

WHEN RECORDED, RETURN TO:

Park City Municipal Corporation
Attention: City Recorder
PO Box 1480
Park City, Utah 84060

ENTRY NO. 01087290

03/02/2018 08:31:44 AM B: 2452 P: 1033

Restrictive Covenants PAGE 1/21

MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

FEE \$0.00 BY PARK CITY TITLE



**RESTRICTIVE COVENANT AGREEMENT PROTECTING THE
AFFORDABILITY AND SUSTAINABILITY OF THE AFFORDABLE
UNITS AT THE RETREAT AT THE PARK**

THIS RESTRICTIVE COVENANT AGREEMENT PROTECTING THE AFFORDABILITY AND SUSTAINABILITY OF THE AFFORDABLE UNITS AT THE RETREAT AT THE PARK, (the “**Covenant**”), governing unit numbers 1450A, 1450B, 1450C, 1450D, 1450E, 1450F, 1450G, and 1450H (the “**Units**”) of the condominium development the Retreat at the Park (the “**Project**”) located on property in Park City, Summit County, State of Utah, more particularly described on Exhibit A attached hereto and incorporated herein by this reference, (the “**Property**”), is made and entered into as of the 1st day of March, 2018 (the “**Effective Date**”), by and between the Redevelopment Agency of Park City, Utah (the “**Owner**”), a Utah municipal corporation and Park City Municipal Corporation (the “**City**”), a Utah municipal corporation.

RECITALS

A. Whereas the City is transferring all of its interest in the Property, the Project, and the Units to the Owner;

B. Whereas the City has determined that its livability and viability is directly affected by the availability of a sufficient amount of housing affordable to all residents;

C. Whereas in conjunction with the transfer of the Property, Project, and Units from the City to the Owner, the City and the Owner are entering into this Covenant, intending that it be incorporated into the deed of sale from the City to the Owner and be a covenant running with the land.

D. Whereas the Units of the Project identified herein are subject to the terms of this Covenant, and the sole purpose of the Units governed by this Covenant is to provide affordable housing for use as a Primary Residence by Qualified Buyers.

E. Whereas this Covenant, upon its execution by the parties and recording in the public records of the County Recorder of Summit County, Utah, shall govern the terms and conditions of ownership, use, and occupancy of the Units by the Unit Owners and their heirs, successors, executors, administrators, devisees, and assigns as addressed herein.

COVENANT

NOW THEREFORE, in consideration of the foregoing Recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City hereby establishes as follows:

1. DEFINITIONS:

1.1 ANNUAL COMPLIANCE REPORT. The report attached to this Covenant as Exhibit D, as amended from time to time by the City or its designee, required to be provided to the City by each Unit Owner yearly according to Section 2.18.

1.2 AREA MEDIAN INCOME. (AMI) As of any date, the definition given “area median income” by the latest Park City Affordable Housing Resolution, or, should the City cease releasing periodic affordable housing resolutions and replace such resolutions with superseding provisions in City Code governing the authority and implementation of affordable housing in the City, the definition given in such provisions of City Code, and if “area median income” is not defined in such provisions of City Code, as defined by the city council of Park City, Utah.

1.3 CAPITAL IMPROVEMENTS. Material improvements or structural changes to a Unit that are more than repairs or cosmetic changes, including changes that would adapt a Unit to a new or different use or materially affect the value or use of the Unit and including, but not limited to all Permitted Capital Improvements.

1.4 CITY CODE. The Municipal Code of Park City, Utah, as amended.

1.5 DISABILITY. 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.

1.6 DOMICILE. The place where an individual has a fixed permanent home and principal establishment to which the individual, if absent, intends to return and in which the individual and/or his or her family voluntarily reside not for a special or temporary purpose but with the intention of making a permanent home for a minimum of nine (9) months out of each calendar year.

1.7 EXERCISE NOTICE. Written Notice sent by the City to a Unit Owner within forty-five days of an applicable Offer Date notifying such Unit Owner whether or not the City or its assign will exercise the Option.

1.8 HOUSEHOLD. All related and unrelated individuals occupying a Unit as their Primary Residence.

1.9 EVENT OF DEFAULT shall have the meaning assigned in Section 4.2.

1.10 MAXIMUM RESALE PRICE. The price above which a Unit may not be Sold as calculated by the City, its designated agent, department or assign, using the formula set forth in Section 2.14.

1.11 NET WORTH. The amount of total assets of the individuals or family that exceed total liabilities, as determined by the City.

1.12 NON-QUALIFIED BUYER. A buyer of a Unit that is not a Qualified Buyer.

1.13 NOTICE. Correspondence complying with the provisions of Section 5.8.

1.14 OFFER DATE shall have meaning assigned in Section 2.9.

1.15 OPTION. The assignable right of the City beginning upon the Offer Date and terminating after the expiration of the Option Period to purchase a Unit at such Unit's Maximum Resale Price.

1.16 OPTION PERIOD. The period extending forty-five (45) days from an Offer Date during which either the City or its assign may elect to purchase a Unit at such Unit's Maximum Resale Price.

1.17 OWNER-OCCUPIED. A Unit that is occupied by the Unit Owner as the Unit Owner's Primary Residence.

1.18 PARK CITY SCHOOL DISTRICT BOUNDARIES. The latest school district boundaries as duly adopted and as reflected on the most current mapping issued by the Utah State Automated Geographic Reference Center school district map.

