

GRANT AGREEMENT

THIS AGREEMENT made and entered into this 29th day of June, 2023 (the "**Effective Date**") by and between Summit County (herein called "**County**"), a body corporate and politic of the State of Utah, 60 N. Main Street, Coalville, Utah 84017 and the Utah Housing Preservation Fund, LLC, a wholly owned subsidiary of Utah Non-Profit Housing Corporation, a 501(c)(3) nonprofit corporation ("**UHPF**"), 223 West 700 South, Salt Lake City, Utah 84101. The County and UHPF each is a "**Party**" and collectively they are referred to as the "**Parties**".

WITNESSETH:

WHEREAS, the mission of UHPF is to preserve existing affordable housing stock through (a) the acquisition of such housing stock that may be otherwise acquired by private equity funds, and (b) the recordation of deed restrictions guaranteeing the continuing affordability of such housing; and,

WHEREAS, Elk Meadows, located at 2627 Kilby Road, Park City, Utah 84098 ("**Elk Meadows**"), is a "for rent" 100% deed restricted affordable housing project for ninety-six (96) units financed through LIHTC, which expired on December 31, 2022; and,

WHEREAS, UHPF acquired Elk Meadows on May 31, 2022; and,

WHEREAS, in order to financially maintain Elk Meadows as affordable housing stock and impose new deed restrictions thereon, \$2,160,338 in capital improvements are needed, as set forth in Exhibit A hereto, which is incorporated herein by this reference (the "**Capital Improvements**"); and,

WHEREAS, UHPF has applied to the County for a grant to assist in funding a portion of the Capital Improvements; and,

WHEREAS, in accordance with Utah Code §17-27a-403, Summit County enacted Summit County Ordinance No.s ("**Ordinance**") 950 and 951, setting forth moderate income housing plans for the Snyderville Basin and Eastern Summit County, which have been approved by the Department of Workforce Services, Housing and Community Development Division; and,

WHEREAS, the preservation of existing affordable housing is more impactful than building new affordable housing stock; and,

WHEREAS, providing grants to further the preservation of affordable housing stock within the Snyderville Basin satisfies Ordinance No. 950, Strategies B and G; and,

WHEREAS, the County finds that it is in the best interests of the County to issue a monetary grant to UHPF in order to assist it in the funding of Capital Improvements for Elk Meadows, on the condition that appropriate affordable housing deed restrictions, approved by the County, are recorded against Elk Meadows; and,

WHEREAS, the County and UHPF have agreed to the following terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement, it is agreed as follows:

1. UHPF Responsibilities.

- A. UHPF shall use the Grant (as described below) to finance a portion of the Capital Improvements for Elk Meadows in order to ensure its continued use as “for rent” 100% deed restricted affordable housing serving average median household incomes of 60% or less.
- B. UHPF shall adhere to the procedure set forth in Section 2(A) below.
- C. UHPF shall record the Affordable Housing Deed Restrictions, in form and substance consistent with Exhibit B, which is incorporated herein by this reference (the “**Deed Restrictions**”); provided, however, that such Deed Restrictions may be further modified upon approval of the County Manager prior to recording.
- D. At the time the Deed Restrictions are recorded, UHPF shall cause its lender to subordinate its indebtedness to the Deed Restrictions by recording an appropriate form of subordination agreement against Elk Meadows (the “**Subordination Agreement**”). The Subordination Agreement shall also provide that the lender shall give the County notice of any default by UHPF under its loan, promissory note, deed of trust, mortgage or otherwise.

2. County's Responsibilities.

- A. Grant. Following recordation of the Deed Restrictions and Subordination Agreement, the County shall reimburse UHPF for Capital Improvements for Elk Meadows, up to a maximum of five hundred thousand dollars (\$500,000.00) (the “**Grant**”). Said Grant shall be disbursed to UHPF using the following procedure:
 - (i) UHPF shall expend funds for Elk Meadows permit authorized Capital

Improvements.

- (ii) UHPF shall obtain an inspection sign-off from the Summit County Building Official (the "**Building Official**") on the Capital Improvements (the "**Inspection Sign-Off**").
- (iii) UHPF shall obtain lien waivers from all contractors and subcontractors who provided materials or work on the Capital Improvements (the "**Lien Waivers**").
- (iv) UHPF shall submit to the County a written request for reimbursement for a specific Capital Improvement (the "**Request**"), together with copies of all invoices demonstrating the costs associated with the Capital Improvement, an Inspection Sign-Off and all Lien Waivers.
- (v) County shall issue payment to UHPF within thirty (30) days of receipt of a properly documented Request.

3. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue until December 31, 2024. Any monies not expended during the term of this Agreement for the purposes set forth herein, shall be released back to the County.

