

Joint Information Meeting

TOWN COUNCIL & COUNTY COMMISSIONER MEETING

December 3, 2018

3:00 PM

County Commissioners Chambers

Chair: Mark Newcomb

NOTICE: THE VIDEO AND AUDIO FOR THIS MEETING ARE STREAMED TO THE PUBLIC VIA THE INTERNET AND MOBILE DEVICES WITH VIEWS THAT ENCOMPASS ALL AREAS, PARTICIPANTS AND AUDIENCE MEMBERS. **PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING**

I. CALL TO ORDER, ROLL CALL, AND ANNOUNCEMENTS

II. PUBLIC COMMENT

This section of the agenda is reserved for public comments on items that are not on today's agenda.

III. CONSENT CALENDAR

A. Minutes

1. November 5, 2018 regular JIM

B. Consideration of Revised WYDOT Urban Systems Functional Classification Map

IV. DISCUSSION/ACTION ITEMS

A. New Special Restriction Housing Templates (April Norton, 30 minutes) *continued from Nov 5 JIM*

B. Redmond Street Rentals Amendment (April Norton, 30 minutes)

C. Countywide Water Quality (John Culbertson, 15 minutes)

V. MATTERS FROM COUNCIL, COMMISSIONERS AND STAFF

VI. PROPOSED ITEMS FOR FUTURE JOINT INFORMATION MEETINGS

A. Dec 19...Special JIM for joint board interviews

B. Jan 7... BLM Parcel 9 and 10 Update (Steve Ashworth)

VII. ADJOURN

A. County Commission Adjourns.

Town Council Adjourns to executive session to consider matters concerning litigation to which the governing body is a party or proposed litigation to which the governing body may be a party in accordance with Wyoming Statute 16-4-405(a)(iii). Executive Session to be held at Town Hall

Please note that at any point during the meeting, the Chairman or Mayor may change the order of items listed on this agenda. In order to ensure that you are present at the time your item of interest is discussed, please join the meeting at the beginning to hear any changes to the schedule or agenda.

**JOINT INFORMATION PROCEEDINGS
TOWN COUNCIL AND BOARD OF COUNTY COMMISSIONERS MEETING**

November 5, 2018

JACKSON, WYOMING

The Jackson Town Council met in conjunction the Teton County Commission in a regular joint information session in the Commissioners Chambers located at 200 S. Willow Street at 3:02 P.M. Upon roll call the following were found to be present:

Chair & Commissioners: Mark Newcomb, Natalia Macker, Paul Vogelheim, Greg Epstein, and Smokey Rhea.
Mayor & Council: Mayor Pete Muldoon, Jim Stanford, Bob Lenz, Don Frank, Hailey Morton Levinson.
Staff: Sherry Daigle, Roxanne Robinson DeVries, Stacy Stoker, April Norton, Keith Gingery, Larry Pardee, Brady Hansen, Darren Brugman, Jodie Pond, Alyssa Watkins, Audrey Cohen-Davis, Lea Colasuonno, Sean O'Malley, Larry Pardee, Darren Brugmann, Kassie Hansen, and Shelley Fairbanks.

Public Comment.

Public comment was given by Mary Wendall Lampton regarding wildlife crossings.

Public comment was given by Glen Esnard regarding wildlife crossings.

Public comment was given by Larry Drummond regarding wildlife crossings.

Public comment was given by Kate Winters regarding wildlife crossings.

Consent Calendar. On behalf of the County, a motion was made by Natalia Macker and seconded by Paul Vogelheim to approve items A as presented on the Consent Calendar. On behalf of the Town, a motion was made by Jim Stanford and seconded by Don Frank to approve items A as presented on the Consent Calendar.

- A. **Meeting Minutes.** To approve the October 1, 2018 regular joint meeting minutes as presented.

Greg Epstein requested that the Adoption of Functional Classification Map for Roads Within the Urban Systems Boundary be moved from the consent agenda for further discussion.

Chair Newcomb called for the vote. The vote showed all in favor and the motion carried on behalf of the County. Mayor Muldoon called for the vote. The vote showed all in favor with and the motion carried on behalf of the Town.

IV. Discussion/Action Items.

- A. **Adoption of Functional Classification Map for Roads Within the Urban Systems Boundary.**

Sean O'Malley Public Works Director presented to the Joint Board for Consideration of approval of roadway functional classification map for roadways within the approved Urban Systems Boundary. This is an administrative item and the final step required to formally allow the Town of Jackson and Teton County to utilize Urban Systems funds.

A Memorandum of Understanding (MOU) between the Wyoming Department of Transportation (WYDOT), the Town of Jackson, and Teton County Commission was signed by all parties in August of 2017. The MOU established the responsibilities and funding requirements for inclusion within the WYDOT Urban Systems Program. This program is a cost-sharing program authorized by the Transportation Commission of Wyoming. WYDOT allocates funding under the program each year for projects located within the Jackson – Teton County Urban Systems Boundary. The funding, which accrues at approximately \$175,000/year, is to be used by Jackson and/or Teton County for transportation projects within the Urban System Boundary on transportation routes functionally classified as Minor Collectors or higher. WYDOT holds the funds in trust, allowing them to accumulate until a project is ready to design and construct. Any funding used through the Urban System Program requires a 9.51% local match. Under the MOU, the Town and County have agreed to maintain any urban system improvements constructed under the program. As well, the Town agreed to annex Broadway-US 26/89 from South Park Loop Road to the Flat Creek Bridge into the Town Limits and to accept maintenance responsibilities for the highway from High School Road to

the northern corporate limits. Per the MOU, Teton County is cost-sharing the associated operational costs with the Town of Jackson.

In addition to these requirements, each designated urban area must have:

- An Urban Systems Advisory Committee
- Urban Systems Advisory Committee Bylaws
- An Urban Systems Boundary Map
- An approved Functional Classification Map for all roadways within the Urban Systems Boundary

On April 9, 2018, the Town Council and the Teton County Commissioners approved the Urban Systems Advisory Committee, through adoption of the Urban Systems Advisory Committee Bylaws, as well as the Urban Systems Boundary Map. Since that time, the Transportation Advisory Committee (TAC) has worked with WYDOT planning staff to finalize functional classification maps for areas within the Urban System boundary. The most recent Functional Classification Maps, for both the Town of Jackson and Teton County, were approved by Federal Highways Administration on June 1, 2004. Staff has been unable to find any records that indicate either the Town or the County acted to approve these maps. There are two minor adjustments recommended by the Transportation Advisory Committee. The first adjustment is in response to a previous misclassification by WYDOT and Federal Highway Administration (FHWA) for a short section of East Broadway between Redmond Street and Nelson Drive. TAC recommends changing this segment from a Local Road to Minor Collector. The second adjustment is the addition of a note indicating the classification for the remaining segment of Tribal Trail will be determined through the public involvement and design process.

Discussion between the Joint Board and Staff included the process of functional classification to be used around the Tribal Trails charter, mobility and accessibility, at this point there is no functional classification for Tribal Trails, major and minor functional classifications, future growth of HWY 22, adjustments to the functional classification map can be made with signatures from FHWA, WYDOT, and our local jurisdiction.

There was no public comment.

There was no discussion among the Joint Board.

On behalf of the County, a motion was made by Paul Vogelheim and seconded by Greg Epstein To approve the Teton County 2018 Functional Classification Map and the Town of Jackson 2018 Functional Classification Map. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried on behalf of the County.

On behalf of the Town, a motion was made by Jim Stanford and seconded by Don Frank to approve the Teton County 2018 Functional Classification Map and the Town of Jackson 2018 Functional Classification Map. Mayor Muldoon called for the vote. The vote showed all in favor with and the motion carried on behalf of the Town.

B. New Special Restriction Templates.

April Norton, Housing Director, presented to the Joint Board for consideration of approval of standard special restriction templates reflecting the updates to the Housing Standards in the Town of Jackson and Teton County Land Development Regulations (LRDs), and the updates to the Jackson/Teton County Housing Department Rules and Regulations (Housing Rules and Regulations). On July 4th, 2018 the Town Council and Board of County Commissioners updated the Housing Standards in the LDRs and the Housing Rules and Regulations. The Town and County Legal Departments have drafted new standard restriction templates, which reflect the updates.

Key Components of Restrictions:

Affordable Ownership Restriction:

- Income and asset limits according to income ranges 0%-50%; 50%-80%; 80%-120% of median family income for Teton County.
- At least one person in the household must be employed an average of 30 hours per week (1,560 hours per year) at a local business until retirement age (currently 62).

- Occupancy requirement (10 months per year).
- No ownership of residential property within 150 miles of Teton County at time of purchase or during ownership.
- Annual check-in to verify employment and occupancy.
- Weighted drawing to identify buyers.
- Appreciation is CPI capped at 3%

Restated Affordable Ownership Restriction

- Same as Affordable Ownership. This restriction will be recorded on all existing Affordable resales.

Affordable Rental Restriction:

- Income and Asset Limits according to income ranges 0%-50%; 50%-80%; 80%-120% of median family income for Teton County
- At least one person in the household must be employed an average of 30 hours per week (1,560 hours per year) at a local business until retirement age (currently 62).
- Must remain a rental – no owner occupancy.
- Rental rate may not exceed 30% of the low end of the income range; basic utilities and trash removal must be included.
- Tenants may not own residential property within 150 miles of Teton County.
- Tenants must occupy the unit a minimum of 80% of the lease term.
- Tenants must continue to qualify while renting.
- Tenants are identified by the owner of the unit.
- The Housing Department will conduct annual verification for qualification.