1.19 PERMITTED CAPITAL IMPROVEMENTS. Capital Improvements made by a Unit Owner to the Unit Owner's Unit with the prior written consent of the City that are designated on Exhibit B; are completed with all necessary building permits, including final inspections required by such permits, and deemed completed by the City building department; and that may increase the Maximum Resale Price subject to Section 2.14.

1.20 PRIMARY RESIDENCE. The place where Domicile has been established.

1.21 QUALIFIED BUYER. Qualified Buyer shall be a person or persons who are determined by the City to meet all of the following criteria:

1.21.1 A person who does not own any other real property; and

1.21.2 A Household with an income that is 80% or less of the Area Median Income; and

1.21.3 The combined Net Worth of the persons eighteen years of age and older in the Household does not exceed an amount equal to five times the Area Median Income; and

1.21.4 A Household which has a minimum of one adult who meets one of the following criteria:

(a) A full-time (aggregate of 30 hours of employment per week) employee of an entity or entities located within the Park City School District Boundaries; or

(b) An owner or owner's representative of a business or entity with a primary place of business within the Park City School District Boundaries; or

(c) A full-time (aggregate of 30 hours of employment per week and 75% of clients/work are based within the Park City School District Boundaries) worker who is self-employed or works out of his/her home; the worker must provide his/her entire list of clients/workload so that it can be verified that a minimum of 75% of his/her work/clients are based within the Park City School District Boundaries; or

(d) A retired person who was a full-time employee of an entity located within the Park City School District Boundaries for at least two continuous years immediately preceding his or her retirement; or

(e) A person who is unable to work or does not have a work history required under subsections (a) through (d) of this Section 1.21 due to a Disability.

1.22 PURCHASE PRICE. The amount paid by a Unit Owner(s) as consideration to obtain title to that Unit Owner(s)' Unit, not including any title insurance, transaction costs or real estate commissions.

1.23 REASONABLE EFFORT. Good faith effort to advertise a Unit for Sale at its Maximum Resale Price through the City's affordable housing program or the Mountainlands Community Housing Trust; advertising through local media, including a paper with state or local circulation and such other widely distributed printing or flyer; and advertising through online resources specially designed to market and sell real estate.

1.24 SALE. The term "Sale" or any derivative thereof such as "Sales," "Sold," and "Sell" shall include any transfer of title of a Unit, regardless of whether or not any consideration is provided to the transferor in exchange. This shall include but not be limited to any gift, assignment, devise or other transfer.

1.25 UNIT. Separate parts of the Project intended for independent use and divided into single-family detached residential structures as is more specifically defined in Exhibit A attached hereto.

1.26 UNIT OWNER. The transferees receiving title to or a fee interest in any Unit from the Owner and all subsequent person(s) vested with record title of a Unit according to the records of the County Recorder of Summit County, Utah; however, Unit Owner shall not include a person who holds an interest in a Unit merely as security for the performance of an obligation, and, solely in regards to the restrictions contained in this Covenant, neither the Owner nor the City shall be considered a Unit Owner.

2. DEED RESTRICTION

2.1 ESTABLISHMENT OF THE COVENANT. As of the Effective Date, for the purposes set forth herein, and except as otherwise set forth herein, the Unit Owners, the Unit Owners' heirs, successors, executors, administrators, devisees and assigns and all persons acquiring an interest in any of the Units, whether or not so expressed in any deed or other instrument of conveyance, shall be deemed to covenant and agree during the period of their ownership interest in the Unit to hold their interest subject to the covenants and restrictions contained in this Covenant, which shall be deemed to run with the land. Unit Owner shall not permit any ownership, use or occupancy of his or her Unit except in compliance with this Covenant.

2.2 ADMINISTRATION AND ENFORCEMENT. The City shall have the right to enforce the terms of this Covenant and may enforce its terms as it deems administratively proper through its employees, administrative offices, agents or assigns. The Park City Police Department is authorized to investigate certain affordable housing violations and to issue citations pursuant to City Code § 8-3-6. The City may enforce this Covenant by any appropriate legal or equitable action including but not limited to specific performance, injunction, abatement, damages and such other remedies and penalties as may be specified in this Covenant.

2.3 OWNER OCCUPANCY. Each Unit shall be Owner-Occupied unless a Unit Owner shall receive prior written consent of the City, in its sole and absolute discretion, for an exception. Each Unit Owner shall occupy his or her Unit as a Primary Residence.

2.4 OTHER PROPERTY OWNERSHIP IS PROHIBITED. Unless the City gives its prior written consent, each Unit Owner shall not obtain, purchase or otherwise acquire any other direct or indirect interest in real property while the Unit Owner is a Unit Owner; neither the Unit Owner nor any person in the Unit Owner's Household shall establish a trust of which the Unit Owner is a beneficiary if such trust's corpus contains any other real property.

2.5 LIMITATIONS ON REFINANCING. The Unit Owner shall not under any circumstances obtain any financing or combination of financings that in the aggregate exceeds the Maximum Resale Price at the time such financing is completed.

2.6 MAINTENANCE. Each Unit Owner shall make all repairs and maintain the Unit Owner's Unit in a safe, sound, habitable and good condition and state of repair. In the case of damage to the Unit, the Unit Owner shall repair damage or replace or restore any destroyed parts of the Unit within six (6) months.

