

GRANT DEED

FOR VALUABLE CONSIDERATION, the receipt of which is acknowledged, the undersigned, SCOTT STREET LLP, a Montana limited liability partnership, with principal offices at 122 Red Bridge Lane South., Anaconda, MT 59711 ("Grantor"), hereby grants unto the CITY OF MISSOULA, a municipal corporation, with principal offices at 435 Ryman, Missoula, Montana 59802 (Grantee), the following real property in Missoula County (the "Property"):

Parcel A (eastern portion)

A TRACT OF LAND BEING A PORTION OF LOT 3 OF SCOTT STREET LOTS, A RECORDED SUBDIVISION OF MISSOULA COUNTY, LOCATED IN THE NORTH ONE-HALF (N1/2) OF SECTION 16, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN MONTANA, MISSOULA COUNTY, MONTANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHWESTERLY-MOST CORNER OF SAID LOT 3; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID LOT 3 THE NEXT THREE (3) COURSES: 1) S89°55'01"E, 165.99 FEET; 2) S00°01'06"E, 147.89 Feet; 3) S89°54'10"E, 512.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHERLY BOUNDARY AND THE EASTERLY AND SOUTHERLY BOUNDARIES OF SAID LOT 3 THE FOLLOWING FOUR (4) COURSES: 1) S89°54'10"E, 759.96 FEET; 2) S00°07'12"W, 213.08 FEET; 3) S00°07'54"W, 349.15 FEET; 4) N89°55'52"W, 760.00 FEET; THENCE N00°07'54"E, 562.61 FEET TO THE POINT OF BEGINNING; CONTAINING 9.81 ACRES, MORE OR LESS.

Parcel B (western portion)

A TRACT OF LAND BEING A PORTION OF LOT 3 OF SCOTT STREET LOTS, A RECORDED SUBDIVISION OF MISSOULA COUNTY, LOCATED IN THE NORTH ONE-HALF (N1/2) OF SECTION 16, TOWNSHIP 13 NORTH, RANGE 19 WEST, PRINCIPAL MERIDIAN MONTANA, MISSOULA COUNTY, MONTANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT NORTHWESTERLY-MOST CORNER OF SAID LOT 3; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID LOT 3 THE NEXT THREE (3) COURSES: 1) S89°55'01"E, 165.99 FEET; 2) S00°01'06"E, 147.89 Feet; 3) S89°54'10"E, 512.17 FEET; THENCE S00°07'54"W, 562.61 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 3; THENCE N89°55'52"W ALONG SAID SOUTHERLY LINE, 678.98 FEET TO THE SOUTHWESTERLY-MOST CORNER OF SAID LOT 3; THENCE N00°10'00"E ALONG THE WESTERLY LINE OF SAID LOT 3, 710.79 FEET TO THE POINT OF BEGINNING; CONTAINING 9.33 ACRES, MORE OR LESS.

Surveys of Parcel A and Parcel B are attached hereto as Exhibits A and B.

TO HAVE AND TO HOLD unto Grantee, the survivor thereof, and to their heirs and assigns, forever, SUBJECT TO THE FOLLOWING:

A. Subject to building, fire, safety, health, environmental and zoning ordinances, building and use restrictions, reservations, restrictions, and easements of record, easements and rights-of-way contained in any filed plat or survey, county road rights-of way, apparent easements, and the lien for current taxes and assessments, if any;

B. All prior conveyances, leases or transfers of any interest in minerals, including oil, gas, and other hydrocarbons; and

C. The Property is subject to reservations, easements and restrictions which are more particularly set forth below.

EXCEPT with reference to the items referred to in paragraphs A to C, inclusive, this deed is given with the covenants expressed in Mont. Code Ann. § 70-20-304.

Grantor warrants title only for the period of its possession of the property.

Grantee has agreed to take the Property subject to certain negative easements and restrictive covenants as more particularly set forth below.

A. Defined Terms.

For the purposes of this Grant Deed, the following underlined terms shall have the meanings ascribed to them below.

Agency Letter shall mean a letter from the Montana Department of Environmental Quality stating that no further active remediation with respect to the hazardous substance contamination at, on, above, or under the Property or emanating therefrom is required.

Environmental Conditions shall mean any condition, quality, quantity or other state of the land, subsurface strata, air, surface water, groundwater, wildlife, biota, or Hazardous Materials, including without limitation any condition, circumstance, quality, quantity or other state of the land, subsurface strata, air, surface water, groundwater, wildlife, biota, or Hazardous Materials arising out of, related to or resulting from the Release or threatened Release, generation, transport, handling, treatment, storage, disposal, management, presence of or exposure to any Hazardous Materials, or other operations by Grantor, their predecessors in interest or others.