Workforce Ownership Restriction:

- No income limit, but the household must continue to earn a minimum of 75% of income from a local business until retirement age (currently 62).
- No asset limit, except no ownership of residential property within 150 miles of Teton County at time of purchase or during ownership.
- At least one person in the household must be employed an average of 30 hours per week (1,560 hours per year) at a local business.
- Units can be owner occupied and they can be rented as long as the tenants are qualified.
- Household must occupy the unit a minimum of 10 months per calendar year or in the case of a rental tenant must occupy the unit a minimum of 80% of the lease term.
- Initial sale price and buyer are determined by seller and buyer. Subsequent sales are weighted drawings, and maximum sales price is determined by the Housing Department. Appreciation is CPI capped at 3%.
- Annual compliance will be conducted by the Housing Department

Restated Workforce Ownership Restriction:

- Same as Workforce Ownership. This restriction will be recorded on all existing Employment-based resales.

Workforce Rental Restriction:

- Intended for non-condominium apartments.
- No income limit, but the household must continue to earn a minimum of 75% of income from a local business until retirement age (currently 62).
- No asset limit, except no ownership of residential property within 150 miles of Teton County at time of rental or during tenancy.
- At least one person in the household must be employed a minimum of 30 hours per week (1,560 hours per year) at a local business.
- Units must remain rentals.
- No maximum rents and no appreciation on rental rates.
- Tenants must occupy the unit a minimum of 80% of the lease term.

Updates:

This item was brought to the September 10, 2018 JIM. The Council and Board continued the item to allow for changes to be made. As staff and legal took another look at the restriction, the following changes were made:

- The term “Mortgagee” was kept as is. Legal determined that this is the correct term. A mortgagee is an entity that lends money to a borrower for the purpose of purchasing real estate. The borrower is known as the mortgagor.
- Added Qualified Mortgage language to Workforce Ownership restriction.
- Renumbered and reorganized Sections 2 and 3 of each restriction so Qualified Household is in Section 2 in all the restrictions to make them uniform.
- Added a maintenance requirement, which didn’t exist in some of the restrictions.
- Made the insurance provision consistent in all six restrictions.
- Added a default provision in the template(s) where absent to make it consistent in all restrictions.
- Clarified the language that allows termination and modifications to the restrictions consistently in all six documents as follows
 - o Termination for failure to meet affordable housing goals: this may be made by the Town or County exclusively and unilaterally.
 - o Termination Resulting from Foreclosure: This is only relevant to and therefore only in the ownership restrictions and provides the Housing authority the first option to purchase.
 - o Amendment to the restriction generally: These may be made by Owner AND either the Town or County (respectively) in writing.
 - o Corrections: These may be made by the Housing Department and only to correct a scrivener’s errors, erroneous legal description or typographical error.
- Added a history of the creation of the Joint Housing Authority and the Housing Department to the Recitals.
- Additional minor, insubstantial changes to clean up the templates were also made. These included correcting spelling and formatting errors and reinsuring consistency between the template forms.

This item was brought to the October 1, 2018 JIM at which time the Council and Board continued the item to allow for staff to address additional questions. While staff did not make changes to the restrictions based upon the questions raised, staff did make the following final changes:

- Added Revocation language to all restrictions.
- Removed restriction termination language in the event of a foreclosure in Affordable ownership and Workforce ownership restrictions.

Public comment was given by Stefan Fodor, on behalf of Sage Brush Apartments, Jeff Collins, and Patti Patterson.

Audrey Cohen Davis, Town Attorney, addressed the Board regarding the public comment given by Mr. Fodor.

Discussion between the Joint Board and staff included owner/landlord’s responsibility of damage to unit, conflict between the lease and deed restriction, financing deed restrictions vs. market value, process of foreclosure on a deed restricted property.

Keith Gingery, Senior Deputy Attorney, addressed the Board regarding the original intent of creating the new templates, consistency in the templates moving forward.

Discussion between the Joint Board, Pattie Patterson and staff included time restraints, predatory lending, including provisions, amended restated restrictions will be used moving forward, process of financing with the new restrictions.

On behalf of the County, a motion was made by Natalia Macker and seconded by Mark Newcomb to approve the standard Affordable Ownership, Restated Affordable Ownership, Affordable Rental, Workforce ownership, Restated Workforce Ownership, and Workforce Rental, restrictions as presented. Chair Newcomb called for the vote. The vote showed 2-3 with Natalia Macker and Mark Newcomb in favor and the motion failed on behalf of the County.

On behalf of the County, a motion was made by Greg Epstein and seconded by Smokey Rhea to continue this item for 30 days to the December 3, 2018 Joint Information Meeting. Mark Newcomb called for a vote. The vote showed 4-1 with Natalia Macker opposed and the motion carried on behalf of the County.

On behalf of the Town, a motion was made by Hailey Morton Levinson and seconded by Bob Lenz to continue this item for 30 days to the December 3, 2018 Joint Information Meeting. Mayor Muldoon called for the vote. The vote showed 4-1 with Jim Stanford opposed and the motion carried on behalf of the Town.

A. START Joint Powers Agreement

Larry Pardee, Town Manager presented to the Joint Board for consideration of approval of amendments to the START Joint Powers Agreement (JPA) Which were discussed and directed at the retreat in February of 2018. The Town Council and the County Commission discussed potential amendments to the START JPA at the February joint retreat this year and the Town Council directed the Town Attorney to prepare draft amendments based on the discussion. Adopting the changes as proposed provides some clarification for the START Board and the Transit Director in managing daily operations and expectations for decision making and the changes should have a positive impact moving forward. The requested changes were focused on:

- Clarifying the role of the START Board as it relates to broad policy decisions.
- Clarifying the role of the START Board for decisions that would affect the adopted budget.
- Clarifying the purpose of the operating plan and its relation to the budget.
- Communicating decisions that may affect the broader public, existing policy and the approved budget.
- Clarifying that internal operational and management decisions are made by the Transit Director as approved by the Town Manager.
- Clarifying that no new obligations regarding management, control, maintenance or supervision of property facilities or programs that significantly impact the broader public, the budget, or deviate from existing policy can be approved by the Board without the Town and County's approval. Clarifying that the START Board can enter into contracts so long as they are within the approved budget, operating plan and policies already approved by the Town and County.

As noted in the previous staff report, Audrey Cohen-Davis, Town Attorney reviewed the START JPA and spent notable time carefully listening to the audio from the meeting to ensure all points were captured and addressed in the proposed third amendment to the agreement. The Town Attorney also met with Transit Director, Darren Brugmann along with administrative staff from the Town and provided the proposed amendments to County staff, and the START Board for further review and comment. The amendments proposed accurately reflect the Council and Commission's discussion and direction provided at the retreat.

Due to the issues associated with budget approval, administrative decision making, and the political nature of rates, fares, routes and funding, the Town Manager and County Administrator would like to suggest as we work forward into the future with Elected Officials on the JPA, that we transition the START Board into more of an advisory role similar in nature to the Parks and Recreation Board.

The attached draft JPA Amendment as presented from the Legal Department, reflects their understating of direction provided from the Town council and County Commission, and staff is in general support of the attached draft. Also, staff offers a few different/alternative points for your discussion and consideration today:

1. Staff recommends a minor change in this section: Page 2. – Paragraph 5 Section, last sentence (strike "and" replace with "or".
2. Staff is not sure the verbiage the Elected's proposed actually matches their intent and/or is clear for future readers, and it might be helpful for them to see and alternate option for consideration, staff offers this option: Page 2. – Paragraph 8 Section, 2nd to last sentence (add "bottom Line" and end sentence after budget. Remove "except for internal operational and expenditures").
3. Staff's question is "Does the START Board truly have independent authority to sign contracts and, if yes, is the designation through this agreement the basic mechanism by which to allow that?" If its an option, staff believes the Town Council and BCC should definitely understand the choice in front of them on this point: Page 3. – Paragraph 10 Section, last sentence (delete "Town Attorney and County Attorney" and replace with "Town Council"

The Council and Commission have many options to consider including:

1. Approve the draft Third Amendment to the START JPA as presented and direct the Town Attorney to send the amendment to the Wyoming Attorney General for approval.
2. Approve the draft Third Amendment to the START JPA with the additional changes 1-3 as noted above and direct the Town Attorney to send the amendment to the Wyoming Attorney General for approval.
3. Adopt the amendments and direct staff to draft further amendments to the START JPA to reflect the role of the START Board as more of an advisory role.
4. Discuss the proposed amendments and continue the item to the next available Joint Information Meeting (JIM).
5. Take no action thereby keeping the current START JPA intact.
6. Other.

Public comment was given by Mike Yin.

Audrey Cohen Davis, Town Attorney, addressed the Board regarding the START Board's responsibility.

Discussion among the Joint Board included the staff recommendations, START Board and START Director's responsibility, START Funding, operational plan.

On behalf of the County, a motion was made by Paul Vogelheim and seconded by Smokey Rhea to approve the draft Third Amendment to the START JPA with the additional addition to paragraph 5 final sentence operational plan following existing policy, operational plan or the approved budget and direct the Town Attorney to send the amendment to the Wyoming Attorney General for a signature. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried on behalf of the County.

On behalf of the Town, a motion was made by Hailey Morton Levinson and seconded by Jim Stanford to approve the draft Third Amendment to the START JPA with the additional addition to paragraph 5 final sentence operational plan following existing policy, operational plan or the approved budget and direct the Town Attorney to send the amendment to the Wyoming Attorney General for a signature. Mayor Muldoon called for the vote. The vote showed all in favor with and the motion carried on behalf of the Town.