2.7 INSURANCE. To the extent such insurance is not provided by any applicable association of homeowners organized pursuant to a declaration of covenants, conditions, and restrictions governing the Project, each Unit Owner shall continuously insure the Unit Owner's Unit against all risks of physical loss for the full replacement value of the Unit.

2.8 UNIT RENTAL PROHIBITED; EXCEPTION. Each Unit Owner shall not rent or lease all or any portion of their Units, including nightly rentals; provided, however, that only with the prior written consent of the City, Unit Owners may rent or lease their Units under the following circumstances:

- 2.8.1 Subject to other zoning and land use regulations, each Unit Owner may rent out a portion of his or her Unit to a roommate for a term of six (6) months or longer, and the amount of respective rent a Unit Owner may charge such roommate per month shall not exceed forty-five percent (45%) of the sum of the mortgage payment, Project association assessments, and utilities owed per month for such Unit.
- 2.8.2 At a rate determined by the City after accounting for the Unit Owner's costs, a Unit Owner may rent out the Unit Owner's Unit for a period not to exceed twelve (12) months if the Unit Owner is unable to Sell the Unit after one-hundred-and-twenty (120) days of Reasonable Effort. The option to rent under this Section 2.8.2 shall not be exercised by any Unit Owner more than once.
- 2.8.3 At a rate determined by the City after accounting for the Unit Owner's costs, a Unit Owner may rent out the Unit Owner's Unit if the Unit Owner is required to relocate for a period not to exceed two (2) years by the Unit Owner's employer; for religious, civic, or community service; or for military service.
- 2.8.4 Other circumstances as may be required by law.

2.9 RESALE OF UNIT. Each Unit Owner shall send Notice to the City of such Unit Owner's intent to Sell that Unit Owner's Unit (the date of such Unit Owner's Notice to the City shall be the "**Offer Date**") and shall not Sell any interest in such Unit until the earlier of (i) the expiration of the Option Period without receipt of an Exercise Notice from the City, (ii) the date of an Exercise Notice notifying the Unit Owner that neither the City nor its assign will be exercising its rights under the Option, or (iii) sixty (60) days after receipt of an Exercise Notice if the Sale to the City or its assign has not yet closed by that date.

2.10 COVENANT TO RESTRICT SALES TO QUALIFIED BUYERS. Except as (i) otherwise previously agreed to by the City in writing, (ii) allowed by Section 2.13, or (iii) provided for by amendment to this Covenant, Units shall only be sold to (a) Qualified Buyers who agree to use their respective Units as an Owner-Occupied Primary Residence or (b) the City.

2.11 OPTION TO THE CITY. The City may only assign its Option to a Qualified Buyer. If the City elects to exercise its Option or assigns the Option, the City or its assign shall complete the acquisition of a Unit within sixty (60) days of the date of the Exercise Notice. If (i) the Option Period expires without receipt of an Exercise Notice by an Owner; (ii) the Owner receives Exercise Notice that neither the City nor its assign will be exercising its rights under the Option, or (iii) sixty (60) days expires after receipt of an Exercise Notice and Sale to the City or its assign has not yet closed, the Option shall automatically terminate with

respect to such Sale or offering for Sale without the need for further Notice or documentation.

2.12 RIGHT TO PURCHASE UNIT IN DEFAULT OF LIEN. Whenever all or a portion of the principal sum of any obligation secured by a lien on a Unit Owner's Unit has, prior to the maturity date fixed in the obligation, become due or been declared due by reason of a breach or default in the performance of any obligation secured by the lien, including a default in the payment of interest or of any installment of principal, or by reason of failure of the Unit Owner to pay, in accordance with the terms of the applicable loan document, taxes, assessments, premiums for insurance, or advances made by the lender secured by the obligation (the "**Secured Creditor**") in accordance with terms of the obligation or of the applicable loan documents, it shall be considered an Event of Default under this Covenant, and the City shall be considered a successor in interest or assign of the Unit Owner, and at any time within three (3) months of the filing or recording of a notice of default, before a deed of trust sale or judicial foreclosure may be exercised, the City may pay to the Secured Creditor, or the Secured Creditor's successor in interest, the entire amount then due under the terms of the applicable loan documents (including costs and expenses actually incurred in enforcing the terms of the obligation and the trustee's and attorney's fees actually incurred), other than that portion of the principal as would not then be due had no default occurred, and thereby cure the existing default. After the Secured Creditor or the Secured Creditor's successor in interest has been paid and the default cured, the Unit Owner shall sell the Unit to the City for the amount of principal balance remaining due to all Secured Creditors of the Unit or such Secured Creditors' successors in interest under the loan documents, and title to the Unit shall transfer to the City.

