

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING MINUTES
February 16, 2021**

The February 16, 2021 meeting was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present, either in person or via Zoom, were:

Jonathan Houck, Chairperson
Roland Mason, Vice-Chairperson
Liz Smith, Commissioner

Matthew Birnie, County Manager
Katherine Haase, Deputy County Clerk
Others Present as Listed in Text

GUNNISON COUNTY LOCAL LIQUOR LICENSING AUTHORITY:

CALL TO ORDER: Chairperson Houck called the meeting to order at 8:31 am.

ALCOHOL BEVERAGE LICENSE #03-04246; CRESTED BUTTE, LLC DBA PARADISE RESTAURANT; EFFECTIVE DATES 2/4/2021 – 2/4/2022: Moved by Commissioner Smith, seconded by Commissioner Mason to approve the license for Crested Butte, LLC, dba Paradise Restaurant. Motion carried unanimously.

ADJOURN: Moved by Commissioner Houck, seconded by Commissioner Smith to adjourn the meeting. Motion carried unanimously. The Gunnison County Local Liquor Licensing Authority meeting adjourned at 8:32 am.

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS REGULAR MEETING:

CALL TO ORDER: Chairperson Houck called the meeting to order at 8:32 am.

AGENDA REVIEW: There were no changes made to the agenda.

CONSENT AGENDA: Moved by Commissioner Houck, seconded by Commissioner Smith to approve the Consent Agenda, as presented. Motion carried unanimously.

1. Acknowledgment of County Manager Approval to Purchase Steel Material; Cattle Guard Construction and Shop Projects; Penrose Steel & Tubing, Inc.; \$23,911.12
2. Contractor Agreement; Dr. Anna Meeuwssen; 1/1/2021 thru 12/31/2021; \$1,200
3. Application for Federal Assistance SF-424; Small Community Air Service Development Program; Gunnison-Crested Butte Regional Airport; Summer Service from DFW Beginning June 2022
4. Grant Application; State of Colorado Department of Human Services; Emerging and Expanding Child Care Grant Program; 2/1/21 thru 6/30/22; \$13,127
5. Grant Application on Behalf of the Community Health Coalition of the Gunnison Valley; 3/1/21 thru 9/30/21; \$50,000
6. Application for Federal Assistance SF-424; Gunnison-Crested Butte Regional Airport; Terminal Construction Project; \$1,000,000

SCHEDULING: The Upcoming Meetings Schedule was discussed and updated.

COUNTY MANAGER'S REPORTS:

1. Resolution: Delegating Signatory Authority to County Manager for Affordable Housing Deed Restrictions. Moved by Commissioner Mason, seconded by Commissioner Smith to approve Resolution #2021-1, a Resolution Delegating Signatory Authority to County Manager for Affordable Housing Deed Restrictions. Motion carried unanimously.
2. Airport Terminal Update. CM Birnie informed the Board that all construction documents have been prepared, so we can get contractors in place. It has been difficult to locate local contractors to perform elements of the project, but CM Birnie remained confident that the project will employ good contractors. He noted that federal jobs can be cumbersome for some contractors, due to associated requirements.
3. Library Project Update. CM Birnie stated that the project is a couple of weeks ahead of schedule, and that there has been good local participation.
4. Shady Island Update. CM Birnie informed the Board that work has begun on the jetties. The project won't be completed before boating season begins, but the ramp will be open toward the beginning of the season.

DEPUTY COUNTY MANAGER'S REPORT AND PROJECT UPDATES: Deputy County Manager Marlene Crosby was present for discussion.

1. Snow Plowing Update. DCM Crosby stated that her crews plowed over the weekend. Commissioner Houck asked about avalanche activity related to crew work and safety in Taylor Canyon. DCM Crosby stated that the area has been safe so far, and that crews will continue to monitor conditions.

CORRESPONDENCE:

1. Letter of Support; North Fork EMS Ambulance Grant Application. **Moved** by Commissioner Smith, seconded by Commissioner Mason to approve the letter of support for the North Fork EMS Ambulance Grant. Motion carried unanimously.

