AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Application for Exemption to the Gunnison County H

Action Requested:

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

Please see attached submitted from Jennifer Kermode

Fiscal Impact:

Submitted by: Josh Ost **Submitter's Email Address:** jost@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 9/29/17

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 9/29/2017 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 9/29/2017

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 15

Agenda Date: 10/3/2017

Revised April 2015

GUNNISON VALLEY REGIONAL
HOUSING AUTHORITY

MEMORANDUM

September 20, 2017

To: THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON

From: JENNIFER KERMODE
Executive Director
Gunnison Valley Regional Housing Authority

Re: 325 Larkspur Loop
Application for Exemption

Attached please find an Application for Exemption to the Gunnison County Housing Authority Occupancy and Resale Deed Restriction and Essential Housing Covenant ("Restriction") for the Larkspur Subdivision.

The applicant, Taylor Reeves, is asking for an exemption to the Restriction that incomes must be between 81 – 160% of AMI.

We have calculated Mr. Reeves' income at 72.58%; he is currently employed with the Crested Butte Fire Protection District since January of this year.

Mr. Reeves has been in the county since 2010, does not own any other residential real estate, and does not have liquid assets that exceed $60,000 (1.5 times the asking price of $40,000), thus he meets all other terms of the Restriction.

The Housing Authority is supportive of this request for the following reasons:

1. He has demonstrated a considerable desire to lay down roots in the community.
2. He is currently employed as an essential worker with the Crested Butte Fire Protection District.
3. He meets all the other terms of the Restriction.

Jennifer Kermode, Executive Director / 202 E. Georgia Ave., Gunnison, CO 81230 / 970.641.7901

EQUAL HOUSING OPPORTUNITY

4. He has received written loan approval from Alpine Bank for the purchase of the lot (his father will be contributing the down payment), and has a general commitment for construction financing.
5. The owner of the lot, Brian Riepe, has been trying to sell this lot for several years, and has not yet found a purchaser that qualifies. The Housing Authority did process an application from a different person early this year but declined them due to the asset limitations.
    a. Mr. Riepe has been in violation of the deed Restriction since he purchased the lot in 2008, as he already owned residential real estate at 309 N. Main Street in Gunnison (purchased in 2004). Thus, per the deed Restriction, he has never been a Qualified Owner.
    b. By allowing this sale to occur, Mr. Riepe's violation will be cured.

To support this application, the Housing Authority is requesting the following:

1. Approval is conditioned upon Mr. Reeves starting his construction within two years of taking title.

I have a copy of Mr. Reeves' loan estimate from Alpine Bank – it has a two-year balloon. To address the possibility that Mr. Reeves might be financially unable to get a construction loan and start building (the construction loan would pay off the Alpine loan) within the two-year timeframe, there would be two options for him at the end of the two year period: 1) sell the lot to pay off the Alpine loan (after proper notice to the County and GVRHA), or 2) let the Alpine loan go into default and then the GVRHA could cure the debt (it's a $28,000 loan), and acquire title to the lot, as we have a first right of refusal.

If the GVRHA acquired title, we could look at doing one of two things: 1) build a home on it and sell it, realizing some profit, or 2) re-sell it as a vacant lot, with an amendment to the Restriction regarding the asset limitations, as previously discussed with the County.

(I also spoke with his mortgage broker in CB who let me know that Mr. Reeves could likely qualify for permanent financing with a loan program he has that targets essential workers).

Time is of the essence, as Mr. Reeves' purchase loan commitment expires on November 10th (calculate approximately 4-5 weeks needed for his loan to be ready to close).

2. The County does not allow any appreciation to the benefit of the seller on the sale of this lot.

The owner/seller, Brian Riepe, has knowingly been in violation of the deed Restriction during the entirety of his ownership. He purchased this lot on August 22, 2008 for $32,000, at which time he already owned residential real estate located at 309 S. Mail Street, Gunnison, since July 1, 2004.