4. **Insurance.** UHPF, at its own expense, shall maintain sufficient liability insurance against claims or lawsuits which result from the actions of UHPF or its employees, contractors or agents on Elk Meadows. County is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah (the "**Governmental Immunity Act**" or "**Act**"), Utah Code §§ 63G-7-101 to 904. The Parties agree that County shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Agreement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

5. **Indemnification.** UHPF agrees to indemnify and hold the County harmless from any claim or damages for injuries, including costs and reasonable attorney fees, resulting from the use by UHPF, its agents, employees, members, officers, and invitees, of Elk Meadows or any actions of its contractors, employees or agents in installing any improvements thereon. The provisions of this Section 5 shall survive the termination of this Agreement.

6. **Assignability.** The rights and obligations of UHPF under this Agreement are not transferable or assignable in whole or in part without the written consent of the County, which consent shall be subject to the sole and absolute discretion of County.

7. **Waiver.** No failure of the County to exercise any power given to it under this Agreement, or to insist upon strict compliance by UHPF with any obligation, responsibility, or condition under it, and no custom or practice of the Parties at variance with its terms shall constitute a waiver of the County's right to demand exact compliance with those terms upon any subsequent default.

8. Independent Contractor. In making and performing this Agreement, UHPF acts and shall act at all times as an independent contractor, and nothing contained in this Agreement shall be so construed or applied as to create or imply the relationship of partners, of agency, joint adventurers, or of employer and employee between the Parties hereto.

9. Public Funds and Public Monies.

- A. Definitions: “Public funds” and “public monies” mean monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. Said funds shall maintain the nature of “public funds” while in Oakley’s possession.
- B. UHPF’s Obligation: UHPF, as recipient of “public funds” and “public monies” pursuant to this Agreement, expressly understands that it, its officers, and employees are obligated to receive, keep safe, transfer, disburse and use these “public funds” and “public monies” as authorized by law and this Agreement. UHPF understands that it, its officers, and employees may be criminally liable under Utah Code § 76-8-402, for misuse of public funds or monies. UHPF expressly understands that County may monitor the expenditure of public funds by UHPF. UHPF expressly understands that County may withhold funds or require repayment of funds from UHPF for noncompliance, failure to comply with directives regarding the use of public funds, or for misuse of public funds or monies.

10. Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

11. No Officer or Employee Interest. It is understood and agreed that no officer or employee of the County has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement.

12. Ethical Standards. UHPF represents that it has not: (a) provided an illegal gift to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c)

breached any of the ethical standards set forth in State statute; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Summit County ordinances.

13. Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Governing Law. This Agreement shall be interpreted according to the laws of the State of Utah.

15. Entire Agreement. This Agreement contains the entire agreement between the Parties concerning its subject matter, and no representations, inducements, promises, or agreements, oral or otherwise, between the Parties with reference to it and not embodied in this Agreement shall be of any force or effect.

16. Counterparts. This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile or electronic means shall be deemed an original signed copy of this Agreement.

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

SUMMIT COUNTY

By: Shayne C. Scott 6/29/2023
Shayne C. Scott
County Manager

Approved as to form:

David L. Thomas
David L. Thomas
Chief Civil Deputy

UTAH HOUSING PRESERVATION FUND, LLC,
a wholly owned subsidiary of the Utah Non-Profit
Housing Corporation

By: Makron Willey
Name: Makron Willey
Its: Executive Director

EXHIBIT "A"

ELK MEADOWS
CAPITAL IMPROVEMENTS

ELK MEADOWS
2627 W Kilby Road
Park City, UT 84098
IMPROVEMENT BUDGET

RENOVATION BUDGET					Notes:
INTERIORS	DM%	# of Units	Per Unit	Total Cost	\$ PSF
Interior Unit - Classic	15%	91	\$4,984	\$453,579	6.65
Interior Unit - Partial 1	15%	0	\$0	\$0	-
Interior Unit - Partial 2	15%	0	\$0	\$0	-
Interior Unit - Reno Complete	15%	5	\$0	\$0	-
Down Unit	15%	0	\$0	\$0	-
SUBTOTAL INTERIORS	15%	96	\$4,984	\$453,579	6.65
OTHER INTERIOR					
Washer/Dryer Hookup	0%	96	\$0	\$0	- don't have any WD hookups and don't really have room for any
Washer/Dryer Appliance	0%	96	\$0	\$0	-
Water Conservation Program	50%	114	\$500	\$57,000	0.84
Other	0%	96	\$0	\$0	-
SUBTOTAL OTHER INTERIOR	50%		\$500	\$57,000	0.84
TOTAL INTERIORS	19%		\$5,484	\$510,579	7.48
DEF MAINT & EXTERIOR					
Roofs	100%	96	\$0	\$0	- All roofs have been done 4 years ago
Gutters	100%	96	\$0	\$0	-
Windows	100%	96	\$1,000	\$96,000	1.41 Windows are original. Assuming we replace all of them.
Patio Doors	100%	96	\$0	\$0	-
Exterior Paint	100%	8	\$25,000	\$200,000	2.93 Exterior paint & vinyl repairs needed
Electrical	100%	96	\$0	\$0	- Copper wiring
Plumbing	100%	96	\$0	\$0	- Replaced 180 fire sprinklers in the units.
HVAC	100%	96	\$350	\$33,600	0.49
Water Heater	100%	96	\$1,000	\$96,000	1.41 #1 work order, cut out hole in the door so that furnace & water heater can have some ventilation
Asphalt	100%	96	\$2,604	\$250,000	3.66 Asphalt needs to be redone. Likely have to take it down 2" and then build it back up.
Concrete	100%	96	\$1,563	\$150,000	2.20 A lot of cracking & lifted concrete throughout the community
Furnace	100%	86	\$2,000	\$172,000	2.52 90% of the furnaces are original
Wood Rot	100%	96	\$0	\$0	-
Stair Landings	100%	8	\$10,000	\$80,000	1.17 Landings in rough shape, assuming two landings per building
Site Drainage	100%	96	\$0	\$0	-
Dumpsters	100%	96	\$208	\$20,000	0.29 Only have one large dumpster. Build some around the community w/ cameras or other measures to reduce dumping
Other	100%	96	\$781	\$75,000	1.10 fluff
TOTAL DEF MAINT & EXTERIOR	100%		\$44,506	\$1,172,600	17.19
COMMON AREAS					
Clubhouse	15%	96	\$260	\$25,000	0.37 Small leasing center, minor updates
Clubhouse FF&E	15%	96	\$156	\$15,000	0.22 Small leasing center, minor updates