COMMISSIONER ITEMS:

Commissioner Smith:

1. 7th Judicial District. Commissioner Smith attended a meeting last week, and the conversations included one about community corrections. Budget cuts are proposed, though there is a movement to lessen the cuts and BOCCs may be asked to supply letters of support. CM Birnie explained the importance of the community corrections programming, as well as the cost of incarceration. He noted that, while this isn't a County function, it impacts the community. Commissioner Smith will write a letter.
2. Counties & Commissioners Acting Together (CCAT). Commissioner Smith attended a meeting last week. The group discussed ways that the State may support tourism as we move through the pandemic.
3. Early Childhood Workforce Grant. Commissioner Smith stated that valley childcare workers were surveyed to determine the type of help needed in order for them to remain in their positions. The survey revealed two main areas of focus: 1) Stipend salary support; and 2) Sick leave for early childhood education workers. If this grant application is successful, it will look to make improvements with long-term solutions. CM Birnie suggested that the whole Board should consider weighing in when grant applications are discussed.

COVID-19 RECOVERY TEAM RECOMMENDATIONS: Health and Human Services Director Joni Reynolds, Community & Economic Development Department Director Cathie Pagano and Temporary Disaster Recovery Coordinator Loren Ahonen were present for discussion.

CEDD Director Pagano stated that the Recovery Team has been evaluating recommendations for a few weeks. She provided an overview of what each local government entity, the Tourism and Prosperity Partnership (TAPP) and the Gunnison Watershed RE1J School District have provided toward the recovery effort. TDRC Ahonen noted that what wasn't captured in his summary was all the different places that the money has been spent within the communities. CM Birnie stated that the overview also didn't capture all of the work performed by our Health and Human Services staff in the delivery of services.

HHS Director Reynolds discussed the 2021 recommendations that were included in the Board's meeting portfolio. The Recovery Team requested \$127,000 for the first half of the year, to be a shared cost between the County (47%), the City of Gunnison (38%), the Town of Crested Butte (10%) and the Town of Mt. Crested Butte (5%) based on population. CEDD Director Pagano stated that the Recovery Team may return to the Board mid-year to request additional funding to cover the second half of the year. CM Birnie confirmed that the County has sufficient funding set aside to cover the 47% cost share, which is equal to \$59,690. **Moved** by Commissioner Mason, seconded by Commissioner Smith to approve the request for \$59,690 for the COVID recovery response from monies identified for COVID relief. Motion carried unanimously.

UNSCHEDULED CITIZENS: There were no Unscheduled Citizens present for discussion.

COMMISSIONER ITEMS (continued):

Commissioner Mason:

1. Mayors and Managers Meeting. Commissioner Mason attended the recent meeting. There was a lengthy presentation on the Gunnison Rising project. An affordable housing component is being considered, based on acreage.
2. Health Coalition Meeting. Commissioner Mason attended a recent meeting, and he relayed that the presentations were very informative. The Health Coalition approved their strategic plan. Commissioner Smith will assume coverage of Health Coalition meetings for the BOCC.
3. Gunnison Valley Regional Housing Authority. Commissioner Mason attended a recent meeting. Potential usage of open County-owned lots was discussed. He noted that the County may want to consider selling one or more lots in order to fund affordable housing elsewhere in the valley. The Board may hold a work session in the near future to discuss the County's current inventory of owned lots.

Commissioner Houck:

1. Sage-grouse Conservation and Wolf Reintroduction. Commissioner Houck stated that he has been working on these issues with others around the state.

ADJOURN: **Moved** by Commissioner Smith, seconded by Commissioner Mason to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 9:41 am.

