

RESOLUTION NO. 21-20

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, APPROVING AND ADOPTING THE SECOND AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MARICOPA, COPPER SKY COMMERCIAL SENIOR HOUSING, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, COPPER SKY COMMERCIAL MIXED USE NORTH, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, COPPY SKY COMMERCIAL MIXED USE SOUTH, LLC, AN ARIZONA LIMITED LIABILITY COMPANY AND SHEA CONNELLY DEVELOPMENT, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, IN COMPLIANCE WITH A.R.S. §9-500.05 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXHIBITS AND RELATED DOCUMENTS.

WHEREAS, pursuant to A.R.S. §9-500.05, Copper Sky Commercial Senior Housing, LLC, Copper Sky Commercial Mixed Use North, LLC, Copper Sky Mixed Use South, LLC and Shea Connelly Development, LLC and the City of Maricopa entered into a development agreement dated February 4, 2020 related to the purchase and development of certain real property generally located at the southeast corner of N. John Wayne Parkway and Bowlin Road, Maricopa, Arizona (“Agreement”);

WHEREAS, on November 17, 2020, the Mayor and City Council approved the First Amendment to Development Agreement to adjust the square footage and purchase price for Lot 1 and to extend the Closing Date for Lots 1 and 2 (“First Amendment”); and

WHEREAS, the parties now desire to amend the Agreement and First Amendment to extend the Closing Date on Lot 1 and to terminate the Purchase and Sale Agreement and Escrow Instructions with Copper Sky Commercial Senior Housing for Lot 4.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Maricopa, Arizona, as follows:

Section 1. The City of Maricopa by the requisite vote of its City Council hereby approves and adopts, and authorizes and instructs its Mayor on behalf of the City of Maricopa to enter into the Second Amendment to Development Agreement with Copper Sky Commercial Senior Housing, LLC, Copper Sky Commercial Mixed Use North, LLC, Copper Sky Mixed Use South, LLC and Shea Connelly Development, LLC in the form attached to and made a part of this Resolution.

Section 2. Pursuant to A.R.S. §9-500.05(G), the provisions of this Resolution are not enacted as an emergency measure and shall not be effective for thirty (30) days.

PASSED AND ADOPTED by the Mayor and City Council of the City of Maricopa, Arizona this 4th day of May, 2021.

APPROVED:



Christian Price
Mayor


ATTEST:



Vanessa Bueras, CMC
City Clerk



APPROVED AS TO FORM:



Denis Fitzgibbons
City Attorney



DATE/TIME: 05/11/2021 1408
FEE: \$15.00
PAGES: 9
FEE NUMBER: 2021-059050

When Recorded, Return To:

City of Maricopa
Attn: City Clerk
39700 West Civic Center Plaza
Maricopa, AZ 85138

**SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT**

This SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this "*Second Amendment*") is made this 4TH day of MAY, 2021, by and between the CITY OF MARICOPA, an Arizona municipal corporation (the "*City*"), COPPER SKY COMMERCIAL SENIOR HOUSING, LLC, an Arizona limited liability company ("*Copper Sky Senior Housing*"), COPPER SKY COMMERCIAL MIXED USE NORTH, LLC, an Arizona limited liability company ("*Copper Sky Mixed Use North*"), COPPER SKY COMMERCIAL MIXED USE SOUTH, LLC, an Arizona limited liability company ("*Copper Sky Mixed Use South*"), and SHEA CONNELLY DEVELOPMENT, LLC, an Arizona limited liability company ("*Shea Connelly*")(*Copper Sky Senior Housing, Copper Sky Mixed Use North, Copper Sky Mixed Use South and Shea Connelly* are individually referred to as "*Buyer*"; collectively referred to as the "*Buyers*"). All of the foregoing entities are referred to herein as the "*Parties*."

RECITALS

A. The Parties entered into that certain Development Agreement dated February 4, 2020, and recorded February 25, 2020, as Fee No. 2020-016962 in the official records of the Pinal County recorder's office (the "*Development Agreement*"), in connection with the purchase and development of certain real property consisting of approximately 18 acres generally located at the southeast corner of N. John Wayne Parkway and Bowlin Road, Maricopa, Arizona (the "*Property*").

