

When Recorded Return to:
COLORADO DIVISION OF HOUSING
1313 SHERMAN STREET, ROOM 320
DENVER, CO 80203
ATTN: Asset Manager Name

COLORADO DEPARTMENT OF LOCAL AFFAIRS USE COVENANT AND REGULATORY AGREEMENT

THIS USE COVENANT AND REGULATORY AGREEMENT (“Covenant”) is made by [Entity Name], a [State] [entity type] (“Grantor”), whose business address is [Street], [City], [State] [Zip] owner of the real property described below, and is effective as of the date appearing beneath Grantor’s signature at the end of this Covenant.

Grantor is a beneficiary of funds through Agreement #HxHDG00000 (the “Funding Agreement”) from the State of Colorado (“State”), by and through the Department of Local Affairs (“DOLA”), for the benefit of the Division of Housing (“DOH”) and [Name of Grantee] (“Grantee”), which funds were loaned by Grantee to Grantor for use in the [use of funds] of [project name] (the “Project”), located at [Street], [City], [State] [Zip] (the “Property”), whose legal description is as follows:

SEE ATTACHMENT 1

As a condition precedent to the DOLA’s disbursement of the grant funds, Grantor agreed to promptly record this Covenant in the official records of the office of the Clerk and Recorder of the county in which the Property is located to ensure that certain affordability and occupancy limitations associated with DOLA’s Housing Development Grant (“HDG”) program are met regardless of ownership.

NOW, THEREFORE, the following is established as a Covenant running with the land;

1. **Use Restriction.** During the Affordability Period the Property shall be used to provide housing to Eligible Beneficiaries at an Affordable Sales Price. Grantor shall not demolish any part of the housing located on the Property or permit the Property to be used for any purpose other than affordable housing.
2. **Change in Use.** No change in use is permitted without the express written consent of the DOLA.
3. **Affordability Period.** This Covenant shall encumber the Property, without regard to the term of any mortgage or transfer of ownership, for thirty (30) years from the date of recording (the “Affordability Period”). Repayment of the grant funds provided shall not terminate the affordability period.
4. **Eligible Beneficiaries.**
 - 4.1. **Initial Sale.** The housing must be acquired by an Eligible Beneficiary. Eligible Beneficiary means a homebuyer whose family qualifies as a low-income family. Low-income family means a family whose annual income does not exceed eighty percent (80%) of the median income for the area (“AMI”), as determined by HUD. In determining the income eligibility of the family, the income of all persons living in the housing must be included. AMI data is published annually by the Department of Housing and Urban Development (HUD), or if no longer published, shall be determined using an equivalent index designated by DOLA.
 - 4.2. **Lawful Presence.** [Reserved].

- 4.3. **Resale.** If the housing does not continue to be the principal residence of the initial purchaser for the duration of the Affordability Period the housing shall be made available for subsequent purchase only to a buyer that is an Eligible Beneficiary.
5. **Affordable Sales Price.**
 - 5.1. **Initial Sale.** The initial sale price of the Property shall not exceed ninety-five percent (95%) of the median purchase price for the area as determined by HUD.
 - 5.2. **Resale.** If the housing does not continue to be the principal residence of the initial purchaser for the duration of the Affordability Period, the price at resale must ensure the original HDG-Assisted Unit owner receives a ‘fair return on investment’ (including the homeowner’s investment and any capital improvement) and ensure that the housing will remain affordable to a ‘reasonable range of low-income homebuyers’. In the event that the resale price necessary to provide a ‘fair return’ is not affordable to the subsequent buyer, the Grantor shall follow the procedures set forth in the State’s Consolidated Plan.
6. **Maximum Mortgage Payment.** In order to ensure that the Property is affordable to a reasonable range of low-income homebuyers, the monthly mortgage payment of the Eligible Beneficiary, including principal, interest, taxes and insurance (“PITI”), plus any land lease fees or homeowners association fees, shall not exceed thirty-three percent (33%) of the gross income of the Eligible Beneficiary at the time the Eligible Beneficiary acquires the Property. This restriction shall apply to the initial sale and all subsequent re-sales of the Property made during the Affordability Period. Eligible Beneficiaries shall not permit any additional liens or mortgages to be placed against the Property without the prior written consent of Grantor, other than a first mortgage used to purchase the Property.
7. **Re-Sale of the Property.** Grantor shall keep and maintain complete records regarding all sales of the Property for at least six years beyond the end of this Covenant, and make this information available to the DOLA upon request.
8. **Conversion of Unsold Homeownership Unit to Rental Housing.** [Reserved].
9. **Principal Residence.** The Property shall only be used as the homeowner’s principal residence. The Property may not be used as rental housing.
10. **Preserving Affordability.** In order to preserve the affordability of the Property, Grantor may utilize a purchase option, right of first refusal or other preemptive right before foreclosure, or at the foreclosure sale to acquire the Property. In such case, the housing must be sold to a new eligible homebuyer within a reasonable period of time. In the event a person or entity who is not eligible to own the Property acquires title to the Property, Grantor may, at its option, require owner to sell the Property to an Eligible Beneficiary at the Affordable Sales Price.
11. **Enforcement.** State or Grantor may take any and all legal action necessary to enforce the terms of this Covenant and shall be entitled to any and all available remedies, including without limitation, specific performance and injunctive relief.
12. **Compliance.** Grantor shall respond in a timely manner to DOLA’s requests for information and cooperate with DOLA request for information and to conduct on-site inspections of the Property.

13. **Binding Effect.** This Covenant shall run with the land, and shall be binding on Grantor's successors and assigns. Grantor hereby covenants to include the requirements and restrictions of this Covenant in any document to be executed in connection with the transfer of any interest in the Property to another person or entity to ensure that such transferee has notice of, is bound by, and agrees to abide by the terms of this Covenant.
14. **Release.** Upon satisfaction of the terms of this Covenant and request the Grantor or the Property owner, State shall record a release of this Covenant.
15. **Affirmative Marketing.** Grantor shall adopt, maintain, and follow written affirmative marketing procedures that comply with DOLA's affirmative marketing requirements, which DOLA shall make available by request and on DOLA's website. DOLA's affirmative marketing requirements include, without limitation:
 - 15.1. Methods to inform the public, owners, and potential tenants about federal fair housing laws and Grantor's affirmative marketing procedures;
 - 15.2. Practices Grantor shall follow in order to carry out DOLA's affirmative marketing requirements;
 - 15.3. Identification of populations in the housing market area that are not likely to apply for tenancy at the Property without special outreach;
 - 15.4. Procedures to inform persons who identify as members of such populations of the availability of housing opportunities at the Property, and to solicit applications from such persons;
 - 15.5. Procedures to inform persons with disabilities of the availability of accessible units and maximize the occupancy of accessible units by individuals who need the features of such units; and
 - 15.6. Maintenance of records describing actions of Grantor to comply with these affirmative marketing procedures and to assess the results of such actions.

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**ATTACHMENT I:
LEGAL DESCRIPTION**

[INSERT LEGAL DESCRIPTION]