Jonathan Houck, Chairperson

Roland Mason, Vice-Chairperson

Liz Smith, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Kathy Simillion, County Clerk

GUNNISON COUNTY BOARD OF COMMISSIONERS TEXT INCLUSION INTO MINUTES

**BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2021-1**

**A RESOLUTION DELEGATING SIGNATORY AUTHORITY TO COUNTY MANAGER FOR
AFFORDABLE HOUSING DEED RESTRICTIONS**

WHEREAS, the Board of County Commissioners (the "Board") is authorized pursuant to Colo. Rev. Stat. § 30-11-101(c) to sell, convey or exchange any real property owned by the County and to make such order respecting the same as may be deemed conducive to the interests of the inhabitants; and

WHEREAS, the Board is authorized pursuant to Colo. Rev. Stat. § 30-11-107(1)(a) to make such order concerning the property belonging to the County as it deems expedient; and

WHEREAS, the Board is authorized pursuant to Colo. Rev. Stat. § 30-11-107(aa) to establish policies and procedures regarding entering into contracts that bind the County and delegate its power to enter into such contracts where amounts and requirements comply with such policies; and

WHEREAS, the Board's policy is that all County-owned affordable housing properties are transferred only to qualifying homeowners and subject to a deed restriction, current form attached as Exhibit A; which may be amended from time to time.

NOW, THEREFORE, BE IT HEREBY:

RESOLVED that Matthew Birnie, Gunnison County Manager, is authorized and delegated the power to sign all documents to enter into contracts that bind the County in the transfer of affordable housing units, in accordance with the Board's policy including its accompanying deed restriction, as may be amended from time to time;

RESOLVED that all action previously taken by Matthew Birnie, Gunnison County Manager, relating to the sale of affordable housing properties owned by the County, that was in accordance with the Board's policy and accompanying deed restriction, as may be amended from time to time, is hereby ratified, approved and confirmed.

This Resolution has immediate effect upon its passage by the Board of County Commissioners without further action necessary.

INTRODUCED by Commissioner Mason, seconded by Commissioner Smith, and adopted this 16th day of February, 2021.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

Houck – yes; Mason – yes; Smith – yes.

EXHIBIT A

GUNNISON COUNTY MASTER DEED RESTRICTION

THIS DEED RESTRICTION ("Restriction" or "Restrictions") is made this _____ day of _____, 202__, by the Board of County Commissioners of Gunnison County, Colorado, 200 East Virginia, Gunnison, Colorado 81230 (referred to herein as "Gunnison County" or "Grantor" or

"Beneficiary" and shall include administrators, legal representatives, successors and assigns) and hereby imposes the deed restrictions specified herein on the real property specified herein.

1. Property Subject to Deed Restriction. The following real property (the "Property") is hereby made subject to these Affordable Housing Restrictions ("Restrictions"):

Unit ____ Building _____, _____, according to the _____ thereof recorded _____, _____ at Reception No. _____, of the records of Gunnison, Colorado
Commonly known as _____, _____, Colorado

WHEREAS, Gunnison County, acting as the declarant, intends to create a valid and enforceable covenant running with the land that assures that all of a Unit hereby existing or to be developed on a Unit will be used solely by individuals who are either Qualified Owners or Qualified Occupants (as such terms are hereinafter defined), subject to limited exceptions provided for herein; and

WHEREAS, Gunnison County recognizes the public need for attainable and affordable housing for the workforce and working families of Gunnison County, particularly within the Gunnison Valley; and

WHEREAS, under this Restriction Gunnison County intends, declares, and covenants that the regulatory and restrictive covenants set forth herein governing the use of a Unit described and provided for herein shall be and are hereby made covenants running with the land and are intended to be and shall be binding upon Gunnison County, and all subsequent owners and/or tenants of such Property for the stated term of this Restriction, unless and until this Restriction is released and terminated in the manner hereafter described.

2. Definitions

i. 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).

