

REAL PROPERTY EXCHANGE AGREEMENT AND AGREEMENT REGARDING CONSTRUCTION OF IMPROVEMENTS

This Real Property Exchange Agreement and Agreement Regarding Construction of Improvements (this “**Agreement**”) is made and entered into as of [REDACTED], 2026 (the “**Effective Date**”), by and between **M&N Clearsky, LLC**, a Utah limited liability company (“**Clearsky**”), and the **Board of Education of Davis School District**, a Utah local school board and body corporate and politic (the “**District**”). Clearsky and the District are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”).

RECITALS

A. Clearsky is the developer of that certain mixed-use project known as the **175 West Antelope Mixed-Use Project – Residential**, located at and about 175 West Antelope Drive, Clearfield, Davis County, Utah (the “**Project**”), as more particularly depicted on the civil engineering plans for the Project prepared by Ensign Engineering (the “**Project Plans**”).

B. Clearsky owns a parcel of real property adjacent to real property owned by the District, more particularly described on **Exhibit A** attached hereto and depicted on **Exhibit C** (the “**Clearsky Parcel**”).

C. The District owns a parcel of real property (a portion of Davis County Parcel No. 12-242-0002), more particularly described on **Exhibit B** attached hereto and depicted on **Exhibit C** (the “**District Parcel**”). Clearsky intends to construct a vehicular access drive aisle serving the Project upon the District Parcel.

D. The Parties desire to exchange the Clearsky Parcel and the District Parcel so that (i) Clearsky shall acquire the District Parcel in order to construct its access improvements, and (ii) the District shall acquire the Clearsky Parcel and thereby consolidate its ownership of the two parking lots situated along Main Street, all upon the terms and conditions set forth in this Agreement.

E. As a material part of the consideration for the exchange, Clearsky has agreed, at its sole cost and expense, to (i) design and construct the vehicular access and drive aisle improvements upon the District Parcel, and (ii) design and construct a paved vehicular connection between the District’s existing parking lot and the District’s other existing parking lot located further south, so as to provide continuous vehicular circulation between the two parking areas.

F. The District has determined, subject to its compliance with all applicable statutory and procedural requirements, that the exchange contemplated herein is in the best interests of the District.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the mutual covenants and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Exchange of Parcels. Subject to the terms and conditions of this Agreement, at Closing (as defined below): (a) the District shall convey the District Parcel to Clearsky by special warranty deed, free and clear of all liens and monetary encumbrances; and (b) Clearsky shall convey the Clearsky Parcel to the District by special warranty deed, free and clear of all liens and monetary encumbrances. The conveyances described in this Section are collectively referred to as the “**Exchange**”).

2. Consideration; Equalization. The Parties acknowledge and agree that the Exchange is an even exchange of parcels of substantially equivalent value, and that Clearskye's agreement to design and construct the Improvements (as defined in Section 4) at its sole cost and expense constitutes additional good and valuable consideration to the District. Except as expressly set forth herein, neither Party shall be obligated to pay any cash consideration to the other for the Exchange.

3. Legal Descriptions; Survey. The legal descriptions of the Clearskye Parcel and the District Parcel set forth on **Exhibit A** and **Exhibit B**, respectively, are preliminary. Prior to Closing, the Parties shall cause a licensed Utah surveyor to prepare a record-of-survey and final legal descriptions for each parcel, and, if a subdivision, lot-line adjustment, or plat amendment is required to lawfully create or convey the parcels, the Parties shall reasonably cooperate to obtain the same. The final, approved legal descriptions shall be substituted for the preliminary descriptions on **Exhibit A** and **Exhibit B** upon their approval by both Parties.

4. Construction of Improvements by Clearskye. As a material part of the consideration for the Exchange, Clearskye shall, at its sole cost and expense, design, permit, and construct the following improvements (collectively, the "Improvements"):

- (a) **Access Improvements.** The vehicular access drive aisle and related curb, gutter, paving, drainage, striping, and appurtenances serving the Project, to be constructed upon the District Parcel substantially in accordance with the Project Plans (the "**Access Improvements**"); and
- (b) **Connection Improvements.** A paved vehicular connection between the District's existing parking lot and the District's other existing parking lot located further south, including all related paving, curb, grading, drainage, and striping reasonably necessary to provide continuous, functional vehicular circulation between the two parking areas (the "**Connection Improvements**").

The Improvements shall be designed and constructed in a good and workmanlike manner, in compliance with all applicable laws, codes, and Clearfield City and other governmental standards and specifications, and with all required permits. The plans and specifications for the Improvements (and any material changes thereto) shall be subject to the District's reasonable prior review and approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Clearskye shall coordinate with the District to complete the Improvements on a schedule that is suitable for to the District, so as to minimally disrupt District operations, and once construction has begun, shall diligently pursue completion. Clearskye shall endeavor to maintain the District's existing parking areas in a usable condition to the extent reasonably practicable during construction and shall promptly restore any District property disturbed by the work.

5. Warranty of Improvements. Clearskye warrants the Improvements against defects in materials and workmanship for a period of one (1) year following the District's written acceptance of the completed Improvements, and shall promptly repair or replace any defective work of which it receives written notice during such period. Upon completion and acceptance, and except for the foregoing warranty, the District shall be responsible for the ongoing maintenance of the Improvements located on District-owned property, unless otherwise agreed in writing.

6. Easements. To the extent reasonably necessary to construct, use, maintain, and access the Improvements and to provide for shared vehicular and pedestrian circulation between the parking areas, the Parties shall,

at or prior to Closing, execute and record a temporary construction easement in favor of Clearsky over such portions of the District's property as are reasonably required to construct the Improvements.

