

**REAL ESTATE PURCHASE AGREEMENT
SALE OF A PORTION OF PROPERTY AT 2989 E. BUTLER AVENUE**

The City of Flagstaff, a municipal corporation organized and existing under the laws of the State of Arizona (“City”) and Woodshire on Butler, LLC (“Purchaser”) hereby enter into this Purchase Agreement (“Contract”).

1. Property. The City agrees to sell, and Purchaser agrees to purchase approximately 32,404 square feet of real property at 2989 E. Butler Avenue (“the Property”) legally described and depicted in the Exhibits, attached hereto.
2. Contingencies of Sale. This sale is contingent on the Council of the City of Flagstaff passing and adopting an ordinance authorizing the sale of a portion of the Property at 2989 E. Butler Avenue, Flagstaff Arizona. The Contract shall be executed by the Mayor thirty days (30) after the ordinance has been passed and adopted. This sale is contingent upon Purchaser’s execution of a Development Agreement and a Deed Restriction related to development of the Property for affordable housing and approved by the Council of the City of Flagstaff, which documents will be recorded against the Property in the records of the Coconino County Recorder at closing.
3. Purchase Price for Property. The Purchaser agrees to pay City One Hundred and Thirty Thousand dollars (\$130,000.00) for the Property.
4. Conveyance of Property. City shall convey the Property to the Purchaser by Special Warranty Deed.
5. Opening of Escrow; Closing. The Purchaser shall deposit the sum of one thousand dollars (\$1,000.00) deposit with Pioneer Title Agency, Inc. of Flagstaff, Arizona (the “Escrow Agent”) to be applied against the Purchase Price at the Close of Escrow. In the event the contingencies are not satisfied and / or Closing does not occur, the deposit will be refunded to Purchaser.

The Opening of Escrow shall be deemed to be the date on which the Deposit and a fully executed copy of this Contract are delivered to the Escrow Agent. The consummation of the transaction contemplated by this Contract (“Close of Escrow”) shall occur no later than October 1, 2019. If Escrow Company or Recorder’s office is closed on the scheduled closing date, Close of Escrow shall occur on the next day that both are open for business. Purchaser, and City may accelerate the Closing Date upon mutual acceptance by both parties. The Closing shall occur at the offices of the Escrow Agent, or at such other place as City and Purchaser may agree in writing. Closing shall be deemed to have occurred when (i) all closing documents contemplated by this Contract have been delivered to, received by, and executed by the appropriate parties, (ii) all conditions to such Closing contemplated by this Contract have been satisfied or waived, (iii) the funds required to be paid under this Contract have been properly delivered to Escrow Agent and are available for distribution to City by Escrow Agent, (iv) the deed required pursuant to Conveyance has been recorded.

Title. Within (5) days of Opening of Escrow, Escrow Agent shall deliver to the Purchaser and City a preliminary title report pertaining to the Property (the “Title Commitment”). Any costs associated with Title and Escrow are to be paid by the Purchaser. This Property is being sold “AS IS” Any purchase shall be subject to existing easements and encumbrances of record.

6. Disbursement of Funds. The Escrow Agent shall satisfy encumbrances on the Property by first applying funds from the purchase price on deposit as follows: taxes, mortgage claims, leasehold interests, special assessments, fines, fees or charges to be paid to the homeowners’ association, if any, and other encumbrances as may be authorized for payment, and the remaining balance shall be paid to City in

consideration for conveyance of the Property. Taxes shall be prorated and assumed by Purchaser as of the date of close of escrow. If the subject property is encumbered with Covenants, Conditions and Restrictions, the Escrow Agent shall send a Notice of Pending Sale pursuant to A.R.S. 33-1806. Title Company shall not be responsible for any liens or encumbrances not of record at the closing of escrow. Each party is responsible for careful review of the closing statement prior to closing.