B. Updates to the Fire/EMS Joint Powers Agreement

Alyssa Watkins, BCC Administrator, presented to the Joint Board for consideration of approval of proposed amendments to the JH Fire/EMS Joint Power Agreement (JPA) which better reflect existing conditions and clarify the roles of the Town of Jackson as it relates to collective bargaining. Based in par on direction given at the joint retreat held in February of this year, Town and County staff have begun a review of existing JPAs to ensure alignment between existing policy and practice, and to identify areas in need of edit or amendment.

Staff identified several areas of the Fire/EMS JPA that would benefit from updates, and those proposed changes are before the Commission and Council today. Specifically, the proposed edits seek to reflect an understanding between the Town of Jackson and Teton County in the event of collective bargaining between Teton County as the corporate authority and an exclusive bargaining agent, to clarify the title and role of the Fire Chief, to clarify liaison roles, to delete references to the Teton Emergency Responders Association because that association is not currently in existence, and to clarify the roles of the County Commissioners' Administrator and Town Manager in regard to the Fire Chief.

Discussion between the Joint Board and staff included the capitalization of Parties, Town Counsel and County Commission being involved in the hiring and firing.

There was no public comment.

On behalf of the County, a motion was made by Natalia Macker and seconded by Paul Vogelheim to approve the draft First Amendment to the Town of Jackson and Teton County Joint Power Agreement for Fire and Emergency Medical services as presented. Chair Newcomb called for the vote. The vote showed 4-1 Greg Epstein opposed and the motion carried on behalf of the County.

On behalf of the Town, a motion was made by Hailey Morton Levinson and seconded by Jim Stanford to approve the draft First Amendment to the Town of Jackson and Teton County Joint Power Agreement for Fire and Emergency Medical services as presented. Mayor Muldoon called for the vote. The vote showed all in favor with and the motion carried on behalf of the Town.

C. Health in All Policies Update

Jodie Pond, Director of Health Department, presented to the Joint Board and update on Health in All Policies (HiAP) to Teton County and the Town of Jackson. In February 2018, the Teton County Health Department was directed by the Board of County Commissioners and the Jackson town Council to create a Health in All Policies work group. Since that time a work group has been created and includes Teton County Health Department, Teton County/Jackson Parks and Recreations, Teton County Administration, Teton County Library, Teton County General Services, Teton County Human Resources, Teton County/Jackson Pathways, Jackson/Teton County Affordable Housing, Town and County Planning Departments. The workgroup has convened and is working on HiAP projects internal to the Town and County.

Discussion between the joint board and staff included appreciation of staff for the work done, social equity training.

No action was taken.

Matters from Council, Commissioners and Staff.

A. WPLI Resolution

Mark Newcomb spoke to the Joint Board regarding the upcoming Wyoming Public Lands Initiative (WPLI) Resolution that will be on the 11/13/2018 BCC Regular Meeting agenda. Opening the discussion to the Town Council for questions, comments, and support.

Discussion between the Joint Board and staff included that a consensus was never reached, deadline of the WCCA.

Executive Session.

There was no executive session held today.

Adjourn. On behalf of the County, a motion was made by Natalia Macker and seconded by Rhea to adjourn. The vote showed all in favor and the motion carried.

On behalf of the Town, a motion was made by Morton Levison and seconded by Jim Stanford to adjourn. The vote showed all in favor and the motion carried.

The meeting adjourned at 5:00 p.m.

TETON COUNTY

ATTEST:

Mark Newcomb, Chair

Sherry L. Daigle, County Clerk



**BOARD OF COUNTY
COMMISSIONERS**



TOWN COUNCIL

**JOINT INFORMATION MEETING
AGENDA DOCUMENTATION**

PREPARATION DATE: November 20, 2018
MEETING DATE: December 3, 2018

SUBMITTING DEPARTMENT: Teton County Public Works
DEPARTMENT DIRECTOR: Sean O'Malley
PRESENTER: Sean O'Malley and Tyler Sinclair

SUBJECT: Revised WYDOT Urban Systems Functional Classification Maps

STATEMENT/PURPOSE

Consideration of approval of revised roadway functional classification map for roadways within the approved Urban Systems Boundary. If the revised map is approved, the Mayor, the Commission Chair, and the Chairman of the Urban Systems Advisory Committee (USAC) are requested to sign the Concurrence signature block form. After the form has also been signed by Wyoming Department of Transportation Planning and Federal Highway Administration representatives, the signature block will be placed on the map and the title block will be revised to show the correct dates and status.

BACKGROUND/ALTERNATIVES

Please see the November 5th staff report for full background.

On November 5, 2018, the Town Council and the County Commissioners approved a functional classification map prepared by County staff. WYDOT subsequently provided a map in their preferred format. USAC reviewed the WYDOT map on November 14th and made several corrections and additions including:

1. Classify East Broadway from Cache Street to Redmond Street as a major collector. This is consistent with the map approved on November 5th.
2. Classify Spring Gulch Road from Sagebrush Drive to Trap Club Road as a minor collector.
3. Classify Teton Village Entrance Road and Apres Vous Road as minor collectors.
4. Classify HHR Ranch Road and West Street as minor collectors. This is consistent with the map approved on November 5th.
5. Classify Swinging Bridge Road as a minor collector.
6. Classify the future North King Street extension (through Parks & Rec) and the east extension of Mercill Avenue (Hidden Hollow) as a minor collector road.

These additions allow these routes to be candidates for Urban Systems funding.

As discussed at the November 5th meeting, the classification for the remaining segment of Tribal Trail will be determined through the public involvement and design process.

ATTACHMENTS

Exhibit A – Draft Jackson/Teton County Functional Classification Map

Exhibit B – Urban Boundary and Roadway Functional Classification Concurrence form

FISCAL IMPACT

The adoption of these maps will not generate direct fiscal impacts.

STAFF IMPACT

Minimal

LEGAL REVIEW

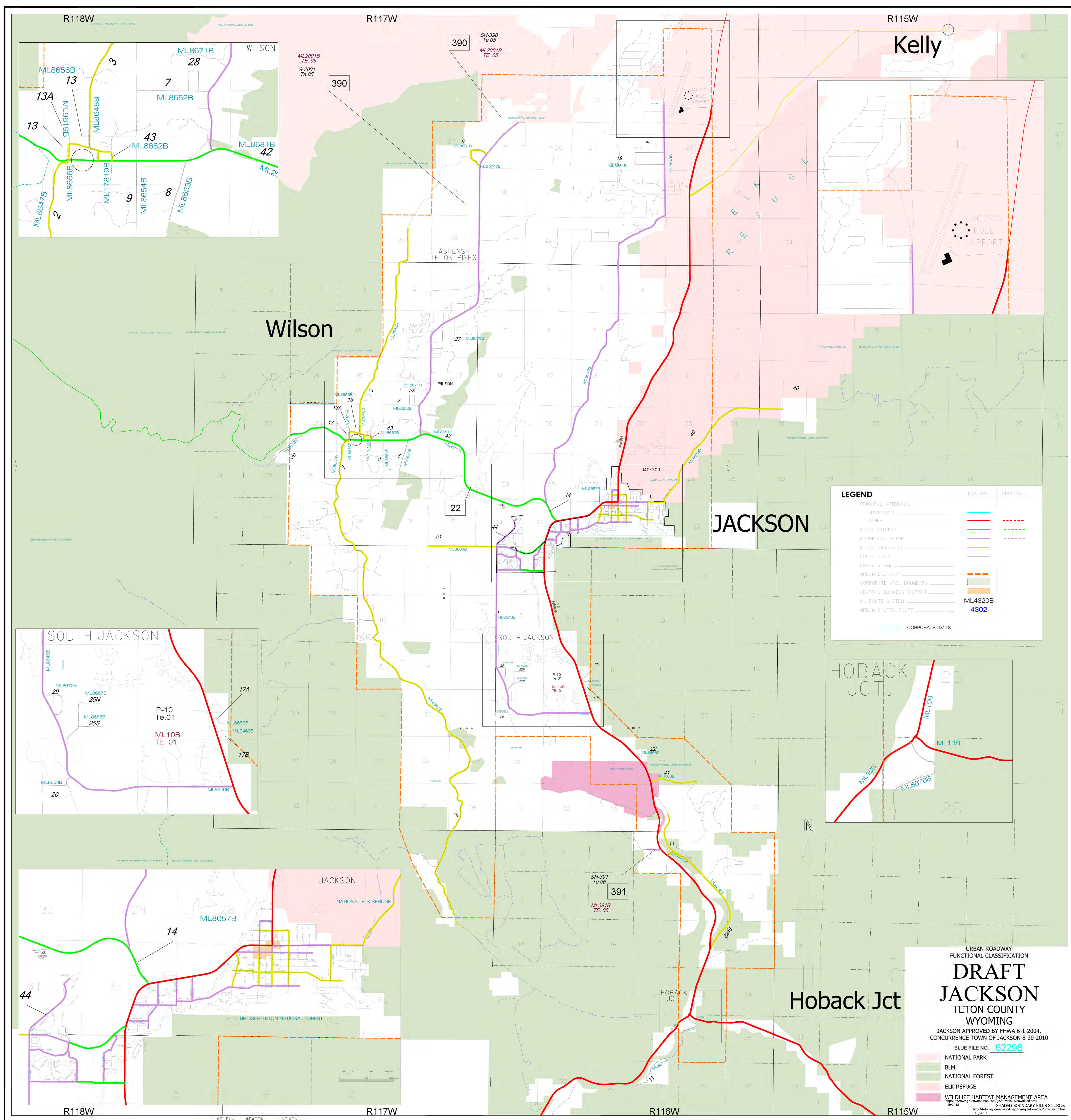
Gingery

RECOMMENDATION

The Urban Systems Advisory Committee recommends approval of this revised functional classification map.