A

Grant Agreement

Fitness Center	15%	96	\$0	\$0	-	No fitness center
Fitness Equipment	15%	96	\$0	\$0	-	
Pool Area	15%	96	\$0	\$0	-	No pool
Pool FF&E	15%	96	\$0	\$0	-	
Model Apartment FF&E	15%	96	\$0	\$0	-	
Building Security Alarm/Access	15%	96	\$0	\$0	-	
Landscaping	50%	96	\$1,042	\$100,000	1.47	A lot of open space, improve the landscaping
Fences & Gates	100%	96	\$260	\$25,000	0.37	Gate on the HOA side is coming down, fix w/ the HOA
Site Lighting	50%	8	\$6,250	\$50,000	0.73	Flood lights on buildings are good but there is no good lighting for the edges of the property
Corridors/Breezeways	25%	96	\$0	\$0	-	
Signage	25%	96	\$625	\$60,000	0.88	new monument sign & signage for the buildings
Carports	100%	96	\$0	\$0	-	
Amenity Space 1	0%	96	\$521	\$50,000	0.73	Revamp the playground/grilling areas
Amenity Space 2	0%	96	\$260	\$25,000	0.37	add dog park(s) and pet waste bin stations
TOTAL COMMON AREAS	35%		\$9,375	\$350,000	5.13	
EXTERIORS	DM%	# of Units	Per Unit	Total Cost	\$ PSE	
Exterior Façade	50%	96	\$0	\$0	-	
Building Exterior Lighting	50%	96	\$0	\$0	-	Flood lights on buildings are good but there is no good lighting for the edges of the property
Other	25%	96	\$0	\$0	-	
TOTAL EXTERIORS	0%		\$0	\$0	-	
CONTINGENCY	DM%	% of Cost	Per Unit	Total Cost	\$ PSE	
Hard Cost Contingency	25%	5%	\$1,059	\$101,659	1.49	
Soft Cost Contingency	25%	10%	\$266	\$25,500	0.37	
TOTAL CONTINGENCY	68%		\$1,325	\$127,159	1.86	
TOTAL RENOVATION COSTS	68%		\$22,504	\$2,160,338	\$31.67	

A

Grant Agreement

EXHIBIT "B"

DEED RESTRICTIONS

See Attached

B

Grant Agreement

WHEN RECORDED, RETURN TO:
Helen E. Strachan
Deputy Summit County Attorney
Summit County Courthouse
60 North Main Street
Coalville, Utah 84017

Summit County Tax ID: HIP-1

**RESTRICTIONS
CONCERNING MODERATE INCOME / WORKFORCE HOUSING UNITS
FOR ELK MEADOWS APARTMENTS LOCATED AT
2627 WEST KILBY ROAD, PARK CITY, UT 84098**

THESE RESTRICTIONS CONCERNING MODERATE INCOME / WORKFORCE HOUSING UNITS FOR ELK MEADOWS APARTMENTS (hereinafter this “**Deed Restriction**”) is made and entered into effective as of the _____ day of _____ 2023 (the “**Effective Date**”), by and among the Utah Housing Preservation Fund, LLC, a wholly owned subsidiary of Utah Non-Profit Housing Corporation, a 501(c)(3) nonprofit corporation (“**UHPF**”) and **SUMMIT COUNTY**, a political subdivision of the State of Utah, by and through its County Manager (the “**County**”). The County and UHPF are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

