was acknowledged before me on this ____ day of _____, 202_,
by _____, **as** _____ **of** _____.

(SEAL)

Notary Public

Exhibit A to Trust Indenture
Legal Description of Property
[to follow]