

ENTRY NO. 01172567

09/07/2021 03:54:01 PM B: 2690 P: 1681

Agreement PAGE 1/13
RHONDA FRANCIS, SUMMIT COUNTY RECORDER
FEE 84.00 BY LIBERTY CAPITAL LENDING LLC



WHEN RECORDED RETURN TO

Helen E. Strachan
Summit County Attorney's Office
PO Box 128
60 North Main
Coalville, Utah 84017

Tax IDs: SCVC-2-1

WORKFORCE HOUSING AGREEMENT
(Silver Creek Village: Elk Springs Subdivision)

This Workforce Housing Agreement ("**Agreement**") dated Aug 25, 2021 is made by and between SUMMIT COUNTY, a Utah political subdivision (the "**County**") and VILLAGE DEVELOPMENT GROUP INC, a Utah corporation ("**VDG**" and sometimes referred to herein as "**Developer**"). The County and VDG are referred to herein singly as a "**Party**" and collectively as the "**Parties**".

Recitals

A. The Silver Creek Village Specially Planned Area (the "**Project**") was approved subject to terms of a development agreement, dated August 4, 2015, among County and Liberty Capital Lending, LLC ("**Liberty**") and Gayle Larsen (as amended, the "**Development Agreement**"). Since the execution of the Development Agreement a portion of Liberty's interest in the Project has been transferred to VDG, which transfer has been recognized by the County.

B. The Development Agreement requires (at Section 5.2.2.1) that not less than 330 of a total of 1290 approved residential units within the Project must be affordable/workforce housing units (the "**Workforce Units**"). More specifically, the Development Agreement requires 330 actual units and at least 330 Workforce Unit Equivalents ("**WUE**") as defined therein.

C. Among other provisions concerning the development of Workforce Units within the Project, the Development Agreement requires that they be developed at a certain (minimum) rate in proportion to the development of market rate units. Section 5.2.2.2 provides in part:

*"35% of the first 271 units (95 Units) within the Project shall be workforce units [the "**Initial Requirement**"]. Thereafter any future development shall have a proportionate number of workforce units of not less than 25% of the total units as workforce units until the total obligation of workforce units is satisfied."* [the "**Secondary Requirement**"]

D. VDG has previously entered into that certain Workforce Housing Agreement (Silver Creek Village: 1st Group, Parcel 7.1 and 7.4) by and among VDG, County, and Mountainlands Community Housing Trust to satisfy the Initial Requirement.

E. Further, VDG has previously entered into various Workforce Housing Agreements with the County or third parties approved by the County to partially satisfy the Secondary Requirement.

F. VDG has proposed to cause to be constructed thirty-two (32) Workforce Units as follows: (i) twenty-five (25) Workforce Units within ADUs (as defined in the Development Agreement) on Lots 12, 16, 20, 26, 29, 34, 38, 41, 43, 44, 46, 47, 49, 50, 51, 57, 58, 60, 70, 71, 79, 85, 90, 91 and 108 (collectively, the "ADU Lots"); and (ii) seven (7) Workforce Units on Lots 2, 3, 110, 113, 114, 120 and 121 (collectively, the "SF Lots"), each as referenced in the Elk Springs at Silver Creek Village Center Subdivision, according to the official plat (the "Plat") to be recorded in the official records of the Summit County Recorder. The ADU Lots and the SF Lots, and the Workforce Units to be constructed thereon, are depicted on Exhibit A attached hereto.

G. The purpose of this Agreement is twofold: (1) to provide the County with adequate assurances that the VDG proposal is viable and Workforce Units can be completed within the timeframes proposed and in compliance with the Development Agreement; and (2) provide Developer with an assurance that upon substantial completion of the Workforce Units contemplated under this Agreement, as set forth in Section 5.2 of the Development Agreement, that Developer's responsibility to provide workforce units for the amount of units permitted on that property shall be fulfilled.

H. This Agreement is meant to partially satisfy the Secondary Requirement. Specifically, Developer's construction of the thirty-two (32) Workforce Units on the ADU Lots and the SF Lots, is intended to cause Developer to receive credit for the construction of ninety-three (93) market rate units as depicted on Exhibit A and as set forth in this Agreement.

Agreement

In consideration of the foregoing recitals and the terms and conditions herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Qualification, Marketing, Reporting and Compliance: All prospective owners or renters of Workforce Units shall be pre-qualified by the County or its third party designee pursuant to the terms of the Development Agreement and deed restriction. Reasonable efforts shall be used to market the Workforce Units to targeted populations as per the deed restriction. In the event any of the Workforce Units are offered for rent, Developer or Owner shall provide a quarterly rent roll showing each tenants name, unit occupied, rent charged, household gross income, name and location of employment, term of lease and other information related to eligibility requested by the County or its third party designee from time-to-time. All lease terms shall be for a minimum of six (6) months. The County or its third-party designee shall have the right to audit Developer's or Owner's tenant files at least annually upon ten (10) days advanced written notice to Developer or Owner.

2. Effect of Agreement on Developer's Obligation to Provide Workforce Units. Subject to the terms of this Paragraph 2, Developer's obligation to provide thirty-two (32) Workforce Units and thirty-two (32) WUEs as part of the Secondary Requirement under the Development Agreement shall be deemed fully and finally satisfied upon issuance of a "County Approval" document in the form of Exhibit B attached hereto, stating that i) the subdivision plat and final site plans pertaining to the Workforce Units have been recorded (the **Subdivision Approvals**"); (ii) the County has approved the deed restriction pertaining to the Workforce Units indicated on the Subdivision Approvals; (iii) the County Manager has

completed and executed the "Approved Project Summary" (Exhibit C) pertaining to the Workforce Units on the Subdivision Approvals; (iv) the Developer's obligation to provide the number of Workforce Units specified in the Subdivision Approvals, and on the Approved Project Summary has been satisfied; and (v) Developer may proceed with the improvement and construction of up to a specific number of market rate lots or units (as applicable and as stated on the County Approval) without the risk of having building permits or certificates of occupancy withheld for any reason related to the affordable housing obligations under the Development Agreement. Until such time as the County Manager has issued the County Approval, the obligation for providing the Workforce Units remains with Developer.

3. Timing of Workforce Unit Development. Notwithstanding anything to the contrary herein, VDG shall cause completion of construction of Workforce Units within ADUs on the ADU Lots and Workforce Units on the SF Lots in accordance with the timing requirements set forth in the Approved Project Summary attached as Exhibit C ("Project Timeline").

4. Failure to Develop on Timely Basis. VDG shall use its best efforts to develop the applicable Workforce Units in accordance with the Approved Project Summary and shall report quarterly to the County Manager on its progress until such time as the thirty-two (32) Workforce Units described herein are completed and have received certificates of occupancy. The quarterly report shall include the mix and types of units, incomes targeted, maximum for-sale prices, maximum rents (including utilities), occupancy and such other information requested by the County Manager. The quarterly report satisfies the annual report, as to the Workforce Units subject to this Agreement, required by Section 5.2.1 of the Development Agreement. Based upon good cause for delays or other unforeseen circumstances, the County Manager shall have the authority to extend the Project Timeline as shown in the Approved Project Summary. If VDG fails to demonstrate good cause to extend the Project Timeline or otherwise fails to develop the Workforce Units as provided in the Approved Project Summary, then the County Manager shall have the right to declare VDG in default of this Agreement and, if VDG fails to demonstrate significant progress toward the development of Workforce Units within twelve (12) months thereafter, the County Manager may terminate the County Approval up to the number of Workforce Units for which a Certificate of Occupancy has not been issued.

5. VDG Proposal Subject to Development Agreement. VDG acknowledges and agrees that the design and development of all Workforce Units within the Project shall be subject to the applicable terms of the Development Agreement (including review and recommendation by the Design Review and Architectural Review Committees for the Project), the Snyderville Basin Development Code, and local, state and federal law. As required under the Development Agreement, VDG will construct all Workforce Units to energy efficient standards (Sections 5.2.2.18 and 5.3) and shall offer homes for sale or rent with a priority to residents employed in Summit County (Section 5.2.2.7).

