

ENT80684:2021 PG 1 of 5
Andrea Allen
Utah County Recorder
2021 Apr 28 04:56 PM FEE 40.00 BY IP
RECORDED FOR Cottonwood Title Insurance Agency, Inc.
ELECTRONICALLY RECORDED

WHEN RECORDED MAIL TO:

USDA Rural Development
ATTN: Tressie Burton-Roy
957 Campbellsville Road
Columbia, KY 42728

File No.: 117228-LKF

Restrictive Use Covenant Transferees Assuming Agency Loans

In Reference to Tax ID Number(s):

30-029-0037 and 30-029-0044

**RESTRICTIVE-USE COVENANT - TRANSFEREES ASSUMING AGENCY LOANS
(Including loans approved prior to December 21, 1979) (§3560.662(b)(3))**

WHEREAS, Mountain View Associates of Payson, LLC, 987 East 200 North, Payson, UT 84651 “Owner”, or a predecessor in interest, received a loan from the United States of America, acting through the Rural Housing Service in Rural Development (Agency), U.S. Department of Agriculture which was evidenced by a promissory note or assumption agreement dated December 23, 1985 in the original amount of \$690,273.38 and evidenced by a promissory note or assumption agreement dated September 28, 2020 in the original amount of \$136,799.00 and evidenced by a promissory note or assumption agreement dated April 27, 2021 in the original amount of \$697,398.14 and evidenced by a promissory note or assumption agreement dated April 4, 1985 in the original amount of \$1,337,684.44 and evidenced by a promissory note or assumption agreement dated April 28, 2021 in the original amount of \$1,163,427.17 and secured by a certain Deed of Trust or Mortgage dated April 28, 2021, and recorded in the land records for the City or County of **Utah** for the purpose of providing housing in accordance with Section 42 U.S.C. 1484 (Section 514) or 1485 (Section 515), whichever is applicable, and Title V of the Housing Act of 1949, as amended “Program”; and **NOW, THEREFORE**, in consideration of the restrictions on the Property as further described in Exhibit A, the sum of Ten Dollars (\$10) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, for themselves and for their respective successors and assigns, hereby covenant and agree as follows:

- (1) **Term.** The period of the restriction will be until April 28, 2051.
- (2) **Use Requirement.** The Owner, and any successors in interest, agree to use the Property in compliance with 42 U.S.C. § 1484 or § 1485, whichever is applicable, and 7 CFR part 3560, and any other applicable regulations and amendments, for the purpose of housing program eligible very low-, low-, or moderate-income tenants.
- (3) **Enforcement.** The Agency and Program eligible tenants or applicants may enforce these restrictions as long as the Agency has not terminated the Restrictive Use Agreement pursuant to paragraph 7 below.
- (4) **Displacement Prohibition.** The Owner agrees not to refuse to lease a dwelling unit offered for rent, or otherwise discriminate in the terms of tenancy, solely because any tenant or prospective tenant is the recipient of housing assistance from the Agency or any other Federal agency.
- (5) **Owner’s Responsibilities.** The Owners agrees to: set rents, other charges, and conditions of occupancy in a manner to meet the restrictions required by this Restrictive Use Covenant; post an Agency approved notice of these restrictions for the tenants of the property; to adhere to applicable local, State, and Federal laws; and to obtain Agency concurrence for any rental procedures that deviate from those approved at the time of prepayment, prior to implementation.
- (6) **Civil Rights Requirements.** The Owner will comply with the provisions of any applicable Federal, State or local law prohibiting discrimination in housing on the basis of race, color, religion, sex, national origin, handicap or familial status, including but not limited to: Title VI of the Civil Rights Act of 1964 (Public Law 90-284, 82 Stat. 73), the Fair Housing Act, Executive Order 11063, and all requirements imposed by or pursuant to Agency regulations implementing these authorities, including, but not limited to, 7 CFR 3560.104.
- (7) **Release of Obligation.** The Owner will be released from the obligations under this Restrictive Use covenant before the termination period set in paragraph 1 only when the Agency determines that there is a no longer a need for the housing or that HUD Section 8 vouchers provided the residents of the housing will no longer be provided due to no fault, action or lack of action on the part of the Owner.

(8) Violations; the Agency's Remedies. The parties further agree that upon any default under this covenant, the Agency may apply to any court, State or Federal, for specific performance of this Agreement, for an injunction against violation of this covenant or for such other equitable relief as may be appropriate, since the injury to the Agency arising from a violation under any of the terms of this covenant would be irreparable and the amount of damage would be difficult to ascertain.

(9) Covenants to Run with Land. The Owner hereby subjects the Property to the covenants, reservations and restrictions set forth in this covenant. The Owner hereby declares its express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land to the extent permitted by law and shall pass to and be binding upon the successors in title to the Property throughout the Term. Each and every contract, deed, mortgage or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument. The Agency hereby agrees that, upon the request of the Owner made after the term of this covenant, the Agency shall execute a recordable instrument approved by the Agency for purposes of releasing this covenant of record. All costs and expenses relating to the preparation and recording of such release shall be paid by the Owner.

(10) Superiority. The document hereto constitutes a restrictive covenant that is filed of record, with all other Deeds of Trusts or Mortgages, and that, notwithstanding a foreclosure or transfer of title pursuant to any other instrument or agreement, the restrictive covenants and provisions hereunder shall remain in full force and effect.