Mr. Riepe has violated Sections 1.L.3 and 1.L.6 which specify:

1.L. – "QUALIFIED OWNER' means a person who meets the following requirements at the time that he or she takes initial ownership interest or transfer of interest in the Parcel as qualified by the Housing Authority:

3. Does not own any interest in other improved residential Parcel(s). An applicant who owns residential real estate must convey all interest in said residential Parcel(s) to an unrelated person or an entity in which the applicant has no financial or other interest, for fair market value, *prior to taking initial ownership or transfer of interest of the Parcel*; and

6. Shall occupy the Essential Housing Parcel as his or her sole and exclusive primary residence <u>at all times during ownership of the Parcel.</u>

Additionally, Section IX – ENFORCEMENT reads:

"The Grantor hereby grants and assigns to the Housing Authority and Gunnison County, jointly and severally, the right to review and enforce timely, full and complete compliance with this Covenant. Compliance may be enforced by the Housing Authority and Gunnison County, or either of them, by any lawful means, including without limitation remedies such as specific performance and damages to reimburse the Housing Authority and/or Gunnison County for its/their enforcement costs and attorney's fees, and to require the Grantor to repay with reasonable interest any assistance received in connection with the purchase of the Parcel, and *to prohibit the Grantor from retaining sales or rental proceeds*, and shall include, without limitation:

c. Acceleration of the mortgage;
d. Voiding a Transfer by the Grantor;
e. Terminating the Grantor's interest in the Parcel; or
f. Subjecting the Grantor to contractual liability other than that set forth above.

Venue for a suit enforcing compliance shall be proper only in Gunnison County, Colorado. As part of any enforcement action, the Grantor shall pay all court costs and reasonable attorney's fees incurred by the Housing Authority and/or Gunnison County in connection with these claims, actions, liabilities or judgments."

It is the opinion of the Executive Director of the Housing Authority that the strict interpretation of this Section (where italicized) prevents appreciation from being added to the sales price of the lot, thus the sales price should be $32,000, Mr. Riepe's initial purchase price. This would serve to make the lot purchase by Mr. Reeves more affordable.

The Housing Authority is intent on protecting the interests of the County and the integrity of the Essential Housing programs within the Gunnison Valley, and has the opinion that granting an Exemption to Mr. Reeves and prohibiting Mr. Riepe's appreciation serve to do both.

Respectfully submitted,

Jennifer Kermode
Executive Director

S Dominguez Gunnison County, CO 585975
08/22/2008 03:43 PM Pg: 1 of 18
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GUNNISON COUNTY HOUSING AUTHORITY OCCUPANCY AND RESALE DEED RESTRICTION AND ESSENTIAL HOUSING COVENANT

08-07-632

This Occupancy And Resale Deed Restriction, and the Essential Housing Covenant (the "Covenant") is made and entered into this 22nd day of August, 2008 among Brian Riepe and Suzann Parker ("Grantor") and the Gunnison County Housing Authority ("Housing Authority") and the Board of County Commissioners of the County of Gunnison, Colorado ("Gunnison County"), individually and severally ("Grantees"), each of which is duly organized under and by virtue of the laws of the State of Colorado.

This Covenant applies to the Parcel commonly known as 325 Larkspur Loop (the "Parcel"), as set forth more fully in Exhibit A.

WITNESSETH:

WHEREAS, Grantees have provided development incentives for the Parcel; and

WHEREAS, the Grantor has benefited from the development incentives; and

WHEREAS, subsequent purchasers will benefit from the occupancy, resale and affordability restrictions this Essential Housing Covenant provides; and

WHEREAS, the intent of the Grantor and Grantees is to preserve through this Essential Housing Covenant the affordability of the Parcel and to ensure the authority of the Grantees to enforce the affordability of the Parcel;

WHEREAS, this Covenant will ensure that the intentions of the Housing Authority, Gunnison County, Grantors and Grantees will be ensured;

NOW THEREFORE, in consideration of the benefits received by the parties; and the requirements and conditions set forth below and the value and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

I. DEFINITIONS.

A. AREA MEDIAN INCOME (AMI) means the median income for Gunnison County adjusted for household size, as established and defined in the most recent annual schedule published by the U.S. Department of Housing and Urban Development (HUD).

B. CAPITAL IMPROVEMENT means any fixture erected as a permanent improvement to Parcel excluding repair, replacement, maintenance costs, and sweat equity.

C DEED RESTRICTION OR DEED RESTRICTED means a provision in a deed, recorded in the records of the Clerk and Recorder of Gunnison County, permanently mandating, limiting or prohibiting certain uses of a Parcel and/or structures, and/or resale and occupancy, in perpetuity.

D. DEED OF TRUST means an instrument of use in Colorado taking the place and serving the uses of a mortgage, by which the legal title to a Parcel is placed in one or more Public Trustees to secure the repayment of a sum of money or the performance of other conditions.