B. The Parties entered into that certain First Amendment to Development Agreement dated November 17, 2020, and recorded December 7, 2020, as Fee No. 2020-127373 in the official records of the Pinal County recorder's office to adjust the square footage and purchase price of Lot 1 and extend the Closing for Lot 1 and Lot 2 (the "*Amendment*").

C. Buyers have requested an additional extension for Copper Sky Commercial Senior Housing to close on Lot 1 due to delays related to COVID-19 and the Parties have agreed to terminate the purchase of the 2.5 acres of the property commonly known as Bowlin Plaza.

D. The City is working with a hospital to locate on the Bowlin Property and the hospital will need more land than what is available. The City would like to be able to offer additional land to the hospital and has asked Copper Sky Commercial Senior Housing, LLC to

release them from the current PSA with the understanding that the PSA would be reinstated if the hospital does not need the land.

E. The Parties now desire to amend the Development Agreement and Amendment according to the terms and conditions set forth herein.

AGREEMENT

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Amendment and made a part hereof.

2. Section 3.4 of the Development Agreement shall be deleted in its entirety.

3. Section 7.4 of the Development Agreement shall be deleted in its entirety.

4. The Purchase and Sale Agreement and Escrow Instructions with Copper Sky Commercial Senior Housing for Lot 1 shall be amended as set forth in Exhibit 1, attached hereto and incorporated herein by reference.

5. The Purchase and Sale Agreement and Escrow Instructions with Copper Sky Commercial Senior Housing for Lot 4, 2.5 acres generally located at the southwest corner of N. John Wayne Parkway and Bowlin Road, is hereby terminated and of no further force and effect as of the date of this Second Amendment (the "PSA"). If over the next 5 years, the hospital does not need this land, the Copper Sky Commercial Senior Housing PSA shall be reinstated. If the hospital proceeds with purchasing the land, then neither City nor the Buyers, nor any successors in interest, shall have any further obligations or liability to the other under the terms of the PSA. The termination of the PSA shall in no way affect the effectiveness of the remainder of the Development Agreement or any other Purchase and Sale Agreement and Escrow Instructions entered into pursuant thereto.

6. Amendment to Development Agreement. To the extent that the terms and conditions of this Amendment modify or conflict with any provisions of the Development Agreement, including prior addenda, schedules and exhibits, the terms of this Amendment shall control. All other terms of the Development Agreement, including all prior addenda, schedules, and exhibits, not modified by this Amendment shall remain the same.

7. Defined Terms. Capitalized terms used in this Amendment which are not otherwise defined herein shall have the same meanings given to such terms in the Development Agreement.

8. Counterparts; Signatures. This Amendment may be signed in multiple counterparts, all of which taken together shall constitute one and the same agreement. Further, copied or electronically or facsimile transmitted signatures of an original signature shall be treated for all purposes as an original signature. After execution and delivery of this Amendment, a copy of the signed Amendment shall be considered for all purposes as an original of the

Amendment to the maximum extent permitted by law, and no party to this Amendment shall have any obligation to retain a version of the Amendment that contains original signatures in order to enforce the Amendment, or for any other purpose, except as otherwise required by law.

[Signatures to Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as provided herein.


CITY:

CITY OF MARICOPA, an Arizona municipal corporation


By: 
Christian Price, Mayor

Attest:

Approved as to Form:

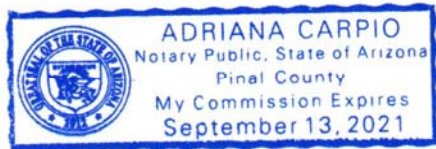
By: 
Vanessa Bueras, MMC
City Clerk



By: 
Denis M. Fitzgibbons, City Attorney

STATE OF ARIZONA)
) ss.
County of Pinal)

Subscribed and sworn to before me this 6th day of MAY, 2021, by Christian Price, the Mayor of CITY OF MARICOPA, an Arizona municipal corporation.