- 2.12.1 Each Unit Owner shall send Notice to the City of any event of default under obligations secured by a lien on such Unit Owner's Unit.
- 2.12.2 The Secured Creditor shall provide the City with written Notice at least thirty (30) days prior to the earlier of (i) the Secured Creditor's recording the notice of default as required by Utah Code Annotated Title 57, Chapter 1, as amended, or (ii) the commencement of a judicial foreclosure proceeding.
- 2.12.3 The Unit Owner shall provide any consents necessary to allow the Secured Creditor to provide the City with the information and amounts necessary to cure any default.
- 2.12.4 The Unit Owner hereby assigns the City all of the Unit Owner's rights to cure the default as are provided to the Unit Owner by law or the applicable loan documents; and by curing such default, and by paying any other amounts owing to any other Secured Creditors, the City shall regain title to the Unit either from the Unit Owner as described in Section 2.12 or from the Secured Creditor, if title to the Unit has passed to the Secured Creditor, to the extent the Unit Owner would be allowed to cure such default by law or the loan documents (the "**Right to Purchase Unit in Default**"). The City or its designee may exercise its Right to Purchase Unit in Default by providing Notice of its intent to the Secured Creditor and the Unit Owner within three (3) months from the later of the City's receipt of

(i) the notice of default required by Section 2.12.1, (ii) the notice of default required by Section 2.12.2, or (iii) the recording of a notice of default with the applicable county recorder. The Right to Purchase Unit in Default shall lapse if the City fails to timely deliver such Notice.

2.12.5 If (i) the City's received either the Notice required by Section 2.12.1 or 2.12.2 and (ii) the City's Right to Purchase Unit in Default lapses, or the City otherwise declines to exercise its Right to Purchase Unit in Default, then the Secured Creditor may initiate a trustee's sale, foreclosure proceeding, or other remedy affecting the title to the Unit, and upon such sale, all deed restrictions in this Covenant shall be deemed removed with respect to the Unit.

2.12.6 The City may seek a default judgment from the Unit Owner for any amounts in excess of the Maximum Resale Price paid by the City in exercising its Right to Purchase Unit in Default.

2.13 SALE TO A NON-QUALIFIED BUYER. If after using Reasonable Efforts for a period of one-hundred-and-twenty (120) days, a Unit Owner is unable to sell that Unit, such Unit Owner shall send Notice to the City and may request that the City either (i) purchase that Unit at a price mutually agreed upon by such Unit Owner and the City, but in no event more than the Maximum Resale Price, or (ii) give written approval permitting the Sale of that Unit, subject to the terms of this Covenant, to a Non-Qualified Buyer.

2.14 MAXIMUM RESALE PRICE. Sales of any Unit by a Unit Owner shall be governed by a resale formula that establishes the Maximum Resale Price. In no event shall a Unit Owner Sell a Unit for more than the Maximum Resale Price. The Maximum Resale Price is equal to the sum of the Purchase Price paid by the selling Unit Owner(s) (i) *plus* an increase of three percent (3%) per year from the date of such Unit Owner(s)' purchase of the Unit until the date of such Unit Owner(s)' Offer Date, prorated for partial years; (ii) *plus* Permitted Capital Improvements, if applicable, in an amount no greater than five percent (5%) of the Purchase Price paid by the selling Unit Owner(s); (iii) *minus* any reductions in price pursuant to Section 3.2. Real estate commissions, seller's closing costs, and Capital Improvements that are not Permitted Capital Improvements shall not be included in the Maximum Resale Price. Nothing in this Covenant shall be construed to constitute a representation or a guarantee by the City that any sale of a Unit by a Unit Owner shall obtain the Maximum Resale Price.

2.15 TRANSFER OF TITLE. A Unit Owner shall not enter into or execute any transaction that Sells any interest in a Unit without the prior written consent of the City.

2.16 NON-COMPLYING SALES OR TRANSFERS. Any Sale or transfer of the Unit in violation of this Covenant is null and void and does not confer title whatsoever upon the purported buyer. This includes a Sale or transfer wherein the Qualified Buyer obtains any financing or multiple financings that in the aggregate exceeds the Maximum Resale Price at the time such financing is completed. The Unit Owner is liable for all costs and attorney fees incurred in setting aside a non-complying Sale or transfer of the Unit.

2.17 NO DISCRIMINATION. The Owner and each Unit Owner shall not discriminate against any person in the Sale of a Unit because of race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age, familial status, source of income, Disability, genetic information, sexual orientation, gender identity or protected expressions. Each Unit Owner shall take such action with respect to this Covenant as may be required to ensure full compliance with applicable local, state, and federal laws prohibiting discrimination.

2.18 ANNUAL COMPLIANCE REPORT. Each Unit Owner shall provide the City with an Annual Compliance Report by June 30 of each year. The Annual Compliance report shall be accompanied by a signed affidavit by the Unit Owner certifying that such Unit Owner is in compliance with the terms of this Covenant. Failure of the City to mail or otherwise provide the Annual Compliance Report form to a Unit Owner does not discharge the obligations of such Unit Owner to make the Annual Compliance Report. The City may request additional documentation to demonstrate that each Unit Owner uses that Unit Owner's Unit as a Primary Residence and is otherwise in compliance with all terms of this Covenant, and each Unit Owner shall provide such additional documentation as may be requested by the City. In conjunction with the Annual Compliance Report, the City may conduct a yearly physical inspection of the Units.

3. PHYSICAL CONDITION OF UNITS

3.1 CHANGES AND/OR CAPITAL IMPROVEMENTS. Each Unit Owner shall obtain the prior written consent of the City before allowing Capital Improvements valued at more than \$1,000 to be made to that Unit Owner's Unit.