E. DOMESTIC PARTNER means a person who is at least 18 years of age and can demonstrate to the satisfaction of the Housing Authority: 1) evidence of financial interdependence, such as joint bank accounts or credit cards, jointly owned Parcel, and mutual life insurance or pension beneficiary designations; and 2) evidence of cohabitation for at least the previous 6 months; and/or 3) an affidavit of domestic partnership if recognized by the jurisdiction within which they reside.

F. ESSENTIAL HOUSING Parcel means housing for Qualified Owner(s) and/or Qualified Occupant(s).

G. GUIDELINES mean the most current Gunnison County Housing Authority Essential Housing Guidelines in effect at the time of closing on a sale or transfer of the Parcel or at the commencement date of a lease or other occupation agreement, or its successor document, as amended from time to time.

H. LOW-MODERATE INCOME HOUSEHOLDS means a household who earns the equivalent of between 50% and 160% of the Area Median Income (AMI) for Gunnison County, as determined annually and updated by the Department of Housing and Urban Development (HUD).

I. NET WORTH means the estimated sum of the assets of the Qualified Owner including but not limited to the value of real estate investments, cash, vehicles, and trust funds, minus liabilities such as real estate and credit card debt. (401K and qualified retirement plans are excluded from the net worth calculation).

J. PARCEL means any quantity of land that is capable of being described with such precision that its location and boundaries may be established, and that is designated by its owner or developer as land to be used or developed as a unit, or that has been used or developed as a unit.

K. OWNER means the Grantor and any subsequent buyer, heir, devisee, transferee, grantee, owner or holder of title to the Parcel, or any portion of the Parcel.

L. "QUALIFIED OWNER" means a person who meets the following requirements at the time that he or she takes initial ownership interest or transfer of interest in the Parcel as qualified by the Housing Authority:

1. Has maintained primary and sole residence in Gunnison County, Colorado for six (6) consecutive months immediately preceding taking initial ownership or transfer of interest in the Parcel or has a qualified employment contract with a Employer in Gunnison County that has been accepted by the Housing Authority; and

2. Has earned his/her primary (80% or more) source of income, as documented with the United States Internal Revenue Service, within Gunnison County, and has demonstrated to the Housing Authority, for six (6) consecutive months immediately proceeding taking initial ownership or transfer of interest in the Parcel or has a qualified employment contract with a Employer in Gunnison County that has been accepted by the Housing Authority; and

3. Does not own any interest in other improved residential Parcel(s). An applicant who owns residential real estate must convey all interest in said residential Parcel(s) to an unrelated person or an entity in which the applicant has no financial or other interest, for fair market value, prior to taking initial ownership or transfer of interest of the Parcel; and

4. A qualified household shall not have a net worth that exceeds 1.5 times the purchase price of the Essential Housing Parcel.

5. Income restrictions are applicable at the time of qualification and shall be verified by the Housing Authority. Income guidelines are based on the Area Median Income (AMI) set by HUD annually and adjusted for household size. The income figures shall be used relative to the following categories:

    - 81% to 160% of AMI

6. Shall occupy the Essential Housing Parcel as his or her sole and exclusive primary residence <u>at all times during the ownership of the Parcel</u>.

M. "QUALIFIED OCCUPANT" means a person who meets the following requirements at the time he or she takes initial occupancy of the Parcel as qualified by the Housing Authority:

1. Has maintained primary and sole residence in Gunnison County, Colorado for three consecutive months immediately preceding taking initial occupancy of the Parcel or has a qualified employment contract with a Employer in Gunnison County that has been accepted by the Housing Authority; and

2. Has earned his/her primary (80% or more) source of income as documented with the United States Internal Revenue Service within Gunnison County and has provided documentation satisfactory to the Housing Authority or has a qualified employment contract with a Employer in Gunnison County that has been accepted by the Housing Authority; and

3. Does not own any interest in other improved residential Parcels. An applicant who owns residential real estate must convey all interest in said Parcel to an unrelated person or an entity in which the applicant has no financial or other interest, for fair market value, prior to taking initial occupancy of the Parcel; and

4. Qualified occupant(s) shall not have a net worth that exceeds 1.5 times the calculated market value of the Parcel.

5. Income restrictions are applicable at the time of qualification and income is verified by the Gunnison County Housing Authority. Income guidelines are based on the Area Median Income (AMI) set by HUD annually adjusted for household size. The income restrictions used shall be used relative to the following categories:

   - 81% to 160% of AMI

6. Shall occupy the Parcel as his or her sole and primary residence.

N. SWEAT EQUITY means the non-cash value put into a piece of property by the owner, such as do-it-yourself home improvements.

