

FIRST AMENDED OURAY WATERVIEW HOMES
AFFORDABLE HOUSING REGULATIONS AND GUIDELINES

Approved by the Colorado Attorney General and DOLA and adopted by the City of Ouray on January 16, 2024, amended July 15, 2024, and attached as amended Exhibit E to the City Of Ouray Development Agreement, Ouray Homes, LLC, dated January 16, 2024.

WELCOME

Rural Homes, LLC, (“RH”) is a Colorado not for profit limited liability corporation whose mission is to empower rural communities by creating a replicable model and equitable process for the development, sale and occupancy of the highest quality homes which remain affordable for working low- to moderate- income local residents, thereby improving people’s health and well-being and the community’s economic resilience.

GENERAL POLICY GOALS: The general goal of the Ouray Waterview Homes PUD neighborhood is to provide high quality homes that will remain affordable for working residents and their families who make a living primarily from employment located within Ouray County whose income and assets are below certain targeted limits, and who choose to be part of the local community. This is accomplished by regulating and restricting occupancy and sale of the Housing Units covered by these Ouray Waterview Homes 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 Deed Restriction and Covenant Agreement (referred to as “Covenant” or “Deed Restriction”), recorded with each Housing Unit (also referred to as Unit) purchase or Transfer. 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 City of Ouray, or its designee, hereafter referred to as Committee, 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 the Committee at a properly public meeting. Any amendments to these guidelines shall be adopted by the City Council of the City of Ouray.

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1. DEFINITIONS

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

- 1.1 ACCESSORY DWELLING UNIT (ADU) - a detached (separate or disconnected from) subordinate building or structure, the use of which is incidental to that of the principal building or primary dwelling, and which is located on the same lot or parcel with the principal building or dwelling.
- 1.2 ADMINISTRATOR – Person or entity that may be hired by the City of Ouray to administer or enforce the Deed Restriction Covenant and Guidelines.
- 1.3 APPEAL - the process used when an Applicant believes after final decision of the Administrator concerning the application of the Deed Restriction and Covenant for a Housing Unit, that the criteria has been applied to him or her incorrectly.
- 1.4 APPLICANT - a Household that submits the required application either for qualification as a Buyer or a Renter who submits a request for an Exception.
- 1.5 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. The Committee shall update the AMI once per year based upon an analysis of the best available data for Ouray County Household Incomes. Data sources and methods for this analysis are documented in Appendix A.
- 1.6 ASSETS - anything owned by an individual that has economic, 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 County assessor’s office where the real property is located will be used to determine the value any real estate holdings, regardless of setoffs by encumbrances, liens or mortgages, 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, including but not limited to, a patent, brand, trademark, or copyright, 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 a net asset, and not as Unearned Income for the purposes of initial qualification.

- 1.7 **BEDROOM** - an area designed to be used for sleeping purposes that shall contain a closet, access to a bathroom and meets applicable Building Code requirements for light, ventilation, sanitation, and egress.
- 1.8 **BUSINESS OWNER** - a person or entity that owns or operates a business located in and serving Ouray County, with a local workforce working in the County who has been certified by the Committee or Beneficiaries to own a Housing Unit and who has agreed to the rental restrictions set forth in the Covenant and these Guidelines.

NOTE: Businesses who are in the business of residential property management, residential property rentals, mobile home park ownership or rental and/or residential property ownership may not be certified as a Business Owner.

- 1.9 **BUYER** - a person or entity who is buying a Housing Unit.
- 1.10 **CAPITAL IMPROVEMENTS AND PERMITTED CAPITAL IMPROVEMENTS** - 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 the Committee 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.

- 1.11 **CITY OF OURAY COMMITTEE (“Committee”)** – the governing body appointed by the City of Ouray Council who shall administer and enforce the Deed Restriction and Covenant and Guidelines, including qualifying owners, enforcement, and making any exceptions. If none is appointed, the Committee shall be the City of Ouray City Council.
- 1.12 **COMMERCIAL PROPERTY** - real property which is used for any of the following uses: Commercial; Industrial; Lodging Business and Short-term Rental as defined in the Ouray Land Use Code; and Agricultural Land.
- 1.13 **CO-SIGNER** - a joint signatory on 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 the Committee.
- 1.14 **COUNTY** – Ouray County, Colorado.
- 1.15 **DECLARANT** - the person or entity who is purchasing the Housing Unit and who executes the Deed Restriction and Covenant upon purchase or Transfer.

- 1.16 DEED RESTRICTION - a restrictive covenant prepared by Committee in coordination with RH and entered into between Committee, RH, and the Declarant 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.
- 1.17 DESIGNEE - a person or entity that may be authorized to act by the City of Ouray.
- 1.18 DISABLED PERSON – see Individual with a Disability.
- 1.19 DOWN PAYMENT - the cash payment made by the purchaser toward the purchase price of the Housing Unit.
- 1.20 EARNED INCOME STANDARD - the total Household Earned Income which must be at least 75% of the total Household Income. Unearned Income cannot exceed 25% of total Household Income. See INCOME for more information.
- 1.21 ELDERLY - a person who is at least 65 years of age.
- 1.22 ELIGIBILITY – the qualification requirements applied to a Household based on the specific Housing Unit the Household intends to occupy.
- 1.23 EMPLOYEE - a person who is self-employed or is working for another person or entity and is compensated for such work on an hourly, weekly, monthly or commission basis or any combination of such compensation.
- 1.24 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, within the Ouray County boundaries that provide 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.
- 1.25 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 excused from such criteria or allowed a modification of the criteria.
- 1.26 FAIR MARKET VALUE - the price at which bona fide, non-distress sale has been consummated for assets of like type, quality, and quantity in a particular market.
- 1.27 FAMILY – see Immediate Family.
- 1.28 FAMILY CHILD CARE HOME UNIT – Housing Units built to meet the State of Colorado’s large family childcare requirements in space, configuration, and structural elements and to be sold to or leased by a childcare Provider who operates state-licensed large family

childcare businesses providing childcare services to local families from the unit as a childcare provider.