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

iii. GUNNISON COUNTY shall mean the Board of County Commissioners of Gunnison County, Colorado.

iv. GUIDELINES mean the most current Gunnison Valley Regional Housing Authority Housing Guidelines or Gunnison County Housing Guidelines if the Gunnison Valley Regional Housing Authority ceases to exist or is replaced by some other entity, in effect at the time of closing on a sale or transfer of any or all of a Unit or at the commencement date of a lease or other occupation agreement, or its successor document, as amended from time to time and attached hereto as Exhibit A.

v. FIRST MORTGAGE means a deed of trust or mortgage that is recorded senior to any other deeds of trust or liens against any of all of the Units to secure a loan used to purchase any of all of the Units by a Mortgagee.

vi. HOUSEHOLD means one or more persons who intend to live together in any of the Units.

vii. HOUSING AUTHORITY means the Gunnison Valley Regional Housing Authority. Unless expressly stated otherwise in this Deed Restriction, "Housing Authority" shall refer to the Gunnison Valley Regional Housing Authority, except that if the Gunnison Valley Regional Housing Authority ceases to exist or is replaced by some other entity, "Housing Authority" shall refer to the County.

viii. MAXIMUM RESALE PRICE means the maximum Purchase Price that shall be paid by any purchaser of a Unit, other than the initial purchaser who acquires a Unit from Gunnison County that is determined in accordance with the provisions of Section 6.iii of this Restriction. The Maximum Resale Price is not a guaranteed price, but merely the highest price an Owner may obtain for the sale of a Unit.

ix. MORTGAGEE means 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 beneficiary of a deed of trust or mortgage encumbering a Unit.

x. NON-QUALIFIED OWNER or NON-QUALIFIED TRANSFEREE means an Owner that is not a Qualified Owner.

xi. NET WORTH means the estimated sum of the assets of the Qualified Owner or Qualified Occupant. The term *Asset* refers to liquid assets such as cash in savings, checking or other forms of bank accounts

and stocks, bonds or other instruments that can readily be converted to cash. The most recent Assessed Value as provided by the applicable Assessor's Office will be used to determine the value of real estate holdings, regardless of set-offs by encumbrances, costs of sale or holding, or percent of ownership interest. Assets in a qualified retirement plan and other non-liquid assets such as personal belongings or intangible assets will not be included in the asset limitations for each income category.

xii. OWNER means Gunnison County and any subsequent buyer, heir, devisee, transferee, grantee, owner or holder of title to a Unit.

xiii. PURCHASE PRICE means all consideration paid by the purchaser to the seller for a Unit.

xiv. QUALIFIED OWNER means a natural person who meets the following requirements at the time that he/she takes initial ownership interest or transfer of interest in a Unit as qualified by Gunnison County:

a. Has maintained his/her primary and sole residence in Gunnison County, Colorado for six (6) consecutive months immediately preceding taking initial ownership or transfer of interest in a Unit or has a qualified employment contract with an employer in Gunnison County that has been accepted by Gunnison County; and

b. Has earned his/her primary (80% or more) source of income working a minimum of 30 hours per week on an annual basis, as documented with the United States Internal Revenue Service, within Gunnison County, or has a qualified employment contract with an employer in Gunnison County that has been accepted by Gunnison County; and

c. Except as provided for in Section 4.i.b. and 4.1.c., does not own any interest in other improved residential property(s). A purchaser who owns residential real estate must convey all interest in said residential property(s) prior to taking initial ownership or transfer of interest of a Unit; and

d. A qualified household shall not have a net worth that exceeds four (4) times the income based on the AMI applicable to actual household size of a prospective purchaser, such AMI set by HUD annually and adjusted for household size.

e. Income restrictions are applicable at the time of qualification and shall be verified by Gunnison County. Income guidelines are based on the Area Median Income (AMI) set by HUD annually and adjusted for household size. At the time of initial ownership or transfer of interest the combined household income shall not be less than 70% of AMI and shall not exceed 160% of AMI; and

f. Shall occupy the subject Unit as his/her sole and exclusive primary residence at all times during the ownership of a Unit.