Recitals

WHEREAS, the mission of UHPF is to preserve existing affordable housing stock through (a) the acquisition of such housing stock that may be otherwise acquired by private equity funds, and (b) the recordation of deed restrictions guaranteeing the continuing affordability of such housing; and,

WHEREAS, Elk Meadows, located at 2627 Kilby Road, Park City, Utah 84098 (“**Elk Meadows**”), is a “for rent” 100% deed restricted affordable housing project consisting of ninety-six (96) units (hereinafter the “**Apartments**” or “**Apartment Units**” when used together or “**Apartment Unit**” when used singularly) financed through Low-Income Housing Tax Credits, which expired on December 31, 2022. The legal description for Elk Meadows is attached hereto and incorporated herein, as **Exhibit A** (the “**Property**”); and

WHEREAS, UHPF acquired Elk Meadows on May 31, 2022; and,

WHEREAS, in order to financially maintain Elk Meadows as affordable housing stock and impose new deed restrictions thereon, approximately \$2,160,338 in capital improvements are needed; and

WHEREAS, UHPF has applied to the County for a grant to assist in funding a portion of the needed capital improvements; and,

WHEREAS, in accordance with Utah Code §17-27a-403, the County enacted Ordinance No.s ("**Ordinance**") 950 and 951, setting forth moderate income housing plans for the Snyderville Basin and Eastern Summit County, which have been approved by the Department of Workforce Services, Housing and Community Development Division; and,

WHEREAS, the preservation of existing affordable housing is more impactful than building new affordable housing stock; and,

WHEREAS, providing grants to further the preservation of affordable housing stock within the Snyderville Basin satisfies Ordinance No. 950, Strategies B and G; and,

WHEREAS, the County finds that it is in the best interests of the County to issue a monetary grant to UHPF in order to assist it in the funding of capital improvements for Elk Meadows, on the condition that these Deed Restrictions, approved by the County, are recorded against Elk Meadows; and,

WHEREAS, upon its recording in the public records of the County Recorder of Summit County, Utah, this Deed Restriction shall govern the terms and conditions of ownership, use, and occupancy of the units located within Elk Meadows by subsequent owners and their heirs, successors, executors, administrators, devisees and assigns as addressed herein.

Covenants and Restrictions

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants set forth herein, the Parties agree as follows, and UHPF, as owner of the Property, hereby submits the Property to the following covenants and restrictions:

1. DEFINITIONS.

- 1.1. "**Area Median Income**" or "**AMI**": means the Summit County Area Median Income for a household of four (regardless of the actual household size of the purchaser), as determined by the County with reference to income limits set for use in Multifamily Tax Subsidy Projects ("**MTSP**") established under the Internal Revenue Service Code Section 142.
- 1.2. "**County**" means Summit County, a political subdivision of the State of Utah. Actions to be taken or decisions to be made by the County hereunder are to be taken or made by the Summit County Council or the department, employee or third-party designee selected by the County Council to carry out such responsibilities or to administer, generally, the affordable housing programs for the County.

- 1.3. **“Disability”** means a physical or mental impairment that substantially limits one or more of a person’s major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
- 1.4. **“First Mortgage”** means a Mortgage (as defined in Section 1.6) having priority as to all other Mortgages encumbering the Property or any part thereof or interest therein.
- 1.5. **“Household”** means all related and unrelated individuals occupying an Apartment Unit as a Tenant.
- 1.6. **“Mortgage”** means a mortgage, deed of trust or similar security instrument by which the Property or any part thereof or interest therein is encumbered.
- 1.7. **“Net Worth”** means the amount of total assets of the individuals or Household that exceed total liabilities, as determined by the County. Total assets do not include funds in retirement accounts that have an early withdrawal penalty.
- 1.8. **“Notice”** means correspondence complying with the provisions of Section 11.1.
- 1.9. **“Reasonable Efforts”** means good faith efforts to advertise an Apartment Unit for rent through appropriate local means, as determined by the County, including but not limited to advertising an Apartment Unit through local newspaper publications. The County may establish standards for what constitutes Reasonable Efforts under this Deed Restriction.
- 1.10. **“Tenant”** means an individual or Household that has been qualified under this Deed Restriction and is occupying an Apartment Unit under a valid lease agreement.

2. OCCUPANCY BY A QUALIFIED HOUSEHOLD

- 2.1. Qualified Household: Unless otherwise allowed in this Deed Restriction, each Apartment Unit shall at all times be occupied by a Household on a for-rent basis. Prior to entering into any lease agreement(s), the Household of each Apartment Unit shall be pre-qualified by UHPF or its third-party designee (and approved by the County), as meeting the Income Qualifications set forth in Section 2.2
- 2.2. Income Qualifications. Except as otherwise provided in this Section 2, each Apartment Unit shall at all times be occupied by a Household earning less than or equal to 60% of AMI based upon the table in Exhibit B (which shall by this reference be amended annually but for purposes of this Agreement are initially based on AMIs established for FY 2023). In addition, the Household may not have a Net Worth in excess of four (4) times the AMI at the time of reference.
- 2.3. "Over" income: UHPF shall follow the "next available Apartment Unit rule," which means that if an Apartment Unit’s Household's income increases to more than 60% of the AMI, the next available Apartment Unit must be rented to a Household within the

appropriate income level for admission (60% AMI or less). However, the Household with the increased income is still eligible to remain in the Apartment Unit if the Household Income is at or below 100% AMI.