Environmental Laws shall mean any past, present or future federal, state or local laws, regulations, ordinances, permits, approvals or authorizations pertaining to natural resources, Environmental Conditions, protection of human health, welfare or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. §§ 9601 et seq.) ("CERCLA"); the Clean Air Act (42 U.S.C. §§ 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.) ("RCRA"); the Safe Drinking Water Act (42 U.S.C. §§ 300(f) et seq.); the Comprehensive Environmental Cleanup and Responsibility Act, as amended (Mont. Code Ann. §§ 75-10-701 et seq.) ("CECRA"); the Montana Water Quality Act (Mont. Code Ann. §§ 75-5-101 et seq.); the Clean Air Act of

Montana (Mont. Code Ann. §§ 75-2-101 et seq.) all as amended and as may change from time to time; and any provisions or theories of common law providing any cause of action, remedy or right of recovery with respect to, arising from, or related to Environmental Conditions, as any such provisions or theories may change from time to time.

Government shall mean the United States Environmental Protection Agency or the State of Montana, or either of them, if appropriate, or other governmental authority.

Hazardous Materials shall mean any substance (i) the presence of which requires investigation or remediation under any federal, state, or local statute, regulation, ordinance, order, action, policy or common law; or (ii) which is defined as a “hazardous waste”, “hazardous substance,” “pollutant” or “contaminant” under any federal, state or local statute, regulation, rule, or ordinance or amendments thereto including, without limitation, CERCLA and/or RCRA; or (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or hazardous; or (iv) the presence of which causes or threatens to cause a nuisance or poses or threatens to pose a threat to human health, safety or the environment; or (v) without limitation which contains gasoline diesel fuel or other petroleum hydrocarbons; or which contains polychlorinated biphenyls, asbestos or urea formaldehyde foam insulation.

Release shall mean any spilling, leaking, pumping, emitting, leaching, emptying, discharging, injecting, escaping, dumping, burying, disposal or emanation whatsoever.

Remedial Action shall mean any response, removal, or remedial action within the meaning of those terms under CERCLA, Mont. Code §§ 75-10-701(19), (20), (2019) regardless of whether such actions are undertaken pursuant to CECRA authority, and any reclamation, restoration, or rehabilitation actions undertaken pursuant to or required by any Environmental Laws.

State shall mean the State of Montana.

Successor in Interest and Assigns shall mean any person or entity who is granted, acquires, or receives right, title, or interest, including through sale or lease, to the Property, or any portion thereof subsequent to the execution of this Grant Deed.

B. Property Disclosures. Grantor hereby makes the following disclosures to Grantee and Grantee hereby acknowledges receipt of such disclosures and any documents more particularly described below concerning the Environmental Conditions of the Property and the existence of any easements, restrictive covenants or other title matters burdening the Property:

1. Grantor discloses that the Property has been used as an industrial and/or commercial facility and that Huttig Building Products f/n/a/ Huttig Sash and Door Company (“Huttig”) is currently conducting remedial actions at the Property pursuant to the Record of Decision, Missoula White Pine Sash Facility, MDEQ, February, 2015 (“ROD”) and Missoula White Pine Sash, Remedial Action Work Plan, MDEQ, September , 2015 (“Remedial Action Work Plan”).

2. Huttig and others have performed investigations or evaluations under CECRA at the Property which have been fully disclosed and/or are publicly available to Grantee. Grantor previously provided Grantee with a copies of In the Matter of: The Investigation of the Environmental Conditions at and Emanating from the Missoula White Pine Sash Company Site, Missoula Montana – Remedial

Investigations/Feasibility Study Unilateral Administrative Order – Docket Number 95-001, dated March 17, 1995; and The Missoula White Pine Sash Final Draft Remedial Investigation Report (January 1998), and May 12, 1998, which disclose the presence of Hazardous Materials including but not limited to petroleum, pentachlorophenol, and dioxins in the soils and groundwater beneath portions of the Property.

3. Other documents that are not identified above, include, but are not limited to, those in the Montana Department of Environmental Quality's files for the site, the United States Environmental protections Agency's files, the Missoula County Files, the City of Missoula files, Crane Co. files and Huttig documents. Grantee is aware that an extensive public record describing conditions of the Property exists and assumes the responsibility to perform the appropriate due diligence to identify, review, analyze, and form its own opinions with respect to all documents and records.

4. Grantor has permitted Grantee access to conduct its own investigations of the Property and Grantee has, in fact, conducted an investigation and completed the *Phase I Site Assessment for the White Pine Sash (Scott Street Partners)*, Western Solutions, Inc, March 2020 ("Phase I Site Assessment"). Grantee relies upon its own investigation and the results of the Phase I Site Assessment to identify, review, and form its own opinion with respect to the condition of the Property.