O. TRANSFER means an act of a party, or of the law, by which the title to a Parcel is wholly or partially transferred to another; including but not limited to the sale, assignment voluntary, involuntary or 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 Parcel, 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 Parcel is transferred and Owner retains title. EXCEPTION, this definition does not include any transfer of an interest by Gunnison County or the Housing Authority.

If reviewed and approved in writing by the Housing Authority prior to occurrence the following transfer(s) are exceptions to the definition, provided that the new Owner, other than an estate, shall use the Parcel as his or her principal residence:

1. A transfer resulting from the death of an Owner where the transfer is to the spouse or domestic partner who is also a Qualified Owner.

2. 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.

II. REQUIREMENT OF TRANSFER.

Proof of compliance with all of the provisions of this Covenant, satisfactory to Gunnison County or the Housing Authority, shall be a requirement of transfer, ownership or occupancy. Gunnison County or the Housing Authority shall be the arbiter of satisfaction of all eligibility and other requirements. No conveyance shall occur until all eligibility requirements are satisfied, as documented in writing by the Housing Authority prior to the transfer.

III. ELIGIBLE BUYERS.

A. With the exceptions listed below, title to the Parcel may only be transferred to a person who has been qualified in writing by the Housing Authority before the transfer. The Housing Authority is authorized to the extent allowable by law, to deny public disclosure of personal financial information.

IV. OWNERSHIP, USE AND OCCUPANCY.

A. Ownership. The ownership of the Parcel is hereby, and shall henceforth be, limited exclusively to Qualified Owner(s).

B. Use and Occupancy. The use and occupancy of the Parcel is hereby, and shall henceforth be, limited exclusively to Qualified Occupant(s), his or her spouse and child(ren) and other immediate family members.

C. Rental of units. Owner may not, except with prior written approval of the Housing Authority, and subject to the Housing Authority's conditions of approval, rent the Parcel for any period of time. All renters must be Qualified Occupants. A rental shall be for no more than one year and shall occur not more than once every five (5) years. All rentals must comply with the then current Housing Authority's guidelines.

D. Roommates. The requirements of this Covenant shall not preclude the Owner from sharing occupancy of a Parcel with non-owners on a rental basis provided Owner continues to occupy unit as sole and primary residence and meets the obligations contained in this Covenant, including the definition of Qualified Owner and Qualified Occupant.

E. Spouses and dependents. Spouses and dependents of Qualified Owners may live in owner-occupied units.

F. No Indemnification. Nothing herein shall be construed to require the Housing Authority or Gunnison County to protect or indemnify the owner against any losses attributable to a rental including, but not limited to, non-payment of rent or

damage to the premises; nor to require the Housing Authority or Gunnison County to obtain a qualified tenant for the owner in the event that none is found by the owner.

V. TRANSFER OF PARCEL.

A. Notice of Intent. The Parcel shall not be sold or transferred without prior submission by the Qualified Owner to Gunnison County or the Housing Authority of a written Notification of Intent to Sell or Transfer Essential Housing Unit as set forth in Exhibit B attached hereto. Such written notice with signature of receipt must be submitted to Gunnison County or the Housing Authority at least 30 days prior to the offering or listing to reasonably ensure that any prospective buyer or tenant of the Parcel is a Qualified Owner/Occupant.

1. Non-complying sales. In the event the Parcel is sold and/or conveyed without compliance, including but not limited to preceding Sections II, III and IV herewith, such sale and/or transfer shall be wholly null and void and shall confer no title whatsoever upon the purported buyer.

B. Re-Sale Price Limit.

1. The first transfer of the Parcel, as set forth more fully in Exhibit A, from the Grantor to another person, ("First Transfer") is $ 32,000.00 ("First Transfer Price"), is the basis for calculating the re-sale price in accordance with the ensuing paragraph, ("Re-sale Price Limit") and the then current Housing Authority Guidelines as follows:

The resale price of the Parcel shall be limited to be no more than the following calculation:

i. Start with the First Transfer Price (and not including Commission Loan origination fees, appraisal fees, mortgage insurance, title insurance premiums and other similar transaction costs).

ii. Adjust the First Transfer Price by the Consumer Price Index (CPI) for the period immediately prior to the date the sale contract was executed, or three (3%) percent per annum which ever is less, prorated per diem, calculated using simple interest, from the date of the Qualified Owner's purchase of the Parcel to the date of the Qualified Owner's notice of intent to sell the Parcel; plus 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 Parcel; plus the cost of Permitted Capital Improvements as set forth in Exhibit C attached hereto.

iii. Permitted Eligible Capital Improvements. The amount for Eligible Capital Improvements shall not exceed ten (10) per cent of the original purchase price for an initial ten (10) year period. For every ten (10) year period from the date of the original purchase and Covenant, another ten (10) per cent of the purchase price may be added to the value of the Parcel for Capital Improvements. In calculating such amount, only those Eligible Capital Improvements identified in Exhibit C hereto shall qualify for inclusion. Seller's contributed labor or "sweat equity" shall not be part of the cost of an eligible improvement.

C. Housing Authority Right to Acquire Ownership – Right of First Refusal. The initial Owner and each subsequent Owner shall not transfer the Parcel, or any part thereof, without first offering same to Gunnison County and/or the Housing Authority for purchase. Gunnison County or the Housing Authority has a right of first refusal to purchase the Parcel as follows:

1. If an Owner receives any offer to purchase or tenders any offer of sale for the Parcel Gunnison County or the Housing Authority shall have the absolute right of first refusal to purchase such Parcel at the offered sales price. The Housing Authority and/or Gunnison County shall have the initial right to purchase the Parcel.

2. The Housing Authority and/or Gunnison County shall exercise its right of first refusal by executing a written and binding commitment to purchase the Parcel within twenty-one (21) days after the Housing Authority and/or Gunnison County receives written notice of intent to sell by Owner. The commitment to buy shall set a closing date within a reasonable period of time.

3. The Housing Authority and/or Gunnison County shall have the right to inspect the property prior to exercising its right of first refusal. If the Parcel is damaged there shall be a decrease in the sales price by the amount necessary to repair damages to the Parcel, if any, and to place the Parcel into saleable condition as reasonably determined by Gunnison County and/or the Housing Authority, including, without limitation, amounts attributed to cleaning; painting; replacing worn carpeting and draperies; making necessary structural, mechanical, electrical and plumbing repairs; and repairing or replacing built-in appliances and fixtures.

4. In the event the Housing Authority and/or Gunnison County does not execute a written and binding commitment to purchase the parcel within a reasonable period of time, within said twenty-one (21) day period, this right of first refusal shall expire.

5. If the Owner does not sell or otherwise transfer the unit, the terms and conditions of this right of first refusal shall again apply to any subsequent sale or transfer of the Parcel.

6. The right of first refusal shall be in full force and effect from the date of initial sale in perpetuity. Any sale or attempted transfer of a Parcel effected without first giving the Housing Authority or Gunnison County the right of first refusal described above shall be wholly null and void and shall confer no title whatsoever upon the purported buyer.

D. Housing Authority Made Whole. No transfer of the Parcel shall occur unless and until each and every encumbrance, debt or liability owed by the Owner to the Housing Authority or Gunnison County is fully satisfied.

E. Housing Authority Right to Acquire Ownership – Default/Foreclosure.

1. It shall be a breach of this Covenant for an Owner to default in the payments or other obligations due or to be performed under a promissory note secured by deed of trust encumbering the Parcel. The Owner hereby agrees to notify the Housing Authority and/or Gunnison County in writing, of any notification owner receives from a lender, a lien holder 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 notification from lender, or lien holder or its assigns, of said default or past due payments.

2. The Owner shall give immediate written notice to the Housing Authority and/or Gunnison County upon the first to occur of: (i) the date any notice of foreclosure is provided to the Owner or any foreclosure is commenced against the Parcel, or (ii) the date when Owner becomes 21 days late in making a payment on any indebtedness encumbering the Parcel required to avoid foreclosure.

3. If any Parcel is sold at a foreclosure sale or otherwise acquired by any person or entity in lieu of foreclosure, the Housing Authority and/or Gunnison County shall have the option to acquire such Parcel within thirty (30) days after:

(i) The issuance of a public trustee's deed to the purchaser not to exceed:

(a) in the event of a foreclosure, the redemption price on the last day of all statutory redemption periods and any additional

reasonable costs incurred by the holder during the option period which are directly related to the foreclosure; or

(ii) Receipt by the Housing Authority and/or Gunnison County of written notice from such person or entity of the acquisition of such Parcel in lieu of foreclosure, as applicable, for an option price not to exceed:

(b) in the event of a transfer in lieu of foreclosure, the amount paid, or the amount of debt forgiven, by the transferee plus the reasonable costs incurred the amount paid, or the amount of debt forgiven, by the transferee plus the reasonable costs incurred by the transferee with respect to its acquisition of such Parcel.