Notary Public


SEPTEMBER 13, 2021
My Commission Expires

BUYERS:

Copper Sky Commercial Senior Housing, LLC
an Arizona limited liability company

Copper Sky Commercial Development, LLC
an Arizona limited liability company, Manager


Copper Sky Commercial Manager, LLC,
an Arizona limited liability company, Manager

By: 
Name: Bart Shea
Title: Member

Copper Sky Commercial Mixed Use North, LLC
an Arizona limited liability company

Copper Sky Commercial Development, LLC
an Arizona limited liability company, Manager


Copper Sky Commercial Manager, LLC,
an Arizona limited liability company, Manager

By: 
Name: Bart Shea
Title: Member

Copper Sky Commercial Mixed Use South, LLC
an Arizona limited liability company

Copper Sky Commercial Development, LLC
an Arizona limited liability company, Manager

Copper Sky Commercial Manager, LLC,
an Arizona limited liability company, Manager

By: 
Name: Bart Shea
Title: Member

Shea Connelly Development, LLC
an Arizona limited liability company

By: *Bart Shea*
Name: Bart Shea
Title: Member

STATE OF ARIZONA)
) ss.
County of Maricopa)

Subscribed and sworn to before me this 15th day of April,
2021, by Bart Shea, the Member of Buyers.

Georganne M Stiles
Notary Public

1/29/2025
My Commission Expires



**SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT
AND
ESCROW INSTRUCTIONS**

This Second Amendment to Purchase and Sale Agreement and Escrow Instructions (“Second Amendment”) is made and entered into this 4TH day of May, 2021 (the “Amendment Effective Date”), by and between the City of Maricopa, an Arizona municipal corporation (“Seller”), and Copper Sky Commercial Senior Housing, LLC, an Arizona limited liability company (“Buyer”).

WHEREAS, on or about February 4, 2020, Buyer and Seller entered into a Purchase and Sale Agreement and Escrow Instructions regarding the purchase and sale of certain Properties (that term and all other capitalized terms not otherwise defined herein shall have the meanings given them in the Agreement) located in Maricopa, Arizona (“Agreement”); and

WHEREAS, on or about November 17, 2020, Buyer and Seller entered into the First Amendment to Development Agreement which included the First Amendment to Purchase and Sale Agreement and Escrow Instructions to amend the agreement (“First Amendment”); and

WHEREAS, Buyer and Seller desire to amend the Agreement and the First Amendment to extend the Closing pursuant to the terms and agreements as specified herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller agree as follows:

1. **Close of Escrow**. Section 4.02, Closing, of the Agreement and any amendments thereto shall be deleted in its entirety and replaced with the following:

Subject to the Conditions Precedent set forth in Section 7 of the Agreement, the closing of this transaction and escrow (the “Closing” or “Close of Escrow”) shall occur on or before July 30, 2021, unless otherwise agreed to in writing by both parties.

2. **Amendment**. In the event of any inconsistency between the provisions of this Second Amendment and the provisions of the Agreement or the First Amendment, the provisions of this Second Amendment shall control. The Agreement continues in full force and effect as amended by the First Amendment and this Second Amendment.

3. **Counterparts**. This Second Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute one and the same instrument. In order to expedite matters, electronic signatures may be used in place of original signatures on this Second Amendment. The parties hereto intend to be bound by the


signatures on the electronic document, and hereby waive any defenses to the enforcement of the terms of this Amendment based on the use of an electronic signature; provided, however, that the parties hereby agree to execute and provide to each other original signatures, upon the request made by either party to the other.

4. All other terms and conditions of the original Agreement and First Amendment are to continue in full force and effect as stated and agreed to in the Agreement dated February 4, 2020 and the First Amendment dated November 17, 2020 as if fully set forth herein.


IN WITNESS WHEREOF, Buyer and Seller enter into this Second Amendment effective as of the Amendment Effective Date set forth above.

"SELLER"

CITY OF MARICOPA, an Arizona
municipal corporation

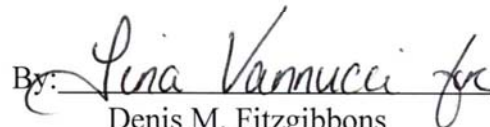
By: 
Ricky A. Horst, City Manager

Attest:

By: 
Vanessa Bueras, CMC
City Clerk



Approved as to form:

By: 
Denis M. Fitzgibbons
City Attorney

"BUYER"

Copper Sky Commercial Senior Housing, LLC
an Arizona limited liability company

By: Copper Sky Commercial Development, LLC
an Arizona limited liability company
Its: Manager

By: Copper Sky Commercial Manager, LLC
an Arizona limited liability company
Its: Manager

By: 
Bart Shea, Member