- 1.29 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.
- 1.30 FINANCIAL STATEMENT – a document detailing all personal assets, liabilities, and net assets (the difference between the value of the gross assets minus its liabilities) as of a certain date.
- 1.31 FIRST MORTGAGE - a deed of trust or mortgage that is recorded which is generally senior to any other deeds of trust or liens against a property, except for tax liens, primary or initially used to secure a loan for the purchase of real property by a Declarant.
- 1.32 FREE-MARKET PROPERTY - a property that is not restricted by any Deed Restriction or covenant regarding price or terms of sale.
- 1.33 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.
- 1.34 GOVERNMENT PERSONNEL - any Full-time Employees of a federal, state, or County agency, or any local government, including law enforcement agencies.
- 1.35 GRIEVANCE - any dispute that Seller, Buyer, Owner, or Applicant may have with the Committee with respect to an action or failure to act in accordance with the individual's rights, duties, welfare, or status. Unfavorable decisions regarding exemptions and Exceptions are not grievances.
- 1.36 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 during a rolling 12-month period.
- 1.37 GUIDELINES -these Ouray Waterview Homes Affordable Housing Regulations and Guidelines, containing the operational regulations adopted by RH and the Committee, as amended from time to time, that setting forth the definitions, standards and procedures that further define and detail the Ouray Waterview Homes Covenant and are applied to specific Housing Units therein.
- 1.38 HEALTH CARE PERSONNEL - any Full-time Employees, 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 within Ouray County.
- 1.39 HOME OCCUPATION –any commercial use within a dwelling unit, an enclosed garage, or accessory building that is carried on by the inhabitants of the property and that complies with the Ouray Land Use Code, as amended from time to time.

- 1.40 HOUSEHOLD - one or more persons who live together, or intend to live together, in a Housing Unit as a single housekeeping entity.
- 1.41 HOUSING UNIT - a residential unit that is subject to the Covenant and Guidelines and any additional covenants that run with the land.
- 1.42 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, or by legal adoption, regardless of age. Immediate Family also includes: a minor child for whom the Qualified Employee or the spouse of the Qualified Employee is the biological parent, legal guardian or legal representative over. Such children shall be treated as minor children of Qualified Employee or the spouse of the Qualified Employee and have the same Immediate Family status, regardless of age.
- 1.43 IMPROVED RESIDENTIAL PROPERTY - property that contains at least one (1) dwelling unit as defined in the Ouray Land Use Code.
- 1.44 INCOME
- a. Earned Income-
 - i. 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
 - ii. Net income derived from a business after reasonable deductions for expenses, depreciation, taxes, and similar allowances.
 - iii. 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.
- 1.45 INCOME ELIGIBILITY TIER -the specification and limits of Household Income that applies to a particular Housing Unit.
- 1.46 INDIVIDUAL WITH A DISABILITY- has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. § 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 Mobility Disabled Person for more information.

- 1.47 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 Ouray County Clerk and Recorder's Office.
- 1.48 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, the surviving joint tenant(s) have rights of survivorship.
- 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 -the rental of a Housing Unit for any period equal to or greater than six consecutive months.
- 1.55 LUXURY ITEMS - 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 Section 8.2.3 and according to the Covenant covering the Housing Unit.
- 1.57 MINIMUM WORK STANDARD - work by a person for no less than 1,200 hours per year by working physically within the Ouray County 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 Committee or its Designee to a Housing Unit Owner, Occupant, or Tenant who may be in violation of provisions of the Deed Restriction for the Housing Unit and/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 Ouray County Clerk and Recorder’s Office.
- 1.64 OURAY LAND USE CODE (“OLUC”) – a section of the primary municipal code that has been promulgated by the City of Ouray, Colorado.
- 1.65 OWNER - an individual(s) who has 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.
- 1.66 PROVIDER –an individual who leases or owns a Family Child Care Home Unit and operates a licensed family childcare home under all applicable regulations in the State of Colorado or one that has substantially met the Rural Homes Early Childhood Initiative program, Ouray Provider Selection Process & Criteria, or its equivalent, and are on track to or have become a duly licensed family childcare provider in the State of Colorado.
- 1.67 PURCHASE PRICE - all consideration paid by the Buyer to the Seller for a Housing Unit.
- 1.68 PREQUALIFICATION - a borrower’s tentative written mortgage approval from a lender.
- 1.69 PRIMARY RESIDENCE - the sole and exclusive place of residence.
- 1.70 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 Committee and not all Housing Units are subject to Priority.
- 1.71 PROPERTY - includes all real estate of any kind, improved or unimproved, including but not limited to land, commercial property, investment property, and residential property.
- 1.72 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.

- 1.73 QUALIFIED EMPLOYEE - an Employee who meets the Minimum Work Standard, is certified by the Committee, and who maintains compliance pursuant to the Covenant and Guidelines.
- 1.74 QUALIFIED ENTITY OWNER - an Owner who is a Business Owner, Local Government, School District, Special District located in and serving Ouray County with a local workforce working in the School District, or an Owner of an FCCH Unit subject to the terms of the agreement set forth in Appendix F, and who has been certified as Qualified by the Committee to own a Housing Unit and who has agreed to the rental restrictions set forth in the Deed Restriction and these Guidelines.
- 1.75 QUALIFIED HOUSEHOLD - all Owners and Occupants who meet the requirements of Sections 3 and 5 who are certified 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.
- 1.76 QUALIFIED OCCUPANT - a person who meets the requirements of Sections 3 and 5 to occupy the Housing Unit, who is certified, and who maintains compliance pursuant to the Covenant and Guidelines. Entity Owners shall not be considered Qualified Occupants.
- 1.77 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, and who maintains compliance pursuant to the Covenant and Guidelines. Entity Owners may be considered Qualified Owners subject to the Covenant and Guidelines.
- 1.78 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.
- 1.79 SALE -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.
- 1.80 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.
- 1.81 SELLER - a person or entity who owns and is selling a Housing Unit.
- 1.82 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).
- 1.83 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.

- 1.84 SCHOOL DISTRICT – the Ouray School District R-1 and/or the Ridgway R-2 School District.
- 1.85 SCHOOL DISTRICT PERSONNEL - any Full-time Employee, including independent contractors of the School District, who provides health, educational, administrative, social, psychological, custodial, food service, transportation, law enforcement, or childcare services.
- 1.86 SHORT-TERM RENTAL - the use of a Housing Unit, or any part thereof, for remuneration, for less than six (6) consecutive calendar months.
- 1.87 SPECIAL DISTRICT- is a quasi-municipal corporation and political subdivision of the State of Colorado formed to provide necessary public services that the county or municipality cannot otherwise provide. The formation and operation of a special district is governed by Title 32 of the Colorado Revised Statutes and other applicable laws.
- 1.88 TENANT - a person who has the temporary use and occupancy as a Long-Term Rental of a Housing Unit owned by another subject to these Guidelines.
- 1.89 TRANSFER - the act of an Owner, 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, beneficiary 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 Committee or RH.
- 1.90 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 RH and the Committee.