2.4. Process. Income qualification shall adhere to the following process, which may be subject to additional policies or procedures adopted by the County.

2.4.1. Determine the number of adults and children (all Household members) to occupy the Apartment Unit.

2.4.2. Collect (a) 1040 Federal Tax Returns for the most recent year (or “transcript of tax returns” issued by the Internal Revenue Service) and (b) current pay stub(s) and/or projected income for all Household members generating income.

2.4.3. Add together the gross income for all Household members to determine the total Household income.

2.4.4. Review Exhibit B (as updated annually) to determine whether the total Household income is less than or equal to the income of a four-person Household earning 60% AMI.

2.5. Annual Qualification: Except as otherwise provided for in this Deed Restriction, Households shall meet the above Income Qualifications annually by UHPF or a third-party designee (approved by the County) and shall be required to submit to the Income Qualification process above prior to renewal of any lease. If a Tenant no longer qualifies for the Apartment Unit as provided in Section 2.3, they will be granted a one (1) year safe harbor period. Upon expiration of the safe harbor period their lease will not be renewed, and the Apartment Unit will then be made available to a qualifying Tenant.

2.6. Employment Priorities: It is the public policy of the County to house employees as close to the workplace as possible, thereby reducing traffic and congestion. UHPF shall offer the Apartment Units giving priority to Households as follows:

2.6.1. with at least one person employed full time at a business or businesses (if multiple part-time jobs) located in Summit County. “Full time” is defined as working for a business or businesses located in Summit County a minimum of 1,560 hours per year (or approximately 30 hours per week), or if self-employed, the person must be registered as a business entity in the State of Utah, have a current Summit County business license, and provide substantial goods and/or services within Summit County; OR

2.6.2. with at least one person being a retired person who was a full-time employee of a business located within Summit County for at least two continuous years immediately preceding his or her retirement; OR

2.6.3. with at least one person unable to work due to a Disability.

2.7. Rentals After “Reasonable Efforts” Made: At the time of initial occupancy, UHPF shall use Reasonable Efforts to advertise Apartment Units for rent to Households earning less than or equal to 60% of AMI based on Exhibit B (as updated annually) and to Households that meet the employment priorities in Section 2.6. If after thirty (30) days of using Reasonable Efforts, UHPF is unable to enter into a rental agreement with a Household earning less than or equal to 60% of AMI and a Household meeting the employment priorities in Section 2.6, UHPF shall use Reasonable Efforts to offer the Apartment Unit to a Household earning less than or equal to 80% of AMI based upon the table in Exhibit B (with no restrictions on employment). If after sixty (60) days of using Reasonable Efforts, UHPF is unable to enter into a rental agreement with a Household earning less than or equal to 80% of AMI, UHPF shall use Reasonable Efforts to offer the Apartment Unit to a Household earning less than or equal to 100% of AMI based upon the table in Exhibit B (with no restrictions on employment).

The rental of an Apartment Unit to a Tenant who is not Income Qualified and/or who does not meet the Employment Qualifications above does not limit the applicability of this Deed Restriction in any way with respect to such Tenant’s use, occupancy and subsequent leases of the Apartment Unit.

3. RENTING THE UNIT

3.1. Maximum Permitted Rents: The maximum permitted monthly rents for the Apartment Units shall not exceed rents for a one, two or three-bedroom apartment (as applicable) for a Household earning 60% AMI for Summit County. The maximum allowed rents at the time of this Deed Restriction are set forth in Exhibit C, which shall by this reference be amended annually but for purposes of this Agreement are initially based on AMIs established for FY 2023.

3.2. The permitted rental amount includes the following:

3.2.1.1. Use and occupancy of the Apartment Unit and the associated land and facilities;

3.2.1.2. Any separately charged fees and service charges assessed by UHPF, which are required by all Tenants but is not to include security deposits;

3.2.1.3. Unless subject to Section 3.3 below, utilities including garbage collection, sewer, water, electricity, gas and other heating, cooking, and refrigeration fuels (hereinafter “**Utilities**”) but not to include telephone service, cable television, or internet; and

3.2.1.4. Possessory interest taxes or other fees and charges assessed for use of

the associated land and facilities by a public or private entity other than UHPF.

- 3.3. Utility Allowance: The permitted rental amount includes rent and Utilities. If UHPF pays all Utilities, then the full rent may be charged. If the Apartment Unit Tenant pays all or some of the Utilities, a “utility allowance” shall be determined and maximum rents identified in Exhibit C shall be reduced by the amount of the utility allowance. Utility allowances shall be approved in advance by the County.
- 3.4. Rental Period: Apartment Units shall not be rented nightly or weekly. The minimum rental length shall be six (6) months.