Notwithstanding any provision herein to the contrary, except for persons or entities having a valid lien on a Parcel, only Qualified Buyers may acquire an interest in a Parcel at a foreclosure sale or in lieu of foreclosure. If any person or entity having a lien on a Parcel is not a Qualified Buyer and acquires an interest in such Parcel in a foreclosure sale or in lieu of foreclosure, such transfer shall be null and void and shall confer no title or right whatsoever upon purported transferee.

F. Good Faith Marketing. The Owner shall engage in a good faith marketing effort such that members of the public have a fair chance to become informed of the availability of the Parcel. The Owner must submit to the Housing Authority a written good faith marketing plan to include where advertised and copy of advertisement that complies with the then current Housing Authority's guidelines.

G. Complete Consideration Stated On Deed. The complete consideration for any transfer of the Parcel shall be stated on the deed transferring title, including, but not limited to, the complete purchase price, loan obligation fees and commissions, but excluding appraisal fees and title insurance premiums. There shall be no consideration from seller to buyer beyond what is stated on the deed.

H. Nothing herein shall be construed to constitute a representation or guarantee by the Housing Authority or Gunnison County, Colorado that on the sale of the Parcel the Owner shall obtain the Re-sale Price limit.

VI. TRANSFER VOID.

In the event the Parcel is transferred, without full and timely compliance with this Covenant, such transfer shall be null and void and shall confer no title or right whatsoever upon purported transferee. Each and every transfer of the Parcel, for all purposes, shall be deemed to include and incorporate by this reference all terms of this Covenant, and any amendments hereto, including but not limited to those provisions

governing the qualifications for ownership, rental, sale, transfer or conveyance of the Parcel.

VII. RELEASE OF DEED RESTRICTION IN EVENT OF FORECLOSURE OR DEED IN LIEU

In the event of foreclosure or acceptance of deed in lieu of foreclosure by the holder of a first deed of trust this Covenant shall automatically and permanently terminate and be of no further force and effect if the following conditions are satisfied:

A. The holder of the deed of trust or other lien holder has given to Gunnison County and/or the Housing Authority notice of the Owner's default as set forth in Article V., Section E; and

B. An Option to Purchase has been given by the Lender or Lien Holder to the Housing Authority and/or Gunnison County to redeem the Parcel in the event of default by purchasing the Parcel from the holder of the trustee's deed at the redemption price plus reasonable costs of the holder. The Housing Authority and/or Gunnison County shall have 30 days from date of notification to exercise the Option to Purchase the Parcel. The Housing Authority and/or Gunnison County shall exercise its Option to Purchase by executing a written and binding commitment to purchase the Parcel within a reasonable period of time. In the event the Housing Authority and/or Gunnison County does not execute this Option within said 30 days after issuance of the Trustee's Deed the deed restriction will be terminated as described in the subsequent paragraph C of this Section.

C. Termination of Deed Restriction. In the event The Housing Authority or its designees does not exercise the option to purchase, as provided herein, the Housing Authority or its designees shall cause to be recorded in the records of the Clerk and Recorder of Gunnison County a full and complete release of the Essential Housing Covenant affecting the Parcel, which appears in said records at Reception No: 585975 .

VIII. PERPETUAL COVENANT

A. This Covenant constitutes a perpetual covenant that runs with the Parcel as a burden thereon for the benefit of the Housing Authority or its designee, and Gunnison County, or its designee, and shall be binding on the Owner and on the heirs, personal representatives, assigns, lessees and licensees and any transferee of the Owner, and all subsequent purchasers, including without limitation a holder of the Public Trustee's Certificate of Purchase, and their respective heirs, personal representatives, assigns, lessees and licensees. This Covenant shall be administered by the Housing Authority and/or Gunnison County, or their

respective designees, and shall be enforceable by any appropriate legal or equitable actions, including but not limited to: specific performance, injunction, abatement or eviction of non-complying Owners, users or occupants, or such other remedies and penalties as may be deemed appropriate by the Housing Authority or Gunnison County.

B. The Housing Authority reserves the right in its sole discretion to terminate this Covenant as to the Parcel by recording a Termination of Essential Housing Covenant in the office of the Clerk and Recorder of Gunnison County executed by all of the then Owners of the Parcel and the Housing Authority.

C. The foregoing Covenant may be modified only with the written consent of the Owner, the Housing Authority, holder of the deed of trust, and Gunnison County. No such modification shall be effective until an instrument in writing is executed and recorded in the office of Clerk and Recorder of Gunnison County.