6. Deed Restrictions. VDG shall record against each Workforce Unit described herein a deed restriction that comports with Section 5.2.2 of the Development Agreement. The form of the deed restriction shall be approved by the County Manager and shall be recorded against the Workforce Units prior to the issuance of a certificate of occupancy. Alternatively, the County Manager may approve a combination of deed restriction or restrictions required by the Utah Housing Corporation and other financing agencies that satisfies Section 5.2.2 of the Development Agreement. The deed restriction will call out the Workforce Housing Equivalent associated with each lot.

7. **Parking.** Each Workforce Unit shall be entitled to two (2) off street stalls. Parking stall requirements shall meet the Snyderville Basin Development Code requirements except for those modified standards as identified in the site specific standards for each parcel as outlined in the Development Agreement.

8. **Conflicts.** As provided in Section 5.2.1 of the Development Agreement, in the event of any conflict between this Agreement and the Development Agreement, the Development Agreement shall take precedent.

9. **Recording.** This Agreement or a memorandum of this Agreement shall be recorded in the official records of the Summit County Recorder.

10. **Amendment.** This Agreement may only be amended by written instrument signed by the County and the Developer and/or their respective successors or assigns. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter addressed herein. Except as for the Development Agreement, there are no other agreements, oral or written, pertaining to the matters herein between the Parties.

11. **Binding Effect.** This Agreement and the covenants contained herein shall run with the land and shall be binding upon and shall inure to the benefit of the Parties hereto and their successors, heirs and assigns.

12. **Enforcement.** All of the terms, provisions and restrictions of this Agreement may be enforced by any of the Parties hereto and in the event of a breach of this Agreement, each Party shall have such remedies as may be available in law or in equity.

13. **Notices.** All notices to be given pursuant to this Agreement shall be as provided under Section 8.11 of the Development Agreement to the Parties at the addresses set forth below:

To County: Summit County
Attn: Summit County Attorney
60 N. Main St.
P.O. Box 128
Coalville, Utah 84017

To Developer: Village Development Group Inc.
Attn: Matt Lowe
6028 South Ridgeline Drive, Suite 203
Ogden, Utah 84405

With a copy to:
Snell & Wilmer, LLP
Attn: Craig Jenson
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101

14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, and where applicable, the laws of the United States of America.

15. Exhibits and Recitals. All exhibits and attachments attached hereto are incorporated herein by this reference. The Recitals are hereby incorporated into this Agreement.

16. Waiver. No action or failure to act by the Parties shall constitute a waiver of any right or duty afforded any Party under this Agreement, nor shall any such action or failure to act constitute approval of or acquiescence in any breach hereunder, except as may be specifically agreed to in writing. A waiver by a Party of a breach hereunder by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

17. Counterparts. This Agreement may be executed by the different Parties hereto in separate counterparts, each of which when so executed shall be an original, and all of which taken together shall constitute one and the same agreement. Electronic and scanned signature pages will be acceptable and shall be conclusive evidence of execution.

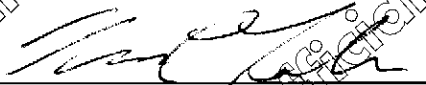
18. Severability. If any provision of this Agreement or the application thereof to any Party or circumstances shall be invalid or unenforceable to any extent, the remainder of the Agreement and the application of such provisions to any other Party or circumstance shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

19. Headings. Titles or headings to paragraphs of this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed the date and year first above written.

COUNTY:

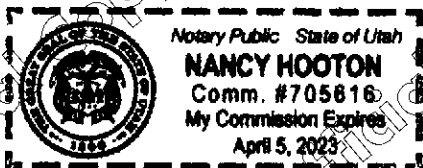
Summit County,
a Utah political subdivision

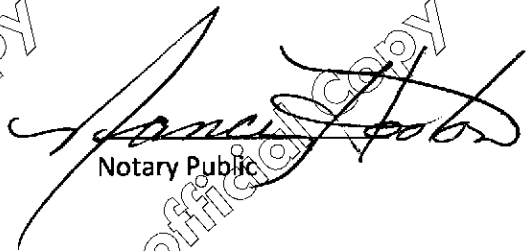
By: 
Thomas C. Fisher, County Manager

Notary Acknowledgments

STATE OF UTAH
COUNTY OF SUMMIT

On this 27 day of Aug, 2021, this Agreement was acknowledged before me by Thomas C. Fisher, County Manager of Summit County.




Notary Public

APPROVED AS TO FORM:


Helen E. Strachan, Deputy County Attorney

DEVELOPER/VDG:

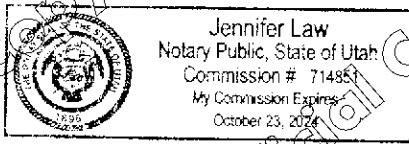
Village Development Group, Inc.,
a Utah corporation

By: [Signature]
Name: Matthew Lowe
Its: President

Notary Acknowledgments

STATE OF UTAH
COUNTY OF SUMMIT

On this 25th day of August 2021, this Agreement was acknowledged before me by
Matthew Lowe of Village Development Group, Inc.



[Signature]
Notary Public

EXHIBIT A

Project Map Depicting the ADU Lots and the SF Lots

Workforce Units within ADU Lots (Lots 12, 16, 20, 26, 29, 34, 38, 41, 43, 44, 46, 47, 49, 50, 51, 57, 58, 60, 70, 71, 79, 85, 90, 91 and 108 Elk Springs Subdivision) depicted in solid shadowing.

For Rent Workforce Units within SF Lots (Lots 2, 3, 110, 113, 114, 120 and 121 of Elk Springs Subdivision) depicted in crosshatches.

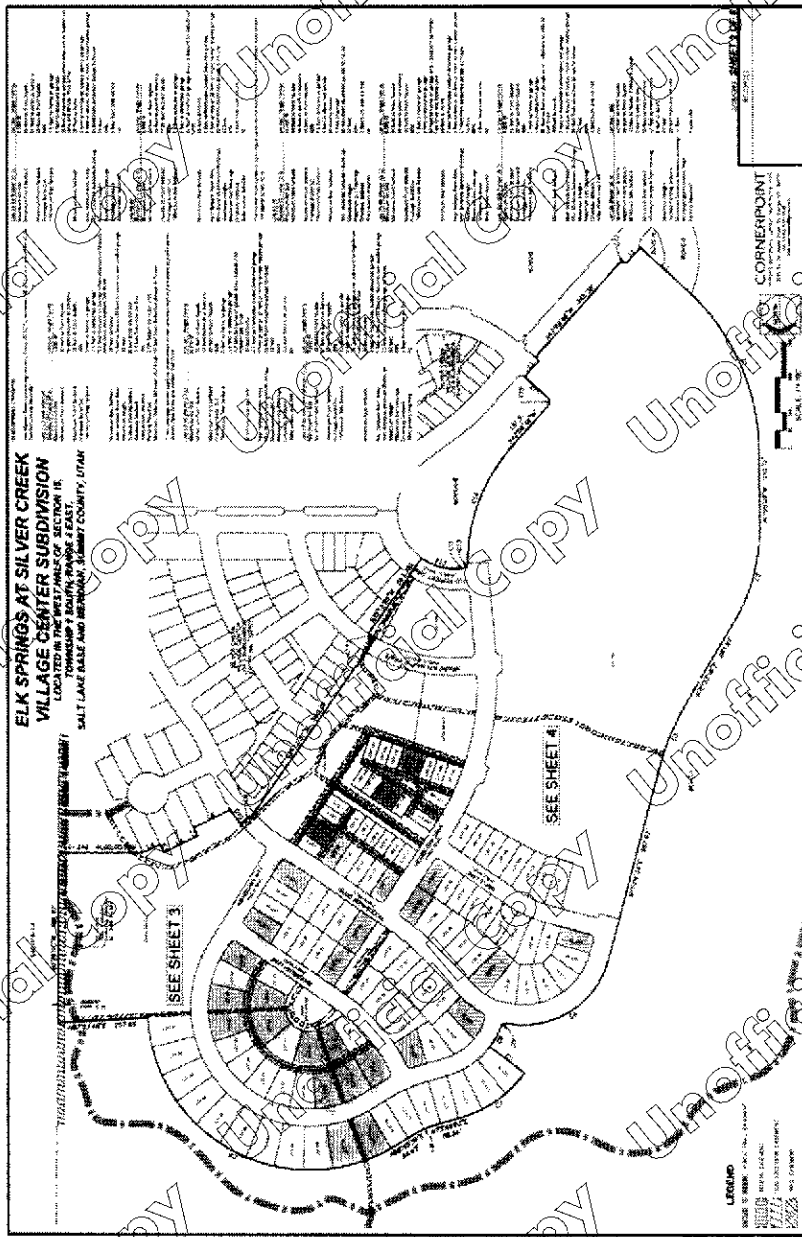


EXHIBIT B

County Approval

Summit County Manager hereby approves the Workforce Units identified in the Workforce Housing Agreement dated _____, 2021 ("**Workforce Housing Agreement**") by Village Development Group Inc., a Utah corporation ("**Developer**"), for the purpose of satisfying a commensurate portion of Developer's Workforce Housing obligation and confirms satisfactory demonstration of the following conditions outlined in the Workforce Housing Agreement (capitalized terms not otherwise defined herein shall have the same meaning as used in the Workforce Housing Agreement):

1. Subdivision plat(s) or final site plan(s) for the ADU Lots and the SF Lots have been recorded or approved (the "**Subdivision Approval(s)**").
2. Developer has demonstrated evidence of financing and construction documents and is prepared to commence development of the Workforce Units indicated on the Subdivision Approvals(s).
3. The County has approved the deed restrictions for the ADU Lots and the SF Lots.
4. County Manager has completed and executed the "Approved Project Summary" in the form of Exhibit C of the Workforce Housing Agreement for the ADU Lots and the SF Lots.
5. The Project Timeline for completion of the Workforce Units is contained in the "Approved Project Summary" in the form of Exhibit C of the Workforce Housing Agreement for the ADU Lots and the SF Lots.

Now, therefore, County Manager confirms the following:

1. Upon Developer's substantial completion of the referenced Workforce Units, Developer's obligation to provide 32 Workforce Units under the Development Agreement will be satisfied.
2. Developer may proceed with the improvement and construction of all lots or units described in the Approved Project Summary or the Subdivision Approvals without the risk of having building permits or certificates of occupancy withheld for any reason related to the affordable housing obligations under the Development Agreement.

Dated this ___ day of _____, 20__.

Thomas C. Fisher, County Manager
Summit County, Utah

EXHIBIT C

Approved Project Summary

Pursuant to the Workforce Housing Agreement dated _____, 2021 ("Workforce Housing Agreement") by Village Development Group Inc., a Utah corporation ("Developer"), County Manager approves that ADU Lots and the SF Lots, according to the Silver Creek Village Center Elk Springs Subdivision of the Silver Creek Village Specially Planned Area, which was approved subject to terms of the Development Agreement, dated August 4, 2015, may be built as follows (capitalized terms not otherwise defined herein shall have the same meaning as used in the Workforce Housing Agreement):

ADU Lot Numbers	AMI Target	Bedrooms	All Lot Sizes SQ/FT are => 4,500SQ/FT Required	Maximum Gross Rent Including Utilities*
12, 16, 20, 26, 29, 34, 38, 41, 43, 44, 46, 47, 49, 50, 51, 57, 58, 60, 70, 71, 79, 85, 90, 91 and 108 of Elk Springs Subdivision	=<50% AMI Adjusted by Number of Bedrooms and Occupancy	At least 13 units shall be 2 bedroom with 900 square feet minimum (1 WUE) and the other 12 can be one bedroom with at least 650 square feet (1.38 WUE).		Maximum Rent 50% AMI as per table listed below and adjusted annually by HUD.

Maximum Rent - ADUs

*Rents will be adjusted annually by HUD/Area Medium Income when HUD publishes the current year's Annual Area Median Income. Maximum Gross Rent includes a utility (water, sewer, gas, power and trash) allowance. 2021 rents are set forth below:

2021 Maximum (50% AMI) Rent Table	Occupancy	AMI Target	Qualifying Income Per Unit based on Occupancies and 50% AMI	Maximum Monthly Rent Including Utilities Based on AMI %*
Studio	1.00	50% AMI	\$41,850	\$1,046.25
1 Bedroom	2.00	50% AMI	\$47,800	\$1,195.00
2 Bedroom	3.00	50% AMI	\$53,800	\$1,345.00
3+ Bedroom	4.00	50% AMI	\$59,750	\$1,493.75

Completion of construction of Workforce Units on the ADU Lots: Certificate of occupancy on a Workforce Unit to be issued concurrent with the issuance of a certificate of occupancy for the Market Unit on the associated ADU Lot. ADUs must be actively marketed and occupied to receive "compliance credit."

For Rent Workforce Units within SF Lots (Lots 2, 3, 110, 113, 114, 120 and 121 of Elk Springs Subdivision)

For Rent Workforce Units within SF Lots	AMI Target	Bedrooms	Maximum Gross Rent Including Utilities
2, 3, 110, 113, 114, 120 and 121 of Elk Springs Subdivision	=<60% AMI Adjusted by Number of Bedrooms and Occupancy	Varies	Maximum Rent 60% AMI as per table listed below and adjusted annually by HUD.

Maximum Rent - SF Lots

*Rents will be adjusted annually by HUD/Area Medium Income when HUD publishes the current year's Annual Area Median Income. Maximum Gross Rent includes a utility (water, sewer, gas, power and trash) allowance. 2021 rents are set forth below:

2021 Maximum (60% AMI) Rent Table	Occupancy	AMI Target	Qualifying Income Per Unit based on Occupancies and 60% AMI	Maximum Monthly Rent Including Utilities Based on AMI %
Studio	1.00	60% AMI	\$50,220	\$1,255.50
1 Bedroom	2.00	60% AMI	\$57,360	\$1,434.00
2 Bedroom	3.00	60% AMI	\$64,560	\$1,614.00
3+ Bedroom	4.00	60% AMI	\$71,700	\$1,792.50

If "For Rent" Workforce Units within SF Lots are converted to "For Sale" Workforce Units at a future date, the Maximum Purchase Price will be calculated using the following input criteria established at the time this Housing Agreement was executed:

- AMI Target 50 to 80% AMI as per section 5.2.2.5 of the Development Agreement
- 5% down payment
- Mortgage Interest Rate
- Property Tax
- Private Mortgage Insurance
- Insurance
- HOA Fees

- **Size of Unit (bedrooms)/Occupancy**
- **3% maximum annual appreciation**

Completion of construction of Workforce Units on the Single Family Lots: Construction of the Single Family Lots shall be at no less than a rate of one (1) Workforce Unit per three (3) Market Units. Therefore, certificates of occupancy shall be issued consistent with one (1) Workforce Unit for every three (3) Market Units.

TOTALS

Number of Workforce Units within ADU Lots = 25

Number of For Rent Workforce Units within SF Lots = 7

Total Number of Workforce Units (ADU Lots + SF Lots) = 32

Total Number of Workforce Units = 32

Number of Market Rate For Sale Units associated with the ADU Lots = 25

Number of Market Rate Units on Single Family Lots = 68

Total Number of Market Rate Units = 93

Total Number of Workforce Units + Total Number of Market Rate Units = 125

WHEREFORE, the County Manager has executed this Approved Project Summary this ___ day of _____, 20__



Thomas C. Fisher, County Manager
Summit County, Utah