SUGGESTED MOTION

I move to approve the Draft Jackson/Teton County Functional Classification Map and request the Mayor of the Town of Jackson, the Chairman of the Teton County Commission, and the Chairman of the Urban Systems Advisory Committee sign the Urban Boundary and Roadway Functional Classification Concurrence form.



**URBAN BOUNDARY and ROADWAY FUNCTIONAL CLASSIFICATION
CONCURRENCE**

We, as responsible federal, state and local officials concur with the Urban
Boundary, and Roadway Functional Classification.

Jackson Urban Systems Committee Chairman

signed on this _____ day of _____, 2018

Chairman, Urban System Advisory Committee

Chairman, Teton County Commission

Mayor, Town of Jackson

Attest:

Attest:

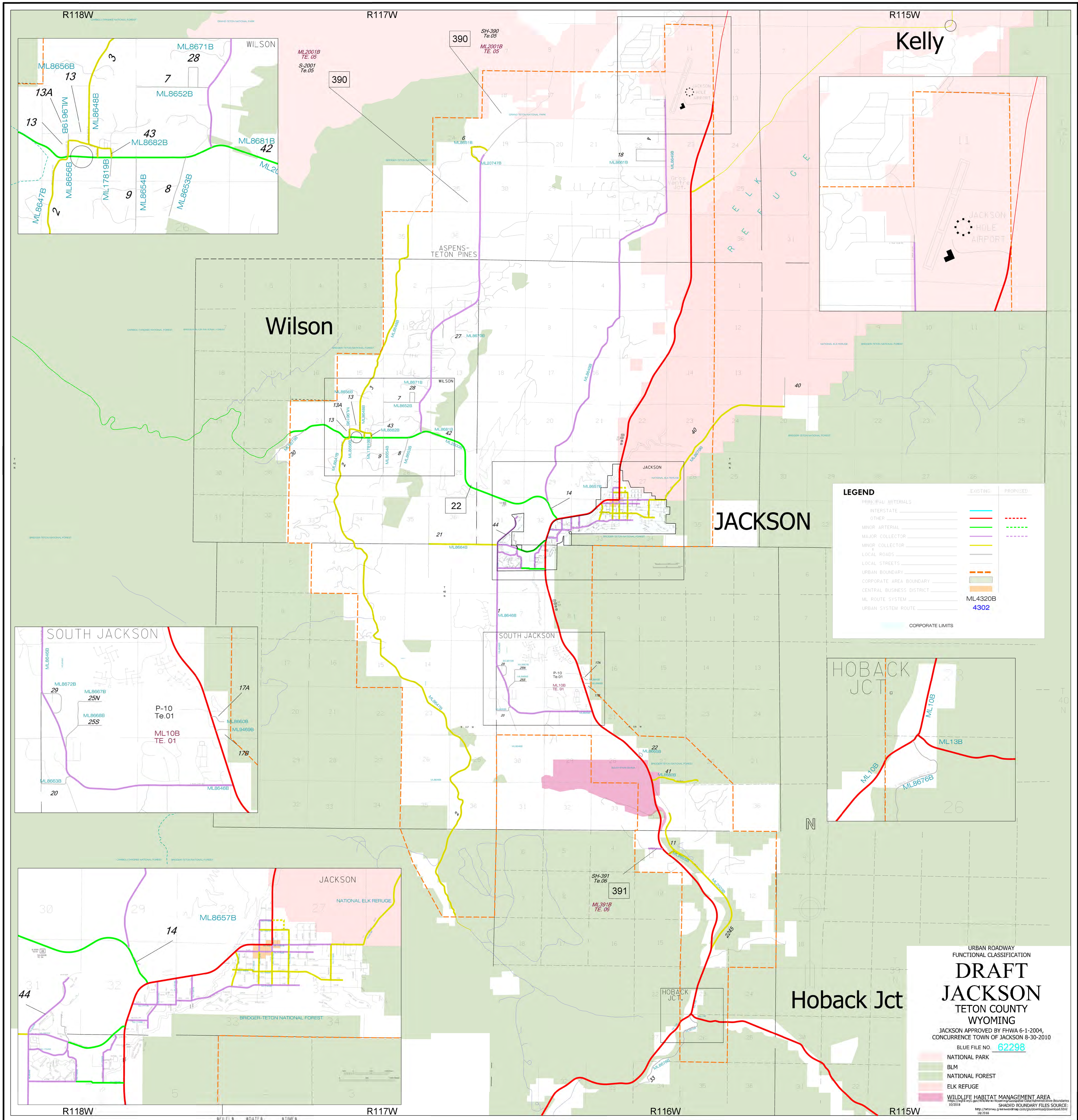
Sherry L. Daigle, Teton County Clerk

Sandra P. Birdyshaw, Jackson Town Clerk

Systems Planning Engineer, WYDOT

Wyoming Division Planning / Research Manager, FHWA

Blue File# 62298





**BOARD OF COUNTY
COMMISSIONERS**



TOWN COUNCIL

**JOINT INFORMATION MEETING
AGENDA DOCUMENTATION**

PREPARATION DATE: November 28, 2018
MEETING DATE: December 3, 2018

SUBMITTING DEPARTMENT: Affordable Housing
DEPARTMENT DIRECTOR: April Norton
PRESENTER: Stacy Stoker

SUBJECT: New Special Restriction Templates

STATEMENT/PURPOSE

Approval of standard special restriction templates reflecting the updates to the Housing Standards in the Town of Jackson and Teton County Land Development Regulations (LDRs), and the updates to the Jackson/Teton County Housing Department Rules and Regulations (Housing Rules and Regulations).

BACKGROUND/ALTERNATIVES

*Please Note: This is an amended report. The new section is at the end under **Updates since November 5, 2018 JIM.***

On July 4th, 2018 the Town Council and Board of County Commissioners updated the Housing Standards in the LDRs and the Housing Rules and Regulations. The Town and County Legal Departments have drafted new standard restriction templates, which reflect the updates.

Key Components of Restrictions:

Affordable Ownership Restriction:

- Income and asset limits according to income ranges 0% - 50%; 50% - 80%; 80% - 120% of median family income for Teton County.
- At least one person in the household must be employed an average of 30 hours per week (1,560 hours per year) at a local business until retirement age (currently 62).
- Occupancy requirement (10 months per year).
- No ownership of residential property within 150 miles of Teton County at time of purchase or during ownership.
- Annual check-in to verify employment and occupancy.
- Weighted drawing to identify buyers.
- Appreciation is CPI capped at 3%.

Restated Affordable Ownership Restriction

- Same as Affordable Ownership. This restriction will be recorded on all existing Affordable resales.

Affordable Rental Restriction:

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- At least one person in the household must be employed an average of 30 hours per week (1,560 hours per year) at a local business until retirement age (currently 62).
- Must remain a rental – no owner occupancy.
- Rental rate may not exceed 30% of the low end of the income range; basic utilities and trash removal must be included.
- Tenants may not own residential property within 150 miles of Teton County.
- Tenants must occupy the unit a minimum of 80% of the lease term.
- Tenants must continue to qualify while renting.
- Tenants are identified by the owner of the unit.
- The Housing Department will conduct annual verification for qualification.

Workforce Ownership Restriction:

- No income limit, but the household must continue to earn a minimum of 75% of income from a local business until retirement age (currently 62).
- No asset limit, except no ownership of residential property within 150 miles of Teton County at time of purchase or during ownership.
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- Household must occupy the unit a minimum of 10 months per calendar year or in the case of a rental tenant must occupy the unit a minimum of 80% of the lease term.
- Initial sale price and buyer are determined by seller and buyer. Subsequent sales are weighted drawings, and maximum sales price is determined by the Housing Department. Appreciation is CPI capped at 3%.
- Annual compliance will be conducted by the Housing Department.

Restated Workforce Ownership Restriction:

- Same as Workforce Ownership. This restriction will be recorded on all existing Employment-based resales.

Workforce Rental Restriction:

- Intended for non-condominium apartments.
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- At least one person in the household must be employed a minimum of 30 hours per week (1,560 hours per year) at a local business.
- Units must remain rentals.
- No maximum rents and no appreciation on rental rates.
- Tenants must occupy the unit a minimum of 80% of the lease term.

Updates:

This item was brought to the September 10, 2018 JIM. The Council and Board continued the item to allow for changes to be made. As staff and legal took another look at the restrictions, the following changes were made:

- The term “Mortgagee” was kept as is. Legal determined that this is the correct term. A mortgagee is an entity that lends money to a borrower for the purpose of purchasing real estate. The borrower is known as the Mortgagor.
- Added Qualified Mortgage language to Workforce Ownership restriction.
- Renumbered and reorganized Sections 2 and 3 of each restriction so Qualified Household is in Section 2 in all of the restrictions to make them uniform.
- Added a maintenance requirement, which didn’t exist in some of the restrictions.
- Made the insurance provision consistent in all six restrictions.
- Added a default provision in the template(s) where absent to make it consistent in all restrictions.
- Clarified the language that allows termination and modifications to the restrictions consistently in all six documents as follows:
 - Termination for failure to meet affordable housing goals: this may be made by the Town or County exclusively and unilaterally.
 - Termination Resulting from Foreclosure: This is only relevant to and therefore only in the ownership restrictions and provides the Housing Authority the first option to purchase
 - Amendments to the restriction generally: These may be made by Owner AND either the Town or County (respectively) in writing.
 - Corrections: These may be made by the Housing Department and only to correct a scrivener’s errors, erroneous legal description or typographical error
- Added a history of the creation of the Joint Housing Authority and the Housing Department to the Recitals.
- Additional minor, insubstantial changes to clean up the templates were also made. These included correcting spelling and formatting errors and ensuring consistency between the template forms.

This item was brought to the October 1, 2018 JIM at which time the Council and Board continued the item to allow for staff to address additional questions. While staff did not make changes to the restrictions based upon the questions raised, staff did make the following final changes:

- Added Revocation language to all restrictions.
- Removed restriction termination language in the event of a foreclosure in Affordable ownership and Workforce ownership restrictions.

Updates since November 5, 2018 JIM

This item was brought to the November 5, 2018 JIM at which time the Council and Board continued the item to allow for staff to address three key issues:

Key Issue #1:

Revocation language: Based on advice from Brent Cohen, the bankruptcy attorney that was hired to give advice on the restriction templates, language was added allowing the Town or County, in the case of default, to revoke or seek revocation of a development permit or any other authorization of development, use or occupancy of the Residential Unit at issue. The attorney for First Interstate Bank, Brenda Wylie, reviewed FNMA Guidelines, and sent a memo responding to the restriction templates. In her memo, Ms. Wylie indicates that lenders may not provide lending on projects where the development permit can be revoked in the future due to actions of unrelated developers or third party affordable buyers. She suggests revoking the Certificate of Occupancy instead. Staff changed this language to say that the Housing Department can seek enforcement through the County or Town Land Development Regulations. This allows several options for enforcement including suspension or revocation depending on the situation. Ms. Wylie was fine with this solution.

Key Issue #2:

Historically, restrictions contained language that allowed restrictions to terminate in the case of a foreclosure where the home is sold at Sheriff’s Sale. Based on advice from Brent Cohen, the language allowing the restrictions to terminate in the case of a foreclosure puts the restrictions at great risk of being terminated in the

case of a bankruptcy. Any language allowing an outside entity to terminate the restrictions for any cause, would give a court reason to allow the restriction to be terminated in other cases such as bankruptcy.

Staff reached out to the following local lenders: Bank of Jackson Hole, Guaranteed Rate, Guild Mortgage, First Interstate Bank, Meridian Trust, Rocky Mountain Bank, and Wells Fargo Bank. All of these lenders indicated that the risk for lenders is lower if the restrictions terminate in the event of a foreclosure. However, they would still be able to lend with at least 3.5% down payment (which is required by the Housing Department) and a monthly private mortgage insurance (PMI) payment. The interest rate would also be 1/4 % higher. If a borrower has a 20% down payment, they would not be required to pay for PMI, and PMI is less costly as down payments increase. PMI can be removed once the Loan to Value reaches 80%. Ms. Wylie's memo supports this as well. Loans on market homes also require 20% down or PMI so this is common practice.

Two of the lenders responded with some loan scenarios providing examples of what this would look like. (Monthly payment includes taxes, insurance, and HOA dues):

Purchase Price: \$250,000 80% - 120% income range

Two-bedroom home, 3-person household, annual income (low end of the income range) = \$70,920

	Down Payment 3.5%	Interest Rate with PMI	Interest Rate Without PMI	PMI Amount	Monthly Payment with PMI	Monthly Payment without PMI
Lender #1	\$8,750	5.125%	4.875%	\$173	\$1,846 (31% DTI)	\$1,637 (28% DTI)
Lender #2	\$8,750	5.125%	4.875%	\$115	\$1,777 (30% DTI)	\$1,627 (28% DTI)

Purchase Price \$313,895 80% - 120% income

Three-bedroom home, 4-person household, annual income (low end of the income range) = \$78,800.

	Down Payment 3.5%	Interest Rate with PMI	Interest Rate without PMI	PMI Amount	Monthly Payment with PMI	Monthly Payment without PMI
Lender #1	\$10,986	5.125%	4.875%	\$217	\$2,260 (34% DTI)	\$1,997 (30% DTI)
Lender #2 did not provide info for this scenario.						

Based on the information provided by the banks and an online resource to calculate PMI and mortgage payments, staff calculated the following additional scenarios:

Purchase Price \$165,000 50% - 80% income range

Two-bedroom home, 3-person household, annual income (low end of the income range) = \$44,325.

Down Payment	Interest Rate with PMI	Interest Rate without PMI	PMI Amount	Monthly Payment with PMI	Monthly Payment without PMI
3.5%					
\$5,775	5.125%	4.875%	\$126	\$1,308 (35% DTI)	\$1,158 (31% DTI)

Purchase Price \$140,000 50% - 80% income range

One-bedroom home, 1-person household, annual income (low end of the income range) = \$34,475.

Down Payment	Interest Rate with PMI	Interest Rate without PMI	PMI Amount	Monthly Payment with PMI	Monthly Payment without PMI
3.5%					
\$4,900	5.125%	4.875%	\$98	\$1,150 (40% DTI)	\$1,031 (36% DTI)

Purchase Price \$140,000 50% - 80% income range

One-bedroom home, 2-person household, annual income (low end of the income range) = \$39,400).

Down Payment	Interest Rate with PMI	Interest Rate without PMI	PMI Amount	Monthly Payment with PMI	Monthly Payment without PMI
3.5%					
\$4,900	5.125%	4.875%	\$83	\$1,135 (35% DTI)	\$1,031 (31% DTI)

Purchase Price \$200,000 80% - 120% income range

One-bedroom home, 1-person household, annual income (low end of the income range) = \$55,160.

Down Payment	Interest Rate with PMI	Interest Rate without PMI	PMI Amount	Monthly Payment with PMI	Monthly Payment without PMI
3.5%					
\$7,000	5.125%	4.875%	\$140	\$1,538 (33% DTI)	\$1,369 (30% DTI)

Purchase Price \$200,000 80% - 120% income range

One-bedroom home, 2-person household, annual income (low end of the income range) = \$63,040).

Down Payment	Interest Rate with PMI	Interest Rate without PMI	PMI Amount	Monthly Payment with PMI	Monthly Payment without PMI
3.5%					
\$7,000	5.125%	4.875%	\$119	\$1,517 (29% DTI)	\$1,369 (26% DTI)

Ms. Wylie also noted in her memo that FNMA will not allow resale restrictions to survive foreclosures on ground leased properties. The Housing Authority owns the land in 4 affordable housing developments consisting of 70 units. There are 324 deed restricted ownership units. The item being considered today is deed restriction templates, not ground leases. Brent Cohen has indicated that when the Housing Authority owns the land, there is less risk involved. Staff has not researched Ground Lease language, and is not proposing any changes to Ground Leases at this time. Ground Leases will be considered at a later date.

Risk Analysis:

Thankfully, the Housing Department has never lost a unit to bankruptcy. There is always the potential that we could, and as we get more and more restricted units, the probability that it will happen rises. If only one unit is lost from the program, the cost to the taxpayers to replace it is a subsidy of approximately \$250,000 plus or minus depending on the income range classification of the unit. This figure is substantial and rises with the cost of construction. Another factor is the recent update to the Housing Rules and Regulations that changed the method of appreciation on restricted units. They were formerly appreciating at 2.5% per year and did not depreciate. Now they appreciate or depreciate with CPI. This could potentially have an effect on the number of bankruptcies if there is a downturn in the economy.

Key Issue #3:

The Council and Commission had questions about the definition of safe, decent, sanitary housing. It was suggested that Wyoming or Federal law should be referenced in the restriction.

Wyoming Statute:

WY Stat § 1-21-1203. Owner's duties; notice by renter of noncompliance; duty to correct; exceptions; termination of rental agreement; liability limited.

(a) To protect the physical health and safety of the renter, each owner shall:

- (i) Not rent the residential rental unit unless it is reasonably safe, sanitary and fit for human occupancy;
- (ii) Maintain common areas of the residential rental unit in a sanitary and reasonably safe condition.
- (iii) Maintain electrical systems, plumbing, heating and hot and cold water; and
- (iv) Maintain other appliances and facilities as specifically contracted in the rental agreement.

Federal Law Definition:

25 CFR 700.55

(a) General. The term decent, safe, and sanitary dwelling means a dwelling which –

- (1) Meets applicable federal, state and local housing occupancy codes; including but not limited to the Uniform Building Code, National Electrical Code, ICBO Plumbing Code, the Uniform Mechanical Code, HUD Minimum Property Standards, and HUD Mobile Home Construction and Safety Standards (24 CFR part 4080)
- (2) Is structurally sound, clean, weathertight and in good repair and has adequate living space and number of rooms.
- (3) Has an adequate and safe electrical wiring system for lighting and other electrical services where economically feasible.
- (4) Meets the requirements of the HUD lead-based paint regulations (24 CFR part 42) issued under the Lead-Based Paint Poisoning Prevention Act.
- (5) In the case of a physically handicapped person, is free of any architectural barriers. To the extent that standards prescribed by the American National Standards Institute, Inc., in publication ANSI A117.1-1961 (R 1971), are pertinent, this provision will be considered met if it meets those standards;
- (6) Has heating as required by climatic conditions;
- (7) Has habitable sleeping area that is adequately ventilated and sufficient to accommodate the occupants;
- (8) Has a separate well-lighted and ventilated bathroom, affording privacy to the user, that contains a sink and bathtub or shower stall, properly connected to hot and cold water, and a flush toilet, all in good working order and properly connected to a sewage drainage system; and
- (9) In the case of new construction or modular housing, complies with the energy performance standards for new buildings set forth by the U.S. Department of Energy.
- (10) The Commission may waive paragraph (a) (3) or (8) of this section on a case-by-case basis if it is determined that it is in the best interest of the individual relocate to do so.