xv. QUALIFIED OCCUPANT means a person who meets the following requirements at the time he or she takes initial occupancy of a Unit as qualified by Gunnison County:

a. Has maintained primary and sole residence in Gunnison County, Colorado for three consecutive months immediately preceding taking initial occupancy of a Unit or has a qualified employment contract with an employer in Gunnison County that has been accepted by Gunnison County; and

b. Has earned his/her primary (80% or more) source of income working a minimum of 30 hours per week on an annual basis, as documented with the United States Internal Revenue Service, within Gunnison County, or has a qualified employment contract with an employer in Gunnison County that has been accepted by Gunnison County; and

c. Except as provided for in Section 4.i.a. and 4.i.c., does not own any interest in other improved residential property(s). An occupant who owns residential real estate must convey all interest in said residential property(s) prior to taking initial occupancy of the subject Unit; and

d. A qualified household shall not have a net worth that exceeds two (2) times the income based on the AMI applicable to actual household size of a prospective occupant, such AMI set by HUD annually and adjusted for household size; and

e. Income restrictions are only applicable at the time of occupancy and shall be verified by Gunnison County. Income restrictions are based on the Area Median Income (AMI) set by HUD annually and adjusted for household size. At the time of initial occupancy, the combined household income shall not be less than 80% of AMI and not exceed 160% of AMI; and

- f. Shall occupy the subject Unit as his/her sole and exclusive primary residence.

xvi. TRANSFER means an act of a party, or of the law, by which the title to the subject Unit 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 subject 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 subject Unit is transferred and Owner retains title, except that, this definition does not include any transfer of an interest by Gunnison County.

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

- a. 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.
- b. 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.

3. Restriction Runs with the Land. This Restriction shall constitute covenants running with title to the subject Unit as a burden thereon, for benefit of, and enforceable by, Gunnison County, and their successors and assigns, and this Restriction shall bind Gunnison County and all subsequent Owners and tenants of the subject Unit. Each Owner and Qualified Occupant, upon acceptance of a deed or lease to the subject Unit, shall be personally obligated hereunder for the full and complete performance and observance of all covenants, conditions, and restrictions contained herein during the Owner's period of ownership or Qualified Occupant's tenancy, as may be appropriate. Each and every Transfer or lease of the subject Unit, for all purposes, shall be deemed to include and incorporate by this reference, the covenants contained in this Restriction, even without reference to this Restriction in any document of conveyance.

4. Ownership, Use, Occupancy and Rentals.

i. Ownership.

- a. Qualified Owner(s). The ownership of the subject Unit is hereby, and shall henceforth be, limited exclusively to Qualified Owner(s) which shall include the parties described and approved as set forth in Section 4.ii. In the event that the subject Unit is occupied without compliance with this Restriction, Gunnison County shall have the remedies set forth herein, including but not limited to the rights under Section 8 herein.
- b. Employee Housing. Upon the written consent of Gunnison County, which consent may be recorded, a non-qualifying natural person or entity that owns or operates a business located in and serving the county may purchase the subject Unit, provided, however, that by taking title to the subject Unit, such Owner shall be deemed to agree to the rental restrictions set forth herein, and further that any Owner who does not meet the definitions of both a Qualified Owner and Qualified Occupant shall rent the subject Unit to a natural person(s) who does meet the definitions of a Qualified Occupant, and shall not occupy or use the subject Unit for such Owner's own use or leave the subject Unit vacant except as otherwise provided herein.
- c. Rental Projects. Upon the written consent of Gunnison County, which consent may be recorded, a non-qualifying natural person or entity may own the subject Unit for the purpose of operating a rental project. However, by taking title to the subject Unit, such Owner shall be deemed to agree to the rental restrictions set forth herein, and further that any Owner who does not meet the definitions of both a Qualified Owner and Qualified Occupant shall rent the subject Unit to a natural person(s) who does meet the definitions of a Qualified Occupant, and shall not occupy or use the property for such Owner's own use or leave the subject Unit vacant except as otherwise provide herein.

ii. Use and Occupancy. Except as provided for in Section 4.i.b and 4.i.c here in, the use and occupancy of the subject Unit is hereby, and shall henceforth be, limited exclusively to Qualified Owner(s) or Qualified Occupant(s), his or her spouse and child(ren) and other immediate family members.

iii. Rental of Property.

- a. Qualified Owner(s). An Owner may not, except with prior written approval of Gunnison County' conditions of approval, rent a Unit to a Qualified Occupant(s) for no less than six (6) months and no more than one (1) year and occurring not more than once every five (5) years. All

rentals must comply with the current Guidelines.