4. REPORTING AND COMPLIANCE

- 4.1. UHPF shall keep accurate and complete records of all Tenants. UHPF shall provide to the County a quarterly rent roll showing each individual Tenant or Tenant’s Household’s name(s), Apartment Unit occupied, rent charged, Household gross income, name(s) and location(s) of employment, term of lease and other information related to eligibility requested by the County from time-to-time. UHPF shall also provide the County with a quarterly copy of UHPF’s Tenant wait list. The County may make reasonable requests for additional documentation from UHPF to demonstrate compliance. The County shall have the right to audit UHPF’s Tenant files annually upon twenty-one (21) days advanced written notice to UHPF.

5. MAINTENANCE OF APARTMENT UNITS & INSURANCE.

- 5.1. Minimum Maintenance Standards. Each Apartment Unit shall at all times be maintained in good, safe, and habitable condition in all respects, normal wear and tear excepted, and in full compliance with all applicable laws, ordinances, rules and regulations of any authority having jurisdiction over the Apartment Unit.
- 5.2. Insurance. UHPF shall continuously insure the Apartment Units against all risks of physical loss for the full replacement cost of the Apartment Units. This insurance requirement applies only to the physical structure of the Units and does not include any personal belongings of the Tenants, which shall be covered by a separate renter’s policy obtained by and at the discretion of the Tenant.

6. MORTGAGE SUBORDINATION AND NOTICE OF INTENT TO SELL.

- 6.1. Subordination Agreement. Contemporaneous with the recording of this Deed Restriction, UHPF shall cause its lender(s), the holder(s) of any Mortgage(s), to subordinate such indebtedness to this Deed Restriction by recording an appropriate form of subordination agreement against the Property (the “**Subordination Agreement**”). The Subordination Agreement shall also provide that the holder(s) of such Mortgage(s) shall give the County notice of any default by UHPF under such

Mortgage(s) and/or that foreclosure proceedings have commenced against the Property.

- 6.2. Notice of Intent to Sell. In the event UHPF desires to sell the Property, UHPF shall provide Notice to the County of its intent to sell (the “**Notice of Intent to Sell**”). The Notice of Intent to Sell shall include the proposed sale price. The Notice of Intent to Sell shall be served on the County in accordance with 11.1. The date on which the Notice of Intent to Sell is served on the County is the “**Offer Date**.” The County shall have the option (the “**Option**”), for a period of sixty (60) days after the Offer Date (the “**Option Period**”), to purchase the Property at the offered price. The Option shall be freely assignable by the County to a third party. The County may exercise the Option by delivering to UHPF Notice of exercise of the Option (the “**Exercise Notice**”) before the expiration of the Option Period. The Exercise Notice shall be served on UHPF in accordance with 11.1. The County shall endeavor to notify UHPF of whether it will exercise the Option as early as possible within the Option Period. During the Option Period, UHPF shall not sell any interest in the Property, however, if the County (i) notifies UHPF that it will not exercise the Option or (ii) fails to deliver the Exercise Notice (or notice that it will not exercise the Option) during the Option Period, then the Option shall automatically terminate without the need for further notice or documentation. In the event the County timely exercises the Option to purchase the Property, the County shall close on the purchase within one hundred eighty (180) days following the date that the County delivers the Exercise Notice.
- 6.3. No Impact on Foreclosure Sale. Nothing in Article 6 shall impair the holder of a Mortgage from causing the Property to be sold at public sale by way of judicial or non-judicial foreclosure. In the event of such public foreclosure sale, the County shall have no rights greater than or different from others bidding for the Property. Any purchaser at a foreclosure sale shall acquire the Property subject to this Deed Restriction, which shall not be automatically terminated by said foreclosure sale or other transfer event.

7. DEFAULT AND REMEDIES.

- 7.1. Default. In the event of a breach of any of terms of this Deed Restriction by UHPF with respect to the Apartment Units, the County shall be entitled to injunctive relief, or to any other remedy available at law or in equity for such breach, including the specific remedies enumerated herein. The prevailing Party in any dispute hereunder shall be entitled to recover their reasonable attorneys’ fees and costs incurred in connection with such dispute, regardless of whether litigation is pursued by either Party.
- 7.2. Violation of Criminal Code. In addition to the remedies contained herein, UHPF, Tenant(s) and other individuals dealing with the transfer and/or management of an Apartment Unit (including lenders, realtors, attorneys and title professionals) may be

subject to the provisions of Summit County Code §5-2-7: Affordable Housing Fraud (as may be amended or replaced).

- 8. **TERM.** This Deed Restriction shall continue in full force and effect for forty (40) years from the date it is recorded in the Office of the Summit County Recorder unless terminated sooner by the mutual agreement of UHPF and the County (the “**Term**”).
- 9. **CHOICE OF LAW.** This Deed Restriction shall be governed and construed in accordance with the laws of the State of Utah.

