

When Recorded Return to:

Vice President, Multifamily Finance
Utah Housing Corporation
2479 S. Lake Park Blvd.
West Valley City, Utah 84120

CTIA 86148-AU
TIN 12-066-0081

**AMENDMENT TO LOW-INCOME HOUSING CREDIT COMMITMENT
AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS**

This **AMENDMENT TO LOW-INCOME HOUSING CREDIT COMMITMENT AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS** ("Amendment") is made as of February 1, 2017, by OAKSTONE, L.C., a Utah limited liability company ("Project Owner") and UTAH HOUSING CORPORATION, a public corporation of the State of Utah, formerly known as Utah Housing Finance Agency ("Agency").

WHEREAS, Project Owner has obtained financing from Jones Lang LaSalle Multifamily, LLC, a Delaware limited liability company ("Lender"), for the benefit of the project known as Oakstone Apartments ("Project"), which loan is secured by a Multifamily Deed of Trust, Assignment of Leases and Rents and Security Agreement ("Security Instrument") dated as of February 1, 2017, and recorded in the Recorder's Office of Davis County, Utah ("Records") on February 1, 2017, as Entry Number 3001515, and is insured by the United States Department of Housing and Urban Development ("HUD");

WHEREAS, Project Owner has received an allocation of Low Income Housing Tax Credits from the Agency, which Agency has required certain restrictions be recorded against the Project; and

WHEREAS, Project Owner, and Agency entered into that certain Low-Income Housing Credit Commitment Agreement and Declaration of Restrictive Covenants with respect to the Project, as more particularly described in Exhibit A attached hereto, dated as of December 28, 1998 and recorded in the Records on December 29, 1998 as Entry No. 147329 ("Agreement");

WHEREAS, HUD requires as a condition of its insuring Lender's financing to the Project, that the lien and covenants of the Agreement be subordinated to the lien, covenants, and enforcement of the Security Instrument; and

WHEREAS, the Agency has agreed to subordinate the Agreement to the lien of the Mortgage Loan in accordance with the terms of this Amendment.

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to amend the Agreement by adding the following new Section 31 to the Agreement as follows:

Section 31.

a) In the event of any conflict between any provision contained elsewhere in the Agreement and any provision contained in this Section 31, the provision contained in this Section 31 shall govern and be controlling in all respects as set forth more fully herein.

b) The following terms shall have the following definitions:

"Code" means the Internal Revenue Code of 1986, as amended.

"HUD" means the United States Department of Housing and Urban Development.

"HUD Regulatory Agreement" means the Regulatory Agreement between Project Owner and HUD with respect to the Project, as the same may be supplemented, amended or modified from time to time.

"Lender" means Jones Lang LaSalle Multifamily, LLC, a Delaware limited liability company, its successors and assigns.

"Mortgage Loan" means the mortgage loan made by Lender to the Project Owner pursuant to the Mortgage Loan Documents with respect to the Project.

"Mortgage Loan Documents" means the Security Instrument, the HUD Regulatory Agreement and all other documents required by HUD or Lender in connection with the Mortgage Loan.

"National Housing Act" means the National Housing Act of 1934, as amended.

"Program Obligations" has the meaning set forth in the Security Instrument.

"Residual Receipts" has the meaning specified in the HUD Regulatory Agreement.

"Security Instrument" means the mortgage or deed of trust from Project Owner in favor of Lender, as the same may be supplemented, amended or modified.