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 at the time of sale and purchase 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 to control and enforce the applicable Deed Restriction and have the force and effect of law and can be enforced by the Committee or its authorized agents and/or representatives or RH. These rules have binding effects on all individuals and courts.

3. HOUSEHOLD QUALIFICATION AND ELIGIBILITY

A Qualified Owner or a Qualified Household must maintain its Qualification continuously so 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 within the Ouray County 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 Ouray county 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 Committee 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.

3.1.1.2.c Exception - Employees who are employed by a business operating within in the Ouray County boundaries with a workforce physically located within the County and who may be required to perform tasks outside the County boundaries, may apply for an Administrative Exception to the “physically performed” requirement, §11.1.3.

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.

3.1.2.2.a For purposes of Initial Qualification under this standard for Applicants who do meet the local Minimum Work Standard, the Committee shall examine historical data. Historical data is a hybrid of previous year's tax returns and current year-to-date employer payment information that creates a total income for the twelve-month period immediately prior to the application submittal. All other income received or earned in the same twelve-month period is included in the income total.

3.1.2.2.b For purposes of Initial Qualification under this standard for Applicants who do **not** meet the local Minimum Work Standard and who provide verifiable intent to work, the Committee shall use prospective information and income related to the applicant's employment in the School District going forward. The start date of the “intent to work” shall begin the twelve-month period of analysis, including anticipated income from all sources.

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

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, Applicant must enter into an Intent to Sell Agreement for all Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit. Further all Improved Residential Property must be listed for sale within seven days of taking title to the Housing Unit 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.

3.1.4.3 Households that desire to retain 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 before purchasing the Housing Unit.

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 to purchase a Housing Unit.

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 Committee 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 or exceed the Maximum Household Sizes:

Unit Type: *	Minimum Household Size:	Maximum Household Size
Studio / 1 Bedroom	1 person	3 persons
2 Bedroom	1 person	4 persons
3 Bedroom	2 persons	6 persons
4 Bedroom	3 persons	8 persons

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

3.2.2.a If Declarant’s Household Size falls below the minimum size required, Declarant shall rent a room to a Qualified Tenant pursuant to the Covenant and Guidelines.

3.3 Qualified Entity Owners. Qualified Entity Owners shall be exempt from the Initial Qualification Standards and Eligibility Criteria. Tenants of all Qualified Entity Owner Housing Units shall meet the requirements above as required by Section 7.

4. INITIAL HOUSEHOLD APPLICATION PROCESS

4.1 Application Process. Applications for qualification shall be made to the Committee. The Committee may request any combination of documentation reasonably related to proof of income, assets, and employment. The Household shall sign a release of information so that the Committee may obtain such information. Committee 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 Committee; 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 Committee shall be cause for immediate expulsion from the application process and/or forced sale or vacation of the Housing Unit.

4.1.4 Qualified Entity Owners. Qualified Entity Owners shall have a streamlined application process which may vary among entity type.

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. The committee 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 the Committee within thirty (30) days of said change. Committee 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, the Committee 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. The committee 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 the Committee 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. The Committee 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. The committee may include conditions on the Leave of Absence, as it deems necessary. Applications for a Leave of Absence shall be made to the Committee according to the Exceptions Procedure in Section 11.1. Short-term rental and rental terms of six months or less of Housing Units are 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 Committee approves an Exception, see Section 11.1.

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

5.2.7 Household Size. Minimum and Maximum Household Size are on-going requirements. See Section 3.2.2.

5.3 Qualified Entity Owners. Qualified Entity Owners shall be subject to verification of Qualification of Entity Status. Tenants of all Qualified Entity Owner Housing Units shall

meet all continuing requirements of the Covenant and Guidelines. Failure to do either or both is a material breach of the Covenant.

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 Committee.

6.1 Notification Required.

6.1.1 Written notice to Committee shall be required for any pending change in financing or ownership of a Housing Unit. Failure to timely notify the Committee 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 Committee.

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 Committee. Sellers are advised to consult with Committee 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 the Buyer's and Seller's own expense.

6.4 Title Company. Committee 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 Committee to review the conveyance documents prior to closing.

6.5 Sales Fee. After the initial sale, at the closing of the sale, the Buyer, will pay to Committee a fee equal to 1% of the sales price. Committee 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. The Committee may also waive the fee, or a portion thereof, in its sole discretion, to promote affordable housing. Fees due to the Committee 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 (ROFR) to purchase the Housing Unit for the Maximum Sale Price or at the offered sales price outlined in the Covenant, Section 7.3.

6.6.1 Sale between Owner and an Immediate Family Member shall be excluded from the Beneficiaries' ROFR in 6.6, above.

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 Committee 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 Committee 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 Committee 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, Committee 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 Committee 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 Committee.

It is the Owner's responsibility to secure any approval necessary from the Committee 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 Committee.

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.

7.1.1 Owner Occupied Units. 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 Committee under the standards delineated in Section 3. HOUSEHOLD QUALIFICATION, AND ELIGIBILITY.

7.1.2 Qualified Entity Owner Units. Qualified Entity Owners are required to rent their Housing Units and all applicants interested in renting the Housing Unit shall apply to and be qualified by the Committee under the standards delineated in Section 3. HOUSEHOLD QUALIFICATION, AND ELIGIBILITY. Qualified Entity Owners must fulfill the Minimum Household Size and not exceed the Maximum Household Size (Section 3.2.2 Chart). Qualified Entity Owners may rent to unrelated/non-Household applicants and treat each as a separate Household for purposes of qualification as described in 7.2 Room Rental, below.

7.1.3 All other rules and regulations apply to Qualified Entity Owners Housing Units.

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 Committee 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 Committee 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 Committee prior to tenancy and/or the signing of a Lease.

7.3.5 Tenant Qualification shall be recertified by Committee 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 (6) consecutive months and for a maximum of twelve (12) months. Rentals of less than six (6) months are prohibited.

7.3.9 Landlords shall provide a copy of the fully executed Lease with Tenant to Committee within seven (7) days of its execution.

7.3.10 Executed copies of Leases or contracts for FCCH Units shall be on file with Committee 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 Committee.

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 Committee. 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.

8.2.2 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 Committee 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 Committee prior to commencement of work.

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

8.2.3.4 LESS the Depreciation on Permitted Capital Improvements; PLUS, any other reasonable costs allowed by Committee 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 Committee 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 Committee.

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

8.9 All Deed Restrictions must be prepared by Committee. No modification or amendment to the Deed Restriction shall be effective unless agreed to in writing by Committee 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 Committee 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 Committee 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 Committee 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 Committee prior to finalizing any refinancing of the Housing Unit. Failure to notify Committee shall be subject to a penalty (see Appendix E).

9.4 Co-Borrower or Co-Signer. Co-borrowers or Co-signers who are not part of the Qualified Household must apply and be approved through the Exception Procedure (Section 11).

Approved Co-borrowers and Co-signers 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-signers and co-borrowers shall not occupy the Housing Unit unless qualified by Committee.

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 Committee 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 Committee 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 Committee 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 Committee with information required to process the application, then it will not be eligible to be entered into the lottery.

10.1.3.6 Committee 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 Committee 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. Committee 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 and placed in Second Round.

10.2.2.1 Exception requests submitted pursuant to Section 9.2 (Lending) 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 Committee.

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 Committee.

10.3.2 An independent County resident with no direct stake in the lottery outcome shall be invited to draw the Applicant names after every applicant's approved entry has been verified as included in the lottery drawing by the Committee prior to drawing any 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, if applicable).

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 Committee 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 Committee on forms available from Committee, 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 Exception fee payment (see Appendix E).

11.1.2 Process. All requests for Exceptions will be reviewed by Committee for completeness and handled administratively (“Administrative Exceptions”).

11.1.2.1 Prior to consideration, Committee shall prepare a written report analyzing the impact of the Exception on the Housing Program. Committee 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. Applicants desiring an Exception must demonstrate, and the Committee 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 from a final decision by the Administrator must be presented in writing to Committee on forms available from Committee and no later than twenty-one (21) days after the date of the decision or determination that is being appealed.

11.2.2 Appeals must include:

11.2.2.1 Verification that appellant has fully completed the application process;

11.2.2.2 The particular ground(s) upon which the Appeal is based;

11.2.2.3 The action or remedy requested;

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 Appeal fee payment (see Appendix E).

11.2.3 Process.

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

11.2.3.2 Rights of Parties.

11.2.3.2.a The appellant shall be afforded a fair hearing before the Committee, 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 Committee may continue the hearing to a future date.

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

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

11.2.3.2.e If the appellant fails to appear at the hearing, without providing twenty-four (24) hour notice to the Committee, the Committee shall 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 Committee, 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 Based on the hearing, the Committee will provide a written decision with findings for a final determination within twenty-one (21) days after the completion of the hearing.

11.2.2.4 Binding Determination. The final determination of the Committee shall be binding, and Committee 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 Committee 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 Committee shall address the grievance at the next regularly scheduled Committee 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 Committee may continue the hearing to a future date.

11.3.2.4 The complainant and Committee shall have the opportunity to examine all documents, records and regulations of Committee 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 Committee 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 Committee, 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 Committee will provide a written decision with findings to support the final determination.

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

12. ADMINISTRATIVE PROCEDURES

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

12.1.1 Signed contracts between the Applicant or Household and Committee 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 for Ouray County;

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 Committee records, provided such person or entity provides authorization;

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

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

12.1.7 Committee 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. Committee 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 based on 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 Committee regarding these standards may be filed as a Grievance (see Section 11.3).

12.3 Reasonable Accommodation. Committee 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 Committee 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. Committee 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 Committee, including access to applicable records and the ability to conduct an independent audit of administrative procedures.

12.5 Administrative Exceptions.

12.5.1 The Administrator may grant Administrative Exceptions subject to the following conditions:

12.5.1.1 All Administrative Exception approvals shall be approved at the next Committee regular meeting immediately following approval; and

12.5.1.2 Administrative Exceptions shall be granted in a fair and consistent manner by Administrator with approval by the Committee.

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-signer 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: RH and the City of Ouray expressly disclaim all warranties, express or implied, including without limitation fitness for a particular purpose with respect to the provision of Housing Units. RH and City of Ouray 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 RH and City of Ouray. In no event shall the RH and City of Ouray 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

Committee 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 2022 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	\$62,100	\$70,900	\$79,800	\$88,600	\$95,700	\$102,800

*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 Persons	3 Persons	4 Persons
60% AMI	\$37,260	\$42,540	\$47,880	\$53,160
80% AMI	\$49,680	\$56,720	\$63,840	\$70,880
100% AMI	\$62,100	\$70,900	\$79,800	\$88,600
120% AMI	\$74,520	\$85,080	\$95,760	\$106,320

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

TBD once the Ouray Waterview Homes details are finalized, and the determination of unit size by bedroom, unit tier designation and sales price has been made which will include Initial Sale Price Standards, Initial Sale Prices shall be calculated by RH to ensure affordability by the target Tier group both now and in the future and 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. or given a standard exception by the Lottery Administrator 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 within the Ouray County boundaries 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 within the Ouray County boundaries 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 within the Ouray County boundaries and work a minimum of twenty (20) hours per week physically within the Ouray County boundaries shall be eligible for five (5) entries in the Second Round lottery.

3.5 Certified Entity Owner Applicants shall be eligible for three (3) entries in the lottery, except that all Entity Owner Applicants who did not qualify with a Local Work Force 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	\$50.00
Exception Fee	\$50.00
Grievance Fee	\$50.00
Inspection Fee	\$100.00
Sales Fee	Buyer will pay Committee a fee equal to 1% of the sales price. Committee may instruct the title company to pay such fees out of the funds held in escrow at closing.

This Appendix D may be amended from time to time by Committee.

Appendix E: Schedule of Violations and Fines*

The City of Ouray declares that violations of these Ouray Waterview Homes Affordable Housing Regulations and Guidelines is unlawful, and violations are subject to the following fines which may be amended from time to time. Every day any violation shall continue, shall constitute a separate offense.

	Violation	Fine per day	Maximum Fine
1	Failure to submit accurate and all documentation required to establish continued compliance by original deadline set by Committee.	\$20.00	\$140.00
2	Failure to submit accurate and all documentation required to establish continued compliance by second deadline set by Committee.	\$25.00	\$350.00
3	Failure to submit accurate and all documentation required to establish continued compliance by third deadline set by Committee.	\$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 OLUC.	\$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 City of Ouray LUC without Committee 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

*Owner shall be given 7 days from notice of potential fines prior to the assessment of fines.
 *Fines shall be due and payable to the Committee within thirty (30) days of imposition and invoicing.
 *Violation and Fine Schedule will be reviewed and updated every five years or sooner as determined by Committee

Appendix F:

FIRST AMENDED OPERATIONS AGREEMENT AND COVENANT

Provider for Family Child Care Home Unit

(Ouray Waterview Homes)

This First Amended Operations Agreement and Covenant (the "Agreement") is made and entered into this ____ day of _____, 20__ (the "Effective Date"), by and between the City of Ouray ("City"), a Colorado home rule municipality, with an address of PO Box 468, Ouray, CO 81427 and Ouray Homes, LLC, ("Developer") PO Box 4222, Telluride, CO 81435, their successors or assigns, and with _____ (OWNER), an individual with an address of _____ ("Provider" or "Declarant") (each a "Party" and collectively the "Parties").

WHEREAS the Ouray Waterview Homes ("OWH") is a newly constructed, for-sale employee affordable housing neighborhood located in the City of Ouray;

WHEREAS the ownership and occupancy of all OWH housing units are subject to the Deed Restriction and Covenant Agreement Ouray Waterview Homes PUD, City of Ouray, ("Covenant") and the Ouray Waterview Homes Affordable Housing Regulations and Guidelines ("Guidelines").

WHEREAS City may delegate any obligations and designate authority under this agreement to the City of Ouray Housing Committee or to the Administrator.

WHEREAS prior to its construction, City and Developer determined to build one or more housing units in OWH for use as a Family Child Care Home Unit ("FCCH Unit") for the purpose of selling such unit to a qualified occupant who would use the unit as a licensed childcare facility to serve local families in need of such service ("Provider").

WHEREAS Provider has been qualified by the Developer and Administrator to own and occupy an OWH housing unit and will execute the Covenant at closing.

WHEREAS City desires to contract with a qualified family childcare home Provider for the provision of this childcare service out of the FCCH Unit who also qualifies to own and occupy an OWH housing unit pursuant to the Covenant and Guidelines.

WHEREAS City and Developer have engaged Bright Futures, a Colorado nonprofit corporation and designated by the State of Colorado as an Early Childhood Council and is also the Family Resource Center for Ouray County, who operates as an early childhood council and family resource center and has the expertise needed to advise Parties regarding the use and occupancy of the FCCH Unit, including identifying a qualified provider.

WHEREAS Provider has been prequalified by Bright Futures, to the extent possible, approved by the City, and qualified by the Administrator as meeting the provisions of the Covenant and Guidelines to operate the FCCH Unit for its intended purpose as a family childcare home.

WHEREAS Parties agree that community needs may evolve and change over time and that the FCCH Unit may better serve the community by providing expanded or different services; and

WHEREAS the Parties intend to work cooperatively to maintain the FCCH Unit in good standing and to meet the needs of the community and to support the Provider professionally and personally when circumstances demand.

Now, therefore, for and in consideration of the mutual promises and covenants contained here, the Parties mutually agree as follows:

1. Capitalized Words. Capitalized words and terms used in this Agreement are as defined in the Covenant and Guidelines unless otherwise defined herein.
2. Early Childhood Council (ECC). ECC is an entity established by the Colorado General Assembly in House Bill 07-1062. ECCs are designated by the State to increase and sustain the quality, accessibility, capacity, and affordability of early childhood programs and services for young children 0-5 years and their families. Further an ECC is directed to develop and implement a comprehensive system of early childhood services to ensure the school readiness of children in the areas of early care and education, family support, mental health, and health.
3. Bright Futures. Bright Futures is a Colorado not-for-profit corporation who is an ECC and had entered an MOU with Developer to fulfill the terms of the Agreement.
4. Ownership of FCCH Unit. Subject to the terms and conditions contained herein, Provider hereby covenants and agrees to operate a Family Child Care Home business on the following premises: [INSERT ADDRESS] ("Facility").
5. Binding Agreement. Parties intend, declare, and agree that the regulatory and restrictive covenants set forth herein governing the use of the FCCH 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 their successors in addition to the Covenant and Guidelines unless terminated in accordance with §6.b.
6. Term and Termination.
 - a. *Term*: Provider agrees to operate the Facility as provided in Section 8 for a minimum of ten (10) continuous years ("Minimum Term").
 - b. *Termination*. After fulfilling the Minimum Term, Provider may continue to operate the facility subject to Section 8, operate the Facility at a lower capacity, or discontinue the business without violating this Agreement.
 - c. *Failure to operate* the business for the Minimum Term as required by §6.a) may result in a default and require Owner-Provider to sell and vacate the Housing Unit. City and Bright Futures will work with Provider to ensure a smooth transition. See §10.

d. In the event Bright Futures ceases to exist and/or operate as described, Parties shall enter into a substantially similar agreement with its successor entity.

7. Use and Occupancy as a Residence. The FCCH Unit shall be occupied only by Provider, Provider's Household members, including any Qualified Tenants, and Provider's clients, and shall be used only as a primary residence and licensed family childcare home as further set forth in this Section and in Section 8.

- a. *Temporary Occupancy Guests.* Guests that stay in the unit more than five (5) days in any given month shall be considered occupants, must be registered with City, shall be subject to terms of this Agreement, and must qualify with City subject to this Section.
- b. *Excluded Persons.* An Excluded Person is a person who has been prohibited from entering the Facility or OWH by City or Court order. Provider shall not invite or allow Excluded Persons on the Facility.
- c. *Ongoing Qualification.* Prior to occupying the Facility for residential purposes, all adult occupants (18 years of age or older) shall be qualified according to the Covenant and Guidelines' Qualification Policy for OWH, unless part of the Provider's Household, and must execute a separate lease as required by the Covenant and Guidelines. Provider shall not sublet any part of the Facility nor assign this Agreement, or any interest therein, without the written consent of City. Provider shall remain qualified under the Covenant and Guidelines and according to City's Qualification Policy for the Facility Section 8.a. Failure to maintain ongoing compliance with this Agreement shall constitute a material breach of the Covenant and Guidelines.

8. Use and Occupancy as a Licensed Family Child Care Home. The Facility shall be occupied only by the Provider and Provider's clients, and other authorized personnel.

- a. *Provider Qualifications.* The Provider represents that they are a duly licensed family childcare home operator under all applicable regulations in the State of Colorado or that they have substantially met the Rural Homes Early Childhood Initiative and Ouray Provider Selection Process & Criteria and are on track to become duly licensed as a family childcare provider in the State of Colorado. Provider agrees to operate the Facility in compliance with such laws and regulations. The provider shall supply to City acceptable documents of licensing within three days of such request, and such documentation shall be kept current at all times.
- b. *Eligibility of Clients, Waiting List and Priority.* The Facility shall be used primarily for children of families who work within the boundaries of Ouray County. Priority categories may be developed and instituted in conjunction with Bright Futures and could include categories such as families receiving benefits through Colorado Child Care Assistance Program (CCCAP), low income and hard to serve families, and Waterview neighborhood families, among others. Enrollment to the Facility will be based on an application and interview process. Provider shall maintain a waiting list for the Facility, if applicable.

- c. *Dates and Hours of Operation.* Provider shall operate Facility for a minimum of 1,200 hours per year with a minimum of four (4) unique children per year. The Facility shall be open to the Provider's clients on a regular basis and as contractually obligated to those clients.
 - d. *Signs.* Provider shall not erect, maintain, or permit any temporary or permanent sign on the Facility except as specifically approved in writing by City. Any approved sign shall comply with any applicable sign code.
 - e. *Provider use of Facility.* The provider shall not use or permit the Facility to be used for any unlawful use, commit or permit waste of the Facility or use or permit use of the Facility to endanger or adversely affect any other occupants or the insurance covering the Facility. Provider shall not, nor shall Provider permit, family members, other occupants or guests, to keep or have on the Facility any item or property of a dangerous, flammable or explosive character or undertake any action which might unreasonably increase the danger of fire or other accident on the Facility.
9. Verification of Hours for Facility. In an attempt to reduce redundant paperwork requirements, Provider shall be allowed to submit verification of hours from forms already required by the State of Colorado, Division of Early Learning and Licensing and Administration (DELLA). Administration of verification shall be facilitated through Bright Futures. City may rely on Bright Futures to verify and report on Provider's hours of operation.
10. Winding Down Operations. In the event Provider has met the Minimum Term of operations, has been found in breach of this Agreement, or must close the business for any reason, Provider shall notify Bright Futures and City as soon as possible but not later than seven (7) days of the decision and/or requirement to close the Facility (Notice of Intent to Cease Operations). Upon receipt of a Notice of Intent to Cease Operations:
- a. Bright Futures will assist in the identification and vetting of new provider, including training and licensure, if applicable.
 - b. Bright Futures will assist in retraining Provider for any change in type of care, if applicable.
 - c. Provider shall cooperate with Bright Futures to identify a qualified family childcare provider who has been or will be qualified by the City to own and occupy an FCCH Unit or to an intermediary entity that will facilitate the same.
11. Utilities. The provider shall pay for water, sewer, and trash and recycling collection, domestic hot water, and heat to the Facility. Provider understands that the electrical system for the Facility is designed for normal residential use only and shall not install or operate any dangerous light bulbs, heavy-duty power tools or other potentially hazardous electrical or electronic devices.

12. Repair and Maintenance. Provider agrees that the Facility is in good order and repair and in a safe, clean and habitable condition as of the date of the Agreement.
 - a. *Provider Responsibilities.* Provider shall keep the Facility in good order and in a safe, clean, and habitable condition at all times. If the Facility needs repair, Provider shall coordinate the performance of all repairs. Failure to keep the Facility in good order and in a safe, clean and habitable condition is a material breach of this Agreement.
 - b. *Additional Responsibilities.* Provider shall provide snow removal for all exterior walkways and access to the Facility.
13. Rules and Regulations. Provider acknowledges receipt of a copy of the most current and up-to-date Rules Regulating Child Care Centers ("Rules") developed by the State of Colorado Early Learning Licensing and Administration and agrees to abide by such Rules promulgated by City as they may be amended from time to time. City shall give notice to Provider of any changes in the Rules prior to enforcement of such changes. Any violation of the Rules shall be deemed a material breach of this Agreement.
14. Compliance with Applicable Laws. Provider shall comply with all applicable local, state, and federal laws and regulations, violations of which shall be deemed a material breach of this Agreement.
15. Assignment of Agreement. Provider shall not assign, sublet, or sublease all or any part of Provider's rights or obligations under this agreement without written approval from the State licensing Committee and City's prior express written approval, which may be refused for any reason.
16. Insurance, Hazards, and Casualty Loss. In addition to the homeowner's insurance required by the Covenants, Provider shall provide adequate insurance for the Facility as follows:
 - a. *Fire and Casualty Insurance and Loss.* At all times, the Provider shall maintain in force, at its expense insurance for fire and casualty loss to the Unit, including the Facility. This insurance should cover the Facility's trade fixtures, furnishings, equipment, or other personal property.
 - b. *Other Insurance.* At all times, Provider shall maintain in force, at its expense, general commercial liability insurance (including bodily injury and property damage coverage) insuring Provider, with policy limits aggregating not less than one million dollars (\$1,000,000) in combined single limit coverage. Any policy under this provision shall provide that it shall not be canceled or materially changed without a minimum of ten (10) days prior written notice to City. Provider shall also obtain and maintain at all times during the Term all insurance required by state or federal law for its personnel, including, without limitation, worker's compensation and unemployment insurance coverage, and such documentation shall be kept current at all times.
 - c. *Personal Property.* Provider may obtain, at Provider's sole expense, insurance on Provider's personal property and possessions.

17. Community Needs and Repurposing Goals. Parties agree that community needs may evolve over time and that the FCCH Unit may better serve the community as a different type of care center. Upon proper notice and the opportunity for public comment, Parties may agree to modify the type of care provided at the Facility pursuant to §10.b.
18. Sale of FCCH Unit. In addition to the requirements of Covenant §7 Transfer of Property and Guidelines §6 Sale and Resale of Housing Units, Provider shall sell FCCH Unit only to a qualified childcare provider or Qualified Entity Owner who would operate a licensed family childcare home to serve local families in need of such service. Purchaser shall be subject to the most recent version of this Agreement adopted by the City.
19. Remedies. If Provider shall be in default or material breach of any covenants or agreements set forth in this Agreement and the default or material breach remains uncorrected for a period of fourteen (14) days after City has given written notice thereof, then City may, at City's option, undertake any the following remedies without limitation: (a) require Provider to undergo and pay for additional training as recommended by Bright Futures, or its successor; (b) require Provider to hire and pay for additional staff when necessary to resolve a default; (c) require Provider to begin the unwinding of the business; (d) require Provider to recruit a new Provider; (e) other remedies recommended by Bright Futures or its successor that are properly approved and adopted by the City; and/or (f) pursue any and all available remedies in law or equity.
20. Miscellaneous.
 - a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Ouray County, Colorado.
 - b. *Attorney Fees.* If an action or proceeding is brought which arises out of this Agreement, its performance or breach, the prevailing Party shall be entitled to reasonable court costs and attorney fees or the reasonable value of a salaried attorney's time, in addition to other relief to which that Party is entitled by this Agreement or applicable law.
 - c. *Integration.* This Agreement constitutes the entire agreement between the Parties as to the Facility, superseding all prior oral or written communications.
 - d. *Binding Effect.* Except as otherwise expressly provided herein, this Agreement shall bind and benefit City, Provider and their heirs, personal representatives, successors in interest, and assigns of the parties.
 - e. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by City shall not constitute a waiver of any of the other terms or obligations of this Agreement.
 - f. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

Appendix G:

FIRST AMENDED OPERATIONS AGREEMENT AND COVENANT

Qualified Entity Owner for Family Child Care Home Unit

(Ouray Waterview Homes)

This First Amended Operations Agreement and Covenant (the "Agreement") is made and entered into this ____ day of _____, 20__ (the "Effective Date"), by and between the City of Ouray , a Colorado home rule municipality, with an address of PO Box 468, Ouray, CO 81427 ("City") and Ouray Homes, LLC, (“Developer”) PO Box 4222, Telluride, CO 81435, their successors or assigns, and with _____ (NAME), a Qualified Entity Owner, a certified B corporation with an address of _____ [ADDRESS] ("CARE") (each a "Party" and collectively the "Parties").

WHEREAS, the Ouray Waterview Homes ("OWH") is a newly constructed, for-sale employee affordable housing neighborhood located in the City;

WHEREAS, the ownership and occupancy of all OWH housing units are subject to the Deed Restriction and Covenant Agreement, Ouray Waterview Homes, Ouray County, (“Covenant”) and Ouray Waterview Homes Affordable Housing Regulations and Guidelines (“Guidelines”);

WHEREAS, City may delegate any obligations under this Agreement to the City of Ouray authorized Committee or to the Administrator;

WHEREAS, prior to its construction, City and Developer determined to build one or more housing units in OWH for use as a Family Child Care Home Unit (“FCCH Unit”) for the purpose of selling such unit to a qualified and licensed occupant who would use the unit as a licensed childcare facility to serve local families in need of such service (“Provider”);

WHEREAS, Parties agree that purchase of a FCCH Unit by a Qualified Owner Entity for long-term lease to a child care provider where said lease includes an opportunity to purchase the Unit fulfills the intent for the FCCH Unit to be used as a licensed childcare facility to serve local families in need of such service;

WHEREAS, CARE has been qualified by the Developer and Administrator to own and lease a FCCH Unit and will City and Developer will execute the Covenant at closing;

WHEREAS, CARE intends to lease the home to a qualified child care provider who agrees to operate a licensed FCCH and who also qualifies to occupy a OWH housing unit pursuant to the Covenant and Guidelines; and

WHEREAS, City and Developer have engaged Bright Futures, a Colorado nonprofit corporation and designated by the State of Colorado as an Early Childhood Council, and is also the Family Resource Center for Ouray County, and has the expertise needed to advise Parties regarding the use and occupancy of the FCCH Unit, including identifying a qualified provider and assisting the provider to succeed in their small childcare business;

WHEREAS, Parties agree that any Provider will be prequalified through Bright Futures, to the extent possible, approved by the City, qualified by the Administrator as meeting the provisions of the Covenant and Guidelines and enter a contract with CARE to operate the FCCH Unit for its intended purpose as a family childcare home; and

WHEREAS, Parties intend to work cooperatively to maintain the FCCH Unit and the Facility in good standing and to meet the needs of the community and to support the Provider professionally and personally when circumstances demand.

Now, therefore, for and in consideration of the mutual promises and covenants contained here, the Parties mutually agree as follows:

1. Capitalized Words. Capitalized words and terms used in this Agreement are as defined in the Covenant and Guidelines unless otherwise defined herein.
2. Early Childhood Council (ECC). The ECC is an entity established by the Colorado General Assembly in House Bill 07-1062. ECCs are designated by the state to increase and sustain the quality, accessibility, capacity, and affordability of early childhood programs and services for young children 0-5 years and their families. Further an ECC is directed to develop and implement a comprehensive system of early childhood services to ensure the school readiness of children in the areas of early care and education, family support, mental health, and health.
3. Bright Futures. Bright Futures is a Colorado not-for-profit corporation who is an ECC and entered an MOU with Developer to fulfill the terms of the Agreement.
4. Ownership of FCCH Unit. Subject to the terms and conditions contained herein, CARE hereby covenants and agrees to require that Lessee of FCCH Unit shall operate a licensed Family Child Care Home business on the following premises: Units 1 and 2 of Phase One of OWHJ ("Facility").
5. Binding Agreement. Parties intend, declare, and agree that the regulatory and restrictive covenants set forth herein governing the use of the FCCH 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 CARE and Beneficiaries and their successors in addition to the Covenant and Guidelines unless terminated in accordance with §5.a.2).
6. CARE's Contract with Provider. CARE shall, through a written contract, include the following terms and conditions upon the Provider who occupies the FCCH Unit:
 - a. Term and Termination.
 - 1) *Term*: Provider agrees to operate the Facility.
 - 2) *Failure to operate* a licensed child care may either result in termination of the lease by CARE Housing Committee or a finding of material breach. If Provider is found in material in material breach, the Parties wish to rehabilitate Provider. In either case, Bright Futures

will work with Provider to ensure professional support is available or a smooth transition is made. See §8 and §5.e.

3) In the event Bright Futures no longer exists or is not a qualified ECC, the City shall locate a suitable replacement agency, to the extent possible.

b. Use and Occupancy as a Residence. The FCCH Unit shall be occupied only by Provider, Provider's Household members, including any Qualified Tenants, and shall be used only as a primary residence and licensed family childcare home as further set forth in this Section and in Section 5.b. and 5.c.

c. Use and Occupancy as a Licensed Family Child Care Home. The Facility shall be occupied only by Provider, Provider's household members, and childcare clients.