10. RECORDING AND COVENANTS TO RUN WITH THE LAND.

- 10.1. Recordation. Upon execution by the County, this Deed Restriction shall be recorded against the Property and filed in the Office of the Summit County Recorder.
- 10.2. Covenants Run with the Land. UHPF intends, declares and covenants, on behalf of itself and all future owners, that this Deed Restriction and the covenants and restrictions set forth herein, regulating and restricting the rents, use, occupancy and transfer of the Apartment Units shall be covenants running with the land and improvements constituting the Apartment Units, for the benefit of the County, shall encumber the Apartment Unit, and shall be binding upon the County and all subsequent owners of the Apartment Units.

11. MISCELLANEOUS.

- 11.1. Notice.
 - 11.1.1. Any and all notices or demands to UHPF or person(s) required or desired to be given hereunder shall be in writing and shall be validly given or made if (a) deposited in the U.S. mail, certified or registered, postage prepaid, return receipt requested, (b) sent by commercial courier keeping records of deliveries and attempted deliveries, or (c) via hand delivery with signed acknowledgment of receipt by a person of suitable age and discretion. Service by U.S. mail or courier shall be conclusively deemed made on the first business day delivery is attempted. Any notice or demand to UHPF shall be addressed to:

- 11.1.2. Any and all notices or demands to the County shall be in writing and shall be served by (a) mail or commercial courier provided to the Summit County Clerk or his/her authorized agent authorized by appointment or by law to receive service by

signing a document indicating receipt or (b) via hand delivery with signed acknowledgment of receipt by the Summit County Clerk or his/her authorized agent authorized by appointment or by law. Service shall be complete on the date the receipt is signed. Any notice or demand to the County shall be addressed to:

Summit County Clerk
P.O. Box 128
Coalville, Utah 84017

With a copy to:

Summit County Attorney
P.O. Box 128
Coalville, Utah 84017

Summit County, Utah
Office of Economic Development
PO Box 128
60 North Main
Coalville, Utah 84017
Attn: Jeffrey B. Jones

11.1.3. The Parties may change their respective addresses for the purpose of receiving notices or demands as herein provided by Notice given in the manner aforesaid to the others, which notice of change of address shall not become effective, however, until the actual receipt thereof by the others or the recording of a change of address by the County.

11.2. Paragraph Headings. Paragraph or section headings within this Deed Restriction are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

11.3. Gender and Number. Whenever the context so requires herein, the neuter and gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

11.4. Exhibits: The Parties understand and agree that Exhibit B and Exhibit C to this Deed Restriction are based upon income limits set for use in Multifamily Tax Subsidy Projects ("MTSP") established under the Internal Revenue Service Code Section 142 and as such Exhibit B and Exhibit C shall be amended annually to reflect changes in AMI maximum rental rates.

11.5. Modifications. Any modification of this Deed Restriction shall be effective only when made by writings signed by the County and UHPF and recorded in the Office of

the Summit County Recorder. In the event UHPF desires to convert the Units to condominiums, this Deed Restriction shall be amended.

11.6. Incorporation of Recitals. The recitals set forth at the beginning of this Deed Restriction are incorporated herein by this reference.

11.7. Binding Agreement. This Deed Restriction shall be binding upon the successor and assigns of the Parties hereto. Either party may assign its rights and obligations under this Agreement with 30-days advance written notice to the other party.

Signatures on next page

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed as of the date hereof.

UTAH HOUSING PRESERVATION FUND, LLC

SUMMIT COUNTY, UTAH

Summit County Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

Helen E. Strachan, Deputy County Attorney

Notary Acknowledgments

STATE OF UTAH
COUNTY OF SUMMIT

On this ___ day of _____ 2023, this Deed Restriction was acknowledged before me by Shayne Scott, County Manager of Summit County.

Notary Public

STATE OF UTAH:)
)
COUNTY OF SUMMIT)

On this ___ day of _____ 2023, this Agreement was acknowledged before me by _____, as _____ of Utah Housing Preservation Fund, LLC.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

ALL OF HI-PINES APARTMENTS; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE CONT 8.0 AC (LESS 0.68 AC 1124-560 HIP-1-A-X) BAL 7.42 AC (REF:621-53) 1389-1100 (SEE SWD-770-331 PINEBROOK DEVELOPMENT CORPORATION TO WILLOW RANCH DEVELOPMENT CO PARCEL 6) 2015-146 2082-1039 2743-579

On our ALTA Survey, the description is as follows:

Beginning at a point on the South line of Section 12, Township 1 South, Range 3 East, Salt Lake Base and Meridian, being South 89°24'30" East 1726.05 feet from the Southwest corner of said Section 12; thence North 35°44'46" West 920.96 feet to a point on a 315.00 foot radius curve to the right, (radius bears south 24°06'04" East); thence along the arc of said curve 119.42 feet to a point on a 385.00 foot radius curve to the left (radius bears North 2°22'45" West); thence along the arc of said curve 224.21 feet; thence North 54°15'14" East 50.00 feet to the Westerly right of way line of the Frontage Road as shown on State Highway Project No. I-80-4 (31) 141;

thence along said Westerly right of way line the following (6) courses: South 35°44'46" East 539.92 feet to a State right of way marker (Engineers Station 200+24.26), said point also being a point of a 612.96 foot radius curve to the left (Radius bears North 54°13'19" East), and along the arc of said curve 106.98 feet to a point of tangency, and South 45°46'41" East 14.92 feet to a point on a 532.96 foot radius curve to the right (radius bears South 44°13'19" West), and Southeasterly along the arc of said curve 93.02 feet to a point of tangency, and South

35°46'41" East 50.00 feet to a point on a 778.51 foot radius curve to the right (radius bears South 54°13'19" West), and along the arc of said curve 111.10 feet; thence leaving said Westerly right of way line North 89°24'30" West 119.92 feet; thence South 0°35'30" West 145.00 feet to the South line of said Section 12, thence North 89°24'30" West 249.77 feet to the point of Beginning.

Also known as Hi-Pines Apartments, according to the official plat thereof on file and of record in the Summit County Recorder's Office.

Excepting therefrom the following described property:

Beginning at the Southwest corner of that certain parcel deeded to Park City Fire Protection District described in a Special Warranty Deed, recorded as Entry No. 190192 in Book M-218 at Page 521 in the office of the Summit County Recorder, said point is located South 89°24'05" East 1975.82 feet from the Southwest corner of Section 12, Township 1 South, Range 3 East, Salt Lake Base and Meridian, said point of beginning is also located along the boundary line of the property described in the Hi-Pines Apartments Recorded of Survey Plat, recorded as Entry

No. 361697 in the office of the Summit County Recorder, and running thence along the Section line North 89°24'05" West 249.77 feet (Hi-Pines Apartments recorded on Survey Plat North 89°24'30" West 249.77 feet); thence North 54°14'39" East 390.63 feet, more or less, to the Westerly right of way of the frontage road (Kilby Road) of Interstate I-80, said point is also located on a 778.51 foot radius curve to the right, whose radius point bears South 54°48'33" West, and running thence along the arc of said curve and along the Westerly right of way

line of Kilby Road 102.18 feet thru a central angle of 7°31'11"; thence along the boundary line of the Park City Fire Protection District Special Warranty Deed and along the boundary of the Hi-Pines Apartments Record of Survey Plat North 89°24'05" West 118.98 feet (Hi-Pines Apartments Record of Survey Plat North 89°24'30" West 119.92 feet); thence along the boundary line of Park City Fire Protection District Special Warranty Deed and along the boundary line of the Hi-Pines Apartments Record of Survey Plat South 00°35'55" West 145 feet (Hi-Pines Apartments Record of Survey Plat South 00°35'30" West 145 feet) to the point of Beginning.

EXHIBIT B

**2023 INCOME QUALIFICATION TABLE
(BASED UPON MTSP INCOME LIMITS, AS AMENDED ANNUALLY)**

2023 Summit County AMI = \$148,600	30% AMI	40% AMI	50% AMI	60% AMI	70% AMI	80% AMI	100% AMI
1 person	\$29,760	\$39,680	\$49,600	\$59,520	\$69,440	\$79,360	\$99,200
2 person	\$33,990	\$45,320	\$56,650	\$67,980	\$79,280	\$90,640	\$113,280
3 person	\$38,250	\$51,000	\$63,750	\$76,500	\$89,240	\$102,000	\$127,480
4 person	\$42,480	\$56,640	\$70,800	\$84,960	\$99,120	\$113,280	\$141,600
5 person	\$45,900	\$61,200	\$76,500	\$91,800	\$107,080	\$122,400	\$153,000
6 person	\$49,290	\$65,720	\$82,150	\$98,580	\$115,000	\$131,440	\$164,280

EXHIBIT C

**2023 MAXIMUM PERMITTED MONTHLY RENTS
INCLUDING UTILITIES BY MEDIAN INCOME
(BASED UPON MTSP INCOME LIMITS, AS AMENDED ANNUALLY)**

Number of Bedrooms	Household Size	Moderate						Attainable
		30% AMI	40% AMI	50% AMI	60% AMI	70% AMI	80% AMI	100% AMI
0	1	\$744.00	\$992.00	\$1,240.00	\$1,488.00	\$1,736.00	\$1,984.00	\$2,480.00
1	2	\$849.75	\$1,133.00	\$1,416.25	\$1,699.50	\$1,982.00	\$2,266.00	\$2,832.00
2	3	\$956.25	\$1,275.00	\$1,593.75	\$1,912.50	\$2,231.00	\$2,550.00	\$3,187.00
3	4	\$1,062.00	\$1,416.00	\$1,770.00	\$2,124.00	\$2,478.00	\$2,832.00	\$3,540.00