

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

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 Loan 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 receipt of the funds, Grantor shall promptly record this Covenant with the real property records at the clerk and recorder’s office in the county in which the Property is located to ensure that certain occupancy limitations associated with the DOH’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.** For the term of this Covenant, the Property shall be used primarily to provide primary residence housing for Eligible Beneficiaries. Grantor shall not demolish any part of the Project or permit any residential lot in the Project to be used for any purpose other than affordable mobile home park housing.
2. **Change in Use.** No change in use is permitted without the express written consent of DOH.
3. **Affordability Period.** This Covenant shall encumber the Property, without regard to the term of any mortgage or any transfer of ownership, for a period of thirty (30) years following the date the Project is complete (the “Project-Close Out Date”) as identified in writing to the original recipient of the funds. This period is the “Affordability Period”. Repayment of HDG funds shall not terminate the Affordability Period.
4. **HDG-Assisted Lots.** Grantor shall designate [number (x) or 100% of the] lots at the Project as HDG-Assisted Lots. The HDG-Assisted Lots shall be occupied by households whose income is at or below the percentage of Area Median Income (“AMI”) identified in the table in §5. The HDG-Assisted Lots shall be floating lots over the Affordability Period, meaning that the lots at the Property designated by Grantor as HDG-Assisted Lots may change from time-to-time. Grantor shall ensure that the HDG-Assisted Lots are, at all times, comparable in terms of square footage, and amenities to those lots originally designated as HDG-assisted. Whenever the income of a household occupying an HDG-Assisted Lot increases beyond the applicable income limit during the term of the tenancy Grantor shall re-designate the next available lot at the Property as an HDG-Assisted Lot. Grantor shall keep records of all re-designation actions including, without limitation, the effective date of each such action, and make such records available to DOLA upon request.

- 4.1. **Existing [Funding Source]-Assisted Lots.** For the avoidance of doubt, the Existing [Funding Source]-assisted lots shall be restricted as set forth in that certain Use Covenant and Regulatory Agreement dated [date] and recorded at the clerk and recorder’s office in [county name] County at Reception number [000000].
5. **Eligible Beneficiaries.** Each HDG-Assisted Lot listed in the table below shall be affordable to and occupied by an Eligible Beneficiary. “Eligible Beneficiary” means a household whose annual income (as defined at 24 CFR 5.609) does not exceed 00% of the AMI in effect at the time such household initially occupies their lot. Income limits are published annually by the Colorado Housing and Finance Authority (“CHFA”) based on indexes published by HUD. If such indexes are no longer published income limits shall be based on an equivalent index designated by the DOH.

| Lot Type | Number | Income Limit |
|-------------------------|----------|--------------|
| HDG-Assisted | 0 | ≤ 30% of AMI |
| Other Affordable | 0 | ≤ 30% of AMI |
| Other Affordable | 0 | ≤ 40% of AMI |
| Other Affordable | 0 | ≤ 50% of AMI |
| Other Affordable | 0 | ≤ 60% of AMI |
| Unrestricted | 0 | n/a |
| Total Lots | 0 | n/a |

6. **Income Eligibility Determinations.** Grantor shall determine that each household occupying an HDG-Assisted Lot is income eligible by determining the household’s annual income (as defined in 24 CFR §5.609) in a manner consistent with the requirements of 24 CFR 92.203.
- 6.1. **Occupant Protections.** Current lot occupants at the time of Grantee’s acquisition of the Property, whose incomes are above the applicable AMI for their lots, and Eligible Beneficiaries whose incomes increase beyond the applicable AMI for their lots during the terms of their occupancy, shall not be removed or displaced for exceeding the AMI.
7. **Ongoing Property Condition Standards.** Grantor shall maintain the Property as decent, safe, and sanitary housing in good repair. Throughout the Affordability Period, Grantor shall ensure that the Property is suitable for occupancy, and complies with all applicable health, safety and other codes, ordinances, and requirements, including:
- 7.1. All applicable State and local code requirements and ordinances,
- 7.2. HUD’s Housing Quality Standards as defined at 24 CFR 982.401, and
- 7.3. All accessibility standards of the Fair Housing Act (42 USC 3601-20).
- 7.4. Comply with DOH’s ongoing property condition standards in effect at the time this Covenant is executed, which DOH shall make available by request and on DOH’s website.
- 7.5. All responsibilities of landlord in The Mobile Home Park Act 38-12-212.3, C.R.S.
8. **Recordkeeping.** Grantor shall maintain records documenting compliance with this Covenant for the most recent six-year period, until six years after the completion of the Affordability Period.

9. **Monitoring.** Grantor shall timely respond to and cooperate with all requests from DOH, or its designee, for information, or to conduct on-site inspections, for the purpose of determining whether the Property is in compliance with the terms of this Covenant.
10. **Annual Audit.** Grantor shall annually audit the financial performance of the Project within 180 days of the end of the Project's fiscal year, and submit a copy of such report to DOLA beginning in the first year following Project Close-Out Date through the last year of the Affordability Period.
11. **Enforcement.** DOH, or its designee, may take legal action to enforce the terms of this Covenant and shall be entitled to all available remedies in law or in equity including, without limitation, specific performance and injunctive relief.
12. **Noncompliance.** Loan funds invested in housing that does not meet affordability requirements for the full Affordability Period must be repaid to the DOH. If the Property is not used to house Eligible Beneficiaries for the full term of the Affordability Period, Grantor shall repay to the State, within sixty days of the State's request, the full amount of the funds disbursed pursuant to the Funding Agreement. Repayment of loan funds shall not terminate the Affordability Period.
13. **Transfers.** This Covenant is a covenant running with the land and shall be binding on Grantor's successors, assigns, heirs, grantees and lessees. Grantor shall take all steps reasonable and necessary to ensure that the requirements and restrictions of this Covenant are binding on any successor to Grantor who acquires an interest in the Property. 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. Grantor shall not, without the prior written consent of DOH, Transfer the Property or any interest in the Property.
 - 13.1 For purposes of this Covenant, "Transfer" shall mean (i) the sale, assignment, transfer, conveyance, disposition, or alienation of an interest in the Property; (ii) the dissolution of Grantor; or (iii) the sale, transfer, conveyance or other disposition of all of Grantor, a sufficient amount of interest such that another entity gains a controlling interest in Grantor, or the managing general partner or managing member of Grantor.
 - 13.2 The foregoing notwithstanding, the consent of DOH shall not be required for the following Transfers (i) the sale of obsolete or worn-out furnishings or equipment, (ii) the direct or indirect transfer of an investor limited partner or investor member interest in Grantor, (iii) the removal and replacement of the managing general partner or managing member of Grantor as permitted in the Operating Agreement or Partnership Agreement of Grantor, but only if the replacement is the investor limited partner or investor member of Grantor or an affiliate thereof, (iv) the execution, modification, amendment, or assignment of a security interest in the Property recorded prior to or otherwise senior in priority to this Covenant and transfers of the Property after exercise of remedies pursuant to such security interest in the Property. Any subsequent replacement of the managing general partner or managing member of Grantor shall require the prior written consent of DOH, which shall not be unreasonably withheld provided such managing general partner or managing member meets DOH's then current approval standards.

14. **Release.** Upon satisfaction of the terms of this Covenant, and the written request of Grantor or the then owner of record, DOH will execute a release of this Covenant.
15. **Termination.** This Covenant shall terminate upon the date the Property is acquired by foreclosure or transfer in lieu of foreclosure, unless such acquisition is part of an arrangement with the Grantor a purpose of which is the termination of this Covenant or the entity or entities acquiring the Property through foreclosure have business ties to the Grantor or family ties to a principal of Grantor.
16. **Changes in Law.** Until such time as this Covenant is released, Grantor shall comply with all laws, regulations, and ordinances applicable to Grantor under this Covenant, as such laws, regulations, and ordinances may change from time to time.

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SIGNATURE PAGE

GRANTOR

[Entity Name]

By: [Entity name]
Its: General Partner

By: _____
[Name of Individual], [Title]

Date: _____

State of)
) ss.
County of)

The foregoing instrument was subscribed to and acknowledged before me this ____ day of _____, 20XX, by _____ as _____ of _____.

Witness my hand and official seal

ATTACHMENT 1

[INSERT LEGAL DESCRIPTION]