- b. Employee Housing. A non-qualifying natural person or entity that owns a Unit, pursuant to Section 4.i.b, may rent a Unit for any period of time. All renters must be Qualified Occupants. Any occupancy of a Unit pursuant to sections 4.i.b and 4.iii.b shall not exceed two persons per bedroom, unless Gunnison County approves otherwise.
 - c. Rental Projects A non-qualifying natural person or entity that owns a Unit, pursuant to Section 4.i.c, may rent a Unit for any period of time. All renters must be Qualified Occupants. Any occupancy of a Unit pursuant to Sections 4.i.c and 4.iii.c shall not exceed two persons per bedroom, unless Gunnison County
 - iv. Roommates. The requirements of this Restriction shall not preclude the Owner from sharing occupancy of a Unit with non-owners on a rental basis provided that the non-owner(s) is also a Qualified Occupant. Owner continues to occupy a Unit as his/her sole and primary residence and meets the obligations contained in this Restriction, including the definition of Qualified Owner or Qualified Occupant. Short-term rentals/roommates are strictly prohibited.
 - v. No Indemnification or Waiver of Immunity. Nothing herein shall be construed to require 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 damages to a Unit; nor to require Gunnison County 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 Gunnison County of governmental immunity provided by the Colorado Governmental Immunity Act or other applicable law.
 - vi. Initial Finance and Refinance Restriction.
 - a. At the time of the purchase of a Unit the original principal amount of any indebtedness secured by a First Mortgage shall not exceed an amount equal to one hundred percent (100%) of the Purchase Price paid for a Unit by that Owner, subject to the Guidelines.
 - b. An Owner may refinance a First Mortgage that encumbers a Unit with the consent of Gunnison County; provided, however, that the original principal amount of any refinanced indebtedness secured by a First Mortgage shall not exceed an amount equal to ninety-seven percent (97%) of the then current Maximum Resale Price limit.
 - vii. Ownership Interest in Other Residential Property. Except with respect to a Non- Qualified Owner permitted to purchase a Property as set forth in Section 4, if at any time the Owner also owns any interest alone or in conjunction with others in any other developed residential property in or out of the County, the Owner shall immediately list such other property interest for sale and sell his or her interest in such property. In the event said other property has not been sold by the Owner within one hundred twenty (120) days of its listing required hereunder, then the Owner shall immediately list his or her Property for sale pursuant to Section 8.v. of this Restriction. In the case of an Owner whose business is the construction and sale of residential properties or the purchase and resale of such properties, the properties that constitute inventory in such Owner's business shall not constitute "other developed residential property" as that term is used in this Section 4.vii. provided that the Owner is not occupying any of the inventoried properties for residential or commercial purposes.
 - viii. Compliance. Any Owner of a Unit is required to comply with annual certifications to Gunnison County that they are in compliance with the requirements of this Restriction. The Housing Authority acknowledges and recognizes that the income and net worth of a Qualified Owner or Qualified Occupant may increase over time, however, such increases over the maximum income and net worth requirements at initial purchase or occupancy shall not constitute a default of this Restriction.
 - ix. Any owner or prospective buyer must agree to and execute the Notice of Lien form attached hereto as Exhibit B.
5. Initial Purchase Price. Upon completion of construction of a Unit, a Unit shall be sold to a Qualified Owner, except as provided for in Section 4.i. of this Restriction, at an affordable Purchase Price as determined by the Guidelines.
6. Transfer of Property.
- i. Resale. No Transfer of a Unit shall occur subsequent to the original purchase from the County or Gunnison County, except upon full compliance with the procedures set forth in this Section 6. In the event a Unit is sold and/or conveyed without compliance with this Restriction, such sale and/or transfer shall be wholly null and void and shall confer no title whatsoever upon the purported buyer.