IX ENFORCEMENT.

The Grantor hereby grants and assigns to the Housing Authority and Gunnison County, jointly and severally, the right to review and enforce timely, full and complete compliance with this Covenant. Compliance may be enforced by the Housing Authority and Gunnison County, or either of them, by any lawful means, including without limitation remedies such as, specific performance and damages to reimburse the Housing Authority and/or Gunnison County for its/their enforcement costs and attorney's fees, and to require the Grantor to repay with reasonable interest any assistance received in connection with purchase of the Parcel, and to prohibit the Grantor from retaining sales or rental proceeds, and shall include, without limitation:

a. acceleration of the mortgage;
b. voiding a Transfer by the Grantor;
c. terminating the Grantor's interest in the Parcel; or
d. subjecting the Grantor to contractual liability other than that set forth above.

Venue for a suit enforcing compliance shall be proper only in Gunnison County, Colorado. As part of any enforcement action, the Grantor shall pay all court costs and reasonable attorney's fees incurred by the Housing Authority and/or Gunnison County in connection with these claims, actions, liabilities or judgments.

X. COVENANT RUNS WITH LAND.

The Covenant shall be a burden on the title to the Parcel, and the benefits and burdens of the Covenant shall run in perpetuity with the title to the Parcel and shall remain in full force and effect. The Covenant, and each condition, restriction and limitation in it, are intended to constitute both equitable servitudes and covenants running with the land.

XI. RULE AGAINST PERPETUITY.

The Covenant shall bind perpetually, and the benefit hereof shall inure perpetually to, the Grantor, his, her or their heirs, legal representatives, executors, successors in interest and assignees, and to the Housing Authority, Gunnison County, its and their successors, designees or assignees.

If any provision of this Covenant shall be interpreted to constitute a violation of the rule against perpetuity, then such provision shall be deemed to remain in effect until the death of the last survivor of the now living descendants of any member of the 110th Congress of the United States, plus twenty-one (21) years thereafter.

XII. BINDING ON TRANSFEREE.

In addition to any other mechanism, any buyer or transferee of the Parcel or any portion of or interest in the Parcel, by acceptance of a deed therefore, or by signing of a contract or agreement to purchase or lease the same, shall, by acceptance of such deed or by the signing of such contract or agreement be deemed to have consented to and accepted the Covenant and each covenant, condition, restriction and limitation set forth herein.

XIII. NOTICES.

Notices to the Housing Authority and Gunnison County shall be given in writing and mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by the Housing Authority or Gunnison County:

Director	County Manager
Gunnison County Housing Authority	Gunnison County
202 East Georgia Ave	200 East Virginia Ave
Gunnison, CO 81230	Gunnison, CO 81230

Notices to the Grantor shall be given in like manner addressed to the Parcel.

XIV. SURVIVORABLITY.

If any provision of this Covenant shall be held by a court of proper jurisdiction to be invalid, illegal or unenforceable, the remaining provisions shall survive and their validity, legality or unenforceability shall not in any way be affected or impaired thereby.

XV. INTERPRETATION.

The conditions of this Covenant shall be interpreted so as to avoid speculation on the Parcel and to ensure to the greatest extent possible that its purchase price and mortgage payments remain affordable in perpetuity to persons and families of low-moderate income.

XVI. SUPERIOR TO HOMESTEAD EXEMPTION.

This Covenant is prior and superior to the Grantor's right of a homestead exemption under Article XVIII, Section I of the Colorado Constitution and under Part 2, Article 41, Title 38 of the Colorado Revised Statutes or any successor statutes. The Grantor waives his/her/their homestead rights to the full extent they conflict with or impair the Housing Authority's or Gunnison County's rights and remedies under this Covenant.

IN WITNESS WHEREOF, Grantor has executed this Covenant as of the date first stated above.

GRANTOR(s):

Brian Riepe

Suzann Parker

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The forgoing instrument was acknowledged before me this 22nd day of August, 2008 by Brian Riepe and Suzann Parker

Witness my hand and official seal.
My commission expires: 3-31-11

Cheri L Moyer
Notary Public

NOTARY PUBLIC
CHERI L. MOYER
STATE OF COLORADO

GUNNISON COUNTY HOUSING AUTHORITY:

Matthew Birnie, Executive Secretary

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The forgoing instrument was acknowledged before me this 19th day of August, 2008 by Matthew Birnie

Witness my hand and official seal.
My commission expires: 3/29/2011

Notary Public

NOTARY PUBLIC
KATHERINE HAASE
STATE OF COLORADO
My Commission Expires 3/29/2011

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO:

Hap Channell, Chairperson – Board of County Commissioners

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The forgoing instrument was acknowledged before me this 19th day of August, 2008 by Hap Channell.