"Surplus Cash" has the meaning specified in the HUD Regulatory Agreement.

c) Notwithstanding anything in the Agreement to the contrary, except the requirements in 26 U.S.C. 42(h)(6)(E)(ii), to the extent applicable, the provisions hereof are expressly subordinate to (i) the Mortgage Loan Documents, including without limitation, the Security Instrument, and (ii) Program Obligations (the Mortgage Loan Documents and Program Obligations are collectively referred to herein as the "HUD Requirements"). Project Owner covenants that it will not take or permit any action that would result in a violation of the Code, HUD Requirements or the Agreement. In the event of any conflict between the provisions of the Agreement and the provisions of the HUD Requirements, HUD shall be and remains entitled to enforce the HUD Requirements. Notwithstanding the foregoing, nothing herein limits the Agency's ability to enforce the terms of the Agreement, provided such terms do not conflict with statutory provisions of the National Housing Act or the regulations related thereto. The Project Owner represents and warrants that to the best of Project Owner's knowledge the Agreement imposes no terms or requirements that conflict with the National Housing Act and related regulations.

d) In accordance with 26 U.S.C. 42(h)(6)(E)(i)(1), in the event of foreclosure (or deed in lieu of foreclosure), the Agreement (including without limitation, any and all land use covenants and/or restrictions contained herein) shall automatically terminate, with the exception of the requirements of 26 U.S.C. 42(h)(6)(E)(ii) above, to the extent applicable, or as otherwise approved by HUD.

e) Project Owner and the Agency acknowledge that Project Owner's failure to comply with the covenants provided in the Agreement does not and shall not serve as a basis for default under the HUD Requirements, unless a default also arises under the HUD Requirements.

f) Except for the Agency's reporting requirement, in enforcing the Agreement the Agency will not file any claim against the Project, the Mortgage Loan proceeds, any reserve or deposit required by HUD in connection with the Security Instrument or HUD Regulatory Agreement, or the rents or other income from the property other than a claim against:

- i. Available surplus cash, if the Project Owner is a for-profit entity;
- ii. Available distributions of surplus cash and residual receipts authorized for release by HUD, if the Project Owner is a limited distribution entity; or
- iii. Available residual receipts authorized by HUD, if the Project Owner is a nonprofit entity.

g) For so long as the Mortgage Loan is outstanding, Project Owner and Agency shall not further amend the Agreement, with the exception of clerical errors or administrative correction of non-substantive matters, without HUD's prior written consent.

h) Subject to the HUD Regulatory Agreement, the Agency may require the Project Owner to indemnify and hold the Agency harmless from all loss, cost, damage and expense arising from any claim or proceeding instituted against Agency relating to the subordination and covenants set forth in the Agreement, provided, however, that Project Owner's obligation to indemnify and hold the Agency harmless shall be limited to available surplus cash and/or residual receipts of the Project Owner.

i) Notwithstanding anything to the contrary contained herein, it is not the intent of any of the parties hereto to cause a recapture of the Low Income Housing Tax Credits or any portion thereof related to any potential conflicts between the HUD Requirements and the Agreement. Project Owner represents and warrants that to the best of Project Owner's knowledge the HUD Requirements impose no requirements which may be inconsistent with full compliance with the Agreement. The acknowledged purpose of the HUD Requirements is to articulate requirements imposed by HUD, consistent with its governing statutes, and the acknowledged purpose of the Agreement is to articulate requirements imposed by Section 42 of the Code. In the event an apparent conflict between the HUD Requirements and the Restrictive Covenant arises, the parties and HUD will work in good faith to determine which federally imposed requirement is controlling. It is the primary responsibility of the Project Owner, with advice of counsel, to determine that it will be able to comply with the HUD Requirements and its obligations under the Agreement.

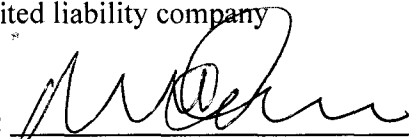
(Signature Pages to Follow)

PROJECT OWNER:

OAKSTONE, L.C., a Utah limited liability company

By its Manager, Clearfield Affordable Housing,
L.C., a Utah limited liability company

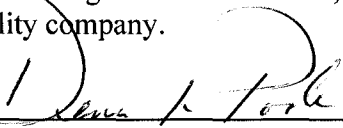
By its Manager, Cowboy Partners, L.C., a Utah
limited liability company