(11) Subsequent Modifications and Statutory Amendments. The Agency may implement modifications necessitated by any subsequent statutory amendment without the consent of any other party, including those having the right of enforcement, to require that any third-party obtain prior Agency approval for any enforcement action concerning preexisting or future violations of this covenant.

(12) Other Agreements. The Owner represents and warrants that it has not and will not execute any other agreements with provisions contradictory or in opposition to the provisions of this covenant and that, in any event, the provisions of this covenant are paramount and controlling as to the rights and obligations set forth herein and supersede any other conflicting requirements.

(13) Binding Effect. Upon conveyance of the Property during the term, the Owner shall require its successor or assignee to assume its obligations under this covenant. In any event, this covenant shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and/or assigns.

(14) Amendment. This covenant may not be modified except by an instrument in writing executed by each of the parties that are signatories hereto.

(15) Severability. Notwithstanding anything herein contained, if any one or more of the provisions of this covenant shall for any reason whatsoever be held to be illegal, invalid or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect any other provision of this covenant, but this covenant shall be construed as if such illegal, invalid or unenforceable provision had never been contained herein.

(16) Headings. The headings and titles to the sections of this covenant are inserted for convenience only and shall not be deemed a part hereof nor affect the construction or interpretation of any provisions hereof.

(17) Governing Law. This covenant shall be governed by all applicable Federal laws.

IN WITNESS WHEREOF, the parties hereto have caused this Restrictive Use Covenant to be executed and made effective as of the date first above written.

OWNER: MOUNTAIN VIEW ASSOCIATES OF
PAYSON, LLC,
a Utah limited liability company

Date: April 28, 2021

By: CMN Mountain View, Inc., a Utah corporation,
Its: Managing Member

By: Shawne C. Mastronardi
Shawne C. Mastronardi
Vice President

WITNESS/ATTEST:

[Signature]

STATE OF COLORADO)
UTAH)
COUNTY OF PITKIN)

PERSONALLY appeared before me, the undersigned authority, a Notary Public in and for said County and State, SHAWNE C. MASTRONARDI, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged herself to be the Vice President of CMN Mountain View, Inc., the Managing Member of Mountain View Associates of Payson, LLC, a Utah limited liability company, and that she as such Vice President of the Managing Member, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Owner by herself as Vice President of its Managing Member.

WITNESS my hand and official seal at office this 23rd day of April, 2021.

[Signature]

Notary Public
My Commission Expires: 5/9/2023

CHRISTOPHER SABELLA
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20194017706
MY COMMISSION EXPIRES MAY 9, 2023

**EXHIBIT A
LEGAL DESCRIPTION**

PARCEL 1:

Beginning at a point which is West 1545.09 feet and North 1564.23 feet from the Southeast corner of Section 9, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence North 89°38'10" West 217.80 feet to the East right of way of 900 East Street; thence North 00°24'46" East along said right of way 295.00 feet; thence South 89°38'10" East 217.80 feet; thence South 00°24'46" West 295.00 feet to the point of beginning.

PARCEL 2:

Beginning at a point located South 89°47'08" West along the section line 1545.10 feet and North 1570.01 feet from the Southeast corner of Section 9, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence North 00°24'46" East 295.0 feet; thence North 89°38'10" West 217.80 feet; thence North 00°24'46" East 83.54 feet; thence along the arc of a 16 foot radius curve to the right 25.09 feet (chord North 45°19'49" East 22.60 feet); thence South 89°45'09" East 405.08 feet; thence South 395.359 feet; thence North 89°38'10" West 206.083 feet to the point of beginning.

LESS AND EXCEPTING the following:

Commencing North 1958.276 feet and West 1339.011 feet from the Southeast corner of Section 9, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence South 395.359 feet; thence North 89°38'10" West 68.77 feet; thence along the arc of a 16.00 foot radius curve to the left 25.12 feet (chord bears North 45°17'25" East 22.618 feet); thence North 00°13'00" East 363.22 feet; thence along the arc of a 16.00 foot radius curve to the left a distance of 25.120 feet (chord bears North 44°46'04" West 22.618 feet); thence South 89°45'09" East 67.22 feet to the point of beginning.

Parcels 1 and 2 above also being described by survey as one contiguous parcel as follows:

A portion of the Southeast quarter of Section 9, Township 9 South, Range 2 East, Salt Lake Base and Meridian, located in Payson, Utah, more particularly described as follows:

Beginning at the Southwest corner of that real property described in Deed Book 2241 at Page 386 of the official records of Utah County located South 89°47'08" West along the section line 1,762.90 feet and North 1,572.21 feet from the Southeast corner of Section 9, Township 9 South, Range 2 East, Salt Lake Base and Meridian; thence North 00°24'46" East along the Easterly right-of-way of 900 East Street 378.54 feet; thence along the arc of a 16.00 foot radius curve to the right 25.09 feet through a central angle of 89°50'05" (chord: North 45°19'49" East 22.60 feet); thence South 89°45'09" East along the Southerly right-of-way of 300 North Street 337.86 feet; thence along the arc of a 16.00 foot radius curve to the right 25.12 feet through a central angle of 89°58'09" (chord: South 44°46'05" East 22.62 feet); thence South 00°13'00" West along the Westerly right-of-way line of 1000 East Street 363.21 feet; thence along the arc of a 16.00 foot radius curve to the right 25.17 feet through a central angle of 90°08'50" (chord: South 45°17'25" West 22.66 feet); thence North 89°38'10" West along the Northerly right-of-way line of 200 North Street 355.11 feet to the point of beginning.