3.2 MINIMUM STANDARDS OF PHYSICAL CONDITION. A Unit Owner will be required to maintain a minimum standard of physical conditions as set forth in Exhibit C for the Unit in order to receive the Maximum Resale Price. Sixty (60) days prior to offering any Unit for Sale, the City or a designee will conduct an inspection and provide a list to the Unit Owner as to the items that need to be remedied prior to closing to bring the Unit to minimum standards and to get full Maximum Resale Price. If said inspection reflects items that do not meet the minimum standards for Unit Owner to receive the Maximum Resale Price pursuant to Exhibit C, the Unit Owner shall be required to either bring the Unit to minimum standards or an equal cost will be deducted from the Maximum Resale Price. If the Unit meets the minimum standards for Unit Owner to receive the Maximum Resale Price, the Unit may be offered for the Maximum Resale Price.

4. EVENT OF DEFAULT

4.1 IT IS A CRIMINAL OFFENSE TO DISREGARD THE RESTRICTIONS HEREIN. Each Unit Owner, by acquiring a Unit is deemed to acknowledge that Ordinance 14-47 and City Code § 8-3-6, each as amended, establish that it is a crime to commit affordable housing fraud. Ordinance 14-47 was ratified to "ensure that any fraud and unjust enrichment in the process is stopped and that buyers, sellers . . . and other intended beneficiaries of deed restricted affordable housing are protected from any fraudulent acts or statements." A

violation of City Code § 8-3-6 is subject to criminal prosecution, and each Unit Owner shall not violate either such law.

4.2 EVENT OF DEFAULT. Noncompliance with any part of this Covenant constitutes an Event of Default. Events of Default shall include but are not limited to: (a) rental of all or a portion of the Unit without prior written consent of the City; (b) obtaining financing or a combination of financings that in the aggregate exceed the Maximum Resale Price; (c) not using a Unit as an Owner-Occupied Primary Residence; (d) failure to pay the monetary penalties of Section 4.3; (e) failure to submit the Annual Compliance Report required by Section 2.18; or (f) failure to make timely payments on otherwise defaulting on a lien or mortgage on any Unit.

4.2.1 Rental of any Unit on a nightly or weekly basis shall constitute an automatic Event of Default. Notwithstanding the notice required under Section 4.3, the City may charge any Unit Owner that rents that Unit Owner's Unit on a nightly or weekly basis automatic fines of up to the greater of \$500 per day or the rate charged for rental of the Unit per night.

4.3 MONETARY PENALTIES. Upon Notice from the City to a Unit Owner of an Event of Default, the Unit Owner shall have thirty (30) days to cure such noncompliance. If the Unit Owner does not cure the Event of Default within thirty (30) days, the City may assess monetary penalties against the Unit Owner of up to two-hundred and fifty dollars (\$250.00) per day beginning on the thirty-first (31) day after Notice of the Event of Default.

4.4 CITY TO MAINTAIN A POSSIBILITY OF REVERTER. If a Unit Owner does not cure an Event of Default within thirty (30) days, then the City may initiate the process of obtaining title to such Unit Owner's Unit as further described in this paragraph. The City shall send Notice to the Unit Owner that contains the specific Event(s) of Default, the dates of such noncompliance, a record of other Notices sent regarding such Event(s) of Default, and that notifies the Unit Owner of an informal hearing before the City council to take place within thirty (30) days of such Notice, at which the Unit Owner may present evidence or call witnesses. After such Notice and informal hearing, the City council shall issue a final ruling within thirty (30) days of the hearing which shall make a finding as to the Unit Owner's Event(s) of Default. Upon a final ruling of an Event of Default against such Unit Owner, the occurrence of such condition subsequent shall trigger the City's right to title in fee simple to the Unit Owner's Unit, and, upon the exercise of such right by the City, title will revert to and become revested in the City, and such title will be revested fully and completely in it, and the City will be entitled to and, subject to applicable law, may of right enter upon and take possession of the Unit; provided that, contemporaneously with the City's exercise of its reversionary interest, the City shall repay, or cause to be repaid any debt or obligation incurred by the Unit Owner for the acquisition of the Unit to the extent such debt or obligation is secured by a lien against the Unit. Upon successful closing of a Sale of the Unit from such Unit Owner to the City or its assign pursuant to Section 4.5, any reversionary interest of the City granted by this Section 4.4 shall terminate in regards only to that specific finding of Event of Default. If the City pays, or causes to be paid, pursuant to this Section 4.4, amounts to satisfy liens against the Unit that are more than the Maximum Resale Price,

then the City may seek a deficiency judgment against such Unit Owner for the difference between the amount paid and the Maximum Resale Price.

4.5 RIGHT TO PURCHASE. Upon a finding of an Event of Default by an informal hearing conducted by the City council as described in Section 4.4, a Unit Owner shall work with the City to sell that Unit Owner's Unit to the City for the Unit's Maximum Resale Price. Upon such finding of an Event of Default, the City shall have the option, in its sole discretion, to exercise or assign its reversionary interest pursuant to Section 4.4, to exercise or assign its right to purchase pursuant to this Section 4.5, or to seek any other remedy provided to it at law or in equity.

4.6 REMEDIES NOT EXCLUSIVE. Except as provided in Section 4.4 regarding the termination of the city's reversionary interest upon a Sale pursuant to Section 4.5, no remedy conferred by any of the specific provisions of this Covenant is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other remedies.

5. GENERAL PROVISIONS

5.1 TERM OF AGREEMENT. The term of this Covenant shall commence as of the Effective Date set forth above and shall continue in full force and effect for a period not less than forty (40) years. Upon the expiration of the initial forty (40) year term, or any subsequent term, the City shall have six (6) months in which to determine, based on an independent market study, that the Unit is no longer necessary to satisfy the affordable or employee housing needs of the City. The City council or its successor shall make the final determination of such continuing need, and if the City makes no such determination, the Covenant shall automatically renew for one or more additional consecutive ten (10) year terms.

5.2 AMENDMENTS. Any amendments or modification to this Covenant in whole or in part must be made in writing and agreed to by each and every Unit Owner that owns a Unit at the time of such amendment or modification and the City and must be recorded with the Clerk and Recorder of Summit County, Utah. Amendments or modifications to this Covenant may be made to affect individual or specified Units only, and such amendments or modifications shall be effective only when made by writings signed by the Unit Owner(s) that own the Unit(s) specified in such modification or amendment at the time of the amendment or modification and the City and recorded with the Clerk and Recorder of Summit County, Utah. The City may unilaterally modify the Covenant to provide clarification to any provisions that may be subject to differing interpretations, to correct any errors identified, or where the City deems such modification or amendment necessary to effectuate the purposes and intent of the Covenant or bring this Covenant in compliance with applicable City Code or State of Utah or federal law and where such modification does not in the City's reasonable discretion materially impair the Unit Owner(s)' or any Secured Creditor's rights.

5.3 NO WAIVER. No waiver of any Event of Default or breach of this Covenant shall be implied from any omission by the City to take action on account of such Event of Default,

and no express waiver shall affect any Event of Default other than the Event of Default specified in the waiver, and then the waiver shall be operative only for the time and to the extent therein stated. Waivers by the City of any covenant, term or condition contained in this Covenant shall not be construed as a Waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by either party requiring further consent or approval shall not be deemed to waive or render unnecessary their consent or approval to or of any subsequent similar acts.

5.4 WAIVER. The Unit Owner hereby waives any defenses, rights, or remedies that it might otherwise assert against the City in connection with: (a) the application of the rule against perpetuities to this Covenant; or (b) any claim that the Covenants recorded against the Unit are not real covenants running with the land. This waiver shall be binding upon and inure to the benefit of the successor and assigns of the Unit Owner and the City.

5.5 DISCONTINUANCE OF LIABILITY AFTER CONVEYANCE. Following the recording of a deed conveying a Unit to a Qualified Buyer, the transferor of such Unit shall have no further liability under this Covenant respecting the Unit, except to the extent caused by the negligence or intentional misconduct of the transferor.

5.6 SALE AGAINST OWNER'S WILL. Without in anyway limiting the remedies and enforcement provisions granted the City by Sections 4.4, 4.5, and 2.12, nothing in this Covenant shall be interpreted to require a Unit Owner to Sell the Unit against that Unit Owner's will.

5.7 SEVERABLE OBLIGATIONS AND LIABILITIES. Different individuals and entities may eventually own each Unit. Each Unit Owner of a Unit shall not be liable for or encumbered by the obligations or liabilities under this Covenant associated with any other Unit Owner.

5.8 NOTICES. Any and all Notices and demands required or desired to be given hereunder shall be in writing and shall be validly given or made if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, sent by Federal Express or other similar courier service keeping records of deliveries and attempted deliveries, or served by facsimile transmission. Service by mail or courier shall be conclusively deemed made on the first business day delivery is attempted. Facsimile transmissions received during normal business hours on a business day shall be deemed made at the time of receipt. Facsimile transmissions not received during normal business hours on a business day shall be deemed made on the next business day. Each party to this Covenant, including the City, the Owner, and each Unit Owner, may change their respective addresses for the purpose of receiving Notice by a written Notice to the other parties.

Notice to a Unit Owner shall be sent to the address on file with the Office of the Recorder of Summit County, Utah.

Any Notice or demand to the City shall be addressed to the City at the following address:

Park City Municipal Corporation
PO Box 1480
445 Marsac Avenue
Park City, Utah 84060
ATTN: City Recorder and Housing Office
Fax: (435) 615-4901

5.9 SEVERABILITY. If any term, provision, covenant or condition of this Covenant is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Covenant shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of such. In the event that all or any portion of this Covenant is found to be unenforceable, this Covenant or that portion which is found to be unenforceable shall be deemed to be a statement of intention by the parties; and the parties further agree that in such event, and to the maximum extent permitted by law, they shall take all steps necessary to comply with such procedures or requirements as may be necessary in order to make valid this Covenant or that portion which is found to be unenforceable.

5.10 ATTORNEY FEES. If any party shall take or defend against any action for any relief against another party arising out of this Covenant, the prevailing party in such action or defense shall be entitled to reimbursement by the other party for all costs including but not limited to reasonable attorney fees and court costs incurred by the prevailing party in such action or defense and/or enforcing any judgment granted therein, all of which costs shall be deemed to have accrued upon the commencement of such action and/or defense and shall be paid whether or not such action or defense is prosecuted to judgment. Any judgment or order entered in such action or defense shall contain a specific provision providing for the recovery of attorney fees and costs incurred in enforcing such judgment.

5.11 CHOICE OF LAW. This Covenant shall be governed and construed in accordance with the laws of the State of Utah.

5.12 SUCCESSORS. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors, executors, administrators, devisees and assigns of the parties.

5.13 THIRD-PARTY BENEFICIARY. This Covenant is not intended to confer rights on third parties.

5.14 PARAGRAPH HEADINGS. Paragraph and section headings within this Covenant 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.

5.15 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.

5.16 COVENANTS RUN WITH LAND. The City intends, declares, and covenants on behalf of itself, all future owners of the Unit, and all parties that obtain any interest in any Unit that this Covenant and the restrictions set forth herein regulating and restricting the rent, use, occupancy and transfer of the Unit shall be covenants running with the land and improvements constituting the Unit for the benefit of the City and shall encumber the Unit and shall be binding upon all the subsequent Unit Owners of the Unit and any other party with an interest in the Unit.

5.17 INTEGRATION. This Covenant constitutes the entire agreement between the parties with respect to the matters set forth herein.

5.18 INTERPRETATION. The terms of this Covenant shall be interpreted so as to avoid speculation on the property and to ensure to the extent possible that the Unit Maximum Resale Price remains affordable.

5.19 SUPERIORITY OF COVENANT. The Unit Owner acknowledges that they have not and will not execute any other agreement with provisions contradictory to or in opposition to the provisions of this Covenant and that this Covenant is controlling as to rights and obligations between and among the Unit Owner, the City, and respective successors.

5.20 NO CITY LIABILITY. Nothing herein requires or shall be construed to require the City or any officer, director, employee, agent, designee, assignee, or successor thereof to protect or indemnify the Unit Owner against any loss.

5.21 COUNTERPARTS. This Covenant may be executed in several counterparts, all of which together shall constitute one binding agreement on all parties hereto, notwithstanding that all the parties have not signed the same counterpart.

5.22 RECORDATION. Upon execution of this Covenant, the City shall cause this Covenant to be recorded in the public records of the County Recorder of Summit County, Utah, and shall pay all fees and charges incurred in connection therewith.

IN WITNESS WHEREOF, the undersigned have executed this Covenant as of the Effective Date.

(Signature on following pages)

OWNER:

Redevelopment Agency of Park City, Utah
a Utah municipal corporation

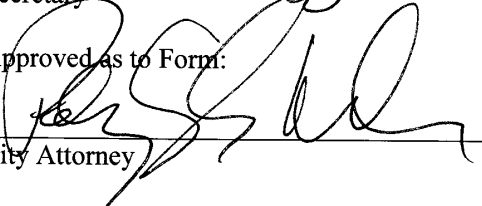
By: 

Name: Diane Foster

Its: Executive Director

Attest:


Secretary

Approved as to Form:

City Attorney


ACKNOWLEDGEMENT

STATE OF UTAH)

: ss.

COUNTY OF SUMMIT)

On the 1st day of March, 2018, personally appeared before me Diane Foster, who being by me duly sworn did say she is the Executive Director of the Redevelopment Agency of Park City, a Utah municipal corporation, and that the within and foregoing instrument was signed on behalf of such entity.


NOTARY PUBLIC
Residing at: Park City

My Commission Expires:
5-19-2019



CITY:

Park City Municipal Corporation
a Utah Municipal Corporation

By: Andy Beerman

Name: Andy Beerman

Its: Mayor

Attest:

Michelle Kellogg
City Recorder

Approved as to Form:
[Signature]
City Attorney

ACKNOWLEDGEMENT

On the 1st day of March, 2018 personally appeared before me Andy Beerman, who being by me duly sworn did say that he is the Mayor of Park City Municipal Corporation, a Utah municipal corporation, and that the within and foregoing instrument was signed on behalf of such entity.

Michelle Kellogg
NOTARY PUBLIC
Residing at: Park City

My Commission Expires:
5-19-2019



EXHIBIT A

The following described real Property is located in Summit County, Utah

Units 1450A through 1450H, inclusive, THE RETREAT AT THE PARK CONDOMINIUMS, a Utah Condominium Project, together with the appurtenant undivided interest in and to the Common Areas and Facilities as identified on the Record of Survey Map recorded February 13, 2018 as Entry No. 1086481 and in the Declaration of Covenants, Conditions & Restrictions recorded on February 13, 2018, as Entry No. 1086482, in Book 2449 at Page 1602, in the office of the County Recorder, Summit County, Utah.

Tax Parcel No.: RPS-A-1AM-X; also known as RPC-1450A, RPC-1450B, RPC-1450C, RPC-1450D, RPC-1450E, RPC-1450F, RPC-1450G and RPC-1450H

EXHIBIT B
PERMITTED CAPITAL IMPROVEMENTS

1. The term "Permitted Capital Improvement" as used in the Agreement shall only be allowed as they are consistent with the CCRs and design guidelines and shall only include the following:
 - a. Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements.
 - b. Improvements for energy and water conservation;
 - c. Improvements for the benefit of seniors and/or handicapped persons;
 - d. Improvements for health and safety protection devices (including radon);
 - e. Improvements to add and/or finish permanent/finished storage space; and/or
 - f. Improvements to finish unfinished space.

2. Permitted Capital Improvements as used in this Agreement shall **NOT** include the following:
 - a. Jacuzzis, saunas, steam showers and other similar items;
 - b. Upgrades or addition of decorative items, including lights, window coverings and other similar items.
 - c. Upgrades of appliances, plumbing and mechanical fixtures, carpets and other similar items included as part of the original construction of a Unit and/or improvements required to repair and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, and other similar items, unless replacement is energy efficient or for safety and health reasons.