By: 
Name: Mark R. Cornelius
Its: Vice-President

STATE OF UTAH

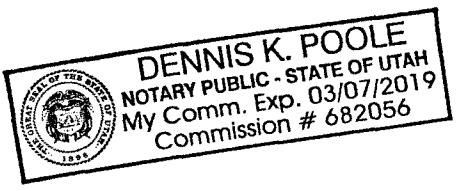
COUNTY OF SALT LAKE

This instrument was acknowledged before me on February 3, 2017, by Mark R. Cornelius, the Vice President of Cowboy Partners, L.C., a Utah limited liability company, which is the Manager of Clearfield Affordable Housing, L.C., a Utah limited liability company, which is the Manager of OAKSTONE, L.C., a Utah limited liability company, on behalf of said limited liability company.


Notary Public

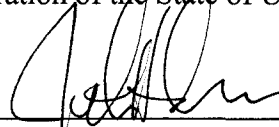
Printed Name: Dennis K. Poole

My Commission Expires:



AGENCY:


UTAH HOUSING CORPORATION, a public corporation of the State of Utah

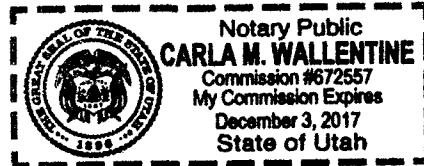
By: 
Name: Jonathan A. Hanks
Its: Senior Vice President & COO

STATE OF UTAH

COUNTY OF SALT LAKE

This instrument was acknowledged before me ^{Carla M. Wallentine,} on February 1, 2017, by Jonathan A. Hanks, the Senior Vice President & COO of UTAH HOUSING CORPORATION, a public corporation of the State of Utah, on behalf of said agency.


Notary Public



Printed Name: _____

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION

Real Property located in Davis County, State of Utah, described as follows:

A part of the Southeast quarter of Section 12, Township 4 North, Range 2 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point being 676.50 feet North 00°06'05" East along the section line and 33.00 feet West of the Southeast corner of Section 12 (Basis of bearing: North 00°06'05" East from the Southeast corner of Section 12 along the section line to the East quarter corner); thence as follows: North 89°52'13" West 685.84 feet along the adjoining property line; thence North 89°52'40" West 388.75 feet along the adjoining property line; thence North 29°53'42" West 431.79 feet along the railroad row fence; thence North 00°44'07" West 267.28 feet along the railroad row fence; thence North 89°47'52" East 428.29 feet along an existing chain link fence; thence South 89°44'36" East 371.08 feet; thence South 00°06'05" West 321.07 feet; thence South 89°44'36" East for 495.00 feet to the West line of 1000 East Street; thence South 00°06'05" West 320.61 feet along said street to the point of beginning.

LESS AND EXCEPTING THEREFROM the following:

A parcel of land in fee for the "Weber County to Salt Lake Commuter Rail", a Utah Transit Authority project, being part of the Grantor's property defined in that certain Special Warranty Deed, recorded December 12, 1997 as Entry No. 1367107 in Book 2214 at Page 1115, situate in the Southeast quarter of Section 12, Township 4 North, Range 2 West, Salt Lake Base and Meridian, and described as follows:

Beginning at a point on the Easterly right of way line of the Oregon Short Line Railroad, and at the Southwest corner of Grantor's property, said point being North 89°46'46" West 717.26 feet along the section line to said Easterly right of way line and North 29°52'27" West 781.64 feet along said Easterly right of way line from the Southeast corner of said Section 12; thence North 29°52'27" West 428.45 feet along said Easterly right of way line to the Grantor's West property corner; thence North 00°39'00" West 14.11 feet along the Grantor's West property line; thence South 30°14'12" East 446.40 feet to the Grantor's South property line; thence North 89°47'33" West 11.23 feet along said South line to the point of beginning.