C. Easements and Covenants.

1. Purpose. The Property and other adjacent lands are the subject of a remedial action conducted by Huttig under CECRA, pursuant to the ROD and the Remedial Action Work Plan. Hazardous Materials have been detected in soils and in the groundwater underlying certain areas of the Property. It is anticipated that the Remedial Action will not remove all impacted soil or groundwater in the Property, and certain levels of Hazardous Materials are expected to remain at the Property indefinitely. Accordingly, easements or restrictions on the future uses of the Property are necessary.

2. Easements and Covenants. The following Easements or Covenants shall burden the Property and are intended to be and shall be construed as Easements or Covenants of Grantee and its Successors in Interest and Assigns which run with the land:

a. Agreement.

(i) The Remedial Action performed by or for Huttig at the Property shall be reasonably necessary to comply with Environmental Laws and/or to comply with instructions, orders or agreements with the Government and/or to protect from harm persons or property. The Remedial Action shall be no more intrusive than is reasonably necessary or appropriate to fulfill such objectives. Grantor shall not be liable to Grantee or its Successors in Interest and Assigns for damages, directly or indirectly, for any damage to structures or improvements on the Property caused by or resulting from the performance of such Remedial Action, for any disruption or inconvenience or other loss, or diminution in value, or expense of any kind caused by or resulting from the condition of the Property or the performance of such Remedial Action, including, without limitation, damage to the Property, or claims with respect to business interruption or interference with the use of the Property by or activities of the Grantee, its Successors in Interest and Assigns, tenants, transferee, licensees or invitees.

(ii) Grantee expressly agrees to authorize the Government access to the Property for the purposes of overseeing the implementation of the Remedial Action, including the taking of water, soil or other samples from upon or beneath the Property; conducting investigations relating to

soil and groundwater contamination upon, beneath, or near the Property; and observing and monitoring the progress of the work performed at the Property by Huttig.

(iii) Grantee agrees to cooperate with Huttig in the performance of all Remedial Action authorized hereunder so as to minimize the time and expense to Huttig, including the grant of access to on-site utilities (e.g. electricity, sewer and water), to the extent required for such Remedial Action. Grantee's cooperation shall not be construed to impose any financial burden or obligation on Grantee.

(iv) Grantor and Grantee agree to subject the Property to such restrictions, easements, and/or other institutional controls as may be reasonably required by the Government as a condition to the issuance of an Agency Letter. Further, the Parties agree to cooperate in removing such restrictions, easements, or other institutional controls from the property by recording appropriate releases when so authorized by the Government.

(v) Prior to Huttig's receipt of an Agency Letter or a governmental determination of no further action, Grantee shall construct no improvements to, upon or beneath the Property, which will or may obstruct or impede the Remedial Action, without the prior written consent of Huttig.

(vi) The Grantee, and its Successors in Interest and Assigns shall not object to the petition, creation, formation, or granting of a controlled groundwater area closed for any appropriation of groundwater and/or the installation, drilling, construction or development of new wells to effectuate the taking of groundwater.

b. Restrictive Covenants. The use of the Property shall be subject to the following restrictive covenants:

(i) The Property owner shall not take any actions which interfere with implementation of any Remedial Action or other remedial efforts currently being conducted, or hereafter conducted, on or about the Property.

(ii) No portion of Parcel B shall be used in any manner for residential purposes or for any type of human residential habitation, whether permanent or temporary.

(iii) Except as hereinafter provided, the drilling or digging of new water wells on the Property shall be prohibited. However, the foregoing restriction shall not prohibit or limit the right to access to and use of existing monitoring or recovery wells and construction of new monitoring or recovery wells which are necessary or advisable as a part of the Remedial Action.

c. Reservations

(i) Grantor hereby reserves unto Huttig an irrevocable right and easement to enter upon and use the Property to conduct such environmental assessments, inspections, investigations, remediation, Remedial Action, monitoring and related activities, including, without limitation, soil and groundwater testing and remediation, and installation, operation and maintenance of all monitoring and recovery wells, treatment systems and equipment utilized in connection therewith as are deemed necessary by Huttig in its sole discretion. The foregoing right and easements shall benefit

Huttig, its agents, contractors, consultants, employees, representatives, successors and assigns, and the Government, and all other federal, State or local environmental agencies or departments.

(ii) Grantor reserves unto Huttig the right to take water, soil, minerals, wood, and other things from upon or beneath the Property as reasonably necessary for the purpose of conducting the Remedial Action.

3. **Benefitted Properties.** The covenants shall be for the benefit of Huttig, Grantor and the properties described below, their current owners, and their Successors in Interest and Assigns.

4. **Benefits to Benefitted Properties.** Grantor and Grantee acknowledge that the benefits to the Benefitted Properties by reason of the Covenants include without limitation the following:

a. The reduction or minimization of potential risk to human health and the environment from the release of Hazardous Materials from the Property on, or in the vicinity of, the Benefitted Properties; and

b. The maintenance, use, and potential development of the Property in such a manner as to allow economic and other benefits to accrue while protecting human health and the environment.

D. **Transfers of Property.** If Grantee transfers or conveys all or any part of its interest in the Property or any interest in the property to a third party, then Grantee shall be required to include in its transfer or conveyance documents to such third party the foregoing Covenants and Reservations. Grantee shall have the right to enforce against such third party each and every Covenant and Reservation with respect to the Property which has been transferred to such third party. No grant, transfer, lease, or conveyance of title, easement or other form of conveyance or transfer of any interest in all or any portion of the Property shall be made or effected without a provision restricting the use of the Property set forth herein and all such conveyances of title, grants, leases, transfers or conveyances of any interest in all or any of the Property shall contain the restrictions set forth in this section except that each subsequent transferee's name shall be substituted in each subsequent document as the person or entity to be charged with compliance herewith.

E. **Enforcement Rights – Covenants.**

1. **Enforcement of Covenants.** Grantor and Grantee hereby agree that each Covenant or other provision set forth above is intended to and shall be a covenant running with the land and shall be binding upon any and all persons or entities who acquire any interest or interests in any or all of the Property, including without limitation all Successors in Interest and Assigns of Grantee.

2. **Parties Eligible to Enforce Covenants.** Each of the Covenants set forth in this Grant Deed shall be enforceable in perpetuity as follows:

a. **In Contract.** Grantor shall be entitled to enforce the provisions of the Covenants against Grantee pursuant to the terms and conditions of the Grant Deed. Grantor and Grantee hereby specifically agree that the remedy of "specific performance" shall be available to grantor in such proceedings.

b. Government. The Government shall be entitled to enforce the Covenants as intended beneficiaries thereof. Grantor and Grantee hereby specifically agree that the remedy of "specific performance" shall be available to the Government in such proceedings.

c. Huttig. Huttig shall be entitled to enforce the Covenants as intended beneficiaries thereof. Grantor and Grantee hereby specifically agree that the remedy of "specific performance" shall be available to Huttig in such proceedings.

F. Modification of Reservations and Covenants. The reservations or covenants may be modified from time to time as follows:

1. Required Approval. Any proposed modification must be approved in writing by the Government, Huttig, Grantor and Grantee, or if other than Grantee, the current owner of the property burdened by the Reservation or Covenant to be modified. Such written approval by Government, Huttig, Grantor and Grantee or the current property owner may be evidenced by execution of the instrument created to amend the Reservations or Covenants.

2. Recordation of Modification. In order to be effective, any modification of the Reservations or Covenants must be (i) in writing, (ii) approved by each of the persons described in paragraph 1., above, with such signature duly notarized (to the extent required by Montana law), and (iii) duly recorded in the Missoula County real property records.

Any modification which complies with the foregoing requirements shall be deemed duly created and enforceable, from and after the effective date thereof to the same extent as the original Reservations or Covenants. For the purpose of these provisions, a modification of the Reservations or Covenants may include (i) the imposition of new Easements or Covenants or (ii) the termination of all or part of the existing Reservations, Easements or Covenants.

IN WITNESS WHEREOF, the Grantor and Grantee have affixed their signatures on the dates indicated below.

SCOTT STREET, LLP

By: _____

Michael S. Stevenson

Date: _____

By: _____

Joseph M. Brooke

Date _____

CITY OF MISSOULA

By: _____

Printed Name: _____

Its: _____

Date: _____

State of Montana)

:

County of _____)

On this _____ day of _____ 2020, before me the undersigned notary Public for the State of Montana, personally appeared Michael S. Stevenson, known to me to be the Partner of Scott Street, LLP, and the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same on behalf of Scott Street, LLP.

In witness whereof, I have set my hand and affixed my notarial seal on the day and year first written above.

Printed Name: _____

SEAL Notary Public for the State of Montana

Residing at _____, MT

My commission expires: _____

State of Montana)

:

County of _____)

On this _____ day of _____ 2020, before me the undersigned notary Public for the State of Montana, personally appeared Joseph M. Brooke, known to me to be the Partner of Scott Street, LLP, and the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same on behalf of Scott Street, LLP.

In witness whereof, I have set my hand and affixed my notarial seal on the day and year first written above.

Printed Name: _____

SEAL Notary Public for the State of Montana

Residing at _____, MT

My commission expires: _____

State of Montana)

:

County of _____)

On this ____ day of _____ 2020, before me the undersigned notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of the City of Missoula, and the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same on behalf of the City of Missoula.

In witness whereof, I have set my hand and affixed my notarial seal on the day and year first written above.

Printed Name: _____

SEAL Notary Public for the State of Montana

Residing at _____, MT

My commission expires: _____