

REAL ESTATE PURCHASE AND SALE CONTRACT

The City of Flagstaff, a municipal corporation organized and existing under the laws of the State of Arizona (“Seller” or “City”) and Open Sky Development, LLC, an Arizona limited liability company (“Buyer”) hereby enter this Real Estate Purchase and Sale Contract (“Contract”).

1. Property: The Buyer agrees to purchase, and Seller offers to sell, parcel number 301-08-056, property located at 7462 Open Sky, Flagstaff, Arizona, 86004, legally described and depicted in the Exhibit “A”, attached hereto (“the Property”). The Property shall include all improvements thereon, together with all right, title, and interest of Seller in and to (a) all development rights and credits, air rights, water, and water rights; (b) all easements, rights-of-way, public ways, or other rights appurtenant, adjacent, or connected thereto; (c) minerals, oil, gas, and other hydrocarbon substances therein, thereunder, or that may be produced therefrom; and (d) any other rights, privileges, appurtenances, hereditaments, tenements, easements, reversions, and remainders pertaining thereto or used in connection therewith.
2. Authorization: On January 14, 1993, the Council of the City of Flagstaff passed and adopted Ordinance 1771 authorizing the sale of City of Flagstaff Property in Koch Field.
3. Purchase Price for Property: The Buyer agrees to pay the City the sum of Six Hundred Sixty-Four Thousand Dollars (\$664,000.00) (the “Purchase Price”).
4. Conveyance of Property: Seller shall convey the Property to the Buyer by Special Warranty Deed.
5. “AS IS CONDITION”: Seller and Buyer agree that the Premises is being sold in its existing condition (“AS IS”) and Seller makes no warranty to Buyer, either express or implied, as to the condition of the Premises.
6. Opening of Escrow and Earnest Deposit: Within five (5) business days of Buyer’s and Seller’s execution of this Agreement, and approval of this Agreement by the Flagstaff City Council, Buyer shall open escrow and deposit the sum of a Ten Thousand Dollars (\$10,000.00) (the “Earnest Deposit”) with Pioneer Title Agency, Inc. of Flagstaff, Arizona (the “Escrow Agent” or “Title Company”) to be applied against the Purchase Price at the Close of Escrow. The Opening of Escrow shall be deemed to be the date in which the Earnest Deposit and this Agreement are delivered to the Escrow Agent, which shall not occur until after the Flagstaff City Council has approved this Agreement.

The Earnest Money shall be refundable during the Due Diligence Period (defined below) and upon expiration of the Due Diligence Period, unless this Agreement is earlier terminated, then the Earnest Money shall become non-refundable to Buyer, unless Seller fails or refuses to consummate the transaction in accordance with the terms of this Agreement (and Buyer is not in breach hereof).

7. Title: Within (5) days of Opening of Escrow, Escrow Agent, at Seller’s sole cost and expense, shall deliver to the Buyer and Seller a preliminary title report pertaining to the Property, with a liability amount of the Purchase Price (the “Title Commitment”). On or before fifteen (15) days after receipt of the Title Commitment (“Title Review Period”), the Buyer shall notify Seller of any matters or exceptions shown on the Title Commitment, or on any documents identified in the Title Commitment as title exceptions, that are not acceptable to the Buyer (the “Objections”). Any matters or title exceptions to which the Buyer does not object within such time period shall be deemed to be acceptable matters. Mortgages, deeds of trust and other liens encumbering the Property shall be cleared at or before Closing by Seller. Taxes shall be prorated.
 - a. Buyer’s Objection to Title Matters; Seller’s Cure: In the event Buyer fails to object to any matters in the Title Commitment in writing within the Title Review Period, the Title Commitment shall be

deemed approved and all matters therein shall be deemed Permitted Exceptions. In the event Buyer provides notice of any Buyer's Objections to Seller and Escrow Agent within the Title Review Period, Seller shall have the right, but without the obligation, to elect to cure any Buyer's Objections by providing notice to Buyer within ten calendar (10) days from receipt of Buyer's notice or as otherwise set forth below. Seller shall be obligated to cure those Buyer's Objections (or any other title matter) which are (i) financing liens of an ascertainable amount created by, under or through Seller, which liens Seller shall use reasonable efforts to cause to be released at or prior to Closing, or (ii) exceptions or encumbrances to title which are not Permitted Exceptions and which were voluntarily created by, under or through Seller, after the date this Agreement was executed, without Buyer's consent. If Seller fails to elect in writing to cure or advises Buyer that Seller will not cure, then Buyer shall have until three calendar (3) days after the expiration of Seller's cure period to either, as its sole remedy: (i) terminate this Agreement by written notice given promptly to the Seller, and subject to those provisions which survive closing or termination/cancellation, the rights and obligations of the Parties hereunder shall terminate, or proceed to Closing subject to such exceptions, but without any reduction in the Purchase Price hereunder.