7. Closing Costs. The Purchaser shall pay the purchase price plus all lawful costs incidental to closing and shall reimburse the City for any upfront fees incurred to sell the Property, which include but are not limited to; escrow fees, title policy fees, recording fees, release fees, survey costs, appraisal costs, and marketing costs. City will provide all invoices and receipts for incurred costs and Title Company will credit the amount to the City at close of escrow. In no event shall the reimbursement to the City be in excess of \$4000.00.
8. Environmental Investigation. City hereby grants permission to the Purchaser to enter onto the Property to undertake inspections and investigations regarding the Property, which may include, but not be limited to, a physical inspection of the Property as well as any and all improvements, and as deemed reasonably necessary, a Phase I Environmental Assessment (scope to be determined by the Purchaser) at the Purchaser's expense. The Purchaser may choose and retain its inspectors without seeking approval of City. However, the Purchaser shall not undertake any invasive testing, such as drilling or trenching, without City's prior written consent, which consent shall not be unreasonably withheld. The Purchaser agrees to indemnify, defend and hold City harmless for, from, and against any personal injury and property damage claims arising out of Purchaser's exercise of the rights granted by this paragraph, this indemnity shall survive the Closing or the cancellation of this Agreement. City acknowledges that Purchaser's participation in the performance of any Environmental Investigation or additional inspection will not create any liability for the Purchaser as to any Environmental Condition that may exist on the Property unless such condition is exacerbated by Purchaser's actions. Environmental Condition shall mean the presence, release, or threatened release into the environment (which includes air, soil or water) of a Hazardous Material. Hazardous Material means and includes any petroleum product and any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, the Toxic Substances Control Act, or any other federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material, as now or at any time hereafter in effect, and asbestos or any substance or compound containing asbestos, PCBs, or any other hazardous, toxic, or dangerous waste, substance, or material, or any hazardous or regulated material, waste, substance, toxin, chemical, or pollutant as those terms are defined by federal, state or local law, rule, regulation, or statute. The Purchaser shall have sixty (60) days to conduct all investigations commencing upon Opening of Escrow.
9. No Warranties by City. The Purchaser agrees and acknowledges that no representations, statements or warranties have at any time been made by City, or any agent of City, as to the condition, quality, quantity, operation, state of repair, or prospects of the Property, or any other matter concerning the Property, in any respect. This Property is being sold "AS IS" subject to existing easements and encumbrances of record.
11. Brokerage. The Purchaser and City warrant to one another that they have not dealt with any broker in connection with the sale of the Property. If any person shall assert a claim to a finder's fee, brokerage commission or other compensation on account of employment or alleged employment as a finder or broker or performance of services as a finder or broker in connection with this transaction, the party under whom the finder or broker is claiming shall indemnify, defend and hold the other party harmless from and against any such claim and all costs, expenses and liabilities incurred in connection with such claim or any action or proceeding brought on such claim, including, but not limited to, counsel and witness fees and court

costs in defending against such claim. This indemnity shall survive the close of escrow or the cancellation of the Contract.

12. Time of the Essence. The parties hereto expressly agree that time is of the essence with respect to this Contract.
13. Notices. Any notice, which a party is required or may desire to give the other, shall be in writing and shall be sent either (a) by United States registered or certified mail, return receipt requested, postage prepaid, (b) by a generally recognized overnight carrier providing proof of delivery or (c) via e-mail transmittal. Any such notice shall be addressed to a party at such party's address appearing next to such party's signature on last page of the main body of this Contract. Any notice so given shall be deemed to have been given as of the date of actual receipt. Notices shall be addressed to the parties as follows:

CITY:

City of Flagstaff
Attn: Charity Lee- Real Estate Manager
211 W. Aspen Avenue
Flagstaff, AZ 86001
928-213-2072
clee@flagstaffaz.gov

PURCHASER:

Woodshire on Butler, LLC
ATTN: Jeff Carlson
3550 N. Central Avenue
Suite 1101
Phoenix, AZ 85012
jeff@brookfieldcommunities.com
602-558-6069

14. Governing Law. The laws of the State of Arizona shall govern the validity, construction, enforcement and interpretation of this Contract.
15. Severability. In the event that any phrase, clause, sentence, paragraph, section or other portion of this Contract becomes illegal, null or void or against public policy for any reason, or is held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Contract will not be affected thereby and will remain in force and effect to the fullest extent permitted by law.
16. Entire Contract. This Contract embodies the entire Contract of the parties. Any amendments hereto shall be in writing and executed by the parties hereto. All exhibits attached hereto are a part of this Contract for all purposes.
17. Successors in Interest. This Contract shall bind and inure to the benefit of Purchaser, the City, and their heirs, executors, administrators, successors and permitted assigns.
18. Survival of Closing. Each of the covenants, conditions, agreements and representations contained in this Contract shall survive the closing hereunder and the recordation of the Special Warranty Deed.
19. Full and Complete Compensation. It is understood and agreed the consideration expressed herein is accepted by the City as full and complete compensation for the interest being acquired

IN WITNESS WHEREOF, City and Purchaser have executed this Contract on the date set forth below.

PURCHASER:

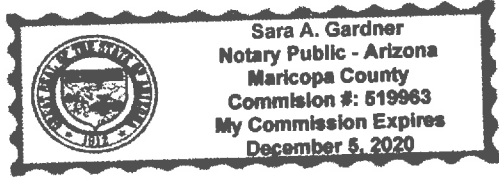
By: Jeff Carlson Date: 5/23/19
Its: PRINCIPAL

STATE OF ARIZONA)
)
 Maricopa)ss
 County of ~~Cocconino~~)

ACKNOWLEDGMENT. On this 23rd day of May 2019, before me, a Notary Public, personally appeared Jeff Carlson, known to be or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that (s)he executed the same for the purposes therein contained.

Sara A. Gardner
Notary Public

My Commission Expires:
Dec. 5, 2020



CITY:
City of Flagstaff,
an Arizona municipal corporation

By: _____ Date: _____
Mayor, Coral Evans

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney