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 Raschelle Hobbs, Recorder Salt Lake County, Utah
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DECLARATION AND AGREEMENT FOR WORKFORCE HOUSING DEED RESTRICTIONS

This DECLARATION AND AGREEMENT FOR WORKFORCE HOUSING DEED RESTRICTIONS (“Declaration”) is effective as of the date the Declaration is recorded at the office of the Salt Lake County Recorder (the “Effective Date”) and is entered into by and between the CLARK AND CHRISTINE IVORY FOUNDATION, a Utah nonprofit corporation (“Ivory”) which is the owner of certain real property more particularly described on **Exhibit 1**, for the benefit of and enforceable by the Community Reinvestment Agency of Draper City, a political subdivision of the State of Utah (“Agency”).

WHEREAS, Ivory owns and is developing a residential project known as Phase 7 and Phase 10 of the Big Willow Subdivision located at approximately 11400 South and 580 West in Draper City, Salt Lake County, State of Utah (“Residential Project”);

WHEREAS, Ivory and the Agency share a goal of creating workforce housing in Draper City (“City”) with a preference for the City’s “critical workforce” which consists of employees of Draper City and Canyons School District;

WHEREAS, Ivory and the Agency entered into that certain “Workforce Housing Agreement” (“Agreement”) dated as of 7 January 2016

WHEREAS, this Declaration is attached to the Agreement and is incorporated by reference into the Agreement;

WHEREAS, the Agreement provides for a payment by the Agency from the Agency’s Housing Fund to Ivory the amount of One Hundred Thousand Dollars (\$100,000.00) per Unit for the construction and Sale of the seven (7) designated Affordable Housing Units (collectively, the “Workforce Housing Units” or “Units”; each individually, a “Workforce Housing Unit” or “Unit”) within the residential Project with the maximum total Agency Contribution of Seven Hundred Thousand Dollars (\$700,000). The Workforce Housing Units are more particularly described on **Exhibit 1**; and

WHEREAS, the purpose of the Agreement and the Agency Contribution is to provide seven (7) Workforce Housing Units which qualify as income targeted housing as defined in UCA § 17C-1-102(32) which shall be sold by Ivory and by subsequent Owners to those with an annual household income of 80 percent and 120 percent of the Salt Lake County household median income;

NOW THEREFORE, in consideration of the mutual covenants set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Ivory does hereby record the following Restrictive Covenants to fulfill the purposes of the Agreement to assure that the seven designated Workforce Housing Units are sold in accordance with the Agreement and in compliance with UCA § 17C-1-412.

1. DEFINITIONS:

- 1.1. **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 his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home for a minimum of nine months out of each calendar year.
- 1.2. **Non-Qualified Purchaser.** Any buyer of a Workforce Housing Unit that is not a Qualified Purchaser.
- 1.3. **Owner.** The title owner of record of at least a fifty percent (50%) undivided interest of the Workforce Housing Unit.
- 1.4. **Owner-Occupied.** A Unit that is occupied by the Owner of the Workforce Housing Unit as the Primary Residence.
- 1.5. **Primary Residence.** The place where a Domicile has been established.
- 1.6. **Qualified Purchaser.** A person or person(s) with a combined annual household income of between eighty percent (80%) and one hundred twenty percent (120%) of the Salt Lake County household median income as set forth in UCA §17C-1-102(32) for income targeted housing. For purposes of this definition, annual income shall be determined based on total income, before any adjustments, as shown on federal income tax filings for the last completed calendar year. A person that owns other residential property shall not qualify as a Qualified Purchaser, regardless of income.
- 1.7. **Critical Workforce Qualified Purchaser.** A Qualified Purchaser who meets the following additional criteria is a Critical Workforce Qualified Purchaser:
 - At least one adult who will be an Owner of the Workforce Housing Unit is employed on a full time (at least 30 hours per week), permanent, basis by Draper City or by Canyons School District and is in good standing with respect to such employment and beyond any initial probationary period.
- 1.8. **Sale.** The term “sale,” or any derivative thereof (e.g., “sales,” “sold,” and “sell”), shall include any transfer of title of a Workforce Housing Unit, regardless of whether or not any consideration is provided to the transferor in exchange. This shall include, but is not limited to, any gift, assignment, or other transfer or conveyance of title.

2. SALES OF WORKFORCE HOUSING UNITS.

- 2.1. **INITIAL SALES.** The initial Sale by Ivory of the designated Workforce Housing Units, described in Exhibit 1, shall be only to Qualified Purchasers with a preference for Critical Workforce Housing Qualified Purchasers.
- 2.2. **INITIAL PRICING OF WORKFORCE HOUSING UNITS.** The sales price offered by Ivory for the initial sale of each Workforce Housing Unit shall be as follows:

Unit 1 (716 - Solgarden): \$ 430,000
Unit 2 (717 – Sundborn w/ finished basement): \$ 475,000
Unit 3 (718 - Solgarden): \$ 430,000
Unit 4 (1001 – Solgarden w/ finished basement): \$ 540,000
Unit 5 (1002 – Sundborn): \$ 390,000
Unit 6 (1003 – Upsala): \$ 500,000
Unit 7 (1004 – Solgarden): \$ 430,000

For Units 4, 5, 6, and 7, the sales price for the initial sale of each of these Units may be adjusted upward based on increases in actual development and construction costs after the date of this Agreement. The adjustment in sales price, if any, for each of these Units shall not exceed ten percent (10%) of the price listed above for each Unit.

- 2.3. **SUBSEQUENT PRICING OF WORKFORCE HOUSING UNITS.** Following the initial sale of a Unit by Ivory, subsequent sales of Units shall be governed by a resale formula that establishes the maximum permitted resale price of the unit (“**Maximum Sales Price**”). In no event shall a Unit be sold by the Owner for an amount in excess of the Maximum Sales Price, which is equal to the actual purchase price the Owner paid for the Unit plus an increase of four percent (4%) per year from the date of purchase to the date the Unit Owner lists the Unit for sale. The subsequent purchaser shall pay no more than the Maximum Sales Price. Real estate commissions, seller’s closing costs, and capital improvements, except as described in Section 2.3.a, below, shall not be added to the Maximum Sales Price.
 - a. The value of certain capital improvements, as listed on **Exhibit 2** to this Declaration (the “**Permitted Capital Improvements**”), may increase the Maximum Sales Price, under the following conditions:
 - i. All Permitted Capital Improvement items and costs shall be preapproved by the Agency in writing, and shall be verified by the Agency after completion, in order to increase the Maximum Sales Price.
 - ii. In order to get credit for Permitted Capital Improvements for which a building permit is required, the Permitted Capital Improvement will not be counted unless it received a final inspection and is considered completed by the City Building Department.
 - iii. The increase to the Maximum Sales Price from Permitted Capital Improvements shall be calculated as follows:

1. Prior to offering the Unit for sale, the Owner shall request from the Agency an estimate of the increased market value of the Unit resulting from all Permitted Capital Improvements. The Agency shall request such an estimate from a real estate professional (either a licensed appraiser or real estate agent) with knowledge of the market for properties similar to the Unit. The Agency may impose a fee on the Owner of up to \$500.00 for this service.
2. If the Owner disagrees with the estimate provided by the Agency, the Owner may obtain another estimate, at Owner's expense, from a different real estate professional. The Agency may elect to take the average of the two estimates as the increase to the Maximum Sales Price due to the Permitted Capital Improvements. Alternately, the Agency may require that the two real estate professionals who provided estimates of the value increase select a third real estate professional, whose opinion on the increase in market value shall be conclusive for purposes of calculating the Maximum Sales Price. The Owner shall bear all costs of obtaining the estimate from the third real estate professional.

- iv. The Owner acknowledges that the completion of Permitted Capital Improvements is not guaranteed to increase the market value of the Unit.
- v. The Agency has sole discretion to determine whether a particular proposed improvement is eligible to be a Permitted Capital Improvement per the requirements set forth in **Exhibit 2**.

2.4. **AGENCY REPURCHASE OPTION.** Prior to a subsequent sale of a Unit, the Agency shall have the option to purchase the Unit at the Maximum Sales Price. Prior to offering the Workforce Housing Unit for sale, the Owner shall provide written notice to the Agency of the Owner's intent to sell the Unit. The Agency shall have thirty (30) days from receipt of the notice to notify the Owner of the Agency's intention to exercise this purchase option. If the Agency does not respond to such written notice within thirty (30) days or the Agency provides notice that it does not intend to exercise the purchase option, the Owner may proceed to sell the Unit as described in Section 2.5, below. If the Agency elects to exercise its purchase option, the Owner and the Agency shall make reasonable efforts to close on the transaction within sixty (60) days of the date of the written notice provided by the Owner of the Unit.

2.5. **PREFERENCE TO CRITICAL WORKFORCE QUALIFIED BUYERS.** If an offer to purchase a Workforce Housing Unit is received from a Qualified Purchaser (but not a Critical Workforce Qualified Purchaser) which is acceptable to Ivory or a subsequent Owner, Ivory or the subsequent Owner shall not accept the offer for a period of thirty (30) days after written notice is provided to the Agency, to give a Critical Workforce Qualified Purchaser the opportunity to match the offer. If the offer is matched by a Critical Workforce

Qualified Purchaser, Ivory shall sell the Workforce Housing Unit to the Critical Workforce Qualified Purchaser.

- a. If Ivory or a subsequent Owner receives multiple offers from Critical Workforce Qualified Purchasers within the thirty (30) day time period, Ivory or subsequent Owner shall accept the first matching offer received from a Critical Workforce Qualified Purchaser and attempt in good faith to close the sale of the Workforce Housing Unit to the first matching Critical Workforce Qualified Purchaser. In the event the sale to the first matching Critical Workforce Qualified Purchaser fails to close, Ivory or the subsequent owner shall accept the offer of the second matching Critical Workforce Qualified Purchaser and attempt in good faith to close the sale of the Workforce Housing Unit to the matching Critical Workforce Qualified Purchaser. This process shall continue until either the Workforce Housing Unit is sold or there are no remaining offers from Critical Workforce Qualified Purchasers.
- b. If no matching offer is received or all Critical Workforce Qualified Purchasers that made offers on the Unit are unable to close and the Agency declines to match the offer itself and purchase the Unit as described in the preceding paragraph, the Workforce Housing Unit may be sold to the original offeror who is a Qualified Purchaser but not a Critical Workforce Qualified Purchaser.
- c. The Agency may, at its option, submit a list of, or refer Critical Workforce Qualified Purchasers known to the Agency to Ivory or subsequent owners, which shall in no event be considered a complete or exhaustive list of eligible Critical Workforce Qualified Purchasers.

2.6. **RESALE OF WORKFORCE HOUSING UNIT**. Following the initial Sale by Ivory to a Qualified Purchaser a Workforce Housing Unit may only be sold to another Qualified Purchaser, or to the Agency as described in this Declaration, for a period of fifty (50) years following the date of the initial Sale by Ivory. The preference for Critical Workforce Qualified Purchasers shall continue for the same fifty (50) year period. Subsequent Sales which are subject to the requirements of this Declaration shall also include, but are not limited to, Sales following foreclosure, short Sales, and Sales pursuant to a court order or stipulation.

2. ADDITIONAL RESTRICTIONS AND CONDITIONS

- 3.1. **OWNER OCCUPANCY**. All Workforce Housing Units shall be Owner-Occupied by the Qualified Purchaser as the Primary Residence for the Qualified Purchaser. Any exceptions to this requirement must be granted in writing by the Agency.
- 3.2. **RENTAL OF UNITS**. No Workforce Housing Unit Owner may rent or lease their Unit or any portion thereof unless the Agency, at its sole discretion, has provided prior written approval of such rental activity. Renting the Unit, in whole or in part, without the prior approval of the Agency, constitutes a breach of this Declaration. If approval to rent is granted in extenuating circumstances, it shall not total more than 12 months and the option

shall not be exercised more than once by the same Owner. In no circumstances are nightly or short term (less than 30 days) rentals of Units allowed.

- 3.3. **FINANCING**. The Owner of a Unit shall not, under any circumstances, obtain financing secured by the Unit that, in aggregate, exceeds the Maximum Sales Price at the time of such financing. Noncompliance with this Section is a breach of this Declaration.
- 3.4. **MAINTENANCE AND UPKEEP**. The Owner of the Unit shall maintain the Unit in good working order and shall perform repairs and maintenance as may be reasonably necessary.
- 3.5. **MODIFICATIONS AND IMPROVEMENTS**. All alterations, modifications, and improvements to the Unit shall be performed in accordance with all applicable standards, including but not limited to building code requirements and building permit requirements.
4. **DEED LANGUAGE**. All deeds conveying the Workforce Housing Units shall include the following provision:

SUBJECT TO THE RESTRICTIONS AND PROVISIONS OF
“DECLARATION AND AGREEMENT FOR WORKFORCE HOUSING
DEED RESTRICTIONS” RECORDED ON _____ AS ENTRY
NUMBER _____ IN THE RECORDS OF THE SALT LAKE
COUNTY RECORDER.

5. ENFORCEMENT OF DECLARATION

- 5.1. **REMEDIES AND ENFORCEABILITY**. Ivory and the Agency acknowledge that the primary purpose for requiring compliance by Ivory and subsequent Owners of Workforce Housing Units with the restrictions provided in this Declaration is to assure the purposes and goals of this Declaration and the Agreement are met. BY REASON THEREOF, IVORY AND SUBSEQUENT OWNERS IN CONSIDERATION OF THE PAYMENT TO IVORY BY THE AGENCY AND SUBSEQUENT OWNERS’ HAVING ACCESS TO INCOME TARGETED HOUSING HEREBY AGREE AND CONSENT THAT THE AGENCY SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO OBTAIN SPECIFIC PERFORMANCE BY IVORY AND SUBSEQUENT OWNERS OF THEIR OBLIGATIONS UNDER THIS DECLARATION IN THE THIRD DISTRICT COURT FOR THE STATE OF UTAH. Ivory and subsequent Owners hereby further specifically acknowledge that the Agency cannot be adequately compensated by monetary damages in the event of a violation of the restrictive covenants in or the terms of this Declaration.
- 5.2. **ADDITIONAL OPTIONAL REMEDY**. In addition to the Remedies, set forth above and those available at law and equity, if there is Sale of a Workforce Housing Unit to a person or entity other than a Qualified Purchaser the Agency may, at its sole option and discretion, require that the party who sold the Workforce Housing Unit to an Owner that is not a

Qualified Purchaser, repay to the Agency the Agency Contribution of One Hundred Thousand Dollars (\$100,000.00) on a pro rata basis over the fifty year period of the restrictions in this Declaration with interest at the rate of six percent (6%) per annum. For example, if the Sale to an Owner who is not a Qualified Purchaser occurred in year twenty five, the Agency would be repaid Fifty Thousand Dollars (\$50,000.00) plus interest on the such amount accruing from the Effective Date of this Declaration at the rate of six percent (6%) per annum. Such payment shall be due thirty (30) days after the date of the Notice that such payment is due. Failure to make payment within thirty (30) days shall cause the interest to accrue from the Effective Date of these Declarations at the rate of twelve percent (12%) per annum.

6. AGENCY RIGHT TO PURCHASE UPON DEFAULT OF PURCHASE LOAN.

- 6.1 **AGENCY RIGHT TO PURCHASE.** In the event an Owner defaults on repayment of the loan to purchase a Workforce Housing Unit, secured by the Workforce Housing Unit (“Purchase Loan”), the creditor having the right to demand repayment of the Purchase Loan (“Secured Creditor”) shall prior to, or simultaneously with, initiation of any foreclosure proceedings, provide notice to the Agency of the default, according to the notice requirements of Subsection 7.3. Thereafter at any time prior to the trustee’s sale in a non-judicial foreclosure, or entry of judgment in a judicial foreclosure, the Agency shall have the right to purchase the Purchase Loan for the Workforce Housing Unit. To purchase the Purchase Loan for the Workforce Housing Unit the Agency shall give written notice to the Secured Creditor of the Agency’s intent to exercise its right to purchase the Purchase Loan for the Workforce Housing Unit. And the Agency shall pay the Secured Creditor an amount calculated by the Secured Creditor under Section 57-1-31 of the Utah Code, plus the unpaid balance of the Purchase Loan.

7. MISCELLANEOUS

- 7.1. **TERM OF DECLARATION.** The term of this Declaration shall commence as of the date first set forth above and continue in full force and effect for a period not less than fifty (50) years from the Effective Date
- 7.2. **SEVERABLE OBLIGATIONS AND LIABILITIES.** The parties understand that the Workforce Housing Units will be owned by individual and distinct Owners. A subsequent Workforce Housing Unit Owner of any particular Unit shall not be liable for, or encumbered by, the obligations or liabilities under this Declaration associated with any other Workforce Housing Unit or Owner.
- 7.3. **NOTICES.** Any and all notices and demands by any party to any other party 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. Such service by mail or courier shall be conclusively deemed made on the first business day delivery is attempted. The parties may change their

respective addresses for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address, shall not become effective, however, until the actual receipt thereof by the others.

Any notice or demand to Ivory shall be sent to the following address:

Clark and Christine Ivory Foundation
978 E. Woodoak Ln
Salt Lake City, UT 84117

Any notice or demand to the Agency shall be sent to the following address:

Community Reinvestment Agency of Draper City
1020 E. Pioneer Road
Draper, UT 84020
Attn: City Manager

Any notice or demand to a subsequent Unit Owner shall be addressed to the subsequent Owner at the then current mailing, notice, or delivery address on the records of the Salt Lake County Assessor for the particular Workforce Housing Unit

- 7.4. **SEVERABILITY.** Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be valid under applicable law. If any provision of any of the foregoing Declaration shall be invalid or prohibited under applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions in this Declaration.
- 7.5. **ATTORNEYS' FEES.** If the Agency shall take or defend against any action for enforcement or any other relief arising out of this Declaration, and the Agency is the prevailing party in such action or defense the Agency shall be entitled to reimbursement for all costs including, but not limited to, reasonable attorneys' fees and court costs incurred by the Agency 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.
- 7.6. **CHOICE OF LAW.** This Declaration shall be governed and construed in accordance with the laws of the State of Utah.
- 7.7. **SUCCESSORS.** This Declaration shall run with the land and shall be binding upon all subsequent Owners of the Workforce Housing Units as well as the heirs, successors, and assigns of subsequent Owners.
- 7.8. **PARAGRAPH HEADINGS.** Paragraph or section headings within this Declaration 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.

- 7.9. **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.
- 7.10. **MODIFICATIONS.** Ivory and the Agency agree that after Ivory has sold all of the Workforce Housing Units the Agency may modify or amend this Declaration in order to better express or state the intent of the Agreement and these Declarations to provide affordable housing opportunities in the City. Prior to the time Ivory has sold all of the Workforce Housing Units, any modifications of this Declaration shall be effective only when made by writings signed by the parties, or their successors, hereto and recorded with the Recorder of Salt Lake County, Utah.
- 7.11. **RECORDATION.** Upon execution and delivery of this Declaration by Ivory to the Agency, the Agency shall cause this Declaration to be recorded and filed in the office of Salt Lake County Recorder, and shall pay any fees and charges incurred in connection therewith.
- 7.12. **COVENANTS RUN WITH LAND.** Ivory intends, declares and covenants, on behalf of itself, all future owners of the Workforce Housing Units, and all parties that obtain any interest in any Workforce Housing Unit that this Declaration and the covenants and restrictions set forth herein, regulating and restricting the rents, use, occupancy and transfer of the Units, shall be covenants running with the land and improvements constituting the Units, for the benefit of the Agency, shall encumber the Units, and shall be binding upon Ivory, all subsequent Workforce Housing Unit Owners, and any other party with an interest in any Unit.
- 7.13. **INTEGRATION.** This Declaration, along with the Agreement, constitutes the entire Declaration between the parties with respect to the matters set forth herein.

8. **OBTAINING A COPY OF AGREEMENT.** Any subsequent Owner may obtain a copy of the Agreement by contacting Draper City and requesting a copy.

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“OWNER”

**CLARK AND CHRISTINE IVORY
FOUNDATION, a Utah nonprofit corporation**

By: *Porter Openshaw*

Name: *Porter Openshaw*
Title: *Chief Financial Officer*

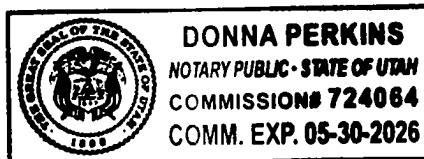
ACKNOWLEDGEMENT

STATE OF UTAH)
:§
COUNTY OF SALT LAKE)

On this 10 day of January, in the year of 2025, personally appeared before me Porter Openshaw, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say he/she is the CFO of the CLARK AND CHRISTINE IVORY FOUNDATION, a Utah nonprofit corporation and that said document was signed by him/her on behalf of said entity.

Witness my hand and official seal.

Donna Perkins
NOTARY PUBLIC



“AGENCY”

COMMUNITY REINVESTMENT AGENCY OF
DRAPER CITY

T. G. Carlson
Name:
Title:

ATTEST:

Laura Oscarson
Name: Laura Oscarson
Title: City Recorder

APPROVED AS TO FORM:

Traci Gunderson
Name: TRACI GUNDERSEN
Title: CITY ATTORNEY



EXHIBIT 1
LEGAL DESCRIPTION OF WORKFORCE HOUSING UNIT

EXHIBIT 2

PERMITTED CAPITAL IMPROVEMENTS

1. The term "Permitted Capital Improvements" as used in the Declaration 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 that are eligible for federal income tax credits, such as the Residential Clean Energy Credit or the Energy Efficient Home Improvement Credit.
 - c. Improvements for the benefit of seniors and/or handicapped persons.
 - d. Improvements to add and/or finish permanent/fixed storage space.
 - e. Improvements to finish unfinished space.
2. "Permitted Capital Improvements" shall not include any of 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.

EXHIBIT D

Selection Procedures

The Agency shall follow these procedures in selecting the initial purchasers of the Workforce Housing Units:

1. Of the seven Workforce Housing Units contemplated by this agreement, the Agency shall use reasonable efforts to match each Unit with a Critical Workforce Qualified Purchaser, with four such purchasers from Draper City and three such purchasers from Canyons School District (“CSD”).
2. The City and CSD shall each publicize the potential availability of the Workforce Housing Units and solicit interest from those employees that would qualify as a Critical Workforce Qualified Purchaser (each, a “Potential Purchaser”).
3. The City and CSD shall submit to the Agency a listing of Potential Purchasers.
 - a. In making such a list, each entity may, but is not required to, give preference to Potential Purchasers based on length of employment.
4. Potential Purchasers will go through income qualification process as determined by an unrelated third party (e.g. Utah Housing Preservation Fund).
5. From the lists provided, the Agency shall randomly select the Potential Purchasers for the available Workforce Housing Units in such a manner as to allow purchases by Qualified Purchasers from the City and CSD.
6. Potential Purchaser will acquire a pre-qualification letter from a lender indicating their financial ability to be able to purchase a Workforce Housing Unit.