



820 Black Bear Road, Unit G-17  
P.O. Box 840, Telluride, CO 81435  
Tel: 970-728-3034 Fax: 970-728-5371  
E-mail: [courtney@smrha.org](mailto:courtney@smrha.org) Web: [www.smrha.org](http://www.smrha.org)

## **SAN MIGUEL REGIONAL HOUSING AUTHORITY REGULAR MEETING**

**November 7, 2022 @ 3:30 PM**

<b>Via Zoom</b>	<b>ID#: 484.178.1222</b>	<b>PW: SMRHA2022</b>
-----------------	--------------------------	----------------------

- I. CALL TO ORDER**
- II. PUBLIC DISCUSSION**  
*No more than five minutes per person.*
- III. REVIEW OF AGENDA**
- IV. APPROVAL OF MINUTES**  
October 3, 2022
- V. WORKSESSION ITEMS**
  - A. Rio Vista Federal Funding Requirements
  - B. Definition of Multi-Family Lots
  - C. Senior Home Share Program
  - D. Review of 2023 SMRHA Budget
- VI. ACTION ITEMS**
  - A. Approval of 2023 SMRHA Budget. Motion.
- VII. MANAGER REPORT**
- VIII. OTHER BUSINESS**
- IX. ADJOURN**

### **NEXT SCHEDULED MEETING**

**December 5, 2022**

**1:00 PM**

*This agenda is subject to change including the addition of items or the deletion of items at any time. The lengths of discussions may be shorter or longer, at the Board's discretion. If you are planning to come speak to a matter, let the SMRHA Manager know by calling 970-728-3034, ext. 5.*



820 Black Bear Road, Unit G-17  
P.O. Box 840, Telluride, CO 81435  
Tel: 970-728-3034 Fax: 970-728-5371  
E-mail: [admin@smrha.org](mailto:admin@smrha.org) Web: [www.smrha.org](http://www.smrha.org)

**SAN MIGUEL REGIONAL HOUSING AUTHORITY**  
**REGULAR MEETING MINUTES**  
**MONDAY, OCTOBER 3, 2022 @ 1 PM**

**The following Board Members were present via Zoom:**

- Lance Waring, San Miguel County Commissioner
- Mike Bordogna, San Miguel County Manager
- Scott Robson, Telluride Town Manager

**The following were absent:**

- Adrienne Christy, Telluride Town Council Member
- Pamela Shifrin, At Large Board Member

**The following were also in attendance:**

- Courtney McEleney, SMRHA Manager

**I. CALL TO ORDER**

The Regular Meeting of the San Miguel Regional Housing Authority (SMRHA) Board was called to order by Lance Waring on Monday, October 3, 2022 at 1:07 p.m. via Zoom.

**II. PUBLIC DISCUSSION**

No public items were received.

**III. REVIEW OF AGENDA ITEMS**

No additions or subtractions of the Agenda were considered.

**IV. APPROVAL OF MINUTES**

Upon MOTION by Mike Bordogna and seconded by Scott Robson the minutes of August 15, 2022 were unanimously approved.

**V. WORKSESSION ITEMS**

- A. **Administrative Coordinator Discussion** - Courtney provided an update on the Administrative Coordinator position. Scott Robson suggested reaching out to Melanie Wasserman Building F .
- B. **2023 Annual Report** - It was requested that Courtney resend the most recent annual report for review and add a deadline for comments.
- C. **SMRHA Education** - Mike Bordogna believes a Zoom Education Presentation exists and requested that Courtney search for the recording.
- D. **DR Inventory** - Heather Widland from the County will be mapping all Deed Restricted properties.

**VI. ACTION ITEMS**

Upon MOTION by Mike Bordogna and seconded by Scott Robson a Request for an Extension of Time to perform under the Exception Agreement and PDA dated 12/08/21 by Marty McKinley was GRANTED for one year to October 03, 2023.

**VII. MANAGER REPORT**

Courtney reviewed the Manager Report

**VIII. OTHER BUSINESS**

**IX. ADJOURN**

The Regular Meeting of the San Miguel Regional Housing Authority (SMRHA) Board was adjourned by Lance Waring on Monday, August 15, 2022 at 1:45 p.m. via Zoom

---

TO: SMRHA Board  
CC: Courtney McEleney, SMRHA Manager; and Amy Markwell, SMC Attorney  
FROM: Lois Major  
DATE: November 1, 2022  
MEETING: November 7, 2022  
RE: Rio Vista II: Deed Restriction Review and Discussion

---

**1. Purpose:** To review and discuss the deed restriction on the RVII units. Should the Income Restriction be modified or removed? Should the SMCHA consider updating the entire Covenant and Guidelines?

**2. Overview:** Rio Vista II is a multi-family housing development made possible by state and local grant funds and authorized by resolution 2002-23 in March of 2002. Although it is a MFHU, the units must be owner-occupied. At the time RVII was developed, the SMCHA adopted a deed-restriction that was a hybrid of the County's LUC provisions and the Town of Telluride deed restriction template and guidelines. RVII has its own set of guidelines to help interpret the deed restriction. The result has been inadequate and has created unanticipated barriers to ownership.

**A. Key Requirements of the Lenders:** The Lenders required that the housing have a price appreciation cap of no greater than 3.2%

**B. Key Provision in Resolution 2000-23 approving the [Rio Vista II] PUD:** "Legally binding assurances that residential units to be developed on Lots O and P will remain affordable, with all units owner-occupied, including, but not limited to the imposition of appropriate price caps on the sale/resale of the units." (Resolution 2000-23, p.4 paragraph 2.)

**C. Key Provisions of the Deed Restriction.**

- i. Owner Occupied (§3.1)
- ii. Income Limit -80% AMI (Definitions §2.2)
- iii. Price appreciation cap of 3% per year (§4)
- iv. 75% of income earned by employment in SMC
- v. Personal Net worth cannot exceed 2x the Price of the Unit
- vi. Owner may not own other residential property in the 4-county region

**3. Concerns:**

**A. Income Limit:** Definitions: §2.2 "Income Restriction" shall mean an additional qualification requirement that applies to Declarant and all subsequent owners of the Property. Any Qualified Owner must comply with the qualification requirement by earning at or below 80% of the Area Median Income for San Miguel County as

determined by the most recently published U.S. Department of Housing and Urban Development's Area Median Income guidelines.

- a. The income limit is too low and does not allow for economic growth of the Owner/Household.
- b. 80% AMI is currently a non-livable wage in San Miguel County. Consider relaxing this percentage to 180-200% AMI.
- c. Economic growth: Due to the wording in the Covenant, the owner may not increase their income level above the 80% AMI. This is so restrictive as to prevent any hard-working local employee from improving their economic status. Consider changing the Covenant to require the Owner to qualify at the time of purchase under the Income Restriction and then remove that factor as an on-going requirement.

**B. New Deed Restriction Template:** As stated above, the original RVII Covenant was a compilation of the SMC LUC and the then-current Town of Telluride deed restriction and guidelines. The result was imperfect and could benefit from an overhaul. The Town of Telluride Housing Authority reviews its guidelines every two years on average and has adopted major changes to the guidelines since 2002. SMCHA has recently adopted a new deed restriction covenant and guidelines for the Norwood Pinion Park neighborhood. It is a neighborhood that has a price appreciation cap and an AMI limit due to funding requirements.

Consider adoption of a template for RVII similar to the Norwood Pinion Park template. Such a change would benefit the current owners, provide clarity for future purchasers, conform the covenant to the newly adopted Norwood Pinion Park Covenant, reduce the versions of covenants and guidelines in the county and reduce costs to create and implement.

**4. Direction to SMCHA and SMRHA staff:** Based upon your discussion, please direct SMCHA and SMRHA staff to draft policies and/or present a new covenant and guidelines to implement the direction and reschedule for another work session or action item as deemed appropriate.

---

Attachments:

1. Resolution 2000-23: Approval of RVII PUD
2. Resolution 2002-03 Approval of RVII Covenant and Guidelines
3. HUD AMI Chart for San Miguel County
4. Norwood Pinion Park Covenant
5. Norwood Pinion Park Guidelines

**RESOLUTION**  
**BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO**  
**APPROVING A SUBSTANTIAL PLAT AND P.U.D. AMENDMENT**  
**FOR LOT O AND FOR LOT P, LAWSON HILL P.U.D.**

**Resolution 2000-23**

**WHEREAS**, Lot P, LLC, a Colorado limited liability company, owns certain development rights associated with Lot O, Rio Vistas, Lawson Hill P.U.D. and with Lot P, Sunshine Valley Condominiums, Lawson Hill, P.U.D.. Lot P, LLC and West Central Housing Development Organization, a Colorado nonprofit corporation (hereinafter jointly and severally referred to as the "Applicant") request a Substantial Plat and P.U.D. Amendment for Lot O and Lot P of the Lawson Hill P.U.D.. The Applicant's Substantial Plat and P.U.D. Amendment seeks to increase residential density and to convert neighborhood commercial square footage to residential housing as follows:

1. Lot O would receive two additional 1,040 square feet units and four additional 602 square feet units, thereby increasing the total population by 14 people;
2. Lot O would receive an additional 864 square feet of industrial square feet;
3. Lot O would increase overall by 5,352 square feet (2x1,240 + 4x602 + 864);
4. Lot P would receive an additional four 890 square feet residential units and four 1,040 square feet residential units, thereby increasing the total population by 20 people;
5. Such Residential square footage and units on Lot P would be achieved by converting the remaining unbuilt neighborhood commercial square footage (5,946 square feet) to residential AH PUD Zoning, thereby increasing the residential square footage on Lot P by 1,774 square feet; and
6. Lot P would receive an additional 1,000 square feet to allow the existing residential units to have 899 square feet per unit for a total overall increase of 2,774 square feet (1,774 + 1,000).

**WHEREAS**, Lot O is currently zoned for 14 units, 33 persons, and 22,400 square feet of residential and industrial square footage (the square footage does not include garage space). The new zoning on Lot O, if approved as requested, would allow for 20 units, 47 persons, and 27,752 square feet of residential and industrial square footage;

**WHEREAS**, Lot P is currently zoned for 37 units, 75 persons, and 43,012 square feet of residential and neighborhood commercial square footage. The lot currently has 32 existing residential units and 3 existing neighborhood commercial units. The new zoning on Lot P, if approved, would allow for 45 units, 85 persons, and 45,786 square feet of residential and neighborhood commercial;

**WHEREAS**, the L.U.C. Population Density is determined by unit size. A dwelling unit with less than 900 square feet is allocated two persons of density. According to the Applicant, 19 units constructed on Lot P have less square footage than allowed. These homeowners would like to maximize their potential square footage, and Applicant requests that the County grant an additional total 1,000 square feet so these homeowners may increase their unit to the maximum size allowed by the P.U.D. approval;

**WHEREAS**, based upon San Miguel County Land Use Code ("L.U.C.") § 5-5, Road Standards, each residence contributes 6 trips per day to the traffic count. The requested increase of 6 residential units on Lot O would contribute 36 average daily trips and the total industrial could contribute approximately 60 trips/day, depending on use;

**WHEREAS**, such development requires two-step County review in accordance with L.U.C. §§ 3-601, 5-1503 and 5-1803;

**WHEREAS**, L.U.C. § 5-1503 establishes the review standards for substantial plat amendments;

**WHEREAS**, at its regular May 10, 2000 meeting the Planning Commission recommended approval (3-2, Botenhagen and Saffler dissenting) of the application as submitted with the following conditions:

1. Providing verification by the Applicant of adequate water and sewer by the Town of Telluride and Telecam;
2. Providing documentation of existing water use for the Lawson Hill P.U.D.;
3. Providing parking as stated and required by the L.U.C.;
4. That the Applicant must satisfy the Top of the Hill property owners lawsuit; and
5. To grant all units on Lot P that do not have 899 square feet the additional square footage and one 1,150 square feet unit would be granted 350 square feet.

The Planning Commission recommendation was based upon compliance with L.U.C. § 5-1803 II., III., and VI. The Planning Commission also stated the Applicant should be able to mitigate the impacts on roadways and parking, but did not specify a recommendation on how this is to be accomplished;

**WHEREAS**, in an April 12, 2000 letter, Town of Telluride Public Works Director William Frownfelter states that Lot O is within the water/sewer service area described in the "Pre-Annexation, Utility Connection and Hydropower Lease Agreement for the Lawson Hill Project. The town has indicated that any proposed density for Lot O in excess of that previously contemplated by the Lawson Hill developer may require further negotiation with the Town and the developer and/or Town Council approval;

**WHEREAS**, in a May 8, 2000 memorandum, the Town of Telluride further states that any increases in uses or densities will result in less water being available for other parcels in the Service Area. The Town requests that the lot or lots in the Service Area that will receive less water as a consequence of increasing density of Lot O be specifically identified at this time, and that anticipated reductions on these lots be recorded or otherwise memorialized so there is no confusion in the future regarding densities, especially if the lots are sold to third parties;

**WHEREAS**, the Town also requested the County consider increased density only in the context of an overall plan for development in the vicinity, and that any shifts in development take into consideration current water limitations. The Town suggested any increase in density at the site should include an examination of traffic impacts on the state highway that could adversely affect the entire region;

**WHEREAS**, in a letter of May 31, 2000, the Town of Telluride advised that a review of calculations of existing and proposed water use in the Lawson Hill P.U.D. indicates that an increase in dwelling units on Lot O will not negatively impact the Town's overall allocation of water to the P.U.D. based upon a daycare facility only to be allowed on Lot S-1;

**WHEREAS**, in an April 12, 2000 letter, Telecam Project Manager Chris Blackwell states that Telecam, as a developer of Lawson Hill, has the ability and the intent to provide adequate water and sewer to both Lot O and Lot P to accommodate the affordable housing projects;

**WHEREAS**, in a May 5, 2000 letter, the Lawson Hill Property Owners Advisory Committee expresses concerns about additional traffic hazards with the increase in density on Lot O that is located at a hairpin turn. There is also concern about the proposed number of parking spaces allocated to the industrial square footage;

**WHEREAS**, the Colorado Department of Transportation has indicated in a letter that a state access permit will not be required for this project at this time. However, CDOT raised concerns about traffic volumes already impacting the intersections serving this project and substandard County road connections which raise traffic and safety concerns. This letter states: "The Department can no longer agree with the approval of more development whose traffic is directed to substandard access points prior to construction of any required improvements to bring the County road connection to Colorado Department of Transportation specifications and standards;"

**WHEREAS**, the Telluride Fire Protection District has reviewed and approved the submitted plans for the Substantial Plat and P.U.D. Amendment;

**WHEREAS**, the County Engineer, Norm Aufderheide, P.E., Buckhorn Geotech, has completed several site visits to this project, made recommendations which have been incorporated in the submitted plats and plans and specifications, and has indicated that the revised submitted plans, except for the Road Standard Variance request for Lots O and P, appear in conformance with the L.U.C. pursuant to his memorandums dated October 10, 2000;

**WHEREAS**, Norm Aufderheide, P.E. has reviewed and approved the cost estimates for the various improvements as certified by Eldon Hurst, P.E., which estimates total the sum of \$401,445.40;

**WHEREAS**, the Board of County Commissioners of San Miguel County, Colorado, considered this application, along with relevant evidence and testimony, at a public hearing on May 24, 2000 and May 31, 2000;

**WHEREAS**, on September 27, 2000, Eric Flora, on behalf of the Applicant, proposed to modify the Lot O application by deleting 400 square feet of industrial space in order to accommodate a relocation of parking spaces from the east end of Lot O to elsewhere within the development;

**WHEREAS**, the Applicant has determined, with assistance from a title insurance company representative, that Lot P, Lawson Hill, P.U.D. should not be separated into separate lots (P-3, P-4 and P-R) as originally proposed and instead, that certain condominium community known as Sunshine Valley Condominiums and that certain planned community known as Two Rivers should and may exist and share Lot P in accordance with the Colorado Common Ownership Act so long as a maintenance agreement is entered into between the Sunshine Valley Condominium Association, Inc. and the Two Rivers Owners Association, Inc. with respect to the shared common expenses of such communities;

**WHEREAS**, the Applicant has revised the plat map for Lot P, Lawson Hill P.U.D. to reflect the relationship and situation of Sunshine Valley and Two Rivers on Lot P, Lawson Hill P.U.D., and the County is not making any representation whatsoever as to the same;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of County Commissioners of San Miguel County, Colorado, hereby approves (2-1 with Zivian dissenting) a Substantial Plat and P.U.D. Amendment to increase residential density, increase industrial square feet and convert neighborhood



commercial square footage to residential housing on Lots O & P of the Lawson Hill P.U.D. as follows:

1. Lot O shall receive two additional 1,040 square feet units and four additional 602 square feet units, thereby increasing the total population by 14 people;
2. Lot O shall receive an additional 464 square feet of industrial square feet;
3. Lot O shall increase by a total overall square footage of 5,352 square feet ( $2 \times 1,240 + 4 \times 602 + 864$ );
4. Lot P shall receive an additional four 890 square feet residential units and four 1,040 square feet residential units, thereby increasing the total population by 20 people;
5. Such Residential square footage and units on Lot P is achieved by converting the remaining unbuilt neighborhood commercial square footage (5,946 square feet) to residential AH PUD Zoning, thereby increasing the square footage on Lot P by 1,774 square feet; and
6. Lot P shall receive an additional 1,000 square feet to allow the existing residential units to have 899 square feet per unit as allowed under the L.U.C.;
7. One existing 1150 square feet unit (Lot TR-31, Lot P) shall receive an additional 350 square feet (1,500 square feet total); and
8. The total overall square feet increase on Lot P shall be 3,124 square feet ( $1,774 + 1,000 + 350$ );

**BE IT FURTHER RESOLVED** that the Applicant's Colorado registered professional engineer shall provide a complete set of plans and specifications for the proposed site drainage, retaining walls, parking lots, parking spaces, berms, roads, and all other public improvements for Lot O and Lot P, including a soils and/or geological study for the proposed parking lot site on Lot O, and certify the estimated costs of such improvements for Lot O and for Lot P.

**BE IT FURTHER RESOLVED** that the application satisfies the applicable requirements of the Colorado P.U.D. Act of 1972: The modification is consistent with the efficient development and preservation of the entire Lawson Hill P.U.D. and does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across the street from Lots O and P, or the public interest, and is not granted solely to confer a benefit upon any person, since an increase in residential density will be applied to address the identified existing affordable housing shortfall in the Telluride Region.

**BE IT FURTHER RESOLVED** that the application satisfies the applicable L.U.C. standards in Sections 5-1503 and 5-1803 and specifically, as set forth in page 4 of the Planning Staff Report, Sections 5-1503 B. and 5-1803 A., B. and C.

**BE IT FURTHER RESOLVED** this approval is expressly conditional upon and subject to the Board of Commissioners granting the requested variances from the L.U.C. road standards, and the Applicant providing:

1. Satisfactory evidence that 6 of the 12 parking spaces located on Lot O and partially on Lot M that are proposed to be allocated to serve the proposed development on Lot O, are physically and legally available for that purpose, including written consents from any property owners who have a legal interest in those parking spaces;
2. Legally binding assurances that residential units to be developed on Lots O and P will remain affordable, with all units owner-occupied, including, but not limited to the imposition of appropriate price caps on the sale/resale of the units. Applicant shall not sell any units until such time as the assurance has been duly executed, acknowledged and delivered to the satisfaction of the Board; and

3. Fully executed and secured Improvements Agreements for the Lot O development, the Lot P developments (which includes the Two Rivers Planned Community) and the Elk Meadows development, all in the Lawson Hill P.U.D.

**BE IT FURTHER RESOLVED** that the Applicant shall submit appropriate condominium plats and maps for Lot O and Lot P, accurately describing all unit ownership interests and common elements as required by a title insurance company, who shall be responsible for reviewing and approving all title matters with respect to the plat maps and amendments.

**BE IT FURTHER RESOLVED** that the Applicant shall acquire written consent from all property owners on Lot O and Lot P for any improvements to be located within areas considered to be common elements.

**BE IT FURTHER RESOLVED** that no certificates of occupancy shall be granted by San Miguel County regarding Lot O or Lot P until all infrastructure improvements have been constructed in accordance with the provisions of the Land Use Code and the improvements agreement requirements.

**BE IT FURTHER RESOLVED** that the Applicant document the status of legal ownership for all parking spaces depicted on the final plat for Lot O and for Lot P.

**BE IT FURTHER RESOLVED** that the Applicant provide written approval from Telecam Partnership II to allow the proposed drainage plan for Lot O to discharge stormwater onto their property.

**BE IT FURTHER RESOLVED** that the Applicant shall fully fund the obligations set forth in the three Improvements Agreements contemplated above upon recordation of this resolution and the implementing final plat documents as a condition of approval.

**BE IT FINALLY RESOLVED** that all provisions herein and all representations and assurances of the Applicant made either verbally, in writing, at public meetings and hearings, on a final plat or in the application are conditions of approval, which shall survive recordation of any plat map and run with the land.

**DONE AND APPROVED** by the Board of Commissioners of San Miguel County, Colorado, on December 20, 2000.

**SAN MIGUEL COUNTY BOARD OF COMMISSIONERS**

By: *Anna M. Ziviaga*  
Anna M. Ziviaga, Chair

ATTEST:

By: *Marie A. Thomas*  
Chief Deputy Clerk



**RESOLUTION OF THE BOARD OF COMMISSIONERS OF SAN MIGUEL COUNTY, COLORADO, APPROVING AN AFFORDABLE HOUSING COVENANT & GUIDELINES FOR RIO VISTAS 2, LOT O OF THE LAWSON HILL P.U.D., SAN MIGUEL COUNTY, COLORADO**

**Resolution 2002-3**

**WHEREAS**, at the request of the San Miguel County Board of Commissioners (the "County" or "Board of Commissioners"), the San Miguel Regional Housing Authority ("SMRHA") has drafted a proposed new **SAN MIGUEL COUNTY AFFORDABLE HOUSING COVENANT, EQUITABLE SERVITUDE, AND REAL COVENANTS** ("Covenant") and **SAN MIGUEL COUNTY GUIDELINES FOR THE AFFORDABLE HOUSING COVENANT, EQUITABLE SERVITUDE, AND REAL COVENANTS** ("Guidelines") to be used instead of the existing County R-1 Deed Restriction for future housing projects where appropriate;

**WHEREAS**, the proposed new Covenant and Guidelines are structured, in part, to address maintaining the long-term affordability of Deed-restricted units in San Miguel County;

**WHEREAS**, units in San Miguel County currently subject to the R-1 Housing Deed Restriction will not be subject to this new covenant;

**WHEREAS**, at a December 15, 2000 public hearing, the Board of County Commissioners directed staff to work with the SMRHA to create a new Land Use Code Amendment that would provide Affordable Housing mitigation options;

**WHEREAS**, the San Miguel County Planning Department is currently working with the SMRIIA to develop new provisions for satisfying mitigation requirements in the Land Use Code Amendment, but this process could take several months;

**WHEREAS**, the County and the SMRHA are currently working with a willing landowner, the West Central Housing Development Organization, a Colorado nonprofit corporation, ("WCHDO"), who is prepared to apply the proposed Covenant and Guidelines to an affordable housing project located at Rio Vistas 2, Lot O, Lawson Hill P.U.D., San Miguel County, Colorado ("Rio Vistas 2");

**WHEREAS**, the "Road Standard Exemption and Substantial Plat and PUD Amendment for Lot O, Lawson Hill PUD" plat signed October 20, 2000 by the County, which includes Rio Vistas 2, states in a plat note that:

The Declarant [WCHDO] hereby covenants and agrees that no unit, or interest in a unit, in any Rio Vistas 2 "Future Building" may be sold, transferred or conveyed unless and until such time as an affordable housing deed restriction, containing a price appreciation cap equal to or less than 3.2 % per year and being at least as restrictive as the then most recent Town of Telluride Affordable Housing Deed Restriction, has been approved by the Board of Commissioners and has been duly executed, acknowledged and recorded with respect to all such units within Rio Vistas2. Such deed restriction shall be stated on the

condominium map referenced herein above and/or in a separate document recorded simultaneously with such map.

**WHEREAS**, San Miguel County Board of Commissioner Resolution 2000-23, signed December 20, 2000, approving a Substantial Plat and PUD Amendment for Lots O and P, Lawson Hill PUD, conditioned approval on the requirement that residential units to be developed on Lots O and P remain affordable, with all units being owner-occupied, including, but not limited to the imposition of appropriate price caps on the sale/resale of the units and no residential units could be sold in the Rio Vistas 2 building on Lot O or in future residential units on Lot P until such time as such assurance had been duly executed, acknowledged and delivered to the satisfaction of the Board of Commissioners;

**WHEREAS**, on January 22, 2002, the Board of Commissioners met in Telluride, Colorado in work session with County staff, SMRHA staff and WCHDO staff to review the proposed Covenant and Guidelines and to suggest changes to the proposed Covenant and Guidelines acceptable to the County, SMRHA and WCHDO;

**WHEREAS**, on January 30, 2002, at a regular meeting, the Board of Commissioners met in Telluride, Colorado to consider the adoption of the Covenant and the Guidelines for Rio Vista 2, which Covenant and Guidelines satisfied the applicable requirements set forth in San Miguel County Board of Commissioner Resolution 2000-23;

**WHEREAS**, the Board of County Commissioners considered a motion to apply the Covenant and Guidelines to Rio Vista 2 and found that the Covenant and Guidelines should be applied to Rio Vista 2 by a vote of 3-0. The approved motion specifically applied the Covenants and Guidelines to all residential units in the Rio Vistas 2 building;

**WHEREAS**, the Federal National Mortgage Association approved the proposed Covenant.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of San Miguel County approves the following Covenant, attached to this Resolution as Exhibit 1 and hereby incorporated herein by reference in its entirety as though fully set forth, and Guidelines, attached to this Resolution as Exhibit 2 and hereby incorporated herein by reference in their entirety as though fully set forth, that shall be applied to Rio Vistas 2.

**DONE AND APPROVED** this 27th day of March, 2002.

**SAN MIGUEL COUNTY BOARD OF COMMISSIONERS**

By: [Signature]  
Art Goodtimes, Chair

**ATTEST:**

By: Marie A. Thomas  
Chief Deputy Clerk to the Board



Exhibit 1

**SAN MIGUEL COUNTY  
AFFORDABLE HOUSING COVENANT,  
EQUITABLE SERVITUDE, AND REAL COVENANTS**

This **AFFORDABLE HOUSING COVENANT, EQUITABLE SERVITUDE, AND REAL COVENANTS** (hereinafter referred to as the "Covenant") is made and executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ ("Declarant") and their successors and assigns, for the benefit of San Miguel County, Colorado ("County"), the San Miguel County Housing Authority ("SMCHA"), and its duly designated and authorized agent, the San Miguel Regional Housing Authority ("RHA") their successors or assigns (together "Beneficiaries").

**Description of Property Subject to this Covenant.** The real property that is hereby burdened with this Covenant is legally described as follows:

[insert legal description]

(herein referred to as "the Property").

**Recitals.**

- a. Declarant and Beneficiaries intend for the property to remain affordable to specific income groups in the future through a fixed appreciation value and the terms of this Covenant; and
- b. Ownership of the property is limited to Qualified Owners; and
- c. This Covenant applies to the Declarant, as a Qualified Owner, and to all successors and assigns unless and until this Covenant is repealed and superseded by a subsequent Covenant executed by a new Declarant as a Qualified Owner; and
- d. The purpose of this Covenant is to provide an affordable housing opportunity to Qualified Owners and their families, and it is not intended to provide a free market investment value.

**1. Covenant to Run with the Property.** In consideration of the Recitals set forth above and for value received, Declarant does hereby grant, declare and impose the following restrictions, real covenants and equitable servitude upon the Property. This Covenant shall be an appurtenant burden upon Declarant, its successors and assigns, and run with the title to the Property for the benefit of the Beneficiaries, their successors and assigns, who may enforce the agreement, restrictions, covenants and equitable servitude imposed hereby and compel compliance therewith through the initiation of judicial proceedings for, but not limited to, specific performance, injunctive relief, declaratory relief, eviction, and damages. The covenants and equitable servitude shall be binding on Declarant and any successors or assigns who own, rent or occupy or have any material interest in the Property, unless and until this Covenant is

repealed and superseded by a subsequent Covenant executed by a new Declarant as a Qualified Owner. In such case, the new Covenant shall clearly state that it renders any prior Covenants null and void. In addition, the new Covenant shall specifically identify the recording information, including Reception Number, of any repealed and superseded Covenants in the real property records of the San Miguel County Clerk and Recorder. There shall be no modification or amendment to the covenants and equitable servitude without the written consent of Beneficiaries and Declarant recorded with any such amendment or modification.

**2. Definitions.** The following definitions shall apply to terms used in this Covenant.

**2.1 "Guidelines"** shall mean the San Miguel County Affordable Housing Guidelines that are now or may in the future be adopted, upon the recommendation of RHA, by the SMCHA, their successors or agents, which may be in effect at the time of closing on a sale or other transfer of the Property, or its successor document, as may be amended from time to time without the consent of the Declarant. These Guidelines may be amended from time to time in the sole and absolute discretion of the RHA with the consent of the SMCHA.

**2.2 "Income Restriction"** shall mean an additional qualification requirement that applies to Declarant and all subsequent owners of the Property. Any Qualified Owner must comply with the qualification requirement by earning at or below 80% of the Area Median Income for San Miguel County as determined by the most recently published U.S. Department of Housing and Urban Development's Area Median Income guidelines.

**2.3 "Non-Qualified Owner"** shall mean any person or entity that does not meet the income, asset, residency, employment, or other requirements specified in the Covenant or Guidelines necessary to own the Property and includes all persons who originally qualified as a Qualified Owner but subsequently became a Non-Qualified Owner. Non-Qualified Owners shall be required to offer the Property for sale as provided in Paragraph 5, below.

**2.4 "Owner"** shall mean either a Qualified Owner or a Non-Qualified Owner, as the context requires.

**2.5 "Party" or "Parties"** shall mean the Declarant, the County, SMCHA and RHA. All references herein to "RHA" shall be deemed to include the County and SMCHA, though the County and SMCHA may designate RHA as its agent in these matters.

**2.6 "Property"** shall mean that real property as identified above.

**2.7 "Qualified Owner"** shall mean Declarant or a natural person who acquires or possesses an ownership interest in the Property in compliance with the Covenant and the Guidelines and whose qualifications to own the Property have been certified by SMCHA or RHA at the time the Qualified Owner takes title to the Property. A Qualified Owner shall maintain continuous compliance with the Guidelines, as they may be amended from time to time, during the entire time that title to the Property is vested in the particular Qualified Owner.

**3. Restrictions on Ownership and Occupancy.** The ownership of the Property is limited exclusively to persons who meet the definition of "Qualified Owner" and their spouses, except as allowed in the Guidelines. Use and occupancy of the Property is limited exclusively to: Qualified Owners and their families. A Qualified Owner must:

- I. Occupy the Property as his or her sole place of residence;
- II. Not engage in any activity on or in the Property other than those permitted in the zone district and allowed by the applicable land use regulations;
- III. Sell or otherwise transfer the Property only in accordance with this Covenant;
- IV. Not permit any use or occupancy of the Property except in compliance with this Covenant.

**4. Maximum Sales Price.** In no event shall the Property be sold for an amount ("Maximum Sales Price") in excess of the price calculated as follows:

The Sales Price paid for the Property, \$ \_\_\_\_\_:

PLUS, an increase in price of three percent (3%) per year from the date of purchase to the date of Owner's notice of intent to sell (compounded yearly and prorated at the rate of .25 percent per each whole month for any part of a year);

PLUS, the costs of any public improvements for which assessments were imposed by any County authorized Public or Local Improvement District or any lawfully created special improvement district since the recordation date of this Covenant;

PLUS, the costs approved by RHA of any capital improvements;

PLUS, any other costs allowed by RHA pursuant to Guidelines in effect on the date of Owner's notice of intent to sell.

**4.1 Date of Notice.** For purposes of this Covenant, "date of Owner's notice of intent to sell" shall be the date on which written notice of intent is delivered to RHA.

**4.2 No Guarantee of Price.** Nothing herein shall be intended or construed to constitute a representation or guarantee by the parties that upon the sale of the Property the Declarant shall obtain the Maximum Sales Price.

**4.3 No Assumption of Owner's Costs.** No Owner shall permit any prospective buyer to assume any or all of the Owner's customary closing costs, nor accept any other consideration, which would cause an increase in the purchase price above the Maximum Sales Price. Owner shall pay all costs of advertising and marketing the Property for sale, including real estate sales commissions and fees paid to the RHA.

**4.4 Covenant Program Administration Fees.** At the time of sale, Owner must pay the Covenant Program Administration fee as provided herein. Such fees shall be paid by Owner to RHA out of the Owner's proceeds of the sale of the Property and may not be added to the price of the Property.

**5. Procedures for Sale and Purchase of the Property.** Owner may, with prior written approval of the RHA and subject to any Guidelines in effect at the time the sale is closed, sell the Property to another Qualified Owner. Such sale shall be subject to the following procedure:

**5.1 Notice of Intent to Sell.** Owner must deliver written notice of intent to sell to the RHA prior to offering the Property for sale.

**5.2 Offering the Property for Sale.** Unless otherwise provided herein or by agreement with SMCHA or RHA, the Property must either be offered for sale through the RHA, or with a local real estate broker licensed to do business in the State of Colorado. The Property shall be offered for sale for a period of one year, or until a qualifying bid is accepted, commencing with the date Owner delivers to the RHA written notice of intent to sell. If the Property is offered for sale through RHA, the RHA staff will administer the sale in accordance with the guidelines in effect at the time of the listing with compensation pursuant to the existing guidelines.

In the event the Property is listed for sale with a local real estate broker licensed to do business in the State of Colorado, a listing agreement shall be executed specifying reasonable and customary terms of sale, including a brokerage commission. The Owner is required and responsible for providing RHA with an executed copy of the listing contract.

**5.3 Advice of Counsel.** Buyers and sellers are advised to obtain legal counsel regarding examination of title, contracts, sale documents and all other aspects of the purchase and sale transaction. Any fees of such counsel, real estate brokers or agents, appraisers and related services shall be at purchaser's or seller's own expense.

**5.4 Advertising the Property.** If the Property is offered for sale through RHA, RHA will either make it available to Qualified Owners on an existing waiting list or advertise the Property for sale in one or more of the local newspapers periodically until an offer is made to buy the Property.

**5.5 Priorities for Persons Offering to Buy the Property.** The person(s) offering to buy the Property at the highest price (in any event, not to exceed the maximum sale price) shall have the first right to purchase the Property. If two or more persons submit offers at the highest price, such person(s) shall have the right to buy the Property in the following priority, provided that they are certified by RHA as Qualified Owners:

- I. Persons with a present ownership interest in the Property;
- II. Spouses and/or children of the Owner;



- III. Beneficiaries;
- IV. Other priorities that may be adopted from time to time by Beneficiaries;
- V. Other Qualified Owners.

**5.6 Bid Period.** The minimum initial bid period for the Property shall be forty-five (45) days from the time the Property is first advertised for sale. At the end of this initial period, the person offering the highest price and with the highest priority, as set forth above, shall have the first right to purchase the Property. If there is more than one such person, their names will be drawn at random by RHA and the person whose name is drawn will have priority. If the terms of that person's offer, other than maximum price, as initially presented to Owner, are unacceptable to Owner, there shall be a mandatory negotiation period of five (5) business days to allow Owner and the potential buyer to reach an agreement regarding the terms of sale, including but not limited to closing date, due diligence, and financing conditions. If the buyer and Owner have not reached agreement during that period, the next highest priority buyer with the highest offer price shall be presented to Owner for consideration and a new five (5) business day negotiation period shall begin. This process shall continue until an agreement between a buyer and Owner is reached.

**5.7 Qualification of Buyer.** Prior to the closing of the sale of the Property, any prospective owner must be certified in writing as a Qualified Owner by RHA in accordance with this Covenant.

**6. Sole and Exclusive Residence.** The Property shall be the sole and exclusive place of residence of a Qualified Owner.

**6.1** A Qualified Owner shall be deemed to have changed his or her residence by becoming a resident or accepting full-time employment outside the boundaries of San Miguel County, or residing in the Property for fewer than nine (9) months per calendar year without the express written approval of the RHA. In such events, the Owner shall be declared a Non-Qualified Owner and the RHA may require the Owner to sell the Property in accordance with the provisions of Paragraph 5.

**6.2** If at any time a Qualified Owner of the Property acquires any interest in any improved residential property that can be legally used as a residence, other than the Property, in San Miguel County, such Owner shall be declared a Non-Qualifying Owner and may be required to immediately list the other property for sale and sell Owner's interest in such property at a sales price comparable to like units or properties in the area in which the property or dwelling unit(s) is (are) located. In the event the other property has not been sold by Owner within one hundred twenty (120) days of its listing, then Owner hereby agrees to immediately list the Property for sale pursuant to the provisions of Paragraph 5. If Owner desires to keep his interest in the other property, Owner shall immediately list the Property for sale pursuant to the provisions of Paragraph 5.

**7. Provisions Relating to Non-Qualified Owner(s).** In the event that either title to the Property vests by descent, operation of law or other means in individuals and/or entities who are not Qualified Owners as that term is defined herein, or the current Owner ceases to be a Qualified Owner, such person shall be declared a Non-Qualified Owner by RHA and shall immediately offer the Property for sale as provided in Paragraph 5, above, and the highest bid by a Qualified Owner of not more than the Maximum Sales Price and at or in excess of ninety-five percent (95%) of the Maximum Sales Price shall be accepted. If the Property has been listed for sale in excess of 120 days and all bids are below ninety-five percent (95%) of the Maximum Sales Price, RHA will require the Non-Qualified Owner to have the Property appraised for current market value. RHA will require the Non-Qualified Owner to accept any bids submitted at or in excess of ninety percent (90%) of such current market value. In no event shall the Property be sold in excess of the Maximum Sales Price. The cost of the appraisal shall be paid by the Non-Qualified Owner(s).

**7.1 Agreement to Take Certain Actions.** Non-Qualified Owner(s) shall join in any sale, conveyance or transfer of the Property to a Qualified Owner and shall execute any and all documents and take all other actions necessary to do so.

**7.2 Limitations on Non-Qualified Owner(s).** Non-Qualified Owner(s) must not:

- I. Occupy the Property, except with the express written agreement of RHA ;
- II. Rent all or any part of the Property, except with the express written agreement of RHA;
- III. Violate any of the Restrictions on Ownership described in Paragraph 3 above.

**7.3 Option to Purchase.** Lenders who are beneficiaries of any first deed of trust or mortgage executed in connection with the sale of the Property must sign an Option to Purchase ("Exhibit A"), acknowledging the provisions of the Covenant and granting a right to the County or RHA to purchase the unit in a foreclosure under certain conditions. The Option to Purchase shall also grant the County or RHA or its successor, the right and option to purchase the Property for the Maximum Sale Price in the event the Property is owned by a Non-Qualified Owner. This option may be exercised by delivery of notice of intent to purchase to the Non-Qualified Owner(s) within a period of fifteen (15) calendar days after receipt of any written notice of sale submitted to RHA by the Non-Qualified Owner(s); and closing of the sale within sixty (60) days of delivery of notice of intent to purchase.

**8. Default in Payments by Declarant.** It shall be a violation of this Covenant for Owner to fail to timely pay any taxes due, or default in payments or other obligations due or to be performed under any promissory note secured by a first deed of trust or other security instrument encumbering the Property subject to these covenants. Owner shall immediately notify RHA in writing of any notification received from taxing authorities or a lender of past due payments or default in payment or other obligation due regarding the Property, or to be performed under a

promissory note secured by a first deed of trust or other security instrument, within five (5) calendar days of Owner's notification of said default or past due payments.

Upon notification from Owner or other notice of such default, RHA may offer loan counseling or distressed loan services to the Owner, if any of these services are available; and may require the Owner to sell the Property to avoid the commencement of foreclosure against the Property. In the event RHA determines a sale is necessary, Owner shall immediately offer the Property for sale according to the provisions of Paragraph 5. If a sales contract has not been executed within the forty-five (45) day period, Owner shall continue to offer the Property for sale for an additional 180 days, provided such extension does not conflict with the statutory rights of any secured creditor. In the event of an offering of the Property for sale pursuant to this Paragraph, RHA is entitled to require Owner to accept the highest of any qualified bids which satisfies Owner's financial and other obligations due under the promissory note secured by a first deed of trust, and any first deed of trust in favor of the County or RHA as described herein, and to conclude the sale to such qualified bidder. The County and RHA reserve the right to purchase the Property in the event no acceptable bid is otherwise made during the listing period.

Upon receipt of any notice of default as provided herein, the County and/or RHA shall have the right, in their sole discretion, to cure the default or any portion thereof. In such event, Owner shall be personally liable to the County or RHA, for amounts so paid by County and/or RHA together with interest thereon at the rate specified in the promissory note secured by the first deed of trust, plus one percent (1%), and all actual expenses of the County or RHA incurred in curing the default. Owner shall execute a promissory note secured by a first deed of trust encumbering the Property in favor of the County and/or RHA for the amounts expended by the County or RHA as specified herein, including future advances made for such purposes. Owner may cure the default and satisfy its obligation to the County or RHA under this subparagraph at any time prior to execution of a contract for sale, upon such reasonable terms as specified by RHA. Otherwise, Owner's indebtedness to the County or RHA shall be satisfied from the Owner's proceeds at closing.

**9. Disputes.** All disputes between Owner and the administrative staff of the RHA arising from the terms and conditions of this Covenant shall be heard and finally determined by the Board of Directors of RHA.

**10. Violation, Notice and Cure.** In the event a violation of this Covenant is discovered, RHA shall send a notice of violation to Owner specifying the nature of the violation and allowing Declarant thirty (30) days to cure. Said notice shall state that Owner may request a hearing before the RHA to determine the merits of the allegations. In order to request a hearing, a letter must be submitted to RHA staff no later than fifteen (15) days from the date of the notice of violation, stating the request. The Owner shall submit any additional information relevant to the alleged violation requested by RHA staff. A hearing will then be scheduled in a timely manner, within 30 days of the RHA receiving the request. If no hearing is requested and the violation is not cured within the thirty (30) day period, the Owner shall be considered to be in violation of this Covenant. If a hearing is held before the RHA, the decision of the RHA based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

**11. Remedies.** There is hereby reserved to the parties hereto any and all remedies provided by law or in equity, including but not limited to specific performance, for violation of this Covenant. In the event of litigation, which arises out of a dispute concerning any of the provisions of this Covenant or a violation of this Covenant, the prevailing party shall be entitled to recover damages and costs, including reasonable attorneys' fees.

**11.1 Non-complying Sales.** In the event the Property is sold, transferred and/or conveyed without compliance herewith, such sale and/or conveyance shall be wholly null and void and shall confer no right, title or interest whatsoever upon the purported buyer or transferee. Each and every conveyance of the Property for all purposes shall be deemed to include and incorporate by this reference the covenants herein contained, even without reference therein to this Covenant.

**11.2 Failure to Cure.** In the event that Owner fails to cure any violation, Beneficiaries may resort to any and all available remedies, law or in equity, including, but not limited to, specific performance of this Covenant or a mandatory injunction requiring the sale of the Property by Owner as specified in Paragraph 5. The costs of such sale shall be paid out of the proceeds of the sale with the balance being paid to Owner.

**11.3 Violation Fixes Resale Price.** In the event of a violation of any of the terms or conditions contained herein by Owner, his heirs, successors or assigns, the sales price of the Property as set forth in Paragraph 4 shall, upon the date of such violation as determined by RHA, automatically cease to increase as set out in Paragraph 4 above, and shall remain fixed until the date said violation is cured.

**12. Release of Covenant In Event of Foreclosure or Deed In Lieu.** Pursuant to that form of Option to Purchase, Exhibit A hereto, the terms of which are incorporated into this Covenant by this reference as if fully set forth, County and RHA may acquire the Property in the event of a foreclosure on a promissory note secured by a first deed of trust or mortgage, or the acceptance by the holder of such note and deed of trust, or mortgagee, of a deed in lieu of foreclosure for the Property. In the event the mortgagee or holder of the promissory note and first deed of trust is issued a public trustee's deed, or a deed following a judicial foreclosure, or has recorded a deed in lieu of foreclosure for the Property and neither the County nor the RHA exercises the option to purchase, RHA shall cause to be recorded in the records of the Clerk and Recorder for San Miguel County a full and complete release of this Covenant. Should the public trustee's deed be issued to any person or entity other than the holder of the first deed of trust or their assignee, this Covenant shall not be released or terminated. Should the County or RHA exercise the option pursuant to the terms of that certain Option to Purchase described above, the County or RHA may sell the Property to Qualified Owners, or rent same to Qualified Employees (as defined in the Guidelines) until sale to a Qualified Owner is effected.

**13. Covenant Program Administration Fee.** Upon closing of any sale of the Property, the seller shall pay RHA a Covenant Program Administration Fee, as set forth in the Guidelines. This fee shall be paid directly to RHA from the proceeds of sale at closing by the closing agent.

**14. Covenant as Encumbrance.** This Covenant constitutes an interest in real property, entitling Beneficiaries to all the rights and privileges under Colorado law, such as notice, cure and redemption.

**15. General Provisions.** The following General Provisions shall apply to this Covenant:

**15.1 Notices.** Any notice, consent or approval which is required to be given hereunder shall be given by either mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein; or hand-delivering the same to any address provided herein.

Notices shall be considered delivered on the date of delivery if hand-delivered or if both hand-delivered and mailed; or three days after postmarked, if mailed only. Notices, consents and approvals shall be sent to the parties at the following addresses unless otherwise notified in writing:

To Declarant:	_____
	P. O. Box _____,
	Telluride, CO 81435
To RHA:	Administrator
	San Miguel Regional Housing Authority
	P.O. Box 840, Telluride, CO 81435
Copy to:	San Miguel County Attorney
	P.O. Box 791, Telluride, CO 81435

**15.2 Exhibits.** All exhibits attached hereto are incorporated herein by this reference and made a part hereof.

**15.3 Severability.** Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such manner as to be valid under applicable law. If any provision of any of this Covenant shall be invalid or prohibited under said applicable law, such provisions shall be ineffective only to the extent of such invalidity or prohibition without invalidating the remaining provisions of such document, which provisions shall remain in full force and effect.

**15.4 Choice of Law / Venue.** This Covenant and each and every related document is to be governed and construed in accordance with the laws of the State of Colorado. Venue for any legal action arising from this Covenant shall be in San Miguel County, Colorado.

**15.5 Successors.** Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

**15.6 Section Headings.** Paragraph or section headings within this Covenant 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.

**15.7 Waiver.** No claim of waiver, estoppel consent or acquiescence with respect to any provision of this Covenant or failure to enforce violations shall be valid against any party hereto except on the basis of a written instrument executed by the parties. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition in writing.

**15.8 Gender and Number.** Whenever the context so requires herein, any reference to gender shall include a reference to "his", "hers" or "its" and the use of the singular shall include the plural and vice versa as the context may require.

**15.9 Personal Liability.** Owner agrees that he or she shall be personally liable for any of the transactions contemplated herein.

**15.10 Further Actions.** The parties agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

**15.11 Modifications.** Any modifications of this Covenant shall be effective only when made in writing signed by the parties and recorded with the Clerk and Recorder of San Miguel County, Colorado.

**IN WITNESS WHEREOF,** Declarant has executed, acknowledged, and delivered this instrument on the day and year above first written.

DECLARANT: \_\_\_\_\_

STATE OF COLORADO            )  
  )ss.  
COUNTY OF SAN MIGUEL       )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

WITNESS my hand and official seal. My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**In witness whereof, Beneficiaries accept this instrument.**

San Miguel County Housing Authority or Designee:

\_\_\_\_\_  
Laura B. Duncan, Administrator for San Miguel Regional Housing Authority

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF SAN MIGUEL        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ -  
\_\_\_\_\_, 2002, by Laura B. Duncan as Administrator of the San Miguel Regional Housing  
Authority, a multijurisdictional housing authority.

WITNESS my hand and official seal. My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**CERTIFICATION OF SAN MIGUEL COUNTY HOUSING AUTHORITY**

Pursuant to the terms of the foregoing Affordable Housing Covenant and Covenants,  
\_\_\_\_\_ is hereby certified as a "Qualified Owner".

SAN MIGUEL COUNTY HOUSING AUTHORITY

By: \_\_\_\_\_  
Administrator of San Miguel Regional Housing Authority, as agent for San Miguel  
County Housing Authority

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF SAN MIGUEL        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, by Laura B. Duncan, Administrator, on behalf of the San Miguel  
Regional Housing Authority.

WITNESS my hand and official seal. My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Exhibit A-Option to Purchase

**SAN MIGUEL COUNTY AFFORDABLE HOUSING  
COVENANT, EQUITABLE SERVITUDE, AND REAL COVENANTS**

**OPTION TO PURCHASE** (the "Option") granted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ ("Grantor") to and for the benefit of San Miguel County, Colorado ("County"), the San Miguel County Housing Authority ("SMCHA"), and its duly designated and authorized agent, the San Miguel Regional Housing Authority ("RHA"), their successors or assigns (collectively the "Grantee"), with the consent and agreement of \_\_\_\_\_ ("Holder").

**Recitals**

- a. Grantor owns deed restricted real property legally described as:

*[insert legal description of the property]*

which is also known as:

*[insert street address]*

(hereinafter the "Property");

- b. Holder holds that certain promissory note made by Grantor and said promissory note is secured by a first position deed of trust for the benefit of Holder;
- c. Grantee is the beneficiary of a deed restriction encumbering the Property which is counterpart hereto; and
- d. Grantee desires to protect its interest in said deed restriction and thus desires to secure the right to purchase the Property from Grantor in the event of a foreclosure, and Grantor and Holder desire to grant such right on the terms stated herein.

NOW THEREFORE, in consideration of the above Recitals, the mutual consideration, covenants and agreements contained or contemplated herein, the parties provide as follows for this Option.

1. **Grant of Option.** Grantor does hereby grant, sell, warrant and convey unto Grantee the prior right and option to purchase the Property in the event of a foreclosure as provided herein. Grantor and Holder hereby consent, covenant and agree that, in the event of a foreclosure of the promissory note and deed of trust, or the acceptance by Holder of a deed in lieu of foreclosure for the Property, following the expiration of all statutory redemption rights or a recording of a deed in lieu of foreclosure, RHA, as agent for SMCHA and the County, shall have the option to purchase the Property, which may be exercised in the following manner:



a. **Exercise of Option.** Upon Holder's receipt of a public trustee's deed to the Property, or upon receipt of a deed in lieu of foreclosure, Holder shall notify RHA and the County in writing that they shall have 30 days after receipt of such notice to exercise of this Option by tendering to Holder, in cash or certified funds, the following option price:

(1) If a public trustee's deed has been issued, an amount equal to the redemption price which would have been required of Grantor (or any person who might be liable upon a deficiency) on the last day of Grantor's statutory redemption period and any additional actual reasonable costs directly related to the foreclosure incurred by Holder during the option period; or

(2) If a deed in lieu of foreclosure has been recorded, an amount equal to the amount due to Holder on the date the deed in lieu of foreclosure was received, plus any additional actual reasonable costs related to the acquisition of the deed in lieu of foreclosure incurred by Holder during the option period, *less* any unpaid amounts secured by any other lien, deed of trust or other encumbrance on the Property; *provided*, however, that if any such other lien, deed of trust or other encumbrance which is subordinate to Holder's deed of trust was removed by Holder, the amounts paid by Holder to obtain such removal shall also be added to the option price.

b. **Title.** Upon receipt of the option price, Holder shall deliver, to either RHA or County, a special warranty deed conveying the Property to either RHA or County, as the case may be. The Holder shall convey only such title as it received through the public trustee's deed or deed in lieu of foreclosure and will not create or participate in the creation of any additional liens or encumbrances against the Property following issuance of the public trustee's deed or deed in lieu of foreclosure to Holder. The Holder shall not be liable for any of the costs of conveyance to RHA or County.

2. **Priority.** Grantor and Lender hereby covenant, warrant and agree that this Option, if not recorded in the Office of the San Miguel County Clerk and Recorder before the first position deed of trust encumbering the Property, shall enjoy priority over said deed of trust and that it shall, and is hereby made, subject and subordinate to this Option.

3. **Release of Option.** In the event that Holder is issued a public trustee's deed or has recorded a deed in lieu of foreclosure, and Grantee does not elect to exercise the Option as provided herein, RHA shall cause to be recorded in the records of the Clerk and Recorder of San Miguel County a full and complete release of the Deed Restriction Agreement affecting the Property which appears in said records at Reception # \_\_\_\_\_. Such release shall be placed of record within 14 days after demand therefore by Holder following expiration of the option and a certified copy of the release shall be mailed to Holder upon its recordation.

4. **Perpetuities Savings Clause.** If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this Option shall be unlawful or void for violation of: (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the period of the lives of the current duly elected members of the Board of County Commissioners for San Miguel County, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.
  
5. **Modifications.** The parties hereto agree that any modification to this Option shall be effective only when made by writing signed by both parties and recorded with the Clerk and Recorder of San Miguel County, Colorado.
  
6. **Interpretation/Legal Fees.** Colorado law shall govern and construe this Option. This Option shall not be construed against any party as each party has executed and delivered it only after opportunity to consult independent legal counsel. If any action is brought regarding this Option, the sole venue therefore shall be in San Miguel County, and the prevailing party shall be entitled to recover its reasonable costs, expenses and attorneys' fees.
  
7. **Binding Effect/Appurtenance.** This Option shall bind and benefit the tenants, agents, representatives, successors in interest, licensees and assigns of the parties. This Option and all obligations, rights, interests, duties and privileges granted herein and/or associated with this Option whatsoever are likewise appurtenant and shall bind, encumber and run with the title to the land benefited and burdened hereby.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year written below.

HOLDER: \_\_\_\_\_

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Authorized officer

NAME AND TITLE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged and signed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, on behalf of \_\_\_\_\_.

Witness my hand and official seal. My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**SAN MIGUEL REGIONAL HOUSING AUTHORITY:**

By: \_\_\_\_\_ Date \_\_\_\_\_  
Laura B. Duncan, Administrator  
San Miguel Regional Housing Authority

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF SAN MIGUEL            )

The foregoing instrument was acknowledged and signed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Laura B. Duncan, Administrator of the San Miguel Regional Housing Authority, a multijurisdictional housing authority, on behalf of the Telluride Housing Authority.

Witness my hand and official seal. My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**BORROWER:**

\_\_\_\_\_  
Date \_\_\_\_\_  
STATE OF                                    )  
  ) ss.  
COUNTY OF                                )

The foregoing instrument was acknowledged and signed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_.

Witness my hand and official seal. My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**Exhibit 2****San Miguel County Guidelines For the Affordable Housing Covenant, Equitable Servitude, and Real Covenants ("Guidelines")**

**Section 1: Purpose** To provide housing affordable to specific income groups in San Miguel County (the "County") in an effort to provide marketable affordable housing. Properties (herein after referred to as "Affordable Housing Units") restricted under the County's "Affordable Housing Covenant, Equitable Servitude, and Real Covenants" (hereinafter referred to as "Covenant") are intended to remain affordable to specific income groups in the future through a fixed appreciation value and the terms of the Covenant. Further, the purpose of the Covenant is to provide an affordable housing opportunity to Qualified Owners, Qualified Employees and their families, and it is not intended to provide a free market investment value.

**Section 2: Applicability** These Guidelines apply to all properties restricted under the Covenant.

**Section 3: Income and Asset Targets** Consistent with the intent of the Covenant, units created under the Covenant are intended to be affordable to San Miguel County households earning at or below 80% of Area Median Income as defined by the U.S. Department of Housing and Urban Development. Upon the County's request, the San Miguel Regional Housing Authority (the "RHA") has provided the County with recommended Affordable Housing Guidelines, having gathered information from the most recent housing needs assessment that identifies and prioritizes targeted income groups.

**INCOME, ASSET, RENTAL, AND OWNERSHIP QUALIFICATIONS:**

- 3.1 A Qualified Employee, as defined in Section 6 herein, shall be subject to the following limitations in order to be eligible to rent an Affordable Housing Unit:
- a. At least 75% of an Employee's income must be derived from employment in San Miguel County; and
  - b. A Employee's total personal net worth (including, but not limited to, ownership or beneficial interest in a business, bank accounts, investments such as bonds, stocks or mutual funds, trust funds, and real property) cannot exceed two times the purchase price of the unit (excluding non-occupant co-borrowers); and
  - c. An Employee cannot own or have any interest in improved residential real property that can be legally used as a residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado.
- 3.2 A Qualified Owner, as defined in Section 6 herein, shall be subject to the following limitations in order to be eligible to own an Affordable Housing Unit:

- a. At least 75% of a Qualified Owner's income must be derived from employment in San Miguel County; and
- b. A Qualified Owner's total personal net worth (including but not limited to ownership or beneficial interest in a business, bank accounts, investments such as bonds, stocks or mutual funds, trust funds, and real property) cannot exceed two times the purchase price of the unit (excluding non-occupant co-borrowers); and
- c. A Qualified Owner cannot own or have any interest in improved residential real property that can be legally used as a residence in San Miguel County, Montrose County, Ouray County or Dolores County, Colorado.

3.3 Ownership of Affordable Housing Units is limited exclusively to:

- a. Qualified Owners and their spouses; or,
- b. the original developer of the project in which the unit is located; or,
- c. the San Miguel Regional Housing Authority, San Miguel County Housing Authority, or their successors or assigns.

3.4 Use and occupancy of Affordable Housing Units is limited exclusively to:

- a. Qualified Owners and their families; or,
- b. Qualified Employees.

**SECTION 4: SALE STANDARDS** Affordable Housing units which are offered for sale must be sold to one or more Qualified Owners.

- 4.1 In no case shall permitted capital improvements exceed ten percent (10%) of the Original Sales Price. All permitted capital improvement items and costs shall be approved by RHA prior to being added to the Maximum Sales Price.
- 4.2 The Original Sales Price of a unit shall be stated in the unit's Covenant.
- 4.3 The method for calculating a resale price shall be specified in the Covenant for each unit, whose language shall be the final determination of resale price.
- 4.4 Sellers of Affordable Housing units have the following options for advertisement and marketing of their units:
  - a. Seller may list the unit with a real estate broker licensed to do business in the State of Colorado; or,
  - b. Seller may offer the unit for sale through RHA, subject to RHA's consent, who will either make the unit available to persons on an existing waiting list, or advertise the unit for sale on a general basis. In this case, the Seller shall pay RHA a fee equal to 2% of the sale price of the unit, in addition to the normal fees due to RHA according to the Covenant.

- 4.5 In the event that option 4.4.b. above is chosen by the Seller, RHA staff will be acting on behalf of RHA. It must be clearly understood by and between the parties to a sales transaction that RHA staff members are not acting as licensed brokers to the transaction, but as representatives of RHA and its interests. They shall nevertheless attempt to help both parties to consummate a fair and equitable sale in accordance with the current Guidelines.
- 4.6 Sellers of Affordable Housing are advised to consult with RHA staff prior to offering an Affordable Housing unit for sale, in order to obtain the most current information about the Housing Guidelines, and to verify the allowed maximum sale price of the unit and other applicable provisions of the Covenant concerning the sale. Actual notice of intent to sell an Affordable Housing unit must be given in writing to RHA at least 60 days prior to the sale of the unit.
- 4.7 All Sellers and Purchasers of Affordable Housing units are advised to consult independent legal counsel regarding the examination of title and all contracts, agreements and title documents. The retention of such counsel, or related services, shall be at purchaser's and seller's own expense. All fees due to RHA shall be paid regardless of any action or services that the purchaser or seller may undertake or acquire.
- 4.8 RHA advises, but does not require, that a local title company with experience in closings of Affordable Housing property be used to close the sale transaction. The title documents involved in a closing of Affordable Housing are unique and technical, and considerably more difficult to correct an improperly closed transaction can be avoided by use of an escrow and closing agent experienced in such transactions.
- 4.9 At the closing of the sale, the seller will pay to RHA a Covenant Program Administration Fee equal to one percent (1%) of the sales price (in addition to the fee due to RHA if the seller has chosen to advertise the unit through RHA as in 4.4.b above). RHA may instruct the title company to pay such fees out of the funds held for the seller at closing.
- 4.10 Lenders who are beneficiaries of any First Deed of Trust executed in connection with the sale of an Affordable Housing Unit must sign an Option to Purchase, acknowledging the provisions of the Covenant and granting a right to San Miguel County or San Miguel Regional Housing Authority, as agent for the San Miguel County Housing Authority, to purchase the unit in a foreclosure under certain conditions.
- 4.11 Owners of Affordable Housing shall have the right to appeal for full or partial relief from the allowed sale price. Any appeal must be based on demonstrated financial hardship resulting from facts or circumstances beyond the reasonable control of the Owner and shall be heard by the RHA Board of Directors.

**SECTION 5: COVENANT FORM AND PROCESS** The developer of any newly constructed Affordable Housing unit must execute and deliver the original recorded copy of the Covenant in RHA's standard form prior to issuance of Certificate of Occupancy. The Covenant and any amendments thereto must be recorded in the property records of San Miguel County. The original executed and recorded documents must be returned to RHA for their files.

- 5.1 The Covenant shall specify the allowed sale price for each Affordable Housing Unit. Also included will be the allowed increase rate for the Sale Price. RHA does not make any guarantees of the developer's ability to sell the Affordable Housing unit for its allowed price.
- 5.2 Subsequent purchasers of Affordable Housing units must execute an Acknowledgment of Covenant prior to closing the purchase of an Affordable Housing unit. Should an Affordable Housing unit be sold for less than its allowed price, the actual sale price shall become the basis for the future resale price.
- 5.3 The Covenant shall be approved by Fannie Mae for financing purposes. As part of this approval, the Covenant shall contain a provision which requires the Covenant to be canceled by San Miguel County, San Miguel County Housing Authority, and its designated and authorized agent, RHA, in the event of a foreclosure or issuance of a deed in lieu of foreclosure.
- 5.4 An Option to Purchase shall be granted, with the consent of the borrower and the Lender who is secured by the first deed of trust, to RHA and/or San Miguel County to redeem the Affordable Housing Unit in the event of default by purchasing the unit from the holder of the trustee's deed at the redemption price plus actual costs of the holder. If neither RHA nor San Miguel County exercise this Option within 30 days after issuance of the Trustee's Deed, the Covenant shall be canceled by San Miguel County, San Miguel County Housing Authority, and RHA.

**SECTION 6: EMPLOYEE QUALIFICATIONS, OWNERSHIP, OCCUPANCY STANDARDS AND VERIFICATION PROCESS** The County has adopted the following procedures and qualifications for ownership and occupancy of Affordable Housing Units created under the Legislation.

- 6.1 A "Qualified Employee" is a person who meets the income and asset guidelines as set forth in Section 3 of these guidelines and who:
  - a. maintains primary and sole residence in San Miguel County, Montrose County, Ouray County or Dolores County and has been employed, on average, a minimum of 30 hours per week in San Miguel County for at least eight months of the past twelve months or who can demonstrate, to the satisfaction of SMCHA or RHA, an intent to be employed in San Miguel County for at least eight months within the next twelve months. A

- Qualified Employee must continue to meet all standards of eligibility during the entire time the property or unit is occupied by the employee; or,
- b. is Elderly (60 years of age or older), Handicapped or Disabled (verification required from the Social Security Administration or San Miguel County Social Services) and who has been a San Miguel County resident for at least 12 months immediately prior to the effective date of a lease or rental agreement or the closing date of a sale.

6.2 "Qualified Owner" shall mean a natural person who acquires or possesses an ownership interest in an Affordable Housing Unit in compliance with the terms and provisions of the Covenant and whose qualifications to own the property have been certified by SMCHA or RHA at the time the Qualified Owner takes title to the property. A Qualified Owner shall maintain continuous compliance with the Guidelines, as they may be amended from time to time, during the entire time that title to the property is vested in the particular Qualified Owner. Except as otherwise provided herein, a "Qualified Owner" is a natural person who meets the income and asset qualifications in Section 3 of these Guidelines, and who:

- a. maintains primary and sole residence in San Miguel County, Montrose County, Ouray County or Dolores County and has been employed, on average, a minimum of 30 hours per week in San Miguel County for the past twelve months immediately prior to purchasing the property; or,
- b. is Elderly (60 years of age or older), Handicapped or Disabled (verification required from the Social Security Administration or San Miguel County Social Services) and who has been a San Miguel County resident for at least 12 months immediately prior to the closing date of a sale.
- c. Upon purchase of an Affordable Housing Unit, a Qualified Owner must make the unit his primary and sole place of residence.

6.3 "Qualified Employee Builder" shall mean any person who owns an Affordable Housing unit, has met the qualifications in Sections 3 and 6 herein, and desires to purchase undeveloped property (free market or deed restricted) in San Miguel County for the purpose of building a unit to be used as his primary residence once completed. A Qualified Employee Builder shall not be considered to be in violation if:

- a. he continues to maintain the Affordable Housing unit as his primary residence during construction; and,
- b. he has a current building permit; and,
- c. he completes construction, moves, and sells the Affordable Housing unit during a two year time period, which starts when the Qualified Employee Builder takes title to the undeveloped property.



If, at any time, the Qualified Employee Builder does not comply with (a), (b), or (c) above, he shall be considered to be in violation.

- 6.4 RHA will verify an applicant's income, occupancy, residency and employment. RHA will require payment of an application fee established by the RHA. RHA will require a sworn statement of the facts of the Employee's situation.
- 6.5 Any material misstatement of fact or deliberate fraud by the Employee in connection with any information supplied by the Employee to RHA shall be cause for forced sale of the unit.
- 6.6 RHA may grant exceptions to the criteria in these Guidelines for demonstrated hardship. Employees who wish to apply for an exception may do so by stating their case in writing and paying a \$100 application fee to RHA.

SECTION 7: AMENDMENTS Amendments to these Guidelines shall be made according to the following procedure:

- 7.1 RHA shall recommend amendments to the San Miguel County Housing Authority for its consideration and approval. Such amendment will be presented in form of a written resolution of the RHA Board of Directors. An RHA Board member or RHA Staff may propose such amendment.
- 7.2 The RHA shall consider such amendment in a timely manner, and shall report to San Miguel County Housing Authority its finding on the proposed amendment and recommending adoption, adoption with conditions or rejection of the proposed amendment.
- 7.3 Upon receiving RHA's report on the proposed amendment, the San Miguel County Housing Authority shall conduct a public hearing of the proposed amendment and either adopt, adopt with amendments or reject the proposed amendment. The public hearing on the proposed amendment shall be considered in a timely manner.
- 7.4 The RHA has reviewed these Guidelines during the calendar year of 2002 and will review them again at least every second year thereafter, and make a report to the San Miguel County Housing Authority regarding the effectiveness of the Legislation and the Guidelines in achieving the goals for which they were created, and including any changes recommended in either the Legislation or the Guidelines.

San Miguel County Area Median Income  
2022 Published by HUD

Household Size	1 Person	2 Persons	3 Persons	4 Persons
80%	\$53,550	\$61,200	\$68,850	\$76,500
100%	\$66,938	\$76,500	\$86,063	\$95,625
120%	\$80,326	\$91,800	\$103,276	\$114,750
180%	\$120,488	\$137,700	\$185,897	\$206,550
200%	\$133,876	\$153,000	\$172,126	\$191,250

**RURAL HOMES: FOR SALE, FOR LOCALS**  
**DEED RESTRICTION and COVENANT**  
**PINION PARK**  
**San Miguel County**  
**Affordable Housing Ownership, Occupancy and Resale**

THIS DEED RESTRICTION AND COVENANT (“Covenant”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 (“Effective Date”) by [Purchaser], (“Declarant”) for the benefit of and enforceable by the [insert name of property owner] (the Grantor), and each the San Miguel County Housing Authority of XXXX, Colorado, and Rural Homes, LLC, a Colorado Limited Liability Company, (the “Beneficiaries”) which are duly organized under and by virtue of the laws of the State of Colorado. The Declarant and Beneficiaries are sometimes referred to herein collectively as the “Parties.”

Property Subject to Deed Restriction. The following real property (the “Housing Unit”) is hereby made subject to these Covenants:

**(insert lot legal here)**  
**County of San Miguel**  
**State of Colorado.**

Commonly known as **(insert street address here)**

**RECITALS**

**WHEREAS**, the Declarant is the Owner of the Housing Unit; and

**WHEREAS**, the Declarant on behalf of itself, its heirs, executors, administrators, representatives, successors, and assigns, desires to comply with the Deed Restriction and Covenant and **the Rural Homes: For Sale, For Locals Project - PINION PARK AFFORDABLE HOUSING REGULATIONS AND GUIDELINES** (“**Guidelines**”) by restricting the use of the Housing Unit as hereinafter described; and

**WHEREAS**, under this Covenant the Declarant and Beneficiaries intend, declare, and agree that the regulatory and restrictive covenants set forth herein governing the use of the Housing Unit described and provided for herein shall be and are hereby covenants running with the land and are intended to be and shall be binding upon the Declarant and Beneficiaries; and

**WHEREAS**, this Covenant is intended to help keep housing affordable for residents who make a living primarily from physically working in the Norwood School District R-2j and their families who chose to be part of the greater Wright’s Mesa and Norwood community; and

**WHEREAS**, San Miguel County donated the land upon which the Pinion Park affordable housing neighborhood was built, and

**WHEREAS**, Declarant understands that this property has been subsidized by the government and charitable organizations and acknowledges that it has received adequate and valuable consideration in exchange for the imposition of this Covenant upon the Housing Unit.

## COVENANT

**NOW, THEREFORE**, in consideration of the foregoing Recitals, which are hereby incorporated in this Covenant as substantive provisions, the mutual covenants, restrictions, and equitable servitudes stated herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby represent and agree as follows:

**1. Covenant Runs with the Land.** This Covenant shall constitute covenants running with title to the Housing Unit, for benefit of, and enforceable by, each of the Beneficiaries, and their successors and assigns, and this Covenant shall bind the Beneficiaries and all subsequent Owners and Occupants of the Housing Unit. Each Owner and Qualified Occupant, upon acceptance of a deed or lease to the Housing Unit, shall be personally obligated hereunder for the full and complete performance and observance of all covenants, conditions, and restrictions contained herein during the Declarant's period of ownership or Qualified Occupant's tenancy, as may be appropriate. Each and every Transfer or lease of the Housing Unit, for all purposes, shall be deemed to include and incorporate by this reference, the covenants contained in this Covenant, even without reference to this Covenant in any document of conveyance. The Beneficiaries shall hold their interest as tenants in common, except that no Beneficiary may sell, transfer or assign their interest in the Covenant without the express written permission of the other(s), and no Beneficiary shall agree to relieve any Owner or Qualified Occupant of their obligations under the Covenant without the express written consent of the other(s). If one of the Beneficiaries ceases to exist, that Beneficiary's interest in the Covenant shall be deemed to be assigned to the remaining Beneficiary(s).

**1.1 Term.** The "**Term**" of this Covenant shall commence on the Effective Date and shall continue until \_\_\_\_\_ ("**Expiration Date**"). Said term of one hundred (100) years shall reset upon each and every Transfer.

**1.2 Administration and Enforcement.** This Covenant shall be administered by the San Miguel County Housing Authority ("HA") or its designee. This Covenant shall be enforceable by the HA by any appropriate legal or equitable action, including but not limited to specific performance, injunction, abatement or eviction of non-complying Housing Unit Owner(s) or Occupant(s), or such other remedies and penalties as may be specified in this Covenant, including but not limited to the Schedule of Violations and Fines found in the Guidelines.

**1.3 Replacement of Prior Agreement.** This Covenant shall supersede and replace in its entirety that certain Deed Restriction and Covenant recorded in the official records of the \_\_\_\_\_ County Clerk and Recorder ("**Official Records**") on RECORDING DATE at Reception No. RECORDING #.

**2. Definitions.** The Parties acknowledge and agree to the definitions in the **Rural Homes: For Sale, For Locals Project - PINION PARK AFFORDABLE HOUSING REGULATIONS AND GUIDELINES** ("**Guidelines**") and further agree that each definition: (a) forms a portion of the basis of this Covenant; and (b) is incorporated in this Covenant. As used in this Covenant, Guidelines shall mean the most current Guidelines in effect at the time of closing on a sale or transfer of the Housing Unit or at the commencement date of a lease or other occupation agreement, as same may be amended from time to time, or its successor document.

**3. Ownership, Use, Occupancy, Rentals, and Qualification.**

- 3.1 Ownership.** The ownership of the Housing Unit is hereby, and shall henceforth be, limited exclusively to Qualified Owner(s) as defined in the Guidelines. In the event that the Housing Unit is owned without compliance with this Covenant, the HA shall have the remedies set forth herein, including but not limited to the rights under Section 11.
- 3.2 Use and Occupancy.** The use and occupancy of Housing Unit is hereby, and shall henceforth be, limited exclusively to Qualified Owners or Qualified Occupant(s), and their Immediate Families.
- 3.2.1 Home Occupation. The Housing Unit may be used in conjunction with a Home Occupation by the Qualified Household or Qualified Occupants residing in the Housing Unit subject to the provisions of the Guidelines and local land use restrictions.
- 3.2.2 Guests are exempt from qualification requirements.
- 3.3 Initial Qualification.**
- 3.3.1 Qualified Owner: To be eligible to purchase the Housing Unit, at least one member of the Household who is an Owner must be a Qualified Employee and meet
- 3.3.1.a below and all Household members must meet 3.3.1 b- f. below, and as further defined in the Guidelines:
- 3.3.1.a Meet the Minimum Work Standard physically in the Norwood R-2j School District for the twelve (12) months prior to purchase or provide evidence to the HA that Applicant will meet the Minimum Work Standard physically in the Norwood R-2j School District for the twelve (12) months following the purchase; and
- 3.3.1.b Must meet the Earned Income Standard or has provided evidence to the HA that Applicant will meet the Earned Income Standard within the next twelve (12) months following the purchase; and
- 3.3.1.c Must not own any interest in other Improved Residential Property(s) located within a one-hundred and fifty (150) mile radius from the Housing Unit.
- 3.3.1.d Must not have a Net Worth that exceeds three (3) times the Initial Sales Price of the Housing Unit; and
- 3.3.1.e Must meet the income restrictions applicable to the Housing Unit based on the Area Median Income (AMI) and as set forth in the Guidelines to be recorded at time of sale; and
- 3.3.1.f Shall occupy the Housing Unit as their sole and exclusive primary residence.
- 3.3.1.g Land Contributor may own no more than five (5) Housing Units at one time and make them available via sale or long-term rental to Qualified Occupants pursuant to this Covenant without the Land Contributor itself meeting the above-listed requirements. Land Contributor shall not occupy or use the Unit for such Owner's own use or leave the Housing Unit vacant for more than three months in any twelve (12) month period. Any occupancy of a Unit pursuant to Section 3.4. shall not exceed two persons per bedroom, unless the HA approves in writing.
- 3.3.1.g.1 Land Contributor may purchase and reserve up to two Housing Units to make available for long-term rental to a San Miguel County Employee or recruit who does not meet the

requirements of Section 3.3.1a, b, c, d, and e, above, notwithstanding Guidelines Section 11.1.4 limiting Exceptions, on the following conditions:

- 3.3.1.g.1.a Land Contributor enters into an exception agreement that limits the rental period to one year; and
- 3.3.1.g.1.b Other reasonable conditions as required by HA.
- 3.3.1.g.2 Land Contributor may transfer its right to purchase and own a Unit to a San Miguel County Employee who meets the requirements of Section 3.3.1 b, c, d, and e, above and who meets the Minimum Work Standard physically in San Miguel County.
- 3.3.1.h Business Owner may purchase no more than two (2) Housing Units at one time and make them available via sale or long-term rental to Qualified Occupants pursuant to this Covenant without the Business Owner itself meeting the above-listed requirements. Business Owner shall not occupy or use the Unit for such Owner's own use or leave the Housing Unit vacant for more than three months in any twelve (12) month period. Any occupancy of a Unit pursuant to Section 3.4. shall not exceed two persons per bedroom, unless the HA approves in writing.
- 3.3.1.i A reasonable accommodation and exception may be requested from HA for any of these qualifications.
- 3.3.2 Qualified Occupant: To be eligible to rent the entire Housing Unit or a room in a Housing Unit, the Qualified Occupant:
  - 3.3.2.a Shall meet the above-listed requirements of Section 3.3.1a-f.
  - 3.3.2.b A reasonable accommodation and exception may be requested from the HA for any of these qualifications.

**3.4 Rental of Property**. Short-term rental of the Housing Unit is prohibited. Long-term rentals may be approved as follows:

- 3.4.1 Land Contributor Units: Long-term rental is allowed subject to the provisions of the Guidelines and the terms and provisions of this Covenant. Units, owned by the Land Contributor may be rented to Qualified Occupants for a term of no less than six (6) months. All rentals must comply with the current Guidelines.
- 3.4.2 Business Owner Units: Long-term rental is allowed subject to the provisions of the Guidelines and the terms and provisions of this Covenant. Housing Units owned by a Business Owner shall be rented to Qualified Occupants for terms of no less than six (6) months. All rentals must comply with the current Guidelines.
- 3.4.3 All other Housing Units: Owner may not, except with prior written approval of the HA, and subject to the HA's conditions of approval, rent an entire Housing Unit for any period of time. If approved, a rental shall be for no less than one (1) month. All rentals must comply with the then current Guidelines.
- 3.4.4 Roommates: The Qualified Owner may share occupancy of a Housing Unit with non-owners on a rental basis provided Qualified Owner continues to occupy Housing Unit as his/her sole and primary residence and meets the obligations contained in this

Covenant. A roommate must be certified as a Qualified Tenant Household. Short-term rentals of any kind are strictly prohibited.

3.4.5 Copy of Lease: The Housing Unit Owner shall provide to the HA a fully executed copy of the lease or other occupancy agreement no later than seven (7) days after it is fully executed.

3.4.6 No Indemnification or Waiver of Immunity: Nothing herein shall be construed to require any of the Beneficiaries to protect or indemnify the Owner against any losses attributable to a rental including, but not limited to, non-payment of rent or damages to a Housing Unit; nor to require any of the Beneficiaries to obtain a Qualified Occupant for the Owner in the event that none is found by the Owner. In addition, nothing herein shall be construed as a waiver by any of the Beneficiaries' governmental immunity, if applicable, provided by the Colorado Governmental Immunity Act or other applicable law.

**3.5 Continued Qualification Compliance.** All Qualified Owners and Qualified Occupants, including multiple owners, must maintain compliance with all applicable requirements and shall maintain Qualified Household status on an on-going basis. Failure of any Owner or Occupant to do so shall constitute a violation. Any Owner or Occupant of a Housing Unit is required to comply with annual or biennial deed restriction monitoring certifying to the HA that they are in compliance with the requirements of this Covenant.

3.5.1 Continuing Compliance Standards to maintain Qualified Household status:

3.5.1.a At least one member of the Household must be a Qualified Employee who meets the Minimum Work Standards physically in the Norwood R-2j School District.

3.5.1.b The Qualified Household shall meet the Earned Income Standard. 3.5.1.c The Qualified Household shall occupy the Housing Unit as their Primary Residence at all times during the ownership or rental of a Housing Unit and for at least eight (8) of every twelve (12) months on a rolling twelve (12) month basis.

3.5.1.d Household Net Worth shall not exceed three (3) times the Initial Sales Price of the Housing Unit:

3.5.1.e Household Net Income shall no longer be considered for continuing qualification for Owners.

3.5.1.f Tenant Household's Net Income will be considered for continuing qualification and must continue to meet the AMI tier standard for the Housing Unit.

3.5.1.g Household is prohibited from ownership of other Improved Residential Property located within a one-hundred fifty (150) mile radius from the Housing Unit, see Section 5, and as further described in the Guidelines.

4. **Restriction on Debt.** Declarant shall not incur any debt or promissory note secured by a deed of trust or other security instrument that encumbers the Housing Unit in excess of the Original Purchase Price.

5. **Ownership Interest in Other Residential Property.** At the time of application, a Household may own other improved or unimproved residential or commercial property, however, all Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit must be listed immediately for sale and sold for fair market value within one year of taking title to the Housing Unit. In the event said other Improved Residential Property has not been sold by the Owner within twelve (12) months of its listing required hereunder, then the Owner shall

immediately list the Housing Unit for sale, pursuant to Section 7.1. a Land Contributor Owner or Business Owner, qualified under Section 3.3.1 g-h, is exempt from this restriction.

6. **Income and Household Size Restrictions.** The applicable Income Eligibility Tier, which defines household income and household size restrictions, in compliance with this Covenant and as set forth in the Guidelines, Appendix A, will apply to Declarant, Qualified Occupants and future purchasers. If Declarant's Household size falls below the minimum required, Declarant shall rent a room to a Qualified Tenant pursuant to §3.4, above.
7. **Transfer of Property:** Transfers of the Housing Unit are subject to this section unless excepted under Section 7.2, below.
  - 7.1 **Requirements.** Declarant may sell the Housing Unit to a Qualified Owner, pursuant to the Guidelines, to the terms and provisions of this Covenant, and to the following:
    - 7.1.1 **Notice of Intent to Sell:** Declarant or Owner must deliver a written notice of its intent to sell the Housing Unit ("Notice of Intent to Sell") to the Beneficiaries prior to offering the Housing Unit for sale.
    - 7.1.2 **Right of First Refusal:** The Right of First Refusal to purchase shall first be provided to Beneficiaries pursuant to the Guidelines and Section 7.4, below.
    - 7.1.3 **Qualification of Prospective Buyer:** In order to proceed to the closing of the sale of the Housing Unit ("Closing"), HA must have first certified in writing that the prospective buyer is a Qualified Owner pursuant to the Guidelines and to the terms and provisions of this Covenant.
    - 7.1.4 **Void Transfer:** In the event the Housing Unit is sold and/or transferred without compliance with this Covenant, such sale and/or transfer shall be wholly null and void and shall confer no title whatsoever upon the purported buyer.
    - 7.1.5 **Date of Notice:** For purposes of this Covenant, "date of Owner's Notice of Intent to Sell" shall be the date on which written Notice of Intent to Sell is delivered to the HA.
    - 7.1.6 **Administration Fees:** At the time of purchase, Declarant must pay any Covenant administration fees due according to the Guidelines. Such fees shall be paid by Declarant to the HA out of Declarant's proceeds of the sale of the Housing Unit and may not be added to the price of the Housing Unit.
    - 7.1.7 **HA Made Whole:** No transfer of a Housing Unit shall occur unless and until each and every encumbrance, debt or liability owed by the Owner to any of the Beneficiaries is fully satisfied, such as fees and violation fines.
  - 7.2 **Transfer Exception.** If reviewed and approved in writing by the HA prior to transfer, the following occurrences are exceptions to the definition of Transfer, provided that the new Owner, other than an estate, shall use the Housing Unit as their principal residence:
    - 7.2.1 A transfer resulting from the death of a Qualified Owner where the transfer is to the spouse or domestic partner or co-owner, who is also a Qualified Owner.



- 7.2.2 A transfer resulting from the death of an Owner through a bequest or by intestate succession to a child of Qualified Owner who is certified as a Qualified Owner.
- 7.2.3 A transfer resulting from a decree of dissolution of marriage or legal separation or from a settlement incidental to such a decree by which a transfer is made to a spouse who is also a Qualified Owner.

**7.3 Maximum Sale Price.** The Original Purchase Price (“OPP”) of the Housing Unit shall be the basis for calculating the Maximum Sale Price (“MSP”) in accordance with this Covenant and the Guidelines in effect at the time of listing the Housing Unit for re-sale.

- 7.3.1 The Housing Unit shall meet the Minimum Resale Standards, defined in Section 7.3.4, below, to sell at MSP.
- 7.3.2 The MSP of a Housing Unit shall be limited to be no more than the following calculation:

The MSP may not exceed the sum of: (i) the OPP paid by the Owner for the Housing Unit, plus: (ii) an increase of three percent (3%) of such OPP per year compounded annually (prorated at the rate of 0.25 percent for each whole month, but not compounded annually) from the date of the Owner's purchase of the Housing Unit to the date of the Owner's Notice of Intent to Sell the Housing Unit; plus (iii) an amount equal to any special improvement district assessments, if applicable and not transferable, paid by the Seller during the Seller's ownership of the Housing Unit; (iv) the cost of Permitted Capital Improvements made to the Housing Unit by the Owner as set forth in Section 7.3.3, less the amount required to bring the Housing Unit up to the Minimum Resale Standards, if any.

- 7.3.3 Permitted Capital Improvements: The amount of Permitted Capital Improvements allowed to be added to the MSP shall not exceed ten per cent (10%) of the original purchase price provided that:
  - 7.3.3.a Improvements are pre-approved by HA prior to commencement of any work or installation; and
    - 7.3.3.a.1 Proof of homeowners’ association, if any, approval is provided to HA prior to commencement of work.
    - 7.3.3.a.2 Improvements are properly permitted and inspected by the local Building Official if applicable.
  - 7.3.3.b Improvements are documented by Declarant and submitted to HA within three months of completion.
  - 7.3.3.c The depreciation of Permitted Capital Improvements calculated from the schedule in the Marshall Swift Residential Handbook or any other approved handbook in effect at the time of calculation of MSP, shall be subtracted from the cost of the improvement; and
  - 7.3.3.d Any other reasonable costs allowed by HA pursuant to the Guidelines in effect on the date of Owner’s Notice of Intent to Sell may be added to the MSP.

7.3.3.e The 10% limitation on Permitted Capital Improvements shall reset every ten (10) years of continued ownership of the Housing Unit.

7.3.4 **Minimum Resale Standards:** Pursuant to the Guidelines, Section 6.8.2, each Owner shall be responsible for ensuring that at the Transfer of his or her Housing Unit, the same is clean, the appliances are in working order, and that there are no health or safety violations regarding the Housing Unit. Seller's Property Disclosure form and Seller's Listing Checklist shall be completed and submitted prior to listing a unit for sale.

7.3.4.a If a Housing Unit does not meet Minimum Resale Standards, HA may, at its discretion, require that the cost of necessary repairs be deducted from the closing sale price, or that Seller place into escrow the funds necessary to ensure satisfactory repairs. Any escrow balance remaining after necessary repairs are satisfactorily made shall be returned to Seller.

7.3.5 **Assumption of Costs:** No Declarant shall permit any prospective purchaser to assume any or all of the Declarant's closing costs. No Declarant shall accept anything of value from a prospective purchaser except for the MSP before, during or after closing of the transfer of the Housing Unit.

7.3.6 **Caveat:** Nothing in this Covenant represents or guarantees that the Housing Unit will be re-sold at an amount equal to the MSP. Depending upon conditions affecting the real estate market, the Housing Unit may be re-sold for less than the MSP.

**7.4 Beneficiaries Right to Acquire Ownership.** The initial Owner and each subsequent Owner shall not transfer any Housing Unit without first offering the same to each of the Beneficiaries for purchase. Each of the Beneficiaries shall have a right to purchase the Housing Unit as follows:

7.4.1 Upon Owner's Notice of Intent to Sell as set forth in Section 7.1.1, or upon exercise of Notice of Election to Require Sale as defined in Section 10.3, or if an Owner receives any offer to purchase or tenders any offer of sale for the Housing Unit, either of the Beneficiaries, or their successors, shall have the Right of First Refusal to purchase ("ROFR") the Housing Unit for the offered sales price or MSP. This ROFR shall be triggered at each submittal of a Notice of Intent to Sell.

7.4.2 Each of the Beneficiaries shall exercise its ROFR by executing a written and binding commitment to purchase ("Notice of Purchase") the Housing Unit to Owner and the other Beneficiaries within thirty (30) days after each of the Beneficiaries receives written Notice of Intent to Sell by Owner. The commitment to buy shall set a closing date within sixty (60) days of delivery of Notice of Purchase.

7.4.3 Each of the Beneficiaries shall have the right to inspect the Housing Unit prior to exercising its ROFR.

7.4.4 In the event more than one Beneficiary wishes to exercise the ROFR, the priority shall first go to the Land Contributor, then to the HA, and then to the Rural Homes, LLC or their successors in interest, if applicable.

7.4.5 In the event the Beneficiaries do not execute a written and binding commitment to purchase the Unit within said thirty (30) day period, this ROFR shall expire.

7.4.6 The ROFR shall be in full force and effect from the date of initial sale in perpetuity. Any sale or attempted transfer of the Housing Unit effected without first giving each of the Beneficiaries the right of first refusal described above shall be wholly null and void and shall confer no title whatsoever upon the purported buyer.

8. **No Creation of Additional Unit.** In no event shall Declarant create an additional “Dwelling Unit” as defined in the applicable Land Use Code, in or as part of the Housing Unit unless authorized by the HA in writing and allowed by the zone district and subject to all local building and planning codes and permissions.

9. **No Alteration of Housing Unit.** The Housing Unit shall not be altered, demolished, partially demolished, released from these covenants, or relocated, unless and except in compliance with the Guidelines and the applicable Land Use Code provisions in effect at the time of the application for alteration, demolition, release, or relocation.

10. **Foreclosure**

10.1 **Default.** It shall be a breach of this Covenant for Declarant to default in the payments or other obligations due or to be performed under a promissory note secured by deed of trust encumbering a Housing Unit. The Declarant hereby agrees to notify the Beneficiaries, in writing, of any notification Declarant receives from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a deed of trust, as described herein, within five (5) calendar days of Declarant's notification from lender, or its assigns, of said default or past due payments.

10.2 **Right to Cure Default.**

10.2.1 Upon receipt of notice as provided herein, each of the Beneficiaries shall have the right, in its sole discretion, to cure the default or any portion thereof (“Curing Party”).

In such event, the Declarant shall be personally liable to the Curing Party for past due payments made by the Curing Party, together with interest thereon at the rate specified in the promissory note secured by the deed of trust, plus one (1) percent, and all actual expenses the Curing Party incurred in curing the default.

10.2.2 In the event the Declarant does not repay the Curing Party within sixty (60) days of notice that the Curing Party has cured the Declarant’s default, the Declarant agrees that the Curing Party shall be entitled to a lien against the Housing Unit to secure payment of such amounts. Such a lien may be evidenced by a notice of lien setting the amounts due and rate of interest accruing thereon, and such notice of lien may be recorded in the real property records of Town, until such lien is paid and discharged. The Curing Party shall have the additional right to bring an action to foreclose on the Housing Unit for the payment of the lien set forth in Section 11.6.

10.3 **Right to Require Sale.**

10.3.1 Upon default of Declarant, each of the Beneficiaries shall have the right to require Declarant to sell the Housing Unit to avoid the commencement of any adverse proceedings against the Housing Unit by providing Declarant written notice of HA’s decision to exercise such right (“Notice of Election to Require Sale”).

10.3.2 Upon receipt of a Notice of Election to Require Sale by any Qualified Holders, as defined in C.R.S. § 38-38-100.3(20), or mortgage brokers licensed by the Colorado

Division of Real Estate pursuant to C.R.S. § 12-61-901 et. seq., Declarant shall immediately offer the Housing Unit for sale according to the provisions of Section 7.

**10.4 Non-Qualified Owner in Event of Foreclosure.** In the event of a foreclosure on a promissory note secured by a first deed of trust on the Housing Unit or the acceptance by the holder of such note and deed of trust (“Holder”) is issued a public trustee’s deed for the Housing Unit or records a deed in lieu of foreclosure for the Housing Unit, this Covenant shall remain in full force and effect and Holder shall be considered a non-Qualified Declarant.

**11. Default/Breach**

**11.1 Right to Inspect.** In the event the HA or the Beneficiaries has reasonable cause to believe a Declarant is violating the provisions of this Covenant, that entity, through its authorized representatives, may inspect the Housing Unit between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, after providing the Declarant with no less than twenty-four (24) hours written notice; Declarant has the right to be present.

**11.2 Notice of Violation.** The HA shall send a Notice of Violation (“NOV”) to the Declarant detailing the nature of the violation and allowing the Declarant fourteen (14) days to determine the merits of the allegations, or to correct the violation. The NOV shall advise the alleged violator of the fines associated with each alleged violation as required by the Schedule of Violations and Fines, Appendix E of the Guidelines, and any additional opportunity to cure before the fines or consequences escalate. In the event the Declarant disagrees with the allegation of violation of the Covenant or the Guidelines, the Declarant may request, in writing, a hearing before the HA or its designated hearing officer, who shall have absolute discretion to determine the appropriate action to be taken to either remedy the violation or to require Declarant to sell the Housing Unit. If the Declarant does not request a hearing and the violation is not cured within the fourteen-day period, the Declarant and/or Occupant shall be considered in violation of this Covenant, and fines shall continue to accrue until the violation is cured or the maximum fine has been reached. Failure to request a hearing shall constitute the failure to exhaust administrative remedies for the purpose of judicial review.

**11.3 Hearing Before the HA.** Whenever this Covenant provides for a hearing before the HA, such hearing shall be scheduled by the HA within fourteen (14) days of the date of receipt of a written request for a hearing. At any such hearing, the Declarant or other aggrieved party may be represented by counsel and may present evidence on the issues to be determined at the hearing. An electronic record of the hearing shall be made, and the decision of the HA shall be a final decision, subject to judicial review.

**11.4 Reservation of Remedies.** There is hereby reserved to the parties hereto any and all remedies provided by law for breach of this Covenant or any of its terms. In the event the Parties resort to litigation with respect to any or all provisions of this Covenant, the prevailing party shall be awarded its damages, expenses and costs, including reasonable attorney's fees.

**11.5 Sale Without Compliance.** In the event the Housing Unit is sold and/or conveyed without compliance with the terms of this Covenant, such sale and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of the Housing Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, even without reference therein to this Covenant.

11.6 **Failure to Cure.** In the event a Declarant fails to cure any breach of this Covenant, each of the Beneficiaries may resort to any and all available legal or equitable actions, including but not limited to specific performance of this Covenant, a mandatory injunction requiring the sale of the Housing Unit by Declarant, and/or an injunction against future sale(s) in violation of this Covenant.

11.7 **Violation Fixes Resale Price.** In the event of a breach of any of the terms or conditions contained herein by Declarant, his or her heirs, successors or assigns, the Declarant's MSP of the Property shall, upon the date of such breach as determined by the HA, automatically cease to increase as set out in Section 7.3 and shall remain fixed until the date of cure of said breach.

12. **General Provisions**

12.1 **Enforcement of Covenant.** This Covenant shall constitute covenants running with the land and Housing Unit as a burden thereon, for the benefit of each of the Beneficiaries and/or its respective successors and assigns, as applicable, and who may enforce the covenants and compel compliance therewith. Enforcement by any appropriate legal action may include, but is not limited to specific performance injunction, reversion, damages, or eviction of noncomplying Declarants and/or Occupants.

12.2 **Equal Housing Opportunity.** Pursuant to the Fair Housing Act and public policy, the HA shall not discriminate on the basis of race, creed, color, sex, national origin, familial status, disability, sexual orientation, or gender identity in the lease, sale, use or occupancy of the Housing Unit.

12.3 **Waiver of Exemptions.** Every Declarant, by taking title to a Housing Unit, shall be deemed to have subordinated to this Covenant any and all right of homestead and any other exemption in, or with respect to, such Housing Unit under state or federal law presently existing or hereafter enacted.

12.4 **Notices.** Any notice, consent, approval, or request which is required to be given by any party hereunder shall be given by personal delivery, by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to the address provided herein or to the address of the Declarant. The Declarant shall advise the Housing Agency of any change in address, in writing. Mailing requirements may be waived by consent of the Parties and acknowledgment of delivery by email or regular mail.

To Beneficiaries:

Chair  
San Miguel County Housing Authority  
PO Box 1170  
Telluride, Colorado 81435  
Telephone: 970-728-3844  
Fax: 970-728-3718

Land Contributor  
San Miguel County Manager

PO Box 1170  
Telluride, Colorado 81435  
Telephone: 970-728-3844  
Fax: 970-728-3718

Rural Homes, LLC  
PO Box 4222  
Telluride, CO 81435  
Telephone:  
Fax:

To Declarant: \_\_\_\_\_  
\_\_\_\_\_

**12.5 Severability.** Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such manner as to be valid under applicable law; but if any provision of this Covenant shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition, without invalidating the remaining provisions of this Covenant.

**12.6 Choice of Law.** This Covenant and each and every related document is to be governed and construed in accordance with the laws of the State of Colorado.

**12.7 Successors.** Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors, and assigns of the parties.

**12.8 Further Actions.** Declarants and subsequent owners agree that they shall be personally liable for their participation in any of the transactions contemplated herein and that they will execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

**12.9 Gender and Number.** Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

**12.10 Modifications.** Any modifications of this Covenant shall be effective only when made by a duly executed instrument by the HA and Declarant, with the written consent of each of the Beneficiaries, and recorded with the Clerk and Recorder of County.

**12.11 Attorney Fees.** In the event any of the Parties resorts to litigation with respect to any of the provisions of this Covenant, the prevailing Party shall be entitled to recover damages and costs, including reasonable attorney fees.

EXECUTED, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SAN MIGUEL COUNTY HOUSING AUTHORITY**

By: \_\_\_\_\_  
[name], Chair

State of Colorado                    )  
  ) ss.  
County of \_\_\_\_\_                )

The foregoing San Miguel County Housing Authority Affordable Housing Deed Restriction and Covenant for been acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by [name], Chair of the Housing Authority

Witness my hand and official seal.  
My commission expires:

\_\_\_\_\_ Notary  
Public

EXECUTED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**RURAL HOMES, LLC**

By: \_\_\_\_\_  
[name], Member

State of Colorado                    )  
  ) ss.  
County of \_\_\_\_\_                )

The foregoing Housing Authority Affordable Housing Deed Restriction and Covenant for been acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_[name], Member of RURAL HOMES, LLC.

Witness my hand and official seal.  
My commission expires:

\_\_\_\_\_ Notary Public

EXECUTED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**PURCHASER**

\_\_\_\_\_  
[name]

State of Colorado                    )  
  ) ss.  
County of \_\_\_\_\_                )

The foregoing Housing Authority Affordable Housing Deed Restriction and Covenant for been acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_[name].

Witness my hand and official seal.  
My commission expires:

\_\_\_\_\_  
Notary Public



Rural Homes: For Sale, For Locals

AFFORDABLE HOUSING REGULATIONS AND GUIDELINES

**PINION PARK**

San Miguel County

Approved by San Miguel County BOCC  
February 16, 2022

## **WELCOME**

**GENERAL POLICY GOALS:** The general goal of the Rural Homes: For Sale, For Locals (RH) is to provide high quality homes that will remain affordable for working residents and their families who make a living primarily from employment in the Norwood R-2j School District boundaries and who choose to be part of the local community. This is accomplished, for the most part, by regulating and restricting occupancy and sale of the Housing Units covered by these Affordable Housing Regulations and Guidelines (Guidelines) to “Qualified Households” as defined herein.

Qualified Households must meet specific economic means tests that may include both Household Income and Household Net Assets. Such tests of economic means are intended to promote diversity within the target community.

The Housing Units covered by these Guidelines are subject to price limitations for sale, resale and/or rental. These limitations are intended to insure affordability for the current Household and for the long-term affordability of the Housing Unit.

These Guidelines are intended to provide for clear, fair, and consistent administration of the Rural Homes: For Sale, For Locals Deed Restriction and Covenant (referred to as “Covenant” or “Deed Restriction”), associated with each Housing Unit (also referred to as Unit). It is recognized that there are individual Households and Housing Units that may not fit clearly within the specific provisions of the Guidelines but still meet these general policy goals. For these cases, Exception and Appeal processes have been established (Section 11).

The San Miguel County Housing Authority (HA) or its designee is authorized to adopt specific policy directives as necessary to clarify and aid in the application and enforcement of the Deed Restriction. Any policy directives shall be adopted by HA at a properly noticed public meeting.

## Table of Contents

1.	Definitions	Page 4
2.	Purpose and Applicability	Page 13
3.	Household Qualification and Eligibility	Page 13
4.	Initial Household Application Process	Page 16
5.	Continuing Household Qualification and Compliance Verification	Page 16
6.	Sale and Resale of Housing Units	Page 18
7.	Rental Procedures	Page 21
8.	Deed Restriction Covenant	Page 22
9.	Lenders and Loans	Page 24
10.	Ownership Lotteries	Page 24
11.	Exceptions, Appeals and Grievances	Page 27
12.	Administrative Procedures	Page 31

### Appendices

A.	Income Eligibility Tiers & Area Median Income (AMI) Limits	Page 33
B.	Initial Sales Price & Maximum Rental Prices	Page 34
C.	Lottery Point System Criteria	Page 35
D.	Fee Schedule	Page 36
E.	Schedule of Violations and Fines	Page 37

## 1. DEFINITIONS

Definitions of terms and phrases contained within the Deed Restriction and Guidelines:

- 1.1 **ACCESSORY DWELLING UNIT (ADU)** - a building, or portion thereof, the use of which is incidental to that of the main building, and which is located on the same lot or parcel with the main building or use, and which building has a separate kitchen, separate bathroom, a separate entrance, and which is restricted by rent and occupancy requirements as described in these Guidelines.
- 1.2 **APPEAL** - is the process used when the Applicant understands and acknowledges the Covenant and Guidelines criteria and believes that after an initial determination, the criteria have been applied to him or her incorrectly.
- 1.3 **APPLICANT** - a Household that has submitted the required application either for qualification as a Buyer or a Renter or who submits a request for an Exception.
- 1.4 **AREA MEDIAN INCOME (AMI)** - a statistical number based on Household Size and Income for residents of the county in Colorado in which the Housing Unit is located and that is used in these Guidelines as a basis for the Income Eligibility Tiers applied to specific Housing Units. HA shall update the AMI once per year based upon an analysis of the best available data for County Household Incomes. Data sources and methods for this analysis are documented in Appendix A.
- 1.5 **ASSETS** - anything owned by an individual that has commercial or exchange value. Assets consist of specific property or claims against others, in contrast to obligations due others. Assets include both liquid and non-liquid assets. Liquid Assets include cash in savings, checking or other forms of bank accounts and stocks, bonds or other instruments that can readily be converted to cash. Non-liquid Assets are those items not easily converted to cash.

The most recent assessed value as provided by the applicable Assessor's Office will be used to determine the value of Assets, including real estate holdings, regardless of setoffs by encumbrances, costs of sale or holding, or percent of ownership interest. Assets shall include funds or property held in a living trust or any similar entity or interest, where the person has management rights or the ability to apply the assets to the payment of debts. Assets in a qualified retirement plan and intangible assets will not be included in the asset calculations for each income category. Household Net Assets equals gross Household Assets less gross Household Liabilities.

NOTE: A one-time gift of up to 30% of the Original Purchase Price used exclusively as a down payment for the purchase of a Housing Unit may be considered as a net asset, and not as Earned Income for the purposes of initial qualification.

- 1.6 **BEDROOM** - area designed to be used for sleeping purposes that shall contain a closet, have access to a bathroom and meets applicable Building Code requirements for light, ventilation, sanitation, and egress.

- 1.7 BUSINESS OWNER - a person or entity that owns or operates a business located in and serving the County, with a local workforce working in the School District, and who has been certified by the Housing Authority to own a Housing Unit and who has agreed to the rental restrictions set forth in the Deed Restriction and these Guidelines.
- 1.8 BUYER - a person who is buying a Housing Unit.
- 1.9 CAPITAL IMPROVEMENTS AND PERMITTED CAPITAL IMPROVEMENTS - a Capital Improvement is any fixture, construction or installation that is erected, constructed, or installed as a permanent improvement to real property or non-recurring expenses for physical improvements that provide a long-term upgrade or improvement to the Housing Unit, not to include ordinary repair and maintenance. A Permitted Capital Improvement is a Capital Improvement that has been approved by HA prior to erection and shall NOT include luxury items, upgrades for esthetic or personal preference, landscaping, or cost associated with ordinary repair, replacement, and maintenance. For example, installing a stained-glass window in place of a functioning clear glass window would be considered a luxury item.

Permitted Capital Improvements are established for determining Maximum Sales Price as the terms are defined in Section 6.11.

- 1.10 COMMERCIAL PROPERTY - property which is used for any of the following uses as defined by the applicable Land Use Code: Commercial; Industrial; Accommodations (including Hotel, Lodge, Boarding and Rooming houses, Lock-off units, and Short-term Dwelling Units); and Agricultural Land.
- 1.11 CO-SIGNER - a joint signatory of a promissory note whose obligations are the same as those of the primary borrower. If the primary borrower does not repay the loan, the co-signer accepts responsibility for the debt. A Co-signer shall not occupy the Housing Unit unless qualified by HA.
- 1.12 COUNTY - the county in the state of Colorado in which the Housing Unit is located.
- 1.13 DECLARANT - the person or entity who is purchasing the Housing Unit and who signs the Deed Restriction and Covenant.
- 1.14 DEED RESTRICTION – a contract prepared by HA in coordination with Rural Homes (RH) and entered into between HA, RH, and the Owner or Buyer of real property identifying and burdening the conditions of use, occupancy and sale which shall not be altered by any party without the written consent of all parties, also referred to as Covenant.
- 1.15 DESIGNEE - a person or entity that is named and authorized to act in place of the person or entity granting the designation.
- 1.16 DISABLED PERSON – See Individual with a Disability.

- 1.17 DOWN PAYMENT - a cash payment made by the purchaser toward the purchase price of the Housing Unit.
- 1.18 EARNED INCOME STANDARD - total Household Earned Income must be at least 75% of the total Household Income. Unearned Income cannot exceed 25% of total Household Income. See INCOME.
- 1.19 ELDERLY - a person who is at least 65 years of age.
- 1.20 ELIGIBILITY - qualification requirements applied to a Household based on the specific Housing Unit the Household intends to occupy.
- 1.21 EMPLOYEE - a person who is self-employed or is working for another person or business and is compensated for such work on an hourly, weekly, monthly or commission basis or any combination of such compensation.
- 1.22 ESSENTIAL RESPONSE PERSONNEL - those persons required to report to their designated work location to ensure the operation of essential functions during an emergency. Qualified Essential Response Personnel are employees (on call 12 hours/day, a minimum of 8 times per month or its equivalent) of a community-based organization, in the Norwood R-2j School District boundaries that provides on-scene assistance and personal care to victims. Community-based organizations include but are not limited to the Fire Department, Search & Rescue, Police, Marshal, and Sheriff's Departments, Emergency Medical Services, Social Services, and Emergency Dispatch.
- 1.23 EXCEPTION, REQUEST FOR - the process used when the Applicant understands and acknowledges the Covenant and Guidelines criteria and believes that there exists a legitimate and compelling reason why the Applicant should be exempt from such criteria or allowed a modification of the criteria.
- 1.24 FAIR MARKET VALUE - the price at which bona fide non-distress sales have been consummated for assets of like type, quality, and quantity in a particular market.
- 1.25 FAMILY - see Immediate Family
- 1.26 FEE SIMPLE ESTATE - the maximum possible estate that one can possess in real property, complete and absolute ownership of indefinite duration, freely transferable, and inheritable.
- 1.27 FINANCIAL STATEMENT - a statement detailing all personal assets, liabilities, and net assets (the difference between gross assets and liabilities) as of a specific date.
- 1.28 FIRST MORTGAGE - a deed of trust or mortgage that is recorded senior to any other deeds of trust or liens against a property to secure a loan used to purchase a property by a Mortgagee.

- 1.29 FREE-MARKET PROPERTY - a property that is not restricted by any Deed Restriction or covenant regarding price or terms of sale.
- 1.30 FULL-TIME EMPLOYEE - a person who works a minimum of 1,200 hours per year by working no less than eight (8) of every twelve (12) months on a rolling twelve (12) month basis AND during the qualifying eight (8) months must work at least forty (40) hours per month.
- 1.31 GOVERNMENT PERSONNEL - any Full-time Employee of a federal, state, or County agency, or any local government, including law enforcement agencies.
- 1.32 GRIEVANCE - any dispute that Seller, Buyer, Owner, or Applicant may have with HA with respect to an action or failure to act in accordance with the individual's rights, duties, welfare, or status.
- 1.33 GUEST - a person with whom a Household shares the same living quarters who has no proprietary interest including no leasehold interest in the Housing Unit, who is not on the title to the unit, who does not provide financial assistance to the Household, and whose stay is limited to less than thirty (30) days every six (6) months.
- 1.34 GUIDELINES - these Rural Homes Affordable Housing Regulations and Guidelines are a set of operational regulations adopted by RH and the HA and are amended from time to time that set out definitions, standards and procedures that further define and detail the RH Deed Restriction and Covenant and are to be applied to specific Housing Units.
- 1.35 HEALTH CARE PERSONNEL - any Full-time Employee, who is licensed or otherwise authorized by the State of Colorado to provide health care services and who is employed as such by a nonprofit institution in the Norwood R-2j School District boundaries.
- 1.36 HOME OCCUPATION - any business conducted principally within a dwelling unit, an enclosed garage or accessory building, which is carried on by the inhabitants of the Housing Unit. Home Occupation does not include: an individual working at home that does not routinely conduct meetings in the home; does not have routine contact with employer, employee, consultant and/or client in the home; and does not conduct traditional sales or retail activities on the premise of their workplace; and/or does not place any identifying signs on the exterior of the workplace.
- 1.37 HOUSEHOLD - one or more persons who intend to live together in a Housing Unit as a single housekeeping entity.
- 1.38 HOUSING AUTHORITY (HA) - the San Miguel County Housing Authority will have the responsibility to administer the Deed Restriction and Guidelines, including qualifying owners, enforcement, and making any exceptions. Each RH development will be assigned a HA within that jurisdiction. As used in these Guidelines, HA may also mean staff and the Board of Directors of the Housing Authority or its designee, as the context requires.

- 1.39 HOUSING UNIT - a residential unit that is subject to the RH Deed Restriction and Covenant and RH Affordable Housing Regulations and Guidelines and any additional covenants that run with the land.
- 1.40 IMMEDIATE FAMILY - the Qualified Employee and the spouse of the Qualified Employee and their siblings, the parents and/or offspring of the Qualified Employee and the spouse of the Qualified Employee, all of whom may be related either biologically, by marriage, by civil union and/or by legal adoption, and regardless of age. Immediate Family also includes: a minor child for whom the Qualified Employee or the spouse of the Qualified Employee becomes a legal guardian and a minor child for whom the Qualified Employee or the spouse of the Qualified Employee becomes a legal foster parent. Such children shall be treated as biological children and have the same Immediate Family status, regardless of age.
- 1.41 IMPROVED RESIDENTIAL PROPERTY - property that contains at least one (1) dwelling unit as defined in the applicable Land Use Code.
- 1.42 INCOME -
- a. Earned Income -
    - Income derived from one’s own labor or through active participation on a regular, continuous, and substantial basis in a business and including retirement funds from deferred income earned from employment, Social Security benefits, alimony, and child support; and
    - Net income derived from a business after reasonable deductions for expenses, depreciation, taxes, and similar allowances.
    - For Qualified Elderly, retirement and/or pension income, regardless of origin, is considered Earned Income.
  - b. Household Income - combined Gross Income of all individuals in the Household.
  - c. Unearned Income - income derived from investments, rental property, trusts, inheritance, etc. and any other passive activity.
  - d. Gross Income - the total of all income from whatever source before deductions.
- 1.43 INCOME ELIGIBILITY TIER - the specification and limits of Household Income that applies to a particular Housing Unit.
- 1.44 INDIVIDUAL WITH A DISABILITY- has the same meaning as set forth in the federal “Americans with Disabilities Act of 1990”, 42 U.S.C. sec. 12131, and its related amendments and implementing regulation, as amended, which currently defines a person with a disability as "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment." (see also, Mobility Disabled Person).
- 1.45 INITIAL SALES PRICE - the sale price for a Housing Unit that is recorded as the Original Purchase Price [OPP] of that Housing Unit at the time the original Deed Restriction for the Housing Unit is executed and recorded in the County Clerk and Recorder’s Office.



- 1.46 JOINT TENANCY - ownership of real estate between two or more parties who have been named in one conveyance as joint tenants. Upon the death of one tenant, surviving joint tenant(s) have the right of survivorship.
- 1.47 LAND CONTRIBUTOR - the entity that provided the land upon which the Rural Homes, For Sale, For Locals Project was built.
- 1.48 LAND CONTRIBUTOR UNITS - those deed-restricted properties that have been designated for purchase by the Land Contributor. A Land Contributor Unit is a Housing Unit.
- 1.49 LANDLORD - the owner of the Housing Unit, who, in an exchange for rent, leases the entire Housing Unit or a room in the Housing Unit to another individual known as the Tenant.
- 1.50 LEASE - a written agreement between an Owner/Landlord and a Tenant/Tenant Household that creates a Leasehold Interest.
- 1.51 LEASEHOLD INTEREST - a less than Fee Simple Estate that a Tenant possesses in real property.
- 1.52 LEAVE OF ABSENCE - an Exception from the requirement that a Qualified Household maintain the Housing Unit as its primary place of residence granted according to the Exception Procedure in Section 5.2.4.1.
- 1.53 LIABILITIES - the total amount owed to other persons including loans, liens, accounts payable, and other financial obligations as defined by generally accepted accounting practice.
- 1.54 LONG-TERM RENTAL - rental of a Housing Unit for any period of time equal to or greater than six consecutive months.
- 1.55 LUXURY ITEMS - are non-essential appliances, fixtures, or upgrades to a Housing Unit.
- 1.56 MAXIMUM SALE PRICE (MSP) - the maximum purchase price that can be paid by any purchaser of a Housing Unit. The MSP is not a guaranteed price, but merely the highest price an Owner may obtain for the sale of a Housing Unit. The Owner's MSP is determined as defined in Sections 5.8 and 8.2.3 and according to the Covenant covering the Housing Unit.
- 1.57 MINIMUM WORK STANDARD - in order to meet the Minimum Work Standard, a person must work 1,200 hours per year by working physically in the Norwood R-2j School District boundaries no less than eight (8) of every twelve (12) months on a rolling twelve (12) month basis AND during the qualifying eight (8) months must work at least forty (40) hours per month.

- 1.58 MOBILITY DISABLED PERSON - a person who is an Individual with a Disability and who suffers from a long-term limitation in independent, purposeful physical movement of the body or of one or more extremities.
- 1.59 MORTGAGEE - any bank, savings and loan association, or any other institutional lender that is licensed to engage in the business of providing purchase money mortgage financing for residential real property and that is the beneficiary of a deed of trust or the mortgagee under a mortgage encumbering the Housing Unit.
- 1.60 NET WORTH - the estimated sum of the assets of the Qualified Owner and/or Qualified Occupant and/or Qualified Household less liabilities, the term is synonymous with Net Assets.
- 1.61 NOTICE OF VIOLATION - a formal written notice from the HA or its Designee to a Housing Unit Owner or Tenant who may be in violation of provisions of the Deed Restriction for the Housing Unit or of the provisions of the Guidelines.
- 1.62 OCCUPANT - any person who occupies the Housing Unit as his or her Primary Residence but who has no ownership interest in the Housing Unit.
- 1.63 ORIGINAL PURCHASE PRICE (OPP) - the sale price for a Housing Unit that is recorded at the time the Covenant for the Housing Unit is executed and recorded in the County Clerk and Recorder's Office.
- 1.64 OWNER - individual(s) who have a legal right to the Housing Unit by deed, tenancy in common, joint tenancy, or tenancy in the entirety or other relationship; an individual who may have a proprietary interest in the Housing Unit, and may include any subsequent buyer, heir, devisee, transferee, grantee, or holder of title, or any portion of title, to the Housing Unit.
- 1.65 PURCHASE PRICE - all consideration paid by the Buyer to the Seller for a Housing Unit.
- 1.66 PREQUALIFICATION - a borrower's tentative mortgage approval from a lender.
- 1.67 PRIMARY RESIDENCE - the sole and exclusive place of residence.
- 1.68 PRIORITY - the order in which Housing Units are offered to Applicant Households based on the applicable selection procedure (e.g., a lottery, waiting list). Priority is created by RH and the HA and not all Housing Units are subject to Priority.
- 1.69 PROPERTY - includes all real estate of any kind, improved or unimproved, including but not limited to land, commercial property, investment property, and residential property.
- 1.70 QUALIFICATION - the minimum standards of employment, residency and/or net assets that are applied to a Qualified Household according to the Covenant covering the Housing Unit and as defined in Sections 3 and 5.

- 1.71 QUALIFIED EMPLOYEE - an Employee who meets the Minimum Work Standard, is certified by the HA, and who maintains compliance pursuant to the Covenant and Guidelines.
- 1.72 QUALIFIED HOUSEHOLD - all Owners and Occupants who meet the requirements of Sections 3 and 5 who are certified by the HA to own and/or occupy the Housing Unit according to the terms and conditions of the Deed Restriction and Guidelines and who maintain compliance pursuant to the Covenant and Guidelines.
- 1.73 QUALIFIED OCCUPANT - a person who meets the requirements of Sections 3 and 5 to occupy the Housing Unit, who is certified by the HA, and who maintains compliance pursuant to the Covenant and Guidelines. Land Contributor and Business Owner shall not be considered Qualified Occupants.
- 1.74 QUALIFIED OWNER - a person who meets the requirements of Sections 3 and 5 at the time that they take initial ownership interest or transfer of interest in a Housing Unit, is certified by the HA, and who maintains compliance pursuant to the Covenant and Guidelines. Land Contributor and Business Owner may be considered Qualified Owners subject to the Covenant and Guidelines.
- 1.75 RIGHT OF FIRST REFUSAL: a provision in a lease or other agreement that gives a potentially interested party the right to buy a property before the seller negotiates any other offers.
- 1.76 SALE - a sale is the exchange of a Housing Unit for an agreed amount of money in a single transaction in which title to the Housing Unit is transferred to a new Qualified Household.
- 1.77 SELF-EMPLOYED - a person who carries on a trade or business as a sole proprietor or independent contractor who is working for oneself as a freelancer rather than for an employer including part-time business or a member of a partnership that carries on a trade or business.
- 1.78 SELLER - a person who owns and is selling a Housing Unit.
- 1.79 SELLER'S LISTING CHECKLIST - the list of items required to be in good order as defined in the "Minimum Standards" required for a sale at Maximum Sale Price (Section 6.8).
- 1.80 SELLER'S PROPERTY DISCLOSURE - the residential form approved by the Colorado Real Estate Commission and customarily required in transactions involving the purchase and sale of residential real estate in the State of Colorado.
- 1.81 SCHOOL DISTRICT – the Norwood R-2j School District, the school district in which the Housing Unit is located.
- 1.82 SCHOOL DISTRICT PERSONNEL - any Full-time Employee, including independent contractors, of the Norwood R-2j School District who provides health, educational,

administrative, social, psychological, custodial, food service, transportation, law enforcement, or childcare services.

1.83 SHORT-TERM RENTAL - rental of a Housing Unit for any period of time less than thirty (30) consecutive days.

1.84 TENANT - a person who has the temporary use and occupancy of real property owned by another subject to the Guidelines.

1.85 TOWN - the Town in which the Housing Unit is located.

1.86 TRANSFER - an act of a party, or of the law, by which the title to the Housing Unit is wholly or partially transferred to another; including but not limited to the sale, assignment voluntary or involuntary transfer, or transfer by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in the Housing Unit, including but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, a leasehold interest or any interest evidenced by a land contract by which possession of the Housing Unit is transferred and Owner retains title, except that, this definition does not include any transfer of an interest by the Housing Authority.

1.87 UNIMPROVED RESIDENTIAL PROPERTY - vacant property, which is restricted solely to residential uses, and uses accessory thereto, as defined in the applicable Land Use Code.

## **2. PURPOSE AND APPLICABILITY**

The purpose of the Guidelines is to provide a comprehensive and consistent set of provisions that apply to housing created by Rural Homes: For Sale, For Locals and the Housing Authority.

Every sale or rental of a Housing Unit shall be subject to the Deed Restriction and Guidelines in effect at the time of sale or rental. Owners and Tenants are subject to the Guidelines in effect and as amended during their ownership or lease.

Violations of these Guidelines are violations of the Deed Restriction and are subject to the penalties adopted for such violations in addition to remedies provided herein.

These Guidelines are considered regulations in order to control and enforce the applicable RH Deed Restriction and have the force and effect of law and can be enforced by the HA or its authorized agents and/or representatives. These rules have binding effect on all individuals and courts.

## **3. HOUSEHOLD QUALIFICATION and ELIGIBILITY**

A Qualified Owner or a Qualified Household must maintain its Qualification continuously as long as it owns, rents, or occupies the Housing Unit.

**3.1 Household Initial Qualification.** Qualified Owners and Qualified Households must meet each of the following requirements for initial purchase or occupancy as described below in the following sections:

- 3.1.1** Minimum Work Standard
- 3.1.2** Earned Income Standard
- 3.1.3** Residency Standard
- 3.1.4** Property Ownership Standard
- 3.1.5** Net Assets Standard

### **3.1.1 Minimum Work Standard.**

3.1.1.1 Qualified Employee. At least one member of the Household who is an Owner shall be a Qualified Employee who must demonstrate and verify 1,200 hours of employment physically performed in the School District boundaries for a minimum of forty (40) hours per month for at least eight (8) of the previous twelve (12) months immediately prior to submission of an application or provide verifiable intent to physically perform 1,200 hours of work in the School District boundaries within twelve (12) months of application at a minimum of forty (40) hours per month for eight (8) of the next twelve (12) months.

3.1.1.2 Exemptions. Those who have been determined by HA to be Qualified Elderly or Qualified Individual with a Disability as defined below, prior to application for ownership or rental, as well as Immediate Family and Dependents of a Qualified Employee are exempt from the required employment hours.

3.1.1.2.a Qualified Individual with a Disability – Those persons with a disability may apply to be Qualified Individual with a Disability by providing a verifiable history of employment meeting the Minimum Work Standard on a rolling twelve (12) month basis for at least five (5) of the seven (7) years within the County immediately prior to application for Qualified Individual with a Disability as defined. Note: Persons with a disability who cannot meet this exemption standard may request an Exception under §11.1.3

3.1.1.2.b Qualified Elderly – Those who are 65 years or older may apply to be Qualified Elderly by providing a verifiable history of employment meeting the Minimum Work Standard on a rolling twelve (12) month basis for at least five (5) of the seven (7) years within the County, immediately prior to application for Qualified Elderly as defined.

3.1.1.3 Exception. Employees who are employed by a business located in the School District boundaries with a workforce physically located in the School District boundaries and who are required to perform tasks outside the School District boundaries, may apply for an Administrative Exception to the “physically performed” requirement, §1.1.1 above.

### **3.1.2 Earned Income Standard.**

3.1.2.1 Total Household Earned Income must be at least 75% of the total Household Income. Unearned Income cannot exceed 25% of total Household Income.

3.1.2.2 Households must qualify for the AMI standard associated with the Housing Unit and show proof of Income not to exceed the income range allowed for the Housing Unit.

3.1.2.3 Applicant representations of Gross Income are subject to verification and evaluation of reasonableness by HA.

3.1.2.4 The following are exempt from the Earned Income Standard:

3.1.2.4.a Those who are Qualified Individual with a Disability per the provisions of Section 3.1.1.2.a; and

3.1.2.4.b. Those who are Qualified Elderly per the provisions of Section 3.1.1.2.b.

**3.1.3 Residency Standard.** Applicants purchasing a Housing Unit are not subject to a prior residency requirement but must intend to, and in fact, occupy the Housing Unit as their sole and Primary Residence.

**3.1.4 Property Ownership Standard.**

3.1.4.1 At the time of application, a Household may own other improved or unimproved residential or commercial property, however, all Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit, must be listed immediately for sale and sold for fair market value within one year of taking title to the Housing Unit.

3.1.4.2 Households that desire to acquire Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit after taking ownership of a Housing Unit must apply for and be granted an Exception prior to taking ownership of the additional property.

**3.1.5 Net Assets Standard.**

3.1.5.1 Total Household Net Assets shall not exceed three (3) times the Original Purchase Price (“OPP”) of the Housing Unit. All Household members’ shares of business assets, including real estate, shall be included in determination of the Household Net Assets.

3.1.5.2 Disposition of Assets. Any member of a Household who has assigned, conveyed, transferred, or otherwise disposed of property or other assets within the last two (2) years without fair consideration in order to meet the net asset limitation or the property ownership limitation shall be ineligible.

**3.2. Household Eligibility Criteria.**

**3.2.1 Income Eligibility Tiers.** Households must meet Income Eligibility Tiers in addition to the Household Initial Qualification criteria. Eligibility criteria may differ between units that are targeted to different Tiers, as defined in Appendix A, and as designated in the Covenant.

The existence of more than one Eligibility Tier does not guarantee that the HA will construct or otherwise make available housing in that Tier.

**3.2.2 Household Size.** The total number of people in a Household shall not be less than the following Minimum Household Sizes\*:

Unit Type:	Minimum Household Size:
Studio/1 Bedroom	1 person
2 Bedroom	1 person
3 Bedroom	2 persons
4 Bedroom	3 persons

\*this chart does not guarantee houses will be built or available in all listed types.

**4. INITIAL HOUSEHOLD APPLICATION PROCESS**

**4.1 Application Process.** Applications for qualification shall be made to HA. HA may request any combination of documentation reasonably related to proof of income, assets, and employment. Household shall sign a release of information so that HA may obtain such information. HA will require a sworn statement of the facts contained in the application including at least the following certifications:

**4.1.1** That the facts contained in the application are true and correct to the best of the Applicant's knowledge; that the Applicant has been given the standard application information packet by HA; and

**4.1.2** That the Applicant, on the basis of the application presented, believes that the Household qualifies to occupy the Housing Unit in question according to the Deed Restriction, these Guidelines and all other applicable procedures, rules, and regulations.

**4.1.3** Any material misstatement of fact or deliberate fraud by the Household in connection with any information supplied to HA shall be cause for immediate expulsion from the application process and/or forced sale or vacation of the Housing Unit.

**4.2 Homeowners Associations.** The Housing Unit is not currently subject to a homeowner's association ("HOA"). However, HOAs and related dues are authorized in Colorado under Colorado Revised Statutes §38-33.3-101 et seq. If an HOA is formed and applicable, all Owners of Housing Units are required to timely remit payment of HOA dues. It is the Household's responsibility to be aware of any HOA dues or interest charges.

## **5. CONTINUING HOUSEHOLD QUALIFICATION AND COMPLIANCE VERIFICATION**

**5.1 Maintaining Qualified Household Status.** HA requires Households, including all occupants of Housing Units, to maintain Qualified Household status on an on-going basis.

**5.1.1 Changes to Households.** Changes to Qualified Households impact ongoing qualifications and may jeopardize qualification, such as a pending separation or divorce, the death of a Household member, or departure of a Household member, and the addition of Immediate Family members. All changes to the Household shall be reported to HA within thirty (30) days of said change. HA will make every effort to maintain stable housing for Households in transition but shall require the Household to come into compliance within a reasonable period prior to issuing a Notice of Violation.

**5.1.2 Compliance Checks.** In order to verify compliance with Deed Restrictions and the Guidelines, HA will conduct regular Compliance Checks and may initiate them to investigate complaints or reports of non-compliance. Any on-site Housing Unit inspection is subject to a twenty-four (24) hour notice requirement.

**5.1.3 Verification of Qualification.** HA shall require Households to verify that they remain a Qualified Household within twenty-one (21) days of a written notice of Compliance Check or a penalty will be assessed (see Appendix E). A sworn statement of



the facts required for maintaining Qualified Status shall be required as detailed in Section 4 for initial Compliance Check submissions.

**5.2 Qualified Household Continuing Requirements.** Verification of the following shall be required:

**5.2.1 Continuing Minimum Work Standard.**

5.2.1.1 At least one member of the Household must be a Qualified Employee who meets the Minimum Work Standards.

5.2.1.2 Qualified Elderly, Qualified Individual with a Disability and Immediate Family of Qualified Employees are exempt from the continuing Minimum Work Standard.

**5.2.2 Continuing Earned Income Standard.**

5.2.2.1 Household shall meet the Earned Income Standard, Section 3.1.2.1.

**5.2.3 Continuing Net Income Standard.**

5.2.3.1 Household Net Income shall not be considered for ongoing qualification for Owners.

5.2.3.2 Tenant Households shall continue to meet the Earned Income Eligibility Tier as designated by Appendix A.

**5.2.4 Continuing Residency Standard.** Qualified Households shall occupy the Housing Unit for at least eight (8) of every twelve (12) months on a rolling twelve (12) month basis.

5.2.4.1 Leave of Absence. In the event a Household wishes to not occupy the unit for more than four (4) months, the Household may apply to HA for a Leave of Absence for a term not to exceed two (2) years. The Household must provide clear and convincing evidence showing both a bona fide reason for leaving and a commitment to re-occupy the Housing Unit. HA shall condition the granting of the Leave of Absence on the Household offering the Housing Unit for rent to a Qualified Household, during the period of the requested leave. HA may include conditions on the Leave of Absence, as it deems necessary. Applications for a Leave of Absence shall be made to HA according to the Exceptions Procedure in Section 11.1. Short-term rental of Housing Units is otherwise prohibited.

**5.2.5 Ownership of Improved Residential Property.** Household is prohibited from ownership of other Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit unless the HA approves an Exception, see Section 11.1.

**5.2.6 Household Net Assets.** Household Net Assets shall not exceed three (3) times the Initial Sales Price of the Unit.

## 6. SALE AND RESALE OF HOUSING UNITS

The initial sale of all Housing Units shall be in accordance with applicable lottery, wait list or other selection procedures as determined by the HA.

### 6.1 **Notification Required.**

**6.1.1** Written notice to HA shall be required for any pending change in financing or ownership of a Housing Unit. Failure to timely notify HA is considered a serious breach of the Deed Restriction and violation of the Guidelines and shall be subject to a Notification Required Penalty (see Appendix E) for each day the failure to notify persists.

**6.1.2** Notice of Intent to Sell a Housing Unit must be given at least sixty (60) days prior to the sale of the unit on notice forms available from HA.

**6.1.3** Notice of transfer of any interest in a Housing Unit must be given at least thirty (30) days prior to the transfer and will require the execution of a new Deed Restriction.

**6.1.4** Notice of refinancing of a Housing Unit must be given at least thirty (30) days prior to closing of the loan.

**6.2 **Consult with HA.**** Sellers are advised to consult with HA prior to offering a Housing Unit for sale, in order to obtain the most current information about applicable Guidelines and processes, and to verify the Maximum Sale Price and other applicable provisions of the Deed Restriction concerning the Sale.

**6.3 **Independent Legal Counsel.**** All Sellers and Buyers of Housing Units are advised to consult independent legal counsel regarding the examination of title and all contracts, agreements, and title documents. The retention of such counsel, or related services, shall be at Buyer's and Seller's own expense.

**6.4 **Title Company.**** HA advises Buyers to use a local title company and escrow agent with experience in closings of Housing Units to close the sale transaction. The title documents involved in the closing of Housing Units are unique and technical. Mistakes in the closing documents are easily made and difficult to correct. Seller shall authorize HA to review the conveyance documents prior to closing.

**6.5 **Sales Fee.**** At the closing of the sale, the Buyer, will pay to HA a fee equal to 1% of the sales price. HA may instruct the title company to pay such fees out of the funds held in escrow at closing. The sales fee is waived for the sale from the developer to the first purchaser. HA may also waive the fee, or a portion thereof, in its sole discretion, to promote affordable housing. Fees due to HA shall be paid regardless of any action or services that the Buyer or Seller may undertake or acquire.

**6.6 **Beneficiaries with the Right to Acquire Ownership.**** Upon Owner's Notice of Intent to Sell, or upon exercise of Notice of Election to Require Sale as defined in the Covenant, Section 10.3, or if an Owner receives any offer to purchase or tenders any offer of sale for the Housing

Unit either of the Beneficiaries, or their successors, shall be notified within five (5) days of such event and have the Right of First Refusal to purchase the Housing Unit for the Maximum Sale Price or at the offered sales price outlined in the Covenant, Section 7.3.

**6.7 Resale Options.** Sellers of Housing Units have the following options for advertisement and marketing of their units:

**6.7.1** Seller may advertise, market, and sell a Unit directly, or list the Unit with a real estate broker licensed to do business in the State of Colorado provided that:

6.7.1.1 The Buyer meets the Qualified Household requirements of Section 3;  
and

6.7.1.2 In all events the HA will assist the Seller as it is able.

**6.8 Maximum Sales Price.**

**6.8.1 Maximum Sale Price as Only Exchange of Value.** The Maximum Sale Price of the Housing Unit shall be calculated according to its Deed Restriction. In no case shall any Housing Unit be sold for more than the Maximum Sale Price. The contracted sale price shall be the only exchange of value between parties to any sale of the Housing Unit. Both Buyer and Seller must execute a sworn statement affirming that the contracted sale price is the only exchange of value in the sale. Any exchange of value outside the contract sale price shall invalidate the sale in addition to being a violation of applicable provisions of Colorado law that provide for additional civil and criminal remedies.

**6.8.2 Minimum Standards for Maximum Sale Price.** The Owner, Buyer and HA should work together in addressing repairs necessary to bring a Housing Unit to Minimum Standards for Maximum Sale Price. Owners and Buyers shall use the following checklist of Minimum Standards for a sale at Maximum Sale Price (Seller's Listing Checklist), including but not limited to:

- Clean, odor-free interior;
- Carpets steam-cleaned within seven (7) days of closing;
- Surface scratches, marks, holes in doors, floors, walls, woodwork, cabinets, counter tops, other than normal wear and tear, repaired;
- Walls in good repair and paint-ready;
- Windows and window locks in good repair;
- Broken windowpanes replaced;
- Window screens in place and in good repair;
- Doors and door locks in good repair; keys for all locks must be delivered at closing;
- Light fixtures, outlets, switches secure and in working order;
- Plumbing in good repair with no leaks;
- Tile grout in good repair and clean;
- Roof in good repair with no leaks (if home is a single-family) including an expected remaining life of ten years; and
- Safety hazards resolved.

## **6.9 Mitigation of Repairs.**

**6.9.1** HA shall conduct a walk-through of the Housing Unit for purposes of verifying the Seller's Listing Checklist and identifying necessary repairs pursuant to Section 6.8. The Seller shall make identified repairs to bring the unit to Minimum Standards for Maximum Sale Price prior to closing.

**6.9.2** If a unit does not meet the Minimum Standards, HA may, at its discretion, require:

6.9.2.1 That the cost of necessary repairs be deducted from the closing sale price; or

6.9.2.2 That a credit be required from the Seller to the Buyer; or

6.9.2.3 That the Seller places into escrow the funds necessary to ensure satisfactory repairs, the balance of which, after necessary repairs, shall be returned to the Seller.

**6.9.3** Buyer is strongly encouraged to hire, at its own expense, a licensed inspector to conduct a thorough inspection of the Housing Unit.

## **6.10. Disclosure of Relevant Contracts and Information.**

**6.10.1** Both Buyer and Seller of any Housing Unit must sign a release of information allowing HA to obtain copies of all documents relevant to the sale and must disclose all relevant information known to them. All financial information shall remain confidential except as noted in Section 12.1.

**6.10.2** Relevant documents include but are not limited to:

6.10.2.1 The sales contract for the Housing Unit;

6.10.2.2 The Buyer's application for financing and related documentation; and

6.10.2.3 Title and escrow documents related to the sale.

**6.10.3** Sellers must inform Buyers of any proposed or pending increases in homeowner association dues, as well as any proposed or pending assessments, if any.

**6.11 Permitted Capital Improvements.** Permitted Capital Improvements, as defined in Section 1.9 provide a long-term upgrade or improvement to the Housing Unit. Permitted Capital Improvements shall NOT include luxury items, upgrades for esthetic or personal preference, landscaping, or cost associated with ordinary repair, replacement, and maintenance.

Ordinary Repair and Maintenance including roof repair and replacement, siding repair and replacement, driveway repair and replacement, and other similar maintenance cost are not considered Capital Improvements. Labor costs provided by the Owner may be authorized for up to 50% of the Permitted Capital Improvements upon approval by the HA.

It is the Owner's responsibility to secure any approval necessary from the Housing Unit's homeowners association and HA prior to undertaking any Capital Improvements.

**6.11.1 ADUs and Capital Improvements.** The new construction of an ADU, where permissible, will not be included in the Capital Improvement calculation for the Housing Unit. It will, however, impact the MSP based on criteria established by the HA.

## **7. RENTAL PROCEDURES**

There are two types of Rental Procedures. One for the rental of the entire Housing Unit and one for a partial rental.

**7.1 Entire Housing Unit.** Owners of Housing Units may, in some instances, be permitted to rent their entire Housing Unit. Households interested in renting the entire Housing Unit shall apply to and be qualified by the HA under the standards delineated in Section 3. HOUSEHOLD QUALIFICATION, ELIGIBILITY AND PRIORITY.

**7.2 Room Rental.** For purposes of qualification for room rental in an Owner-occupied Unit, each room rental shall be considered independently, and Tenant Household's income and assets shall not be included in the Owner's Household for income and asset qualification purposes. However, rental income shall be considered Unearned Income for the Owner/Landlord.

Tenant Household requirements for room rentals:

**7.2.1** At least one member of the Tenant Household, who is not part of the Immediate Family of the Owner, must be a Qualified Employee; and

**7.2.2** Tenant Households shall meet the Minimum Work, Earned Income, Residency, Property Ownership and Net Assets Standards; and

**7.2.3** Tenant household Income Eligibility shall be determined by the Housing Unit's Income Eligibility Tier (see Appendix A) at time of initial tenancy.

**7.3 General Provisions for all Rentals.** In this section, Tenant refers to Households that rent an entire Unit and Tenant Households renting a room in a Unit.

**7.3.1** Tenant shall meet the Income Eligibility Criteria designated by the Housing Unit's Income Eligibility Tier (see Appendix A).

**7.3.2** Maximum Rental Rate per Housing Unit is set by the HA and shall not exceed the rental rate for the same number of bedrooms designated by the Housing Unit's Income Eligibility Tier (see Appendix A).

**7.3.3** Maximum Rental Rate per room is set by the HA and shall not exceed studio/one-bedroom rental rate designated by the Housing Unit's Income Eligibility Tier (see Appendix A).

**7.3.4** Tenant Qualification shall be certified by HA prior to tenancy and/or the signing of a Lease.

- 7.3.5** Tenant Qualification shall be recertified by HA yearly at Lease renewal and any time there is a change in Household/Tenant Household.
- 7.3.6** Landlords must obtain proof of qualification from Tenant prior to occupancy.
- 7.3.7** Rental of Housing Units must be memorialized by a written Lease.
- 7.3.8** Leases must be for a minimum of six months with a maximum of twelve months.
- 7.3.9** Landlords shall provide a copy of the fully executed Lease with Tenant to HA within seven (7) days of its execution.
- 7.3.10** Executed copies of Leases shall be on file with HA at all times during the period in which rental of the Housing Unit is required or has been approved.
- 7.3.11** A sublease to a Qualified Employee is allowed upon approval of the Owner and of HA.

## **8. DEED RESTRICTION COVENANT**

**8.1 Deed Restriction Applied with Each Transfer.** A Deed Restriction shall be applied prior to or concurrent with each Sale or Transfer of a Housing Unit. Original executed and recorded documents will be maintained by HA. Provisions herein further defining the Deed Restriction are a summary of significant policies and should not be considered the complete authority. Sellers and Buyers are advised to consult the Deed Restriction for the Housing Unit for complete specific language, which is the final authority for that Housing Unit.

### **8.2 Specifications of the Deed Restriction.**

**8.2.1 The Original Purchase Price (“OPP”).** Each Housing Unit Sale generates a new OPP and necessitates execution of a new Deed Restriction.

**8.2.1 The designated Income Eligibility Tier for the Housing Unit.**

**8.2.3 The method of calculation of the allowed Maximum Sale Price (“MSP”).** MSP shall be the OPP specified in the Deed Restriction plus an increase in price of three percent (3%) per year from the date of purchase to the date of Owner’s Notice of Intent to Sell (compounded annually and prorated at the rate of .25 percent per each whole month of any part of a year);

PLUS, the costs of any public improvements for which assessments were imposed by a government entity since the recording date of the Deed Restriction; PLUS, the costs of Permitted Capital Improvements, not to exceed ten percent (10%) of the OPP, provided that:

8.2.3.1 Improvements are pre-approved by HA prior to commencement of any work or installation to be considered in the calculation of the MSP.

8.2.3.2 Proof of homeowner's association approval, if any, must be provided to HA prior to commencement of work.

8.2.3.3 Improvements must be properly permitted and inspected by the Town or County Building Official, if applicable.

8.2.3.4 LESS the Depreciation on Permitted Capital Improvements; PLUS, any other reasonable costs allowed by HA pursuant to Guidelines in effect on the date of Owner's Notice of Intent to Sell.

**8.3 Home Occupations.** The Housing Unit may be used in a Home Occupation if:

**8.3.1** Home Occupation complies with applicable land use regulations;

**8.3.2** HOA approval of the specific Home Occupation, if applicable;

**8.3.3** The business holds a current business license, if applicable; and

**8.3.4** The business holds current sales and excise tax licenses, if applicable.

**8.4 No Guarantee of MSP.** Neither HA nor the Beneficiaries make any guarantees of the owner's ability to sell the housing unit for its MSP or rent the housing unit for its maximum rental rate.

**8.5 Violation of Deed Restriction.** Violation of any of the covenants, conditions and terms of the Deed Restriction shall also be a violation of these Guidelines whether or not a corollary provision exists.

**8.6 Deed Restriction Binding.** The Deed Restriction shall be binding on all Owners, successors and assigns including any holder of a deed in lieu of foreclosure.

**8.7 Recording of Deed Restriction.** The Deed Restriction and any amendments thereto must be recorded in the property records of the County. The original executed and recorded documents must be delivered to HA.

**8.8 Deed Restrictions may not be transferred off the Housing Unit.**

**8.9 All Deed Restrictions must be prepared by HA.** No modification or amendment to the Deed Restriction shall be effective unless agreed to in writing by HA and other Parties.

## **9. LENDERS AND LOANS**

**9.1 Purpose.** RH intends to meet the following goals in the facilitation of individual mortgage financing for Housing Units:

**9.1.1** Protect the public investment and regulatory integrity of RH in the short and long term;

**9.1.2** Minimize financial and other risks to HA and RH by prohibiting excessive debt or other obligations from being secured by Housing Units;

**9.1.3** Minimize the chance that Owners will create a financial risk for HA through creation of debt or other secured obligations against their Housing Unit; and

**9.1.4** Increase the potential financing opportunities for Applicants and Owners.

**9.2** **Lenders and Mortgages.** Borrowers are restricted to either conventional or government guaranteed mortgages with a fixed rate from commercial banking and lending institutions authorized to engage in mortgage lending practices in the State of Colorado. All other mortgages will require an Exception from HA prior to purchase of a Housing Unit.

**9.3** **Total Debt.** Prior to and continuing after closing on a Housing Unit, Owners shall not incur debt, judgments, liens, or other obligations secured by the Housing Unit and in no event shall any obligation secured by the Housing Unit exceed the total Original Purchase Price of the unit. This limitation shall apply also to any refinance of existing debt secured by the Housing Unit. Owners must notify HA prior to finalizing any refinancing of the Housing Unit. Failure to notify HA shall be subject to a penalty (see Appendix E).

**9.4** **Co-Borrower or Co-Signor.** Co-borrowers or Co-signors who are not part of the Qualified Household must apply and be approved through the Exception Procedure (Section 11). Approved Co-borrowers and Co-signors shall be required to sign a separate agreement to sell the Housing Unit in the event the Qualified Owner becomes an Unqualified Owner, is in default under its Deed Restriction or the Guidelines or is otherwise required to sell the Housing Unit. Such Co-signors and co-borrowers shall not occupy the Housing Unit unless qualified by HA.

## **10. OWNERSHIP LOTTERIES**

The purpose of these Lotteries is to create a fair and orderly process for offering Units for sale to qualifying Households and give purchase priority to those identified in the Lottery Point System Criteria, Appendix C.

### **10.1 Ownership Lottery Procedure.**

**10.1.1** HA shall establish a procedure for ownership lotteries for initial sales of RH as subject to these Guidelines and may establish ownership lotteries for subsequent sales as necessary.

**10.1.2** HA shall open an ownership lottery as follows:

10.1.2.1 Notice of the date, time, and location at which applications will be taken shall be published as a Legal Notice in a newspaper of general circulation in the region. Such notice shall be published at least twenty-one (21) days prior to



the close of the application period, which application period shall be a minimum of fourteen (14) days.

10.1.2.2 Application and information materials shall be available at the time of publication of the Legal Notice at locations and web sites announced in the Notice.

### **10.1.3 Lottery Application Process and Applicant Responsibilities.**

10.1.3.1 Complete lottery application.

10.1.3.2 Households interested in purchasing a Housing Unit must submit an application to the HA, or its designee. All members of a Household over eighteen years of age must submit the required information necessary to determine qualification and eligibility.

10.1.3.3 A Household must submit a letter from a mortgage lender, stating the Household's ability to pre-qualify for a mortgage.

10.1.3.4 In order to participate in a lottery, Households must sign the sworn statement described in Section 4.

10.1.3.5 If a Household cannot sign the sworn statement, or if a Household does not provide HA with information required to process the application, then it will not be eligible to be entered into the lottery.

10.1.3.6 HA shall rely on the sworn statement of the Applicant as to the completeness and accuracy of the application for the purpose of determining eligibility to participate in a lottery.

## **10.2 Lottery Order.**

**10.2.1** HA shall only accept lottery applications during the time period specified in the Legal Notice. Mailed applications shall be considered received in the proper time period if postmarked at least two (2) days prior to the last day of the application period and received within two (2) business days after the application period closes. HA shall not be responsible for delays in the delivery of mail beyond two (2) business days after the application period closes. Incomplete applications shall not be processed for qualification.

**10.2.2** The lottery shall be executed in two rounds; First Round for all Applicants who qualify without an Exception and Second Round for all Applicants who have requested and received an Exception(s).

**10.2.3** All Applicants deemed Qualified Households shall automatically qualify for entry in the lottery and placed in First Round. Any household lacking one or more of the

Qualification and Eligibility Criteria will be placed on a separate list for unqualified Applicants (as further explained in Section 10.3.3.6) and placed in Second Round.

10.2.2.1 Exception requests submitted pursuant to Section 9.2 shall not preclude Applicant from classification as a Qualified Household for purposes of the Lottery.

**10.2.4** Qualified Applicants shall qualify for additional entries in the lottery according to the criteria as outlined in Appendix C or according to criteria established by RH.

**10.2.5** The Lottery Point System Criteria may be modified as necessary by HA.

**10.3 Lotteries are subject to the following guidelines:**

**10.3.1** A lottery must be conducted in a duly noticed public meeting of the HA.

**10.3.2** An independent County resident with no direct stake in the lottery outcome shall be invited to draw the Applicant names.

**10.3.3** Once an Applicant's name is drawn, any further instances of that Applicant's name drawn are recorded but ignored in establishing the order of Applicants.

**10.3.4** The results of the lottery shall be posted and certified by the resident drawing the names as soon as practically possible after the drawing.

**10.3.5** The order in which Applicant names are drawn in the lottery shall determine the order in which Applicants are contacted to purchase the Housing Units offered in the lottery and for which they qualify (except for handicapped-accessible units as noted in Section 10.3.3.7).

**10.3.6** These procedures will also be followed to establish the order of the unqualified Applicants. Unqualified Applicants will not be offered a Unit until all Qualified Applicants have been offered a Unit to purchase based on their preference, AMI designation and availability of Units. In addition, prior to being offered a Unit, the unqualified Applicant must have been provided an Exception per Section 11.1. These Applicants shall be placed in an "unqualified pool" for the Second Round lottery and shall be selected following the Qualified Applicants according to Sections 10.3.1- 10.3.5, above.

**10.3.7** First priority for ADA handicapped accessible units shall be given to Mobility Disabled Households that submit a lottery application based on the lottery order of all Mobility Disabled Households. If there are no Mobility Disabled Households that submit a lottery application for an available handicapped accessible Unit, the Unit will be available for purchase based on the lottery order by all lottery Applicants who are Qualified Households.

**10.3.8** Any material misstatement of fact or deliberate fraud by the Household in connection with any information supplied by the Household to the HA shall be cause for disqualification from lottery, fined pursuant to the Schedule of Violations and Fines and the Household will be prohibited from reapplying for any future ownership lottery for one year.

## **11. EXCEPTIONS, APPEALS AND GRIEVANCES.**

All applications for Exceptions and Appeals and all Grievances shall be reviewed on a case-by-case basis as provided for as follows.

### **11.1. Request for Exception.**

**11.1.1** Request must be presented in writing to HA on forms available from HA, and must include a fully completed Request for Exception Form, including:

11.1.1.1 The particular ground(s) upon which the Exception is based; and

11.1.1.2 The action or remedy requested; and

11.1.1.3 The name, mailing and electronic addresses and telephone number of the exception Applicant and similar information of exception Applicant's representative, if any; and

11.1.1.4 Proof of notification of the Exception request to the Housing Unit's homeowner's association, if applicable; and,

11.1.1.5 Exception fee (see Appendix E).

**11.1.2 Process.** All requests for Exceptions will be reviewed by HA for completeness and handled administratively ("Administrative Exceptions") or forwarded to the HA Board for consideration at a public hearing.

11.1.2.1 Prior to consideration, HA shall prepare a written report analyzing the impact of the Exception on the Housing Program. HA shall distribute a copy of the report to the Applicant requesting the Exception and shall make the report available to the public.

**11.1.3 Standards for Review of Exception Applications.** Exception Applicants desiring an Exception must demonstrate, and the HA must find:

11.1.3.1 That the Exception meets the general RH policy goals; and

11.1.3.2 That the Exception meets one or more of the following review standards:

11.1.3.2.a Promotes greater affordability through decreasing the long-term operating and maintenance costs of the Housing Unit in question; enabling the Exception Applicant to take advantage of a financing opportunity that would not be available without the Exception; and/or, protecting the long-term affordability of the Housing Unit through a price control or other similar means.

11.1.3.2.b Promotes or recognizes the long-term commitment of the Exception Applicant to residency, employment, and community involvement within the County in which the Housing Unit is located or provides housing for a critical community need.

11.1.3.2.c Provides increased livability or durability in materials, finishes, fixtures or appliances or useful increased square footage (which shall not include “luxuries”).

11.1.3.2.d Creates living space for an additional member of the Household while maintaining the Income Tier for the Housing Unit

11.1.3.2.e Enables a Household to own and occupy a Housing Unit more suitable to the Household’s needs; or

11.1.3.2.f. Enables the Household to respond to life circumstances that arise beyond the reasonable control of the Household (such as need to care for an Elderly or Household member who is Individual with a Disability).

**11.1.4 Exceptions shall not be granted:**

11.1.4.1 To Applicants who have been issued a Notice of Violation and who remain in violation of provisions of applicable Deed Restriction or of the Guidelines.

11.1.4.2 To an Unqualified Household to purchase a Housing Unit if there is a Qualified Household that can purchase the same Housing Unit. However, if the Owner has shown a bona fide advertisement effort which shall be no less than forty-five (45) days in duration and no Qualified Household presents itself, an Exception may be considered for the Unqualified Household.

11.1.4.3 To increase the total debt against the Housing Unit in excess of the OPP.

11.1.4.4 To Households whose Net Assets exceed three times the Maximum Sales Price of the Housing Unit.

11.1.4.5 To Households whose income is in excess of 120% AMI.

## **11.2. Appeal Procedure.**

**11.2.1 Appeal Form & Process:** Any Appeal must be presented in writing to HA on forms available from HA and within twenty-one (21) days of the decision or determination being appealed.

### **11.2.2 Appeals must include:**

- 11.2.2.1 Verification that appellant has fully completed the application process; and
- 11.2.2.2 The particular ground(s) upon which the Appeal is based; and
- 11.2.2.3 The action or remedy requested; and
- 11.2.2.4 The name, address, telephone number of the appellant and similar information of appellant's representative, if any; and
- 11.2.2.5 Proof of notification of the Appeal request to the Housing Unit's homeowner's association, if applicable; and
- 11.2.2.6 Appeal fee (see Appendix E).

### **11.2.3 Process.**

11.2.3.1 Time Deadlines: All Appeals will be reviewed by HA for completeness and forwarded to the HA Board within twenty-one (21) days from receipt of complete Appeal packet. The HA Board shall address the Appeal at the next scheduled board meeting.

#### 11.2.3.2 Rights of Parties.

11.2.3.2.a The appellant shall be afforded a fair hearing before the HA, providing the basic safeguards of due process, including notice and an opportunity to be heard in a timely, reasonable manner.

11.2.3.2.b The HA Board may continue the hearing to a future date.

11.2.3.2.c The appellant and HA shall have the opportunity to examine all documents, records and regulations of HA that are relevant to the hearing.

11.2.3.2.d Appellant shall be responsible for all photocopying expenses.

11.2.3.2.e Any document not made available after written request may not be relied upon at the hearing. Appellant has the right to be represented by counsel.

11.2.3.2.f If the appellant fails to appear at the hearing, the HA Board may make a determination to postpone the hearing or make a determination based upon the evidence submitted.

11.2.2.3 Hearing Process.

11.2.2.3.a The hearing shall be conducted by a designated member of the HA Board, the “Hearing Officer”.

11.2.2.3.b The hearing shall be recorded.

11.2.2.3.c Oral or documentary evidence may be received without strict compliance with the Colorado Rules of Evidence.

11.2.2.3.d The right to cross-examine shall be at the discretion of the Hearing Officer and may be regulated by the Hearing Officer as it deems necessary for a fair hearing.

11.2.2.3.e Based on the hearing, the HA will provide a written decision with findings for a final determination.

11.2.2.4 Binding Determination. The final determination of the HA Board shall be binding, and HA shall take all actions necessary to carry out the decision.

**11.3 Grievance Procedure.**

**11.3.1 Any grievance must be presented in writing to HA and include:**

11.3.1.1 The particular ground(s) upon which the grievance is based;

11.3.1.2 The action or remedy requested;

11.3.1.3 The name, address, telephone number of the complainant and similar information of complainant’s representative, if any; and

11.3.1.4 Grievance fee (see Appendix E).

**11.3.2 Process.**

11.3.2.1 The HA Board shall address the grievance at the next scheduled board meeting.

11.3.2.2 The complainant shall be afforded a fair hearing providing the basic safeguards of due process, including notice and an opportunity to be heard in a timely, reasonable manner.

11.3.2.3 HA Board may continue the hearing to a future date.

11.3.2.4 The complainant and HA shall have the opportunity to examine all documents, records and regulations of HA that are relevant to the hearing.

11.3.2.5 Complainant shall be responsible for all photocopying expenses.

11.3.2.6 Any document not made available after written request may not be relied upon at the hearing.

11.3.2.7 Complainant has the right to be represented by counsel.

11.3.2.8 If the complainant fails to appear at the hearing, the HA Board may make a determination to postpone the hearing or make a determination based upon the evidence submitted.

### **11.3.3 Hearing.**

11.3.3.1 The hearing shall be conducted by a designated member of the HA Board, the “Hearing Officer”.

11.3.3.2 The hearing shall be recorded. Oral or documentary evidence may be received without strict compliance with the Colorado Rules of Evidence.

11.3.3.3 The right to cross-examine shall be at the discretion of the Hearing Officer and may be regulated by the Hearing Officer as it deems necessary for a fair hearing.

11.3.3.4 Based on the records of the hearing, the HA Board will provide a written decision with findings to support the final determination.

**11.3.4 Binding Determination.** The final determination of the HA Board shall be binding, and HA shall take all actions necessary to carry out the decision.

## **12. ADMINISTRATIVE PROCEDURES**

**12.1. Confidentiality.** All personal and financial information provided to HA will be kept strictly confidential, except as follows:

**12.1.1** Signed contracts between the Applicant or Household and HA or RH, including but not limited to Contracts to Purchase a Housing Unit, Deed Restrictions, any document to be recorded with the sale of the Housing Unit along with the Deed Restriction, and any document that would customarily be a matter of public record in the property records of the applicable jurisdiction;

**12.1.2** The names and lottery positions of all persons who have participated in any ownership lottery held per Section 10;

**12.1.3** Any other information that a court of competent jurisdiction orders must be released under the Freedom of Information Act or the Colorado Open Records Act;

**12.1.4** Personal and private information necessary for an independent audit of HA records, provided such person or entity provides authorization;

**12.1.5** Personal and private information to the extent HA determines the information is necessary for its deliberation of a request for an Exception or for consideration during a violation hearing;

**12.1.6** HA may require third-party verification for all self-employed Applicants at initial qualification and during compliance checks; and

**12.1.7** HA may employ outside accounting expertise to evaluate the reasonability of an Applicant's or Household's representations of Income and Assets. The expense for outside services shall be borne by the Applicant or Household.

**12.2 Fair Housing Standards.** HA shall administer this policy in compliance with all applicable fair housing standards, including but not limited to the Fair Housing Act. These standards prohibit discrimination in housing on the basis of age, race, color, religion, sex, or sexual identity, familial status, national origin, and handicapped or disabled status. In addition to any remedies available in the applicable law, any dispute between an Applicant and HA regarding these standards may be filed as a Grievance (see Section 11.3).

**12.3 Reasonable Accommodation.** HA shall administer this policy in compliance with all reasonable accommodation standards, including but not limited to the Americans with Disabilities Act. Persons requiring reasonable accommodation for their disability shall give HA at least 48-hours' notice of such need so that appropriate arrangements can be made (for example: providing sign language services for a hearing-impaired person).

**12.4 Assignment of Administrative Responsibilities.** HA shall have the right to contract with any qualified person or entity for the purpose of administering these Guidelines. The contract for administration shall provide for oversight by the HA, including access to applicable records and the ability to conduct an independent audit of administrative procedures.

**12.5 Administrative Exceptions.**

**12.5.1** HA may grant Administrative Exceptions subject to the following conditions:

12.5.1.1 All Administrative Exception approvals shall be noticed on the Consent Calendar at the next HA regular meeting immediately following approval; and

12.5.1.2 Administrative Exceptions shall be granted in a fair and consistent manner at the discretion of the HA.

**12.5.2** Administrative Exceptions are limited to the following requests:



12.5.2.1 Extension of time to meet compliance for a Household that has a medical event impacting their ability to work.

12.5.2.2 Extension of time to meet compliance for a Household that has a family emergency impacting their ability fulfill the qualification requirements.

12.5.2.3 Use of a co-borrower or Co-signor for unconventional lending after legal review of documents to be recorded.

12.5.2.4 Permission to own other Improved Residential Property, within a 150 mile radius, when the other property consists of a cabin-like structure outside of a town or municipal boundary, with limited seasonal access and limited amenities, also referred to as a “cow camp” or “hunter’s camp”.

**DISCLAIMER:** Beneficiaries expressly disclaim any and all warranties, express or implied, including without limitation fitness for a particular purpose with respect to the provision of Housing Units. Beneficiaries do not represent, warrant, or promise to construct, finance, or otherwise produce, in whole or in part, any Housing Units pursuant to these guidelines or under any other programs. No Applicant may rely upon any promise implied or expressed that Housing Units shall be constructed, financed, or otherwise produced, in whole or in part, by the Beneficiaries. In no event shall the Beneficiaries be liable to any Applicant for any direct, indirect, incidental, punitive, or consequential damage of any kind whatsoever, including without limitation lost profits, lost sales, lost business, lost opportunity, lost information, lost or wasted time. None of the information contained in these Guidelines constitutes an offer to sell or the solicitation of an offer to buy a Housing Unit.

## Appendix A: Income Eligibility Tiers & Area Median Income and Income Limits

Area Median Income is currently determined by using the figures published by US Department of Housing and Urban Development (“HUD”) for each county in Colorado and adopted by Colorado Housing and Finance Authority (“CHFA”). They are published at: [www.chfainfo.com/arh/asset/rent-income-limits](http://www.chfainfo.com/arh/asset/rent-income-limits)

HA shall update the schedule below after CHFA adopts the most recent HUD figures.

Based on this procedure, the Area Median Incomes for County as of [date] are:

Table 1. County Area Median Income (AMI\*) Eligibility

	Household Size					
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons
100% Area Median Income	\$66,938	\$76,500	\$86,063	\$95,625	\$103,313	\$110,938

\*This is the AMI calculation pursuant to the Housing Guidelines.

Qualification is based on Household size, NOT unit size. The following table provides a guide for determining Household Income Eligibility. See Section 3.2.2 for Minimum Household Size requirements.

Household Size	1 Person	2 Person	3 Person	4 Person
60% AMI	\$40,166	\$45,900	\$ 51,637	\$ 57,374
80% AMI	\$53,550	\$61,200	\$ 68,850	\$ 76,500
100% AMI	\$66,938	\$76,500	\$ 86,063	\$ 95,625
120% AMI	\$80,326	\$91,800	\$103,276	\$114,750

### Income Eligibility Tiers

- Tier 1 Income – Household Income shall not exceed sixty percent (60%) of AMI for County.
- Tier 2 Income – Household Income shall not exceed eighty percent (80%) of AMI for County.
- Tier 3 Income – Household income shall not exceed one hundred percent (100%) of AMI for County.
- Tier 4 Income- Household income shall not exceed one hundred and twenty percent (120%) of AMI for County.
- Sale prices for units are based on Tier affordability targets for County, as adjusted for the number of bedrooms per unit, and can be found in Appendix B.

**Appendix B: Initial Sale Prices and Maximum Rental Prices**

## **Appendix C: Lottery Point System Criteria**

### **1. INITIAL LOTTERY ENTRY:**

Completed lottery applications shall be processed for qualification of a Household. All lottery Applicants certified as Qualified Households shall be eligible for one (1) entry into the lottery.

### **2. ADDITIONAL LOTTERY ENTRIES:**

In an effort to weight Applicants based on criteria deemed to further the intent of RH, points toward additional lottery entries are given to Households meeting the criteria outlined below.

**2.1** One (1) additional entry is awarded to Households that have a member who is employed as one or more of the following types of employment, as further defined herein:

- 2.1.1 School District Personnel;
- 2.1.2 Health Care Personnel;
- 2.1.3 Government Personnel: and/or
- 2.1.4 Essential Response Personnel.

**2.2** The maximum number of entries allowed is two (2).

**2.3** Individual Household members may have different point rankings. The Household shall be evaluated for eligibility for this additional entry in the lottery based on the individual with the greatest number of points.

### **3. UNQUALIFIED APPLICANTS:**

**3.1** All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. shall be eligible for one (1) entry in the Second Round lottery.

**3.2** All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. and currently live in the Norwood R2j School District shall be eligible for three (3) entries in the Second Round lottery.

**3.3** All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. and currently work a minimum of twenty (20) hours per week physically in the NR2jSD shall be eligible for three (3) entries in the Second Round lottery.

**3.4** All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. and currently live in the NR2jSD and work a minimum of twenty (20) hours per week physically in the NR2jSD shall be eligible for five (5) entries in the Second Round lottery.

**3.5** Certified Business Owner Applicants shall be eligible for three (3) entries in the lottery, except that all Business Owner Applicants who did not qualify but have been provided an Exception per Section 11.1 shall be eligible for one (1) entry in the Second Round lottery.

**3.6** The maximum number of entries allowed in the Second Round lottery is five (5).

## **Appendix D: Fee Schedule**

### **Fees:**

Application Fee        \$25.00

Appeal Fee             \$25.00

Exception Fee         \$25.00

Grievance Fee         \$50.00

Inspection Fee        \$100.00

Sales Fee              Buyer will pay HA a fee equal to 1% of the sales price. HA may instruct the title company to pay such fees out of the funds held in escrow at closing.

## Appendix E: Schedule of Violations and Fines

	Violation	Fine per day	Maximum Fine
1	Failure to submit accurate and all documentation required to establish continued compliance by original deadline set by HA.	\$20.00	\$140.00
2	Failure to submit accurate and all documentation required to establish continued compliance by second deadline set by HA.	\$25.00	\$350.00
3	Failure to submit accurate and all documentation required to establish continued compliance by third deadline set by HA.	\$30.00	\$1,000.00
4	Failure to maintain eligibility (generally).	\$20.00	\$5,000.00
5	Failure to occupy unit as sole and exclusive place of residence.	\$20.00	\$5,000.00
6	Failure to work full-time as required by Deed Restriction and/or Guidelines.	\$20.00	\$2,000.00
7	Purchasing and/or owning other Improved Residential Property within a 150 mile radius and without an exception while owning a RH Housing Unit.	\$20.00	\$2,000.00
8	Rental of all or part of a unit in violation of the Deed Restriction, Guidelines, and/or the County LUC.	\$25.00	\$5,000.00
9	Non-approved use of Unit for other than residential purposes.	\$100.00	\$5,000.00
10	Non-approved use of Unit as income-producing property.	\$100.00	\$5,000.00
11	Creating an additional dwelling unit as defined in the County LUC without HA permission.	\$100.00	\$5,000.00
12	Failure to obtain approved Leave of Absence (LOA).	\$20.00	\$2,000.00
13	Submitting false/inaccurate information (per offense).	-	\$750.00
14	All other violations not specifically named.	\$20.00	\$2,000.00
	<p>*Owner shall be given 14 days from Notice of Violation by HA to cure all violations prior to the assessment of fines.            *Violation and Fine Schedule will be reviewed and updated every five years or sooner as determined by HA</p>		

---

TO: SMRHA Board  
CC: Courtney McEleney, SMRHA Manager; and Amy Markwell, SMC Attorney  
FROM: Lois Major  
DATE: November 1, 2022  
MEETING: November 7, 2022  
RE: Multi-Family Housing: Deed Restriction Review and Discussion

---

**1. Purpose:** To review and discuss the restrictions and permissions of multi-family housing units (MFHU) through the Covenant and the LUC. Should they be clarified, expanded, tightened, or left as is?

**2. Overview:** Pursuant to the San Miguel Land Use Code, a Multi-family Unit is a dwelling unit in a structure containing three (3) or more such units not including hotels and lodges, but including town houses, with accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants. The definition also includes one or more dwelling units located within an office, retail, or service commercial building, including Live-work Housing Unit(s). Ownership of multi-family units is available to a broad range of persons and entities. According to the LUC the ownership of MFHUs is available to “any person, group, organization, agency or other entity may own one or more MFHU”. You may own more than one MFHU. However, if you own other (non-MFHU) San Miguel County deed-restricted property you may not also own MFHUs.

The SMCHA developed a MFHU Covenant Template in 2016 which has been updated in 2020 to include, along with the other templates, the Schedule of Violations and Fines and to incorporate the 100-year deed restriction term and amended again in 2022 adopting the addendum which requires the ownership entity (if it is not an individual) to declare its members and contact information and to advise SMCHA or its designee regarding any change in ownership of the entity.

Current MFHUs include Hunter’s Gulch and Rio Vista 1. There may be others built and there are more units yet to be built.

**3. Ownership:** The MFHU Covenant allows for a variety of owners with most restrictions focusing on occupancy.

**4. Occupancy:** Occupancy, whether owner-occupied or through rental, is limited to persons who qualify under the affordable housing guidelines (LUC) or the newly adopted multi-family covenant (MFHU Covenant). An Owner-occupant may not own multiple MFHUs.

All occupants are subject to the standard initial qualification and on-going qualification standards. The on-going standards dovetail with the LUC or the MFHU Covenant. In a nutshell, the Occupant must earn more than 50% of their income from working in the Telluride R-1 School District and occupy the Unit as their sole and primary residence. The occupant may not

own other residential property in the Telluride R-1 School District. There are no income or asset limits.

**5. Rentals:**

5.1 *Period of lease.*

1. LUC. The LUC had a provision that requires a 12-month lease but also one that prohibits renting for less than 30 days. It remains unclear.
2. The Covenant has a nine (9) month lease requirement to comport with the Lawson Hill Property Owner Group's declarations that prohibit rentals of less than 273 days (approximately 9 months).

5.2 *Work history:* Rental occupants must either work the requisite hours or demonstrate an intent to work which has been applied by RHA staff as having secured a job which would fulfill the 1032 hour requirement. This section could benefit from clarification.

5.3 *Enforcement:* The Owner is required to verify the rental occupant is qualified. If the rental occupant is unqualified the rental occupant and the Owner will be considered in violation. This standard is necessary to put the onus of compliance on the Owner, see: Covenant §1.2.3. The Subject Property Owner shall not permit any ownership, use or occupancy of the Subject Property except in compliance with this Covenant.

**6. Concerns and discussion:**

**6.1 Business Owners.** As the prices of deed-restricted housing outpaces the average worker's reach and dreams of home ownership are not a priority, business owners have voiced interest in owning deed-restricted units that can be rented to their employees. The MFHU is a good fit for those business owners *unless* that business owner lives in deed-restricted housing. In such a situation the business owner is prohibited from owning the MFHU first through its primary covenant and again through the MFHU Covenant.

- a) Is this a situation that you would like to see changed? If so, an administrative exception could be created to allow for Business Owners to Own DR property and also own DR rental MFHUs.
- b) If it is ok for Business Owners, what about regular people who own and reside in DR property and can afford to purchase & own DR rental MFHUs.

**6.2 Out of Area Owners:** Entities with no other ties to the community may own and rent MFHUs. Is this preferred to having local Business Owners own and rent them?

**7. Direction to SMCHA and SMRHA staff:** Based upon your discussion, please direct SMCHA and SMRHA staff to draft policies or addendum to the MFHU Covenant and schedule for another work session or action item as deemed appropriate.



---

**LUC Provisions of note:**

**LUC 5-1303 Employee Housing Impact Fee**

IX. c. Mitigation: Multi-Family Development (three (3) units or more) will be required to provide employee housing Impact Mitigation.

**LUC 5-1305 B. X** “Live-work Housing” shall mean a multi-family structure located within the Low Intensity Industrial (I) Zone containing Affordable Housing dwelling units, and industrial space. The number of industrial units may not exceed the number of Affordable Housing dwelling units in each structure.

**LUC 5-1305 C.** Any person, group, organization, agency or other entity may own one or more Affordable Housing "Multi-family Units" (as defined in Article 6 of this Land Use Code). Ownership of Multi-family units shall be subject to the Owner limiting occupancy of the Affordable Housing Multi-family Unit only to qualified Employees. On or prior to assuming ownership of an Affordable Housing Multi-family Affordable Unit, the Owner shall execute and record an Acknowledgement of Deed Restriction in the property records of San Miguel County.

**MFHU Covenant sections of note.**

**Definitions: 14.28. Multi-family Unit.** A dwelling unit in a structure containing three (3) or more such units not including hotels and lodges, but including town houses, with accessory use facilities limited to an office, laundry, recreation facilities and off-street parking used by the occupants. One or more dwelling units located within an office, retail or service commercial building, including Live-work Housing Unit(s), shall be considered multi-family dwelling unit(s).

**2.2. Owner of Multi Family Units.** Any person, group, organization, agency or other entity may own one or more Affordable Housing "Multi-family Units" unless Ownership Applicant owns other single-family residential deed-restricted property in the R-1 School District. Ownership Applicant must be in full compliance with the terms and conditions of its existing deed restrictions and covenants before certification by Administrator as Qualified Purchaser.

**6.3. Multi-Family Unit Owner Standard.** The Subject Property Owner supplies documentation that the Administrator acknowledges is sufficient to verify the following:

(a) The Subject Property Owner occupies the Subject Property subject to Section 3 above; OR

(b) The Subject Property Owner rents the Subject Property to a Qualified Occupant, subject to a minimum six (6) lease, who meets the Continuing Residence Standard in 7.2. below and meets the Continuing Employment Standard in 7.3 below; and

(c) The Subject Property Owner is in full compliance with all other deed-restriction covenants in R-1 School District.

6.4. **Multiple Residential Units.** In the event there is more than one residential dwelling unit in the Subject Property, Subject Property Owner may occupy one such residential dwelling unit and rent the other(s) subject to the terms and conditions in paragraph 4.

Section 9. **Ownership of Other Multi-family Units Allowed.**

**9.1.** Any person, group, organization, agency or other entity may own one or more Affordable Housing "Multi-family Units" defined below, Definitions, Section 14.28.

Section 10. **Ownership of Other Residential Property Prohibited.**

**Prohibition for Subject Property Occupants.** Subject Property Occupants as well as their Spouses and Dependents, if any, may not own more than a 10% interest, direct or indirect, in other Residential Property in the Telluride R-1 School District. This prohibition includes partial or full corporate ownership established to provide a beneficial interest sufficient to permit the use and occupancy by the owner or part owner of such property. Except as otherwise provided in this Section 10, and unless granted an exception pursuant to Section 11, failure to comply with this Section 10.1 is a violation of this Covenant and shall be addressed in accordance with the provisions of Section 12 of this Covenant.

**San Miguel Regional Housing Authority**

**Budget  
FY 2023**

<b>Funding</b>	
Housing Voucher Program	16,000
San Miguel County	109,065
Town of Telluride	109,065
<b>Total Funding</b>	<b>234,130</b>

<b>Expense</b>	
<b>Payroll Expenses</b>	
Position 1	82,000
Postion 2	52,000
PERA	19,738
Medicare	1,945
SUTA	402
Health Insurance	34,176
Worker's Comp	300

<b>Total Payroll Expenses</b>	<b>190,561</b>
<b>Operating Expenses</b>	
Accounting Software	1,020
Advertising	3,000
Auditing Services	6,200
Cleaning Services	1,530
Computer Software/Hardware	5,000
Conference Training	800
Copier Lease & Maintenance	1,751
Dues & Memberships	0
Insurance	3,000
IT Services	0
Legal services	5,000
Misc. Expense	500
Office Supplies	500
Outreach	900
Payroll Expenses	2,000
Postage	500
Rent	5,568
Telephone	3,000
Travel	300
Website	3,000
<b>Total Operating Expenses</b>	<b>43,569</b>

<b>Total Expenses</b>	<b>234,130</b>
-----------------------	----------------

**0**

**San Miguel Regional Housing Authority  
Comparison FY 21 & FY 22**

	<b>2022 Budget</b>	<b>2023 Draft</b>	<b>22 vs. 23</b>
<b>Funding</b>			
Section 8	17,789	16,000	(1,789)
San Miguel County	92,625	109,065	16,440
Town of Telluride	92,625	109,065	16,440
<b>Total Funding</b>	<b>203,039</b>	<b>234,130</b>	<b>31,091</b>
<b>Expense</b>			
<b>Payroll Expenses</b>			
Position 1	80,000	82,000	2,000
Position 2	105,000	52,000	(53,000)
PERA	26,270	19,738	(6,532)
Medicare	2,683	1,945	738
Health Insurance	22,680	34,176	(11,496)
SUTA	555	402	153
Worker's Comp	300	300	0
<b>Total Payroll Expenses</b>	<b>237,488</b>	<b>190,561</b>	<b>(46,927)</b>
<b>Operating Expenses</b>			
Accounting Software	840	1,020	(180)
Advertising	1,800	3,000	(1,200)
Auditing Services	6,200	6,200	0
Cleaning Services	1,530	1,530	0
Computer Software/Hardware	9,763	5,000	4,763
Conference Training	800	800	0
Copier Lease & Maintenance	1,751	1,751	0
Dues & Memberships	620	0	620
Insurance	3,152	3,000	152
IT Services	1,500	0	1,500
Legal	6,000	5,000	1,000
Misc. Expense	800	500	300
Office Supplies	600	500	100
Outreach	900	900	0
Payroll Expenses	1,479	2,000	(521)
Postage	650	500	150
Rent	10,272	5,568	4,704
Telephone	3,095	3,000	95
Travel	500	300	200
Website	600	3,000	(2,400)
<b>Total Operating Expenses</b>	<b>52,852</b>	<b>43,569</b>	<b>(9,283)</b>
<b>Total Expenses</b>	<b>290,340</b>	<b>234,130</b>	<b>(56,210)</b>
<b>Reservers</b>	<b>(87,301)</b>	<b>0</b>	

## **Explanation of Difference**

*less vouchers, people moving out of area, not accepting new vouchers*

*\$25 per hour X 40 per week*

*2 employees + 1 dependent*

*\$85 per month*

*job posting + compliance advertising*

*if SMC/TOT help with IT Services*

*based on 2022 real figures*

*if TOT takes 2 offices by January 2022*

*Avg. \$250 per month*



820 Black Bear Road, Unit G-17  
P.O. Box 840, Telluride, CO 81435  
Tel: 970-728-3034 Fax: 970-728-5371  
E-mail: [admin@smrha.org](mailto:admin@smrha.org) Web: [www.smrha.org](http://www.smrha.org)

## MANAGER REPORT

### Administration

- No update on Administrative Coordinator Position

### Deed Restriction

- **SMC:**
  - 2 November Closings
  - 2 rental Applications
  - 102 Timberline Ct. on the market for \$750,000
  - Pinion Park Lottery: 8 open homes
  - ½ way through hard file retention
  - Compliance 1<sup>st</sup> half of 2023
- **TOT:**
  - 1 October Closing
  - 5 Rental Applications - 1 renewal
  - Ongoing review of TAHG
  - Compliance 2<sup>nd</sup> half of 2023

### Foreclosures

- SMC/TOT working on 103 Timberline Ct. in Lawson Hill
- Foreclosure auction scheduled for early December



820 Black Bear Road, Unit G-17  
P.O. Box 840, Telluride, CO 81435  
Tel: 970-728-3034 Fax: 970-728-5371  
E-mail: [admin@smrha.org](mailto:admin@smrha.org) Web: [www.smrha.org](http://www.smrha.org)

## **SAN MIGUEL REGIONAL HOUSING AUTHORITY 2022 BOARD MEETINGS**

**1:00 P.M.**  
*(unless otherwise noted)*

<b>Via Zoom</b>	<b>ID#: 484.178.1222</b>	<b>PW: SMRHA2022</b>
-----------------	--------------------------	----------------------

January 24  
February 7  
March 7  
March 21 - Special  
March 30 - Special  
April 18  
May 16  
May 23 - Special  
June 6  
June 28 - 12 PM  
August 15  
August 30 - CANCELLED  
October 3  
November 7 - 3:30 PM  
December 5

*The Meeting Dates and Times are subject to change as are the Agendas, including the addition of items or the deletion of items at any time. If you are planning to come speak to a specific matter, please let the SMRHA Manager know by calling Courtney at 970-728-3034, ext. 5.*

*Packet materials are available from the San Miguel Regional Housing Authority by contacting the SMRHA Office no later than 24 hours prior to the meeting.*