Audrey Cohen Davis expressed concerns about referring to the Federal law in the restriction. Federal law has more stringent requirements than our state and local codes, and this would require anyone building restricted units to comply. She also affirmed that the restrictions are already covered by Wyoming State Law.

Staff reached out to Kelly Sluder, the Town Building Official and to Sarah Budge, Environmental Health Supervisor for Teton County Public Health. Each was asked to weigh in on this subject. Kelly Sluder suggested that we define for ourselves “safe decent and sanitary”, and that we add #2 from Federal Law to the definition along with a phrase referring to meeting local building codes in place at the time of construction. Sarah Budge explained that Public Health uses State Law to define safe, decent sanitary. She indicated that it is okay if it is a little vague because you can't foresee every issue that could arise. Public Health makes decisions about safe and sanitary at their discretion.

Staff has created the following definition of safe, decent, and sanitary housing, but did not make the change to the restrictions (see Staff Recommendations below):

Safe, decent, sanitary housing means that housing units must be kept in a habitable state fit for human occupancy to protect the physical health and safety of the renter. Landlords must:

- a. Maintain common areas of the residential unit in a sanitary and reasonably safe condition.
- b. Maintain electrical systems, gas systems, plumbing, heating and hot and cold water and keep them in working order.
- c. Unit must be structurally sound, clean, weathertight, in good repair, and meet local building codes in place at time of construction or as required for a change of use, if applicable.
- d. Maintain other appliances and facilities as specifically contracted in the rental agreement.

Other Changes:

Language was previously changed to require that the Housing Department be paid proceeds upon a sale after a foreclosure if the restrictions survive a foreclosure. According to Brenda Wylie, FNMA will not lend unless this language is changed if the restriction survives foreclosure. Thus, staff made a change defining the Housing Department as a Qualified Mortgagee. If any funds are extended to an owner in order to save a unit from foreclosure, this provides the Housing Department a way to get the funds back. Also, if the restrictions survive foreclosure, any lender will be required to follow the Restrictions and Housing Rules and Regulations when they sell the home. Maintenance and repairs will be required to be done by the lender/seller through the resale process so this is not a concern as long as the restrictions survive foreclosure. Both of these changes address Ms. Wylie's concerns set forth in her memo.

In the case where the Housing Authority purchases a unit, language was added to provide that there is a 90 day deadline for the Housing Department to exercise its option to purchase upon receiving notice from a lender that the borrower is in default of the loan. According to Brenda Wylie, this is a FNMA requirement and they will not lend otherwise. This change also addresses Ms. Wylie's final concern.

A clarification was made to the Affordable rental restrictions better explaining the manner that rents are calculated. Language was also added clarifying that addresses where notices can be sent can be changed in the case of new owners or management.

ATTACHMENTS

- Affordable Ownership Restriction
- Restated Affordable Ownership Restriction
- Affordable Rental Restriction
- Workforce Ownership Restriction
- Restated Workforce Ownership Restriction
- Workforce Rental Restriction

FISCAL IMPACT

N/A

STAFF IMPACT

Housing and Legal staff have spent a significant amount of time drafting and reviewing the standard restriction templates. Housing staff will work with developers and owners to record appropriate restrictions on restricted units as they are built and will collaborate with planning staff to conduct outreach to educate local development professionals about the changes to the restrictions. Housing and Legal staff will also be impacted significantly facilitating sales, conducting compliance, and conducting annual reporting as units are added to the supply. County Clerk staff will be impacted as restrictions need to be recorded in the Clerk's office. All impacts on

Housing staff have been included in the FY18/19 work plan for the department that was provided to the elected officials during the budget review and is available on the department's website: jhaffordablehousing.org.

STAKEHOLDER ANALYSIS

Stakeholders include the local community members and employers who are seeking to secure housing for themselves or their employees, developers who are building restricted housing, and tourists who seek amenities and other products or experiences that are provided by our workforce.

LEGAL REVIEW

Reviewed by Audrey Cohen Davis and Keith Gingery.

RECOMMENDATION

Staff recommends approval of the restriction templates with the following:

1. Change to the revocation language revoking development permit to enforcement through the Land Development Regulations. This allows for many options of enforcement including suspension or revocation of a development permit depending on the situation.
2. Retention of the language that allows the restriction to survive foreclosure. This will limit the risk of restrictions being stripped in the case of bankruptcy. The financing scenarios show that households will still be able to get financing that is affordable to them. The scenarios use incomes that are at the lowest end of the income ranges to calculate Debt to Income Ratios (DTI). Depending on the price of the home being purchased and the down payment, some households may pay more than 30% of their income on housing costs. This was already contemplated and expected during the Engage2017 updates to the Housing Rules and Regulations when discussing the method for calculating maximum sales prices on homes. A household will not qualify if their DTI is more than 45%.
3. Staff does not recommend including a definition of safe, decent, sanitary housing in the deed restrictions. The restrictions are governed by Wyoming, Town and County laws, which can change from time to time. Staff believes it is more appropriate to add the definition to the Housing Rules and Regulations at the next update to the document. The Housing Rules and Regulations can be changed as laws change, while the deed restrictions cannot.
4. Change to the first option to purchase language to give the Housing Authority a 90-day deadline from the reception of a notice of default to exercise the option to purchase. This is an FNMA requirement.
5. Change to the language requiring the Housing Department to receive proceeds for the 2% facilitation fee, payment of any penalties assessed against Owner by the Housing Department, monies advanced by the Housing Department in connection with a mortgage or other debt, and repairs and maintenance. Also change to the definition of a Qualified Mortgagee to include the Housing Department if any funds are extended to an owner in order to save a unit from foreclosure. The 2% facilitation fee can be waived in cases of foreclosure. This is not a cost to the public. Monies advanced can be recovered through recording a mortgage on the property. Penalties assessed by the Housing Department are not out of pocket expenses that need to be recovered. Repairs and maintenance items will be paid for by the lender through the resale process.
6. Clarification on the method the Housing Department uses to calculate rent on Affordable rentals, and to addresses for notices.

SUGGESTED MOTION

I move to approve the standard Affordable Ownership, Restated Affordable Ownership, Affordable Rental, Workforce Ownership, Restated Workforce Ownership, and Workforce Rental, restrictions as presented.

Synopsis for PowerPoint (120 words max):

Purpose:

Background:

Fiscal Impact:

**Special Restrictions
for Affordable Ownership Housing**
Located at [Click here to enter Name of Dev. and/or address.](#)

These Special Restrictions for Affordable Ownership Housing ("Special Restrictions"), are made and entered into this ____ day of _____, 20__, by the undersigned Owner ("Owner") and [insert the Town of Jackson or Teton County, Wyoming.](#)

RECITALS:

WHEREAS, Owner holds fee ownership interest in that certain real property, located in [insert the Town of Jackson or Teton County, Wyoming](#), and more specifically described as follows:

[Click here to enter Legal Description](#)

PIDN: _____ ("Land")

WHEREAS, as a condition of its approval for permit # [Click here to enter Permit #.](#) ("Approval"), Owner was required to provide and restrict as follows:

Owner developed property addressed as _____, _____, Wyoming 830__ for a _____ square foot retail/service/office/residential/etc. building. This development generated the obligation to provide Affordable Ownership Housing in accordance with _____ Approval. Owner is restricting:

- Unit _____, with _____ number of bedrooms with Income Range_____.*
- Unit _____, with _____ number of bedrooms with Income Range_____.*
- Unit _____, with _____ number of bedrooms with Income Range_____.*

(hereinafter "Residential Unit" or Residential Units").

The Income Ranges are defined in the Jackson/Teton County Housing Department Rules and Regulations enforced by the Jackson/Teton County Affordable Housing Department, such Rules and Regulations are defined in Section 1 below;

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners resolved to form the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to W.S. §15-10-116, as amended, and its successors or assigns, known as the Jackson/Teton County Housing Authority ("JTCHA");

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department ("Housing Department") who are employees of Teton County and agents acting on behalf of the JTCHA, empowered to enforce this Special Restriction;

WHEREAS, in furtherance of the goals, objectives, requirements and conditions of insert approval type (FDP, CUP, etc.) Approval, and consistent with the insert the Town of Jackson or Teton County's goal of providing decent, safe and sanitary housing to qualified employees working in Teton County, Wyoming, that is affordable, Owner agrees to restrict the use and occupancy of the Residential Unit to a "Qualified Household," which meets employment, income and asset ownership qualifications as set forth herein and as further defined in the Jackson/Teton County Housing Department Rules and Regulations;

WHEREAS, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by Housing Department and insert the Town of Jackson or Teton County, Wyoming.

RESTRICTIONS:

NOW, THEREFORE, in satisfaction of the conditions in and consideration of the insert approval type (FDP, CUP, etc) Approval and in further consideration of the foregoing Recitals, which are incorporated herein by this reference, Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of a Residential Unit, that the Land and each Residential Unit shall be held, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT HOUSING RULES AND REGULATIONS. References made herein to the "Rules and Regulations" are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended from time to time and which policies, procedures and guidelines are on file with the Housing Department or otherwise with insert the Town of Jackson or Teton County, Wyoming, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

SECTION 2. OWNERSHIP BY QUALIFIED HOUSEHOLD ONLY.

- A. Qualified Household. The ownership, use and occupancy of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household for Affordable Housing, as set forth below ("Qualified Household").
1. Employment Requirement. At least one (1) member of the Qualified Household at time of purchase and during ownership must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A "local business" means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the

business serves clients or customers who are physically located in Teton County, Wyoming.

2. Income Restriction. The Qualified Household's gross income shall fall between [Click here to enter income range.](#) of the median family income in Teton County, Wyoming, as determined by the current year's published Federal Department of Housing & Urban Development median family income chart for Teton County, Wyoming ("Income Cap") at time of purchase.
 3. No Teton County Residential Real Estate. No member of the Qualified Household may own (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at the time of purchase or any time during ownership of the Residential Unit.
 4. Determination by the Housing Department. The Housing Department shall determine whether a prospective owner is a Qualified Household. In addition to any requirements set forth in the Rules and Regulations, such determinations shall be based upon written applications, representations, information and verification as are deemed by the Housing Department to be necessary to establish and substantiate eligibility.
 5. Asset Limit. The maximum asset limit for Qualified Households is two (2) times the income limit for a household size of four in accordance with the applicable income range, as further defined and clarified in the Housing Rules and Regulations.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against insert the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with insert the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall insert the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of insert the Town of Jackson or Teton County, Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.
- C. Ownership by Housing Department. Notwithstanding the foregoing, the Housing Department may purchase and own the Residential Unit

SECTION 3. RESTRICTIONS ON OCCUPANCY, IMPROVEMENT AND USE OF RESIDENTIAL UNITS. In addition to any restrictions included in the Rules and Regulations, occupancy and use of a Residential Unit shall be restricted as follows:

- A. Occupancy. Each Residential Unit shall be occupied as the Qualified Household's sole and exclusive primary residence, and each owner of a Residential Unit shall physically reside therein on a full-time basis, at least ten (10) months out of each calendar year. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit.

- B. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.
- C. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of thirty (30) cumulative days per calendar year.
- D. Renting. No Residential Unit, or any part thereof, including without limitation, the garage, any portion of any structure, or any room within any structure, may be rented or otherwise occupied by persons other than the members of the Qualified Household.
- E. Maintenance. The owner shall take good care of the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association and shall make all repairs and maintain the Residential Unit in a safe, sound, habitable, and good condition and state of repair. In case of damage to the Residential Unit, the owner shall repair the damage or replace or restore any destroyed parts of the Residential Unit, as speedily as practical.
- F. Capital Improvements. The Owner may only undertake capital improvements to the Residential Unit in accordance with the policies set forth in the Rules and Regulations, which policies may include but are not limited to, a limitation on the valuation of such improvements at resale, requirements regarding the advance written approval of such improvements, and documentation of proposed and completed improvements.
- G. Insurance. The owner shall keep the Residential Unit continuously insured against "all risks" of physical loss (not otherwise covered by a homeowner's association insurance), for the full replacement value of the Residential Unit.
- H. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all supplements and amendments thereto, and any other rules and regulations of any applicable homeowner's association, as the same may be adopted from time to time.
- I. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, the Rules and Regulations and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, development or transfer of a Residential Unit, each owner shall comply, and shall cause all occupants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.

SECTION 4. TRANSFER LIMITATIONS. Each Residential Unit may only be sold in accordance with Sections 5 and 6 below or transferred in accordance herewith as follows:

- A. Divorce. In the event of the divorce of an owner, the Housing Department may consent to the transfer of a Residential Unit to a spouse of an owner, which spouse may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- B. Death. In the event of the death of an owner, the Housing Department may consent to the transfer of a Residential Unit to an heir or devisee of such deceased owner, which heir or devisee may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- C. Nonqualified Transferee. If title to a Residential Unit vests in a Nonqualified Transferee, as defined in the Rules and Regulations, the Residential Unit shall immediately be listed for sale in accordance with these Special Restrictions and the Rules and Regulations, or in the alternative, the Housing Department may exercise its option herein to purchase the Residential Unit. The following shall apply when the Housing Department determines there is a Nonqualified Transferee:
 - 1. The Housing Department shall provide the Nonqualified Transferee a reasonable period within which to qualify as a Qualified Household.
 - 2. If the Nonqualified Transferee does not qualify as a Qualified Household within such reasonable period, he or she shall cooperate with the Housing Department to effect the sale, conveyance or transfer of the Residential Unit to a Qualified Household and shall execute any and all documents necessary to such sale, conveyance or transfer.
 - 3. A Nonqualified Transferee shall comply with these Special Restrictions, the Rules and Regulations, the Declaration, zoning and all Laws governing the ownership, occupancy, use, development or transfer of the Residential Unit, and further may only occupy the Residential Unit with the prior written consent of the Housing Department.

SECTION 5. SALE OF A RESIDENTIAL UNIT. An owner desiring to sell a Residential Unit shall give written notice to the Housing Department of such desire (the "Notice to Sell"), and after receipt of such notice, the Housing Department shall determine the "Maximum Resale Price," as provided herein and in accordance with the Rules and Regulations. Upon the Housing Department's determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the procedure set forth in the Rules and Regulations, which procedure may include, without limitation: a fee (not to exceed two percent (2%)) of the Maximum Resale Price paid to the Housing Department for such facilitation; requirements regarding listing the Residential Unit with the Housing Department and/or a licensed real estate agent, as the Housing Department may direct; standard terms for the sales contract; and procedure for the selection of the purchaser (which selection procedure may include a weighted drawing process). Any such conveyance of a Residential Unit shall be subject to these Special Restrictions. Each purchaser of a Residential Unit shall execute a Buyer's Acknowledgment of Special Restrictions and Option, on a form to be provided by the Housing Department. Notwithstanding the foregoing, upon receipt of notice from an owner of such owner's desire to sell a Residential Unit, the Housing Department may purchase such Residential Unit. So long as such owner is not otherwise in default as defined herein, the purchase price in such case shall be the Maximum Resale Price as calculated below

and subject to adjustment as provided herein. If an owner is in default, other provisions of these Special Restrictions may apply in determining the purchase price.

SECTION 6. MAXIMUM RESALE PRICE. To further insert the Town of Jackson or Teton County, Wyoming's goal of providing affordable housing, a Residential Unit may not be sold for a purchase price in excess of the "Maximum Resale Price." The Maximum Resale Price is the current owner's purchase price plus an increase in price of the Denver-Boulder-Greeley CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or three percent (3%), whichever is lower per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Resale Price, the actual sales proceeds delivered to a selling owner may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department's sole and absolute discretion. Finally, to ensure that the sales price of any Residential Unit is limited to the Maximum Resale Price, no purchaser of a Residential Unit shall assume any obligation of a selling owner, nor shall such purchaser pay or provide to a selling owner any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Resale Price, as made by the Housing Department, shall be final and binding on all parties.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY THAT UPON THE RESALE OF A RESIDENTIAL UNIT, OWNER SHALL OBTAIN THE ENTIRE MAXIMUM RESALE PRICE.

SECTION 7. DEFAULT. Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. Failure to pay or default of any other obligations due or to be performed with respect to a Residential Unit which failure to pay or default could result in a lien against a Residential Unit, including without limitation, homeowner dues, property taxes, payment required by a promissory note or mortgage purporting to affect a Residential Unit. Owner shall notify the Housing Department in writing of any notification received from any lender or third party of past due payments or default in payment or other obligations due or to be performed within five (5) calendar days of Owner's notification.
- C. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially declared insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit or Owner's property by a court of competent jurisdiction.
- D. Fraud or misrepresentation by purchaser and/or Owner in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a designee of the Housing Department, shall send written notice to Owner of such violation, the required action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

SECTION 8. DEFAULT REMEDIES. In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, the Housing Department's remedies shall include, without limitation, as an exercise of its regulatory authority, the following:

A. Purchase Option.

1. The Housing Department shall have the option to purchase the Residential Unit for a purchase price equal to the Maximum Resale Price, or the appraised value whichever is less, subject to the Housing Department's ability to limit appreciation as provided in this Section ("Option") and further subject to the Housing Department's ability to reduce proceeds as provided above.
2. If the Housing Department desires to exercise its Option, the Housing Department shall provide written notice to the owner of such election. Such notice shall include the purchase price and the timing for the closing of the purchase. The Option must be exercised within ninety (90) days from receipt of a notification of a borrower Default or the property foreclosure.

B. Forced Sale. The Housing Department may require Owner to sell the Residential Unit in accordance with the resale procedures set forth in these Special Restrictions and the Rules and Regulations. Such sale shall be subject to these Special Restrictions.

C. Whether the Housing Department elects to exercise its Option or to force a sale in accordance herewith, all proceeds, unless otherwise required by statute, will be applied in the following order:

FIRST, to the payment of any unpaid taxes;

SECOND, to the payment of any Qualified Mortgage;

THIRD, to assessments, claims and liens on the Residential Unit (not including any mortgage or lien purportedly affecting the Residential Unit which is not a Qualified Mortgage);

FIFTH, any remaining proceeds shall be paid to Owner.

If there are insufficient proceeds to satisfy the foregoing, Owner shall remain personally liable for such deficiency.

D. Appointment of Housing Department as Owner's Attorney-in-Fact. In the event the Housing Department exercises its Option or requires the Forced Sale, Owner hereby irrevocably appoints the then-serving Housing Manager as such Owner's attorney-in-fact

to effect any such purchase or sale on Owner's behalf (including without limitation the right to cause an inspection of the Residential Unit and make such repairs to the Residential Unit as the Housing Department may reasonably deem necessary), and to execute any and all deeds of conveyance or other instruments necessary to fully effect such purchase or sale and conveyance.

- E. Limitation on Appreciation at Resale. The Housing Department may fix the Maximum Resale Price of a defaulting owner's Residential Unit to the Maximum Resale Price for the Residential Unit as of the date of an owner's Default (or as of such date after the Default as the Housing Department may determine), and in such event, the Maximum Resale Price shall cease thereafter to increase.
- F. Equitable Relief. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance. Any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or under the laws of the State of Wyoming.
- G. Enforcement. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, seek enforcement through the Town or County Land Development Regulations, including but not limited to Division 8.9 Enforcement.