- ii. Notice of Intent. A Unit shall not be sold or transferred without prior submission by the Qualified Owner to the Housing Authority of a written Notice of Intent to Sell or Transfer Affordable Housing Unit as set forth in Exhibit C attached hereto.
- iii. Maximum Resale Price.
 - a. The initial purchase price of a Unit shall be the basis for calculating the Maximum Resale Price in accordance with this Restriction and the Guidelines in effect at the time of listing a Unit for sale.
 - b. The Maximum Resale Price of a Unit shall be limited to be no more than the following calculation:
The Maximum Resale Price may not exceed the sum of: (i) the Purchase Price paid by the Owner for a Unit, plus: (ii) an increase of two percent (2%) of such Purchase Price per year (prorated at the rate of 1/12 for each whole month, but not compounded annually) from the date of the Owner's purchase of a Unit to the date of the Owner's Notice of Intent to Sell a 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 a Unit; (iv) the cost of Permitted Capital Improvements made to a Unit by the Owner as set forth in Exhibit D attached hereto.
 - c. Permitted Capital Improvements. The amount for Permitted Capital Improvements shall not exceed ten per cent (10%) 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 a Unit for Capital Improvements. In calculating such amount, only those Permitted 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.
 - d. Pursuant to the Guidelines, each Owner shall be responsible for ensuring that at the Transfer of his or her Property, the same is clean, the appliances are in working order, and that there are no health or safety violations regarding a Unit. Prior to the sale of a Unit Gunnison County is authorized to take necessary actions and incur necessary expenses for bringing a Unit into saleable condition. Such actions and expenses include, but are not limited to, cleaning a Unit and making necessary repairs to or replacements of appliances and/or Property fixtures, such as windows, doors, cabinets, countertops, carpets, flooring and lighting fixtures, and/or correcting any health or safety violations on a Unit. Expenses incurred by Gunnison County to bring a Unit into a saleable condition shall be itemized and documented by the Housing Authority and deducted from the Owner's proceeds at closing of the Transfer of a Unit.
 - e. No Owner shall permit any prospective purchaser to assume any or all of the Owner's closing costs. No Owner shall accept anything of value from a prospective purchaser except for the Maximum Resale Price before, during or after closing of the Transfer of a Unit.
 - f. Nothing in this Restriction represents or guarantees that a Unit will be re-sold at an amount equal to the Maximum Resale Price. Depending upon conditions affecting the real estate market, a Unit may be re-sold for less than the Maximum Resale Price.
- iv. Beneficiary Right to Acquire Ownership - Right of First Refusal. The initial Owner and each subsequent Owner shall not transfer a Unit, or any part thereof, without first offering same to Gunnison County for purchase. Gunnison County shall have a right of first refusal to purchase a Unit as follows:
 - a. If an Owner receives any offer to purchase or enders any offer of sale for a Unit for any amount less than or equal to the Maximum Resale Price, Gunnison County shall have the absolute right of the first refusal to purchase a Unit at the offered sales price. This right of first refusal will first be granted to the county, using the form attached here to as Exhibit E, and then the Gunnison Valley Regional Housing Authority, using the form attached hereto as Exhibit F, only if the County does not exercise its right of first refusal.
 - b. Gunnison County shall have the option to exercise its right of first refusal, with the County prevailing as detailed in 6.iv.a., by executing a written and binding commitment to purchase a Unit within twenty-one (21) days after Gunnison County receives written Notice of Intent to Sell or Transfer Affordable Housing Unit by Owner. The commitment to buy shall set a closing date within a reasonable period of time.
 - c. Gunnison County shall have the right to inspect a Unit prior to exercising its right of first refusal. If a Unit is damaged there shall be a decrease in the sales price of a Unit equal to

the amounts necessary to bring a Unit into saleable condition as reasonably determined by Gunnison County, including but without limitation cleaning, painting, replacing worn carpeting and draperies; making necessary structural, mechanical, electrical and plumbing repairs; and repairing or replacing built-in appliances and fixtures.