1) *Provider Qualifications.* The Provider represents they have substantially met the Rural Homes Early Childhood Initiative, Ouray Provider Selection Process & Criteria and that they intend to become duly licensed with the Facility to provide family childcare in the State of Colorado. Provider agrees to operate the Facility in compliance with such laws and regulations.

2) *Eligibility of Clients, Waiting List and Priority.* The Facility shall be used primarily for children of families who live within the boundaries of Ouray County. Priority categories may be developed and instituted in conjunction with Bright Futures and could include categories such as families receiving benefits through Colorado Child Care Assistance Program (CCCAP), low income and hard to serve families, and Waterview neighborhood families, among others. Enrollment to the Facility will be based on an application and/or interview process. Provider shall maintain a waiting list for the Facility, if applicable.

3) *Dates and Hours of Operation.* Provider shall operate Facility for a minimum of 1,200 hours per year with a minimum of four (4) unique children per year. The Facility shall be open to Provider's clients on a regular basis and as contractually obligated to those clients.

4) *Signs.* Provider shall not erect, maintain, or permit any temporary or permanent sign on the Facility except as specifically approved in writing by Housing Committee. Any approved sign shall comply with any applicable sign code.

5) *Provider use of Facility.* Provider shall not use or permit the Facility to be used for any unlawful use, commit or permit waste of the Facility or use or permit use of the Facility so as to endanger or adversely affect any other occupants or the insurance covering the Facility. Provider shall not, nor shall Provider permit, family members, other occupants or guests, keep or have on the Facility any item or property of a dangerous, inflammable or explosive character or undertake any action which might unreasonably increase the danger of fire or other accident on the Facility.

- d. Verification of Hours and Enrollment for Facility: In an attempt to reduce redundant paperwork requirements, Provider shall be allowed to submit verification of hours and enrollment from forms already required by the State of Colorado, Division of Early Learning and Licensing and Administration (DELLA). City may rely on Bright Futures to verify and report on Provider's hours of operation and enrollment.
 - e. Winding Down Operations. In the event Provider has been found in breach of this Agreement, or must close the business for any reason, including for a licensing violation, Provider shall notify Bright Futures and City as soon as possible but not later than seven (7) days of the decision and/or requirement to close the Facility (Notice of Intent to Cease Operations"). Upon receipt of a Notice of Intent to Cease Operations, Bright Futures will assist in identification and vetting of new provider, including training and licensure, if applicable.
 - f. Repair and Maintenance. Provider agrees that the Facility is in good order and repair and in a safe, clean and habitable condition as of the date of the Agreement.
 - 1). *Provider Responsibilities*. Provider shall keep the Facility in good order and in a safe, clean, and habitable condition at all times. If the Facility needs repair, Provider shall coordinate the performance of all repairs. Failure to keep the Facility in good order and in a safe, clean and habitable condition is a material breach of this Agreement.
 - 2). *Additional Responsibilities*. Provider shall provide snow removal for all exterior walkways and access to the Facility.
 - g. Rules and Regulations. Provider acknowledges receipt of a copy of the most current and up-to-date Rules Regulating Child Care Centers ("**Rules**") developed by the State of Colorado Early Learning Licensing and Administration and agrees to abide by such Rules promulgated by City as they may be amended from time to time. City shall give notice to Provider of any changes in the Rules prior to enforcement of such changes. Any violation of the Rules shall be deemed a material breach of this Agreement.
 - h. Compliance with Applicable Laws. Provider shall comply with all applicable local, state, and federal laws and regulations, violations of which shall be deemed a material breach of this Agreement.
 - i. Assignment of Agreement. Provider shall not assign, sublet, or sublease all or any part of Provider's rights or obligations under this agreement without written approval from the state licensing Committee and City's prior express written approval, which may be refused for any reason.
6. Insurance, Hazards, and Casualty Loss. In addition to the homeowner's insurance required by the Covenant §11., CARE shall provide or shall require Tenant to maintain adequate insurance as follows:
- a. *Liability Insurance*. At all times, Provider shall maintain in force, at its expense, general commercial liability insurance (including bodily injury and property damage coverage) insuring

Provider, with policy limits aggregating not less than one million dollars (\$1,000,000) in combined single limit coverage. Any policy under this provision shall provide that it shall not be canceled or materially changed without a minimum of ten (10) days prior written notice to CARE. Provider shall also obtain and always maintain during the Term all insurance required by state or federal law for its personnel, including, without limitation, worker's compensation and unemployment insurance coverage, and such documentation shall be kept current at all times.

7. Sale of FCCH Unit. In addition to the requirements of Covenant §7 Transfer of Property and Guidelines §6 Sale and Resale of Housing Units, CARE shall sell FCCH Unit only to a Household that includes a qualified childcare provider who would operate a licensed family childcare home to serve local families in need of such service. Purchaser shall be subject to the most recent version of this Agreement adopted by the City. If no such purchaser can be identified CARE may request an Exception to this requirement.
8. Remedies. If CARE or Provider shall be in default or breach material of any covenants or agreements set forth in this Agreement and the default or material breach remains uncorrected for a period of fourteen (14) days after City has given written notice thereof, then City may, at City 's option, undertake any the following remedies without limitation: (a) require Provider to undergo and pay for additional training as recommended by Bright Futures, or its successor; (b) require Provider to hire and pay for additional qualified staff when necessary to resolve a default; (c) require Provider to begin the unwinding of the business; (d) other remedies recommended by Bright Futures or its successor that are properly approved and adopted by the City and (e) pursue any and all available remedies in law or equity.
9. Miscellaneous.
 - a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Ouray County, Colorado.
 - b. *Attorney Fees.* If an action or proceeding is brought which arises out of this Agreement, its performance or breach, the prevailing Party shall be entitled to reasonable court costs and attorney fees or the reasonable value of a salaried attorney's time, in addition to other relief to which that Party is entitled by this Agreement or applicable law.
 - c. *Integration.* This Agreement constitutes the entire agreement between the Parties as to the Facility, superseding all prior oral or written communications.
 - d. *Binding Effect.* Except as otherwise expressly provided herein, this Agreement shall bind and benefit City, Provider and their heirs, personal representatives, successors, in interest and assigns of the parties.
 - e. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by City shall not constitute a waiver of any of the other terms or obligation of this Agreement.
 - f. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

CARE Colorado

David Lynn, CEO

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Subscribed, sworn to and acknowledged before me this ____ day of _____, 2024, by David Lynn, CEO of CARE Colorado.

My Commission expires _____.

(SEAL)

Notary Public