Witness my hand and official seal.
My commission expires: 3/29/2011

Notary Public

NOTARY PUBLIC
KATHERINE HAASE
STATE OF COLORADO
My Commission Expires 3/29/2011

IN WITNESS WHEREOF

Exhibit A

Lot E-3, Larkspur Subdivision, according to the plat thereof recorded with the Gunnison County Clerk and Recorder's Office on August 21, 2006 at Reception No. 568254,

County of Gunnison,

State of Colorado.

Exhibit B
To
GUNNISON COUNTY HOUSING AUTHORITY
OCCUPANCY AND RESALE DEED RESTRICTION AND ESSENTIAL HOUSING COVENANT

Notification of Intent to Sell or Transfer Essential Housing Unit

This document must be completed and submitted to the Gunnison County Housing Authority (GCHA) for any Essential Housing Unit that is deed-restricted under the Gunnison County Housing Authority Guidelines.

I/We, _____, hereby declare my/our intent to sell/transfer the property described as_____, acknowledging that such property is restricted (including ownership, occupancy, and sale of such property) by the **Gunnison County Housing Authority Guidelines**.

I also hereby request the Gunnison County Housing Authority to calculate a **Maximum Resale Price** for my Essential Housing Unit, according to a formula in the Unit's deed restriction. When calculating the price, please consider the following to the extent allowed by the Unit's deed restriction:

- Costs of any public improvements for which assessments were imposed by any municipal special improvement as created by or with the City since the recordation date of the deed restriction: Documentation of the costs (check one) is____ is not____ attached; and

- Costs of capital improvements as approved by GCHA or its designee, according to certain requirements as prescribed by the Deed Restrictions, not to exceed a certain percent of the Original Purpose Price: A list of capital improvements to my unit, and documentation such as paid receipts for materials purchased or invoices showing payment made (check one) are____ are not____ attached.

OWNER(S) OF ESSENTIAL HOUSING UNIT

Date: _____ By: _____

Phone no.:_____ Name (print):_____

GUNNISON COUNTY HOUSING AUTHORITY

Date received: _____ By: _____

Name (print): _____

Title: _____

Exhibit C
To
GUNNISON COUNTY HOUSING AUTHORITY
OCCUPANCY AND RESALE DEED RESTRICTION AND ESSENTIAL HOUSING COVENANT

1. The term "Permitted Capital Improvement" as used in the Covenant shall only include the following:

   a) Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to the Parcel, excluding repair, replacement and/or maintenance improvements;

   b) Improvements for energy and water conservation;

   c) Improvements for health and safety protection devices;

   d) Improvements to add and/or finish permanent/fixed storage space; and/or

   e) Improvements to finish unfinished space.

2. Permitted Capital Improvements as used in this Covenant shall **NOT** include the following:

   a) Upgrades/replacements of appliances, plumbing and mechanical fixtures, carpets and other similar items included as part of the original construction of the unit;

   b) The cost of adding decks and balconies, and any extension thereto, including landscaping;

   c) Jacuzzis, saunas, steam showers and other similar items;

   d) Improvements required to repair, replace and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, carpeting and other similar items; and/or;

   e) Upgrades or addition of decorative items, including lights, window coverings and other similar items;

   f) Expansion of clothes closets or closet organizers;

   g) Furniture, even if fixtures, such as wall units or shelving.

3. All Permitted Capital Improvement items and costs shall be approved by the Housing Authority staff prior to being added to the Maximum Sale Price as defined herein.

4. Permitted Capital Improvements shall not include any changes or additions to the Parcel made by the Owner during construction or thereafter. Permitted Capital Improvements shall not increase the base price, even if made or installed during original construction.

5. In order to qualify as Permitted Capital Improvements, the Owner must furnish to the Housing Authority the following information with respect to the improvements which the Owner seeks to include in the calculation of Maximum Sale Price:

   a) Original or duplicate receipts to verify the actual costs expended by the Owner for the Permitted Capital Improvement;

   b) Owner's affidavit verifying that the receipts are valid and correct receipts tendered at the time of purchase and:

   c) True and correct copies of any building permit required issued by the appropriate Building Department with respect to Permitted Capital Improvements.