7. Title and Conditions to Closing. Each Party's obligation to close the Exchange is conditioned upon satisfaction (or written waiver by the benefited Party) of the following, on or before Closing:

- (a) **Title.** A title company mutually acceptable to the Parties (the "**Title Company**") shall be irrevocably committed to issue to each Party an owner's policy of title insurance for the parcel it is acquiring, in an amount and with such endorsements as such Party reasonably requires, subject only to exceptions approved by such Party.
- (b) **District Approvals.** The District shall have satisfied all statutory, procedural, and governance requirements applicable to the exchange or disposition of school district real property, including any required board approval, public notice, and appraisal or valuation requirements under applicable Utah law and District policy.
- (c) **Entitlements.** Clearsky shall have obtained, or be reasonably satisfied that it can obtain, the land-use approvals and permits necessary to construct the Improvements and to develop the Project.
- (d) **Representations.** The representations and warranties of the other Party shall be true and correct in all material respects as of Closing, and the other Party shall have performed its material obligations then due.

8. Closing. The consummation of the Exchange (the "**Closing**") shall occur through escrow at the Title Company on or before [REDACTED], 2026, or such other date as the Parties may agree in writing (the "**Closing Date**"). At Closing: (a) each Party shall execute and deliver its special warranty deed; (b) the Parties shall execute and deliver the easement instruments described in Section 6; (c) real property taxes and assessments, if any, shall be prorated as of the Closing Date (subject to any applicable governmental exemption); and (d) each Party shall execute such other documents as are reasonably necessary to consummate the Exchange.

9. Closing Costs. Each Party shall pay the premium for the title policy it receives and its own attorneys' fees. Escrow fees and recording fees shall be shared equally between the Parties. Each Party shall bear the transfer, documentary, or similar taxes, if any, attributable to the parcel it conveys.

10. Representations and Warranties. Each Party represents and warrants to the other, as of the Effective Date and as of Closing, that: (a) it has full power and authority to enter into and perform this Agreement (subject, as to the District, to satisfaction of the governmental approvals referenced herein); (b) this Agreement is duly authorized, executed, and delivered by it and is binding upon it; (c) it holds fee title to the parcel it is to convey; and (d) to its actual knowledge, there is no pending or threatened litigation or condemnation that would materially and adversely affect the parcel it is to convey or its ability to perform hereunder.

11. Condition of Parcels; Environmental. Except as expressly set forth in this Agreement, each Party accepts the parcel it is acquiring in its "**AS-IS, WHERE-IS**" condition. Each Party represents that, to its actual knowledge, it has not caused any release of hazardous materials on the parcel it is conveying in violation of applicable environmental laws.

12. Default and Remedies. If either Party defaults in the performance of its obligations under this Agreement and fails to cure such default within thirty (30) days after written notice thereof, the non-defaulting Party shall be entitled to pursue any remedy available at law or in equity, including specific performance and, with respect to Clearsky's construction obligations, completion of the Improvements and recovery of the reasonable cost thereof.

13. Indemnification. Clearsky shall indemnify, defend, and hold harmless the District and its members, officers, employees, and agents from and against any and all claims, damages, liabilities, and costs (including reasonable attorneys' fees) arising out of Clearsky's construction of the Improvements, except to the extent caused by the negligence or willful misconduct of the District. This Section shall survive Closing. Nothing herein shall be construed as a waiver of any governmental immunity or of the protections, limitations, or requirements of the Governmental Immunity Act of Utah.

14. Miscellaneous. The provisions of this Section 14 apply to the entirety of this Agreement:

- (a) **Governing Law.** This Agreement shall be governed by the laws of the State of Utah, without regard to conflict-of-laws principles. Venue for any dispute shall lie in the state courts located in Davis County, Utah.
- (b) **Notices.** All notices shall be in writing and delivered by hand, nationally recognized overnight courier, or certified mail, return receipt requested, to the addresses set forth beneath the Parties' signatures, or to such other address as a Party designates by notice.
- (c) **Entire Agreement; Amendment.** This Agreement, together with its Exhibits, constitutes the entire agreement between the Parties concerning its subject matter and supersedes all prior negotiations and understandings. It may be amended only by a written instrument signed by both Parties.
- (d) **Assignment.** Clearsky may not assign this Agreement without the District's prior written consent, except that Clearsky may assign to an affiliate or to a successor owner of the Project upon written notice to the District. This Agreement binds and benefits the Parties and their respective successors and permitted assigns.
- (e) **Survival; Recording.** The covenants regarding construction, warranty, easements, and indemnification shall survive Closing. A memorandum of this Agreement may be recorded in the official records of Davis County, Utah, at either Party's election.
- (f) **Further Assurances.** Each Party shall execute such further documents and take such further actions as are reasonably necessary to carry out the intent of this Agreement.
- (g) **Counterparts.** This Agreement may be executed in counterparts, including by electronic signature, each of which is deemed an original and all of which together constitute one instrument.
- (h) **Time.** Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CLEARSKYE:

M&N Clearsky, LLC,
a Utah limited liability company

By: _____
Name: _____
Title: _____
Address: _____

DISTRICT:
Board of Education of Davis School District

By: _____
Name: _____
Title: _____
Address: _____

ATTEST / APPROVED AS TO FORM:

District Counsel

EXHIBIT A

Legal Description of the Clearskye Parcel

EXHIBIT B

Legal Description of the District Parcel

EXHIBIT C

Depiction of the Parcels and Improvements

The Demolition Plan (Sheet C-100) and Site Plan (Sheets C-200–C-202) from the Project Plans will be used as the basis for this exhibit.

EXHIBIT D

Plans and Specifications for the Improvements

Sheets C-600 through C-605 from the Project Plans will be the basis for this Exhibit