b. Extended Coverage Policy: At any time prior to Closing, Buyer may elect to receive an extended coverage owner's policy and may request title insurance endorsements not otherwise provided by Seller as outlined above, in which case Buyer shall be responsible for satisfying, at its cost and prior to Closing, the Title Company's requirements for such additional coverage or endorsements and, at Closing, Buyer shall pay the difference between the premium for such policy and any special endorsements requested by Buyer and the premium for a standard coverage policy in the amount of the Purchase Price. Buyer shall also be responsible for the premium for any lender's policies and any endorsements required by Buyer's lender, if any. In no event shall the Closing be conditional upon or extended because of Buyer's election of extended coverage or such special endorsements.

8. Due Diligence Period: Buyer shall have sixty (60) days from the opening of escrow to conduct any and all physical inspections, surveys, tests, environmental studies, reviews, geotechnical analyses, feasibility studies, hazardous materials contamination studies, reviews of zoning and use restrictions, and other inspections, reviews, assessments, and evaluations related to the Property as Buyer may deem necessary or appropriate in Buyer's sole discretion ("Due Diligence Period"). All such inspections, testing, studies, reviews, analyses, assessments and evaluations shall be conducted during normal business hours and at Buyer's sole cost. During the Due Diligence Period, Buyer and Buyer's agents, representatives and consultants, shall have access to the Property for the purpose of conducting such inspections, testing, studies, review, analyses and assessments. Buyer's access to the Property during the Due Diligence Period is conditioned upon: (i) Buyer having insurance coverage in place applicable to all such due diligence work Buyer may perform, or have performed on Buyer's behalf, in amounts sufficient to cover whatever damage Buyer's due diligence work may cause to the Property; and (ii) Buyer's agreement to indemnify and hold Seller harmless from and against any and all such damage to the Property.

a. Termination of Agreement, Buyer's Sole Discretion; Earnest Money: At any time prior to 5 p.m. (MST) on the 60th day of the Due Diligence Period, Buyer may terminate this Agreement for any reason related to discovery of information about the Property during the Due Diligence Period in Buyer's sole discretion by written notice to both Seller and the Title Company of Buyer's decision to terminate. In the event Buyer terminates this Agreement prior to the expiration of the Due Diligence Period the Earnest Deposit shall be refunded to Buyer and Buyer and Seller shall have no further obligation to one another under this Agreement and this Agreement shall immediately become null and void, except for those provisions of this Agreement that expressly survive the Closing or earlier termination of this Agreement.

9. Entitlement Approval Period: Within five (5) business days after the expiration of Buyer's Due Diligence Period, if Buyer has not terminated this Agreement, Buyer shall deposit with the Title Company additional earnest money in the amount of Twenty-Five Thousand Dollars (\$25,000.00), which additional earnest money shall be non-refundable to Buyer, unless Seller fails or refuses to consummate the transaction in accordance with the terms of this Agreement (and Buyer is not in breach hereof), but shall be credited by the Title Company towards Buyer's payment of the Purchase Price at Closing. Upon the timely deposit of this additional earnest money, Buyer shall have two hundred ten (210) days from the expiration of the Due Diligence Period to work with Coconino County and proceed through the County's design review, planned development, site plan application, and rezoning processes (for manufactured housing), or any other entitlements desired by Buyer, and obtain any and all entitlements and approvals deemed necessary or suitable by Buyer, all at Buyer's sole cost and expense ("Entitlement Approval Period"). Buyer and Seller agree that Buyer's additional \$25,000.00 earnest money shall be released by the Title Company to Seller as soon as practical after the deposit is made. At Buyer's option, upon the deposit of an additional Twenty-Five Thousand Dollars (\$25,000), which shall be non-refundable to Buyer, unless Seller fails or refuses to consummate the transaction in accordance with the terms of this Agreement (and Buyer is not in breach hereof), but shall be credited by the Title Company towards Buyer's payment of the Purchase Price at Closing, the Entitlement Approval Period may be extended for an addition ninety (90) days.
- a. Seller's Cooperation: Seller agrees to cooperate with Buyer in Buyer's entitlement effort. Seller further agrees to conditionally approve, authorize and execute all documents that may be required by the County or Buyer in Buyer's entitlement efforts, subject to Buyer's completion of the transaction. All such documents that the County or Buyer may request that Seller approve, authorize or execute, shall state that the fulfillment of the purpose of such documents is conditioned upon Buyer successfully closing the transaction. If the Buyer fails or refuses to consummate the transaction in accordance with the terms of this Agreement (and Seller has cooperated as required herein), Buyer shall transfer all pre-development documents to City in addition to forfeit of the earnest money (\$35,000.00).
10. Closing. The consummation of the transaction contemplated by this Contract ("Close of Escrow" or "COE") shall occur upon expiration of the Entitlement Approval Period, as the same may be extended in Buyer's sole discretion, subject to the provisions of Paragraph 9, above. 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. Buyer may accelerate the Closing Date by providing written notice to Seller, and closing shall occur within fifteen (15) days of Buyer providing notice of such accelerated Closing Date. The Closing shall occur at the offices of the Escrow Agent, or at such other place as Seller and Buyer 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 Seller by Escrow Agent, (iv) the deed required pursuant to Conveyance has been recorded.
11. Warranties by Seller: The City agrees and acknowledges that no representations, statements or warranties have at any time been made by Seller, or any agent of Seller, 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.
12. Brokerage: The City warrants to the Buyer 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 account of employment or alleged employment as a finder or broker or performance of services as a finder or on 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. Buyer agrees to pay Broker fees, referral fees or finder fees associated with Buyer's fees, if any.

13. Assessment Liens: The amount of any assessment that is a lien as of the COE, shall be paid in full by Seller prior to COE. Any assessment that becomes a lien or property tax that becomes due after COE is the Buyer's responsibility.
14. Seller Warranties: Seller warrants and shall maintain the Premises until COE.
15. Closing Costs: All closing costs incurred in the transfers of the Property shall be paid in accordance with the customs of real estate transactions presently in effect in Coconino County, Arizona, as determined by the Escrow Agent.
16. Distribution of Proceeds upon Closing: The proceeds of the sale (Purchase Price less Closing Costs attributable to Seller) shall be distributed to Seller by the Escrow Agent. Seller is responsible for verifying accuracy of distribution of proceeds with the Escrow Agent and the Buyer has no liability for any errors.
17. Cure Period: A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the non-compliance is not cured within five (5) business days after delivery of such notice (Cure Period), the failure to comply shall become a breach of Contract.
18. Attorneys' Fees and Costs: If any action is brought by either party in respect to its rights under this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and court costs as determined by the court.
13. Buyers Remedies: In the event of default by the City, the Buyer at its sole remedy shall have the right to specific performance or to cancel this Contract and to retain the Earnest Deposit, together with all accrued interest, as liquidated damages. Buyer and the City agree that it would be impractical or extremely difficult to fix actual damages in case of the City's default; that the amount of the Deposit paid by Buyer reasonable estimate of the Buyer's damages in case of City's default; that Buyer shall retain said Deposit as its damages; and that, thereafter, neither party shall have any further obligations to the other under this Contract, except with respect to obligations which expressly survive the cancellation of this Contract.
19. Sellers Remedies: In the event of default by Buyer, Seller's sole remedy shall be to cancel this Contract and to retain the Earnest Deposit and all additional deposits made hereunder, together with all accrued interest, as liquidated damages and the pre-development documents as outlined in section 9(a). Buyer and the City agree that it would be impractical or extremely difficult to fix actual damages in case of the Buyer's default; that the amount of the Earnest Deposit paid by Buyer is a reasonable estimate of the City's damages in case of Buyer's default; that City shall retain said Earnest Deposit and pre-development documents as its damages; and that, thereafter, neither party shall have any further obligations to the other under this Contract, except with respect to obligations which expressly survive the cancellation of this Contract.
20. Time of the Essence: The parties hereto expressly agree that time is of the essence with respect to this Contract.
21. 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, or (b) by a generally recognized overnight carrier providing proof of delivery. In addition, notice shall also be provided via email to such party. 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:

SELLER:

City of Flagstaff
Attn: Real Estate Manager
211 W. Aspen Avenue
Flagstaff, AZ 86001
FAX (928) 779-7656
Email: Bryce.Doty@flagstaffaz.gov

Copy to:

Grants and Contracts Administration
211 W. Aspen Avenue
Flagstaff, Arizona 86001
Email: grants.contracts@flagstaffaz.gov

BUYER:

Name: Silver Saddle Development, LLC, an Arizona limited liability company
Address: P.O. Box 2086
Flagstaff, AZ 86003
Email: palmerdarris@gmail.com

Copy to:

Aspey, Watkins & Diesel, PLLC
ATTN: Trevor T. Kortsen
123 N. San Francisco St., Suite 300
Flagstaff, Arizona 86001
Email: tkortsen@awdlaw.com

22. Governing Law: The laws of the State of Arizona shall govern the validity, construction, enforcement and interpretation of this Contract.
23. 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.
24. 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.
25. Successors in Interest: This Contract shall bind and inure to the benefit of the City, and their heirs, executors, administrators, successors and permitted assigns.
26. 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.

27. Terms of Acceptance: This offer will become a binding Contract when acceptance is signed by Seller and a signed copy delivered in person, by mail, facsimile or electronically, and received by the City of Flagstaff by January 22, 2025 at Time 5:00 PM, Arizona Standard Time.

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

**BUYER: Open Sky Development LLC,
an Arizona limited liability company**

By:  _____
Darris Palmer (Jan 16, 2025 17:02 MST)

Darris Palmer, Manager

Date: Jan 16, 2025

By:  _____
Daniel Raper (Jan 16, 2025 17:03 MST)

Daniel Raper, Manager

Date: Jan 16, 2025

SELLER:

City of Flagstaff, an Arizona municipal corporation

By: _____

Becky Daggett, Mayor

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

Senior Assistant City Attorney

Exhibit "A"

Legal Description:

Exhibit "A"

Legal Description:

PARCEL NO. 1:

A portion of Lot 7, KOCH FIELD AMENDED, as shown on the plat thereof, recorded in Book 11 of Surveys, Pages 85-85B, records of Coconino County, Arizona, located in the South half of Section 23, Township 22 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Lot 7; THENCE South

44° 39' 00" West, a distance of 237.44 feet;

THENCE South 00° 17' 03" West along the West line of said Lot 7, a distance of 273.70 feet; THENCE South

90° 00' 00" East, a distance of 523.51 feet to the TRUE POINT OF BEGINNING;

THENCE continue South 90° 00' 00" East, a distance of 260.24 feet;

THENCE North 00° 00' 00" East, a distance of 20.00 feet;

THENCE South 90° 00' 00" East, a distance of 762.96 feet,

THENCE South 00° 00' 00" West, a distance of 194.66 feet to a point on the North line of Tract C of said KOCH FIELD AMENDED;

THENCE South 90° 00' 00" West along said line, a distance of 175.69 feet to the Northwest corner of said Tract C;

THENCE South 00° 00' 00" East along the West line of said Tract C, a distance of 241.38 feet to a point on the South line of said Lot 7;

THENCE North 90° 00' 00" West along said line, a distance of 849.57 feet;

THENCE North 00° 17' 03" East, a distance of 416.05 feet back to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

An easement for access and utilities over the Southerly 20 feet of the following described parcel:

A portion of Lot 7, KOCH FIELD AMENDED, as shown on the plat thereof, recorded in Book 11 of Surveys, Pages 85-85B, records of Coconino County, Arizona, located in the South half of Section 23, Township 22 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

BEGINNING at the Northwest corner of said Lot 7;

THENCE South 89° 45' 27" East along the North line of said Lot 7, a distance of 615.53 feet; THENCE South 00° 00' 00" East, a distance of 420.01 feet;

THENCE North 90° 00' 00" West, a distance of 783.64 feet to a point on the West line of said Lot 7;

THENCE North 00° 17' 03" East along said line, a distance of 253.70 feet;

THENCE North 44° 39' 00" East, a distance of 237.44 feet back to the POINT OF BEGINNING.
PARCEL NO. 3:

An easement for access and utilities over the Northerly 20 feet of the following 2 parcels:

A portion of Lot 7, KOCH FIELD AMENDED, as shown on the plat thereof, recorded in Book 11 of Surveys, Pages 85-85B, records of Coconino County, Arizona, located in the South half of Section 23, Township 22 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Lot 7;

THENCE South 44° 39' 00" West, a distance of 237.44 feet;

THENCE South 00° 17' 03" West along the West line of said Lot 7, a distance of 253.70 feet to the TRUE POINT OF BEGINNING;

THENCE South 90° 00' 00" East, a distance of 476.06 feet;

THENCE South 00° 17' 03" West, a distance of 436.05 feet to a point on the South line of said Lot 7;

THENCE North 90° 00' 00" West along said line, a distance of 476.06 feet to the Southwest corner of said Lot 7;

THENCE North 00° 17' 03" East along said West line, a distance of 436.05 feet back to the TRUE POINT OF BEGINNING;

AND

A portion of Lot 7, KOCH FIELD AMENDED, as shown on the plat thereof, recorded in Book 11 of Surveys, Pages 85-85B, records of Coconino County, Arizona, located in the South half of Section 23, Township 22 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Lot 7;

THENCE South 44° 39' 00" West, a distance of 237.44 feet;

THENCE South 00° 17' 03" West along the West line of said Lot 7, a distance of 253.70

feet; THENCE South 90° 00' 00" East, a distance of 476.06 feet to the TRUE POINT OF

BEGINNING; THENCE South 90° 00' 00" East, a distance of 1070.54 feet;

THENCE South 00° 00' 00" West, a distance of 194.66 feet to a point on the North line of Tract C of said KOCH FIELD AMENDED;

THENCE North 90° 00' 00" West along the North line, a distance of 175.69 feet to the Northwest corner of said Tract C;

THENCE South 00° 00' 00" East along the West line of said Tract C, a distance of 241.38 feet to a point on the South line of said Lot 7;

THENCE North 90° 00' 00" West along said line, a distance of 897.01 feet;

THENCE North 00° 17' 03" East, a distance of 436.05 feet back to the TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM any portion lying within Parcel No. 1 herein.

PARCEL NO. 4:

An easement for access and utilities over the Southerly 20 feet of the following described property:

A portion of Lot 7, KOCH FIELD AMENDED, as shown on the plat thereof, recorded in Book 11 of Surveys, Pages 85-85B, records of Coconino County, Arizona, located in the South half of Section 23, Township 22 North, Range 8 East of the Gila and Salt River Base and Meridian, Coconino County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Lot 7;

THENCE South 89° 45' 27" East along the North line of said Lot 7, a distance of 615.53 feet to the TRUE POINT OF BEGINNING;

THENCE continuing South 89° 45' 27" East along the North line of said Lot 7, a distance of 762.97 feet;

THENCE South 00° 00' 00" West, a distance of 416.78 feet;

THENCE North 90° 00' 00" West, a distance of 762.96 feet;

THENCE North 00° 00' 00" East, a distance of 420.01 feet back to the TRUE POINT OF BEGINNING.










PSA Open Sky- FINAL

Final Audit Report

2025-01-17

Created:	2025-01-16
By:	Emma Perkins (eperkins@awdlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAATyidxXNsV9cOhg4F0wzHytltYbuu6l8B

"PSA Open Sky- FINAL" History

-  Document created by Emma Perkins (eperkins@awdlaw.com)
2025-01-16 - 11:58:09 PM GMT
-  Document emailed to Darris Palmer (palmerdarris@gmail.com) for signature
2025-01-16 - 11:59:07 PM GMT
-  Document emailed to mlpraper@hotmail.com for signature
2025-01-16 - 11:59:07 PM GMT
-  Email viewed by Darris Palmer (palmerdarris@gmail.com)
2025-01-17 - 0:02:01 AM GMT
-  Document e-signed by Darris Palmer (palmerdarris@gmail.com)
Signature Date: 2025-01-17 - 0:02:12 AM GMT - Time Source: server
-  Email viewed by mlpraper@hotmail.com
2025-01-17 - 0:02:59 AM GMT
-  Signer mlpraper@hotmail.com entered name at signing as Daniel Raper
2025-01-17 - 0:03:41 AM GMT
-  Document e-signed by Daniel Raper (mlpraper@hotmail.com)
Signature Date: 2025-01-17 - 0:03:43 AM GMT - Time Source: server
-  Agreement completed.
2025-01-17 - 0:03:43 AM GMT