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RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 12 P.

WHEN RECORDED, RETURN TO

Wade R Budge
Snell & Wilmer LLP
15 West South Temple, Suite 1200
Salt Lake City, UT 84101

SPACE ABOVE THIS LINE FOR USE BY THE RECORDER

Parcels Nos. 22-20-405-022, 22-20-405-019 and 22-20-404-006

NOTICE OF PDD ZONING ORDINANCE

This Notice provides record notice that the real property described in the attached Exhibit A, which property is located in the city of Cottonwood Heights, Salt Lake County, Utah, has been rezoned and is subject to Ordinance No. 317-A, an ordinance enacting and establishing a planned development district by the Cottonwood Heights City Council. Said ordinance in total is on file and of record in the office of the Cottonwood Heights City Recorder and a copy of pertinent parts of the ordinance is attached hereto as Exhibit B. The below signed owner of the herein described property has been and continues to develop the site in reliance on and in accordance with the approval outlined in said ordinance

IN WITNESS WHEREOF, the below described owner of the above described property executes the foregoing notice.

**ICO MULTIFAMILY HOLDINGS, LLC, a Utah
limited liability company**

By: James G. Sauberg
Its: Manager

STATE OF Utah)
 : ss.
COUNTY OF Utah)

On this 14 day of August 2019, before me, a notary public, personally appeared James G. Sauberg, and acknowledged he/she executed the foregoing notice on behalf of ICO Multifamily Holdings, LLC, a Utah limited liability company.

Melissa Lindsay
NOTARY PUBLIC

(Seal)



EXHIBIT A
[PROPERTY DESCRIPTION]

PARCEL 1:

Beginning 1029.6 feet South and 1269 feet West from the East quarter corner of Section 20, Township 2 South, Range 1 East, Salt Lake Meridian; thence South 227.7 feet; thence West 661.5 feet; thence South 28° East 182.15 feet; thence West 350.13 feet; thence North 138.6 feet; thence West 12.8 feet; thence North 25°25'21" East 277.7 feet, more or less; thence East 819.23 feet, more or less, to the point of beginning.

LESS AND EXCEPTING a parcel of land located in the Southeast quarter of Section 20, Township 2 South, Range 1 East, Salt Lake Base and Meridian, Salt Lake County, Utah described as follows:

Commencing at the Northwest corner of Lot 14, Creekside Estates, according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder and running thence South 28°00'00" East 89.19 feet along the Westerly line of said Lot 14 to a point on an existing fence line, said point being the true point of beginning of the herein described tract of land and running thence along said fence line the following four (4) courses: South 30°39'46" West 30.82 feet; thence South 43°32'57" East 34.78 feet; thence South 46°00'39" East 31.79 feet; thence South 56°05'58" East 15.23 feet to the Westerly line of said Lot 14; thence North 28°00'00" West 93.20 feet along said Westerly line to the point of beginning.

TOGETHER WITH a right of way for ingress and egress as disclosed by that certain Quit Claim Right of Way Deed recorded August 31, 1950 as Entry No. 1214126 in Book 794 at Page 277 and by that certain Right of Way Deed recorded November 28, 1950 as Entry No. 1225566 in Book 818 at Page 450 of official records of the Salt Lake County Recorder, State of Utah.

PARCEL 2:

That portion of Lot 14, Creekside Estates, according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder described as follows:

Beginning at the Northwest corner of Lot 14, Creekside Estates, according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder and running thence South 58°33'30" East 76.19 feet along the Easterly line of said Lot 14 to a point on an existing fence line; thence South 30°39'46" West 45.35 feet along said fence line to the Westerly line of said Lot 14; thence North 28°00'00" West 89.19 feet along said Westerly line to the point of beginning.

PARCEL 3:

Beginning South 1029.6 feet and West 2130.645 feet and South 25°25'21" West 265.53 feet from the East quarter corner of Section 20, Township 2 South, Range 1 East, Salt Lake Meridian; thence East 12.8 feet, more or less; thence South 8.4 rods; thence West 31.71 feet, more or less; thence North 01°43'56" West 93 feet, more or less; thence North 25°25'21" East 50.53 feet, more or less, to the point of beginning.

Parcels 1, 2, and 3 shown above are also described by survey as follows:

BEGINNING AT A POINT ON THE WEST LINE OF STONE HAVEN CONDOMINIUMS PHASE 2, AS RECORDED IN BOOK 2003P OF PLATS AT PAGE 42 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER, SAID POINT ALSO BEING ON THE NORTHERLY EXTENSION OF THE WESTERLY LINE OF STONE HAVEN CONDOMINIUMS PHASE 1, AS RECORDED IN BOOK 2002P OF PLATS AT PAGE 34 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER, SAID POINT BEING NORTH $0^{\circ}28'06''$ EAST ALONG THE MONUMENT LINE OF 1300 EAST STREET 876.58 FEET AND WEST 833.06 FEET FROM A FOUND BRASS CAP MONUMENT LOCATED IN THE INTERSECTION OF SAID 1300 EAST STREET AND FORT UNION BOULEVARD, SAID POINT ALSO BEING SOUTH 1034.39 FEET AND WEST 1269.00 FEET FROM THE EAST QUARTER CORNER OF SECTION 20, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN (SAID EAST QUARTER CORNER BEING SOUTH $79^{\circ}11'05''$ EAST 434.53 FEET FROM A FOUND BRASS CAP MONUMENT LOCATED IN THE INTERSECTION OF SAID 1300 EAST STREET AND 6600 SOUTH STREET), AND RUNNING THENCE SOUTH ALONG THE WESTERLY LINES OF SAID STONE HAVEN PHASE 1 AND PHASE 2 A DISTANCE OF 221.80 FEET (SOUTH 227.70 FEET BY DEED) TO A POINT ON THE NORTH LINE OF CREEKSIDE ESTATES P.U.D., AS RECORDED WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER IN BOOK 78-7 OF PLATS AT PAGE 187; THENCE NORTH $89^{\circ}28'00''$ WEST ALONG SAID NORTH LINE 677.81 FEET (WEST 661.50 FEET BY DEED) TO THE NORTHWEST CORNER OF SAID P.U.D.; THENCE SOUTH $58^{\circ}33'30''$ EAST ALONG THE NORTHERLY LINE OF LOT 14 OF SAID CREEKSIDE ESTATES 76.19 FEET TO A POINT ON AN EXISTING FENCE LINE; THENCE SOUTHWESTERLY AND SOUTHEASTERLY ALONG SAID FENCE LINE THE FOLLOWING FOUR COURSES: 1) SOUTH $30^{\circ}39'46''$ WEST 76.16 FEET, 2) SOUTH $43^{\circ}32'57''$ EAST 34.78 FEET, 3) SOUTH $46^{\circ}00'39''$ EAST 31.79 FEET, 4) SOUTH $56^{\circ}05'58''$ EAST 15.23 FEET; THENCE EAST 399.06 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY AND NO ACCESS LINE OF INTERSTATE 215; THENCE NORTHERLY ALONG SAID RIGHT OF WAY AND NO ACCESS LINE THE FOLLOWING TWO COURSES: 1) NORTH $1^{\circ}43'56''$ WEST 114.32 FEET TO AN EXISTING UDOT RIGHT OF WAY MONUMENT, 2) NORTH $25^{\circ}25'21''$ EAST 290.37 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTHERLY LINE OF THE BSP COTTONWOOD HEIGHTS, LLC PARCEL AS ESTABLISHED PER RECORD OF SURVEY PREPARED BY STANTEC ON FILE WITH THE OFFICE OF THE SALT LAKE COUNTY SURVEYOR AS S2012-06-0278; THENCE EAST ALONG SAID SOUTH LINE 870.01 FEET TO THE POINT OF BEGINNING.
BASIS OF BEARING EQUALS NORTH $0^{\circ}28'06''$ EAST ALONG THE MONUMENT LINE OF 1300 EAST STREET BETWEEN BRASS CAP MONUMENTS LOCATED THE INTERSECTIONS WITH FORT UNION BOULEVARD AND 6600 SOUTH STREET

EXHIBIT B
[PDD Ordinance]

PDD-1 (WALSII) ZONE

A Planned Development District Under Cottonwood Heights Code Chapter 19.51

- Section 1. Purpose.**
- Section 2. Findings.**
- Section 3. Permitted uses.**
- Section 4. Development requirements.**
- Section 5. Architectural standards.**
- Section 6. BMR units.**
- Section 7. Outdoor lighting.**
- Section 8. Signage.**
- Section 9. Reversionary clause.**
- Section 10. Contrary law.**
- Exhibit A Development Plan.**
- Exhibit B Site Development Regulations Table.**
- Exhibit C AMI Calculation Protocol**

Section 1. Purpose.

The purpose of this ordinance (this “*ordinance*”) is to create a zone (the “*PDD-1 zone*”) allowing for the development of multi-family uses in an environment that reflects attention for architectural, landscaping and urban design principles. The PDD-1 zone is applicable only to the approximately 5.9 acre parcel of property (the “*site*”) located at 6784 South 1300 East in the city of Cottonwood Heights (the “*city*”), as shown in Development Plan attached as Exhibit A (the “*Development Plan*”) and in the official zoning records of the city. The area of the PDD-1 zone is adequately served by public streets, municipal services and public utilities of adequate capacity. The PDD-1 zone promotes the objectives set forth in Section 19.51.020 (Planned Development District; Goals and Objectives) of the Cottonwood Heights Code of Ordinances (“*Code*”); meets the requirements set forth in Code Section 19.51.020(E); and is a “PDZ ordinance” as that term is defined in Code Section 19.51.020(C). The PDD-1 zone is a Tier 2 Planned Development District project as described in Code Section 19.51.060.

Section 2. Findings.

Creation and adoption of the PDD-1 zone is based on, *inter alia*, the following findings by the city’s city council (the “*Council*”):

A. Development in the PDD-1 zone will support existing retail and commercial business in and near the Fort Union Boulevard area. Development in the PDD-1 zone will include five live-work mixed-use units that are designed for remote work, home occupations, and/or small retail spaces. The development is within walking distance of more than ten UTA bus stops on two routes and many office and retail businesses.

B. The PDD-1 zone includes a mix of uses and provides for pedestrian orientation and accommodations for each of those uses. The live-work mixed-use units contain ground-level storefronts and are accessed via pedestrian walkways. The multi-family residential units have access to a variety of pedestrian amenities on the site, including pools, plazas, walkways, etc.

C. The PDD-1 zone is compatible with the city’s general plan, as it provides a high-density residential land use compatible with the land use designation on the site and with most of the surrounding development.

D. Site features, uses, public amenities and aesthetic characteristics required in the PDD-1 zone encourage pedestrian activity within the site, and provide safe access to multi-modal transportation opportunities at a scale appropriate for the context of the site.

E. The PDD-1 zone properly integrates the physical characteristics of the site with the proposed development by preserving existing mature trees where possible and by improving the preservation of the natural waterway through the property. The building height, architectural massing, and spatial relationship of proposed structures is appropriate for the area, and the most buffering provisions have been proposed adjacent to the single-family subdivision.

F. With the recommended mitigations to the access road, the PDD-1 zone site is properly served by public streets and services. Issuance of a building permit is contingent upon implementation of traffic mitigation measures and formal approval by all applicable utility services. Such improvements will be subject to any applicable bonding requirements to ensure proper completion.

Section 3. Permitted uses.

A. Permitted uses in the PDD-1 zone are as follows:

1. Multi-family residential dwellings, in the quantity and location as shown in the Development Plan.

2. Live-work mixed-use units, in the quantity and location as shown in the Development Plan.

Uses allowed in live-work units are as follows:

- (a) Residential;
- (b) Home office;
- (c) Home occupation;
- (d) Administrative/professional office; and
- (e) Studio.

Provided, however, that a live-work mixed use unit may not be used solely for residential purposes. Instead, a business use of type (b), (c), (d) or (e) of this Section (A)(2) also shall be actively conducted in each live-work unit; any required business license shall be continuously maintained by the tenant for such business use; and the owner or manager of the project (the "operator") shall assure that such business use is continuously conducted in each live-work unit and quarterly shall provide written verification of such use to the city.

3. Home occupations, as defined by and in accordance with Code Section 19.76.040(F).

B. Uses not listed as permitted by this section shall be prohibited.

Section 4. Development requirements.

Property in the PDD-1 zone shall be developed in conformance with this ordinance, including the Development Plan attached as Exhibit A and incorporated herein by reference; the requirements of Code Chapter 19.51 (Planned Development District) ("*Chapter 19.51*"), including all applicable base Tier-2 regulations set forth in Table 1 of Chapter 19.51 attached as Exhibit B; the balance of the Code, including Title 12 (Subdivisions); all applicable APWA standards; the International Building Code; the International Fire Code; such other city standards as may be applicable to development in the PDD-1 zone as determined by the city's Development Review Committee; and the following additional standards:

A. *Height*. Buildings may contain up to four stories. Maximum building height shall be 50 feet measured from the grade plane as defined in the city's building code as provided in Code Section 19.51.060(B)(3) (the "*grade plane*"). Architectural appurtenances shall not be included in the 50-foot height limitation, but in no case shall any architectural appurtenance as shown on in the Development Plan exceed a maximum height of 54 feet from the grade plane. The maximum height for all accessory buildings shown in the Development Plan shall be twenty (20) feet, measured from the grade plane.

B. Setbacks. The setbacks for all buildings in the PDD-1 zone shall be as shown in the Development Plan, which shall comply with Code Section 19.51.060. The eastern boundary of the PDD-1 zone site shall be considered the front yard.

C. Units. The PDD-1 zone shall contain 204 total units, including multi-family residential units and live-work mixed-use units. No units shall be added to or removed from the PDD-1 zone without a Council-approved amendment to this ordinance and revision to the Development Plan.

D. Coverage. The maximum lot coverage for in the PDD-1 zone shall be 30% and shall be developed as depicted in the Development Plan.

E. Lot dimensions. The minimum lot dimensions shall be as shown in the Development Plan.

F. Storefronts and access (retail and commercial areas). A minimum of 50% of the height and width of the ground-floor frontage or principal buildings shall consist of windows, window displays, doors, or a combination thereof. Such windows, window displays, or doors shall be provided between two and eight feet above grade adjacent to the principal building frontage.

G. Parking.

1. The PDD-1 zone shall include 370 parking stalls, at a parking ratio of 1.81 stalls per unit. 175 stalls shall be structured podium parking, 165 stalls shall be external surface stalls, and 30 stalls shall be external surface stalls covered by a carport structure. Stalls shall be configured as shown in the Development Plan. All required accessible parking stalls shall be designed in accordance with applicable building code standards.

2. Parking setbacks shall be a minimum 20' when abutting land is zoned or used for single-family residential.

H. Amenities. Amenities in the PDD-1 zone shall be as shown in the Development Plan and shall include the following:

1. Swimming pool;
2. Fitness center;
3. Clubhouse;
4. Fire pit;
5. Barbeque area;
6. Picnic areas;
7. Bicycle parking/storage areas; and
8. Common green areas.

I. Pedestrian circulation. Pedestrian circulation in the PDD-1 zone shall comply with the following requirements:

1. Sidewalks and pedestrian walkways shall be provided in accordance with a submitted pedestrian circulation plan approved as part of the PDD-1 zone.

2. Minimum requirements for public sidewalks in the PDD-1 zone include:

(a) Continuous sidewalks with a width of six feet shall be located along both sides of both collector and arterial public streets and both sides of internal private street(s);

(b) Sidewalk(s) along the private street(s) shall be located as shown on the Development Plan; and

(c) A six-foot wide pedestrian trail with an appropriate surface (such as asphalt, concrete or crushed stone) shall be located along Little Cottonwood Creek as shown on the Development Plan (the "Creek Trail"). The Creek Trail shall be improved and maintained at the operator's cost; shall be perpetually open to the public, allowing the public to traverse the site from one side to the other; and may in the future be included in a public trail system sponsored by the city. If requested by the city as part of a city-sponsored trail system involving trail improvements and a trail easement on either or both sides of the site, so long as one side connects to a trailhead or access point accessible to the general public, the then owner of the project shall grant a non-exclusive public trail easement to the city in the location of the Creek Trail, in which event the city shall assume responsibility for the trail

improvements and their maintenance. The form of such easement grant shall be one that is reasonably proposed by the city and reasonably acceptable to such owner.

3. Minimum requirements for private pedestrian walkways in the PDD-1 zone include:

- (a) Hard-surfaced sidewalks with a minimum width of five feet;
- (b) Readily visible sidewalks free of encroachment by parked vehicles;
- (c) Paving consisting of concrete or other masonry materials differentiated from the driveway and parking areas through the use of color, texture, or materials;
- (d) Shade provided by deciduous shade trees spaced at one per 30 linear feet of walkway or building canopy; and
- (e) Lighting with pedestrian-scaled fixtures.

4. In order to create a safe pedestrian environment, multifamily residential buildings shall be placed and sited so that all required internal sidewalks are in view of at least one unit's living area windows;

5. Internal sidewalks parallel and adjacent to a street or drive aisle shall be raised or separated from the street or drive aisle by a raised curb, landscaping or other physical barrier. If a raised internal sidewalk is used, the ends of the raised portions must be equipped with curb ramps.

6. When adjacent to perpendicular, head-in, or diagonal parking, a pedestrian sidewalk must be increased to a width of seven feet when parking is located on one side, and a minimum width of nine feet when parking is located on both sides.

J. Open space. Open space shall be provided in the form of natural areas meriting preservation, landscaping, pedestrian plazas, atriums and/or other significant spaces open to the public. Public open space shall include the Creek Trail and such other portions of the project that are so-identified on the Development Plan. Vehicular circulation and parking shall not qualify as open space but are required to meet parking and landscaping requirements.

K. Landscaping. Prior to the use or occupancy of any premises in the PDD-1 zone, the following landscaping requirements shall be met:

1. Provide a total landscaped area equal to at least 25% of the gross land area in the PDD-1 zone. The landscaped area may be provided at ground level or on upper-level balconies, decks or roofs, or any combination thereof. At least 60% of the landscaped area shall be vegetated.

2. Provide a ground-level landscaped area equal to at least 15% of the gross land area in the PDD-1 zone.

3. For landscaped areas designed as buffers, setbacks or visual backdrops, 40% of the area shall be vegetated with a combination of groundcover, vines, shrubs, and trees. These areas must be at least eight feet wide.

4. For large paved pedestrian spaces such as courtyards or plazas, a 12-foot tall/two-inch caliper conifer or a 15-gallon/eight-foot tall deciduous tree shall be required for every 200 square feet of paved area. A 50% reduction in the number of trees in such areas may be permitted if at least 25% of the ground plane is vegetated with potted plants, vines, shrubs, or groundcover.

5. Landscaping shall be installed in accordance with the Development Plan. Care should be taken to preserve as many healthy mature trees as possible. Prior to development, a tree protection plan shall be submitted for approval by the city that identifies existing trees that can be saved. If trees cannot be saved, rationale shall be provided in the tree protection plan. The tree protection plan shall be (a) prepared by an arborist who is certified by the International Society of Arborists, and (b) subject to review and approval by the Community and Economic Development Director (the "Director").

6. Except as otherwise provided in this Subsection (L), all new deciduous trees shall have a minimum caliper size of two inches and all evergreen trees shall be planted at a minimum height of five (5) feet.

L. Access. Access to all development in the PDD-1 zone shall be constructed as depicted in the Development Plan.

M. Fencing. Fencing shall be constructed around the perimeter of the site. All fencing shall consist of vinyl fencing at a minimum height of six feet. When adjacent to land used or zoned for single-family residential use, the minimum fence height shall be increased to eight feet (and be of steel reinforced vinyl material) if fencing or a wall of that height does not exist at the time of building permit issuance.

N. Stream corridor. The Creek Trail and other improvements to the Little Cottonwood Creek corridor shall be constructed as shown in the Development Plan and shall be subject to approval by all applicable outside agencies (e.g. Salt Lake County Flood Control, etc.) prior to issuance of any building permit in the PDD-1 zone.

Section 5. Architectural standards.

Development in the PDD-1 zone shall include exterior building materials and architectural style in compliance with the Development Plan. The use of aluminum and vinyl siding shall be prohibited. Materials depicted in the Development Plan shall be allowed. The project in the PDD-1 zone (the "project") shall be constructed using best building practices as outlined by building agencies and the U.S. Green Building Council. No certification from such organizations shall be required. Prior to issuance of building permits, the applicant shall submit a written narrative demonstrating general compliance with standards and practices outlined by the U.S. Green Building Council, subject to review and approval by the Director.

Section 6. BMR units.

A. The provisions of this Section 6 shall control and supersede any contrary provisions concerning BMR units contained in Chapter 19.51.

B. For the purposes of this Subsection, the following definitions shall be used:

1. "Affordable." Housing costs that are affordable to households earning not more than 50 percent of the AMI.

2. "Area median income" or "AMI." As described in the city's affordable housing plan dated 25 April 2017 by GSBS Consulting (the "Housing Plan"), area median income is the annual median income of households within the city. AMI shall be updated annually using the most recent U.S. Census Bureau statistics for the area within the city, using the methodology used in the Housing Plan (pertinent excerpts of which are attached hereto as Exhibit C) or such other methodology as both the operator and the city approve in writing as an appropriate substitute protocol for determining the AMI. The operator shall reimburse all costs reasonably incurred by the city to engage experts to advise the city concerning such updates, so long as the City gives the operator reasonable prior written notice of its intent to so engage an expert.

3. "Bedroom." A room designed to be used for sleeping purposes and which contains closet(s) and meets all applicable city building code requirements for light, ventilation, sanitation and egress.

4. "BMR units." Dwelling units that are BMR units required by Chapter 19.51 and are deed restricted to the housing size and type for individuals meeting occupancy guidelines approved by the city.

5. "Deed restriction." The recording, as an encumbrance on legal title to the realty in the PDD-1 zone, of this ordinance or a notice of this ordinance, as determined by the city.

6. "Household." All related and unrelated individuals occupying a unit.

7. "Market units." Dwelling units in the PP-1 zone that are not defined as BMR units and are subject to rental at full market rates.

8. "Qualifying household." A household earning not more than 50% of the AMI.

C. Ten percent of the total number of dwelling units contained in the PDD-1 zone shall be BMR units. Consequently, based on the current Development Plan, 20 of the project's units shall be BMR units. BMR units shall be rented to qualifying households at a price which is affordable. The

maximum rent shall be adjusted annually in accordance with changes to the city's AMI. As applied to qualifying households, the lease term shall be one year, and shall be renewable at the tenant's option if tenant remains a qualifying household and has complied with other provisions of the lease.

D. BMR units developed in compliance with the requirements of this ordinance are not included in the density calculation for the project. Further:

1. BMR units shall be disbursed throughout all buildings in the PDD-1 zone, with one or more contained within each of the proposed buildings.

2. In order to assure livability, all BMR units shall be no smaller than the minimum gross square footages for the following unit types:

(a) Studio -- 500 sq. ft. minimum.

(b) 1-bedroom unit -- 650 sq. ft. minimum.

(c) 2-bedroom unit -- 900 sq. ft. minimum.

(d) 3-bedroom unit -- 1,150 sq. ft. minimum.

3. The operator shall reasonably determine which units are BMR units, provided that each of the four unit types described in Subsection 6(D)(2) shall be included among the project's BMR units in the same proportion as each of such unit types is included among the project's market units unless otherwise agreed by the city in writing based on a competent, third-party market analysis.

E. BMR units may differ from the project's market units with regard to interior amenities and gross floor area, provided that:

1. Such differences are not apparent in the general exterior appearances of the project's dwelling units;

2. Such differences do not include insulation, windows, heating systems and other improvements related to the energy efficiency of the project's dwelling units; and

3. The square footage of the BMR units shall not be less than the minimums listed above.

F. All BMR units shall be constructed and made ready for occupancy on approximately the same schedule as the project's market units; provided that certificates of occupancy (whether temporary or permanent) for the last ten percent of the market units shall be withheld by the city until certificates of occupancy have been issued for all of the BMR units. If market units are to be developed in phases, all BMR units shall be developed proportionately. In the required schedule for phased development, details shall be included for all BMR units.

G. Prior to issuance of a building permit:

1. A deed restriction approved by the city shall be recorded in the office of the Salt Lake County Recorder against legal title to the site; and

2. The city shall have reasonably determined that, due to its senior priority against legal title to the project (achieved as a result of recording priority, subordination of senior lienholders, or similar), as evidenced by a title commitment provided at the operator's cost and issued by a licensed title insurer reasonably acceptable to the city, the deed restriction is not subject to being voided by foreclosure or other legal action.

H. The operator shall:

1. Use commercially reasonable efforts to advise the public of the existence and possible availability of the project's BMR units, including, without limitation, annually so informing public and quasi-public bodies in Salt Lake County which provide affordable housing counseling or similar services to qualifying household populations, such as the Housing Authority of the County of Salt Lake and Utah Community Action.

2. Maintain a list, and allow the city to maintain a list, of those who have indicated interest in renting a BMR unit in the project after the operator has verified each such person's status as a qualifying household under applicable AMI requirements.

3. Promptly contact the Director and such persons, based on their relative priority on such lists, when a BMR unit becomes available to rent.

4. Use all diligent, commercially reasonable efforts to endeavor to rent a vacant BRM unit to a qualifying household tenant before renting the vacant BMR unit to a non-qualifying household tenant, including holding such BMR unit available for at least 45 calendar days (the "Hold Period") while diligently seeking a qualifying household tenant.

(a) The Hold Period shall commence immediately upon the operator receiving notice from the tenant of a BMR unit indicating the tenant's intent to not renew the lease. The Hold Period shall not expire before the subject unit becomes vacant and ready for occupancy by a replacement tenant.

(b) If a qualifying household tenant is not located within the Hold Period, then the vacant BMR unit may be rented to a non-qualifying household tenant for a lease term not exceeding six months in duration, whereupon the BMR unit shall again be made available to qualifying household tenants for a new 45-day Hold Period before it may be rented to a non-qualifying household tenant as provided in this Section.

(c) Because the maximum lease term to a non-qualifying tenant is half the duration of the standard lease term to a qualifying tenant, it is anticipated that the rental of BMR units to non-qualifying tenants (in the absence of available qualifying tenants as provided in this Subsection 4) will result in more frequent "roll-over" of tenants in the BMR units, which in turn will necessitate more frequent readying of the BMR units for occupancy by replacement tenants. To provide a source of maintenance funds to the operator to repair any damage, clean carpets, etc. of a vacated BMR unit to ready it for occupancy by a replacement tenant, the rental for a BMR unit charged to a non-qualifying household tenant (who comes to occupy such unit as provided in this Subsection 4) may exceed the rental charged to a qualifying tenant, but only to the extent reasonably necessary to generate such maintenance funding for the BMR units after taking into account other sources of maintenance funding such as forfeited deposits from the prior tenant(s). The city shall be entitled to verify that such additional rental amounts are both reasonable and being used only to defray such increased maintenance costs (also called "direct unit turn costs") of the BMR units, and the operator shall cooperate in such verification process by providing a ledger of (i) the direct unit turn costs associated with the tenant replacement of BMR units if rented to non-qualifying households, and (ii) the increased rental amounts charged to such non-qualifying households occupying BMR units.

I. At the end of each calendar quarter, the operator shall file with the Director a written report in such form as the Director reasonably may require, including a log of the project's BMR units with details on rents charged, tenant qualifications and rental status of each BMR unit. The city shall be entitled to further verify compliance with this ordinance at any time or from time to time, and the operator shall cooperate in such verification process in all reasonable ways.

J. Future conversion of rental units to for-sale units shall require a Council-approved amendment to this ordinance, subject to all applicable city hearings and approvals.

Section 7. Outdoor lighting.

Outdoor lighting shall be located and installed as shown in the Development Plan. LED light sources shall be used for all outdoor lighting. All site lighting shall be designed to be full cut-off and shielded from adjacent residential land uses. Building lighting shall be designed to with no light distributed above the horizontal plane of the light source. All outdoor lighting except lighting needed for security (as identified in the Development Plan) shall be turned off between 10:00 p.m. and 7:00 a.m. each day. Outdoor lighting shall also comply with the following additional standards:

A. The light uniformity ratio of site lighting shall be 4:1 or greater in parking areas, excluding main building entrances.

B. Light pole structure height shall be measured from the finished parking lot surface to the highest point of the lighting structure, and shall not exceed a maximum height of 18 feet.

C. Where possible, the base of site lighting structures should be located within landscaping areas, in accordance with the Development Plan.

D. Wall-mounted lighting fixtures shall not be installed above 18 feet in height. Fixture styles and finishes shall compliment the architectural design and materials represented in the Development Plan.

E. Lighting located along pedestrian pathways or in activity centers shall not exceed 12 feet in height and shall be full-cut off.

Section 8. Signage.

In accordance with the Development Plan, development in the PDD-1 zone may include two monument signs. Each sign may be constructed to a maximum size of 32 square feet, measured in accordance with Code Chapter 19.82 (Signs). Interior directional signage shall be allowed as necessary. A wall sign may be constructed on the first story of any of the five designated live-work mixed-use units. Two additional wall signs shall be permitted as project identification signs, one of which shall be allowed on Building A facing East, and the other of which shall be allowed on Building C facing West. A maximum of seven wall signs, as identified in this Section, shall be allowed for the entire project. The size and specifications of each wall sign shall comply with Code Chapter 19.82.

Section 9. Reversionary clause.

If a building permit is not issued for the principal improvements to be constructed in the PDD-1 zone within three years after the effective date of this ordinance, this ordinance shall be deemed retroactively repealed and the subject property shall revert back to its zoning designation in effect immediately prior to the passage of this ordinance (or the equivalent of such zoning designation that is in existence on the date of such reversion), subject to all applicable city processes for repealing ordinances and modifying zoning designations. A one-year extension may be granted by the Director provided that the extension is applied for at least 60 days prior to the third anniversary of the effective date of this ordinance.

Section 10. Contrary law.

This ordinance is subject to any contrary federal or Utah state law.

[REMAINDER ON FILE WITH COTTONWOOD HEIGHTS CITY RECORDER]