- d. In the event Gunnison County executes a written and binding commitment to purchase a Unit within said twenty-one (21) day period, this right of first refusal shall expire.
 - e. If the Owner does not sell or otherwise transfer a Unit, the terms and conditions of this right of first refusal shall again apply to any subsequent sale or transfer of a Unit.
 - f. 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 Unit effected without first giving 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.
 - v. Beneficiary Made Whole. No transfer of a Unit shall occur unless and until each and every encumbrance, debt or liability owed by the Owner to Gunnison County is fully satisfied.
7. Foreclosure
- i. It shall be a breach of these Restrictions 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 a Unit. The Owner hereby agrees to notify Gunnison County, in writing, of any notification Owner 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 Owner's notification from lender, or its assigns, of said default or past due payments
 - ii. Upon receipt of notice as provided herein, Gunnison County shall have the right, in its sole discretion, to solely or jointly cure the default or any portion thereof, thereby becoming the Curing Party. In such event, the Owner 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) per cent, and all actual expenses of the Curing Party incurred in curing the default. In the event the Owner does not repay the Curing Party within sixty (60) days of notice that the Curing Party has cured the Owner's default, the Owner agrees that the Curing Party shall be entitled to a lien against a 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 Gunnison County, Colorado, until such lien is paid and discharged. The Curing Party shall have the additional right to bring an action to foreclose on a Unit for the payment of the lien set forth in this section 7.ii.
 - iii. In the event of a foreclosure on a promissory note secured by a first deed of trust on a Unit, or any Property, and the issuance of a public trustee's deed by the holder of such note and deed of trust ("Holder"), or the acceptance by Holder of such note and deed of trust or a deed in lieu of foreclosure of a Unit, and Holder's subsequent recordation of the same in the Office of the Gunnison County Clerk and Recorder, Gunnison County may acquire a Unit by exercising that certain "Option to Purchase," the copies of which is attached hereto as Exhibits E and F. In the event that the Option is not exercised by Gunnison County, this Deed Restriction shall be released and shall be of no further force or effect.
8. Default/Breach
- i. In the event Gunnison County has reasonable cause to believe an Owner is violating the provisions of these Restrictions, that entity, through its authorized representatives, may inspect a Unit between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, after providing the Owner with no less than 24 hours written notice.
 - ii. The respective Beneficiary shall send a notice of violation to the Owner, with a copy to the other Beneficiary, detailing the nature of the violation and allowing the Owner fifteen (15) days to determine the merits of the allegations, or to correct the violation. In the event the Owner disagrees with the allegation of violation of these Restrictions, the Owner may request, in writing, a hearing before the Gunnison Valley Regional Housing Authority Grievance and Appeals Committee or some similar body convened by the County if the Gunnison Valley Regional Housing Authority Grievance and Appeals Committee ceases to exist or is replaced. If the Owner does not request a hearing and the violation is not cured within the fifteen-day period, the Owner shall be considered in violation of these Restrictions.
 - iii. Whenever these Restrictions provide for a hearing before the Gunnison Valley Regional Housing Authority Grievance and Appeals Committee, such hearing shall be scheduled by Gunnison County within twenty-one (21) days of the date of receipt of a written request for a hearing. At any such hearing, the Owner 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 Gunnison County shall be a final decision, subject to judicial review.

- vi. These Restrictions and each and every related document is to be governed and construed in accordance with the laws of the State of Colorado.
- vii. 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.
- viii. Owners and subsequent owners agree that he or she shall be personally liable for their participation in any of the transactions contemplated herein and that he or she will execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of these Restrictions or any agreement or document relating hereto or entered into in connection herewith.
- ix. Any modifications of these Restrictions shall be effective only when made by a duly executed instrument by Gunnison County and an Owner and recorded with the Clerk and Recorder of Gunnison County, Colorado. Notwithstanding the foregoing, the Parties agree that Gunnison County may amend these Restrictions where deemed necessary to effectuate the purpose and intent of these Restrictions.

EXECUTED, this ____ day of _____, 2020.

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

By: _____
Jonathan Houck, Chairperson

By: _____
Roland Mason, Vice Chairperson

By: _____
Elizabeth Smith, Commissioner

ATTEST: _____
Deputy County Clerk

Date