**EXHIBIT C
MINIMUM STANDARDS FOR
SELLER TO RECEIVE MAXIMUM RESALE PRICE**

- Clean Unit
- Carpets steam-cleaned two or three days prior to closing
- All scratches, holes, burned marks repaired in hardwood floors, linoleum, tile, counter tops, etc. other than normal wear and tear.
- No broken or foggy windows
- All screens in windows (if screens were originally provided)
- All doors will be in working order with no holes
- All locks on doors will work
- All keys will be provided; e.g., door, mail box, garage
- All mechanical systems shall be in working order
- Walls paint ready
- Other than normal wear and tear on carpet; if carpet has holes, stains, etc., the carpet and padding shall be replaced or escrow funds at current market value per square foot for a comparable product shall be held at the time of closing to be used by the new Qualified Buyer
- No leaks from plumbing fixtures
- Any safety hazard remedied prior to closing
- Satisfaction of radon issue if found at time of inspection
- All light fixtures shall be in working order
- All appliances that existed in the original Unit remain and are in good working order and good condition

DEFINITIONS:

Clean Unit: All rooms will be cleaned as stated below:

Kitchen:

- Range – Inner and outer services will be cleaned.
- Range hood and Exhaust Fan
- Refrigerator and Freezer – Inner and outer surfaces of refrigerator and freezer will be clean. Freezer will be defrosted.
- Cabinets and Countertops – Exterior and interior surfaces of cabinets and drawers will be clean. Door and drawer handles, if provided, shall be clean and in place.
- Sink and Garbage Disposal – Sink and plumbing fixtures will be clean. Garbage disposal must be in working order.
- Dishwasher – Must be in working order and inner and outer surfaces shall be clean.

Blinds, Windows, Screens:

- Mini-blinds, Venetian Blinds, Vertical Blinds, and Pull Shades – Will be clean.
- Windows – All window surfaces, inside and outside of the window glass, shall be clean.
- Screens – Screens will be clean and in place with no holes or tears.

Closets: Closets, including floors, walls, hanger rod, shelves and doors, shall be clean.

Light Fixtures: Light fixtures will be clean and shall have functioning bulbs/florescent tubes.

Bathrooms:

- Bathtub, Shower Walls, Sinks – Bathtubs, shower walls and sinks shall be clean.
- Toilet and Water Closet – Water closets, toilet bowls and toilet seats will be clean. If the toilet seat is broken or peeling, the seat shall be replaced.
- Tile – All tile and grout will be clean.
- Mirrors and Medicine Cabinets – Mirrors and medicine cabinets shall be cleaned inside and out.
- Shelves and/or Other Cabinetry – All other shelving or cabinetry shall be cleaned inside and out.

Walls, Ceilings, Painted Doors and Baseboards: Painted surfaces must be cleaned with care to ensure the surface is clean without damaging the paint.

Floors: Floor cleaning includes sweeping and mopping and could include stripping, waxing and buffing. Types of floor surfaces include bamboo and marmoleum.

Interior Storage/Utility Rooms: Storage/utility rooms shall be cleaned. Properly cleaned storage/utility rooms will be free from odors, removable stains, grease marks or accumulations.

Washer/Dryer- Must be in working order and inner and outer surfaces shall be clean

Safety Hazard: Any item that provides a safety hazard shall be fixed. This would include, but is not limited to, exposed electrical wiring, satisfaction of any radon issue found, ventilation for gas hot water system, etc.

Walls Paint-Ready: All holes shall be patched; all posters, pictures, etc., shall be removed from all walls; all nails, tacks, tape, etc., shall be removed from all walls; and all walls shall be clean and ready for the new buyer to paint. If wallpaper has been placed on the wall and in good condition, the wallpaper can remain; if the wallpaper is peeling off, the wallpaper must be removed.

Windows: If a window is broken, including the locking mechanism, the window shall be replaced. If the window has a fog residue in the inside, it shall be replaced.

**Park City Affordable Housing Affidavit
For Owner Occupied Units**



**State of Utah
County of Summit**

BEFORE ME, the undersigned Notary, _____ *[name of Notary before whom affidavit is sworn]*, on this _____ *[day of month]* day of _____ *[month]*, 20____, personally appeared _____

_____ *[name of affiant]*, known to me to be a credible person and of lawful age, who being by me first duly sworn, on _____ *[his or her]* oath, deposes and says:

I currently own my residence at _____ (street address) which is a deed restricted property to preserve affordability. I am fully aware of the restrictions and am to the best of my knowledge in compliance including the requirement for owner occupancy. I verify that I continue to live in it as my primary residence. I have never rented my home even for short periods of time. I have not acquired any direct interest in other real property since my purchase of the deed restricted unit listed above. If approved by the city's housing office to rent to a roommate, please list name, employment and amount of rent charged: _____*

[signature of affiant]

(printed name of affiant)

(phone)

[mailing address of affiant, line 1]

[mailing address of affiant, line 2]

(email address)

Subscribed and sworn to before me, this _____ *[day of month]* day of _____ *[month]*, 20____.

[Notary Seal:]

[signature of Notary]

[typed name of Notary]

NOTARY PUBLIC

My commission expires: _____, 20____.

**Primary Residence is defined as the domicile in which you live for no less than 9 months out of any given 12 month period.*

Please return completed form to the attention of Rhoda J. Stauffer, PCMC, PO Box 1480, Park City, Utah 84060. Forms may also be emailed to rhoda.stauffer@parkcity.org or faxed to 435-658-9019.