SECTION 9. QUALIFIED MORTGAGE.

- A. Only a mortgage which is a "Qualified Mortgage" shall be permitted to encumber a Residential Unit. A "Qualified Mortgage" is a mortgage that:
 - 1. the principal amount of such mortgage at purchase does not exceed ninety-six and one half percent (96.5%) of the purchase price, and thereafter the principal amount of such mortgage, any refinanced mortgage and/or additional mortgages combined do not exceed ninety-five percent (95%) of the then current Maximum Resale Price as the same is determined by the Housing Department at the time or times any such mortgage purports to encumber the Residential Unit; and
 - 2. runs in favor of a "Qualified Mortgagee," defined as:
 - i. An "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision; or
 - ii. A "community loan fund", or similar non-profit lender to housing projects for income-eligible persons (e.g., is not given to or acquired by any individual person); or

- iii. A non-affiliated, legitimate, "finance company." In no event may such finance company be an individual or any company that is affiliated with or has any affiliation with Owner or any family member of Owner; or
 - iv. JHTCA or Housing Department for any monies advanced by JHTCA or Housing Department in connection with a mortgage or other debt with respect to Residential Unit.
- B. Any mortgage, lien or other encumbrance executed or recorded against a Residential Unit that is not a Qualified Mortgage shall:
- 1. be deemed unsecured; and
 - 2. only be a personal obligation of an owner and shall not affect or burden, and shall not be enforceable against, such Residential Unit.

Additionally, the execution or recordation of such mortgage, lien or other encumbrance shall be deemed a default hereunder and JTCHA and/or the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation the right of the Housing Department to purchase and to force a sale.

- C. In the event an owner fails to make timely payment owed or otherwise breaches any of the covenants or agreements made in connection with any mortgage, lien or other encumbrance purporting to affect the Residential Unit, including without limitation a Qualified Mortgage, fails to timely make any other payment required in connection with the Residential Unit, including without limitation homeowner association dues and fees, assessments, payments to contractors, materialmen, or other vendors for work undertaken for which a lien could be filed against the Residential Unit, the Housing Department shall have (in addition to the any other remedies) the right to:
- 1. Cure such default and assume the payments and other obligations of Owner. In such event, Owner shall be in default of these Special Restrictions, and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation its option to purchase and its right to force a sale. In addition to such remedies, Owner shall also be liable to the Housing Department for any amounts advanced.
 - 2. Acquire the loan from the lender by paying the balance due together with reasonable accrued interest and costs, and the Housing Department shall thereafter have the right to foreclose upon the Residential Unit in accordance with the mortgage and other loan documents or take such other action as the Housing Department shall determine.
 - 3. Purchase the Residential Unit at any foreclosure sale, and in such event, notwithstanding anything to the contrary herein, the Residential Unit shall remain subject to these Special Restrictions.

ANY LENDER BY ENTERING INTO A LOAN TRANSACTION WITH AN OWNER OF A RESIDENTIAL UNIT HEREBY CONSENTS TO THE FOREGOING AND ACKNOWLEDGES THAT ANY INTEREST ACQUIRED BY VIRTUE OF ITS LIEN OR MORTGAGE SHALL BE SUBJECT AND SUBORDINATE TO THESE SPECIAL RESTRICTIONS.

SECTION 10. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.

- A. Termination by insert the Town of Jackson or Teton County, Wyoming. These Special Restrictions may be terminated after a determination by insert the Town of Jackson or Teton County, Wyoming that these Special Restrictions are no longer consistent with the goal of providing affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the Land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and insert the Town of Jackson or Teton County, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors.

SECTION 11. SPECIAL RESTRICTIONS AS COVENANT. These Special Restrictions shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department and insert the Town of Jackson or Teton County.

SECTION 12. NOTICES. All notices required to be served upon the parties to this Special Restriction shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address in the manner provided for giving notice.

To Housing Department

Jackson/Teton County Affordable Housing Department
P.O. Box 714
Jackson, WY 83001

With a Copy to:

insert the Town of Jackson or Teton County.
insert the Town of Jackson or Teton County.
Jackson, WY 83001.

To Owner

SECTION 13. ATTORNEY'S FEES. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

SECTION 14. CHOICE OF LAW, FORUM, These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions.

SECTION 15. SEVERABILITY. Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

SECTION 16. SECTION HEADINGS. Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

SECTION 17. WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

SECTION 18. INDEMNIFICATION. Owner shall indemnify, defend, and hold the Housing Department and insert the Town of Jackson or Teton County, Wyoming, and each entity's directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for Owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and insert the Town of Jackson or Teton County, Wyoming.

SECTION 19. SUCCESSORS AND ASSIGNS. These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

SECTION 20. GOVERNMENTAL IMMUNITY. Neither insert the Town of Jackson or Teton County, Wyoming nor the Housing Department waives governmental immunity by executing these Special Restrictions and each specifically retain immunity and all defenses available to either of them as government pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

IN WITNESS WHEREOF, Owner has executed this instrument on the _____ day of _____, 20__ (the "Effective Date").

OWNER:

[Click here to enter entity.:](#)

Click here to enter text.

STATE OF Wyoming)
) ss.
COUNTY OF Teton)

On the Click here to enter day day of Click here to enter month, 20Click here to enter year, the foregoing Special Restrictions for Affordable Housing was acknowledged before me byClick here to enter Name of signer, as Click here to enter title of signer, of Click here to enter entity.

Witness my hand and official seal.

(Seal)

Notary Public

JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT

Insert name of Housing Manager, Housing Manager

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the [Click here to enter day.](#) day of [Click here to enter month.](#), 20[Click here to enter year](#), the foregoing Special Restrictions for Affordable Housing was acknowledged before me by insert name of Housing Manager as Housing Manager.

Witness my hand and official seal.

(Seal)

Notary Public

AFFIRMED

INSERT TOWN OF JACKSON OR TETON COUNTY BOARD OF COUNTY COMMISSIONERS:

[Click here to enter name of Mayor or Chair.](#), insert Mayor or Chair

ATTEST

[Click here to enter name of Clerk](#), insert Town Clerk or County Clerk

COMPLETE AMENDMENT AND RESTATEMENT
Special Restrictions
for Affordable Ownership Housing
Located at **Insert property address insert Town of Jackson or Teton County**

This Complete Amendment and Restatement of the insert name of old restriction recorded in the Office of the Teton County Clerk as document number insert doc number of old rest. book of photo insert book number of old rest. pages insert page numbers of old rest. for insert property address is made this Insert day _____ Day of insert month _____, 20__ (the "Effective Date"), by insert name appropriate party from previous restriction and the undersigned owner ("Owner") ("Special Restrictions").

RECITALS:

WHEREAS, the undersigned Owner holds fee ownership interest in that certain real property, known as insert property address insert Town of Jackson or Teton County, Wyoming, and more specifically described as follows:

Click here to enter Legal Description

PIDN:Click here to enter PIN. (the "Land");

WHEREAS, in furtherance of insert the Town of Jackson or Teton County, Wyoming's goal of providing affordable housing to qualified Teton County residents who will occupy the housing as their primary residence, and as a condition of its Final Development Plan Approval forClick here to enter name of development and FDP #.) (the "Approval"), Owner was required to Click here to enter how many units are being provided. provide:

Click here to enter description of unit, income range, and location.

The Income Ranges are defined in the Jackson/Teton County Housing Department Rules and Regulations enforced by the Housing Department, such Rules and Regulations are defined in Section 1 below;

WHEREAS, in furtherance of the goals, objectives, requirements and conditions of the insert approval type. FDP, CUP, or other Approval, Owner was required to restrict the initial and all subsequent sales and transfers of each Residential Unit, defined below, to a "Qualified Household";

WHEREAS, consistent with the foregoing, the Property is subject to those certain insert name of old restriction recorded insert date of recording of old rest. as Document number insert doc. number of old restriction in book of photo insert book no. pages insert page numbers (the "insert year of recording Special Restrictions");

WHEREAS, in accordance with Section insert section number of the insert recording year Special Restrictions, the Special Restrictions may be modified with the written consent of insert who can consent .

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners voted to amend their 1990 Resolution creating the Teton County Housing Authority (“TCHA”) and further amend the 1999 Resolution, to form a regional Housing Authority pursuant to Wyoming Statute §15-10-116(b) with the County of Teton and the Town of Jackson forming the regional housing authority known as the Jackson/Teton County Housing Authority (“JTCHA”), making the JTCHA the successor in interest to all deeds, documents, leases, and contracts of TCHA;

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department (“Housing Department”) who will be employees of Teton County and agents acting on behalf of the JTCHA;

WHEREAS, in accordance with such Section insert section number of the insert year of recording of old rest. Special Restrictions, and consistent with the foregoing Recitals, JTCHA and the undersigned Owner now desire to amend, restate and replace in their entirety with respect to the Residential Unit and Land the insert year of recording old rest. Special Restrictions by adopting these Complete Amended and insert name of this new restriction (“Special Restrictions”);

WHEREAS, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to W.S. §15-10-116, as amended, and its successors or assigns, the Jackson/Teton County Affordable Housing Department (collectively “Housing Department”) and insert the Town of Jackson or Teton County, Wyoming.

RESTRICTIONS:

NOW, THEREFORE, in satisfaction of the conditions in and consideration of the insert approval type Approval and in further consideration of the foregoing Recitals, which are incorporated herein by this reference, undersigned Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Unit, that the Land and each Residential Unit shall be held, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT HOUSING RULES AND REGULATIONS. References made herein to the “Rules and Regulations” are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended from time to time and which policies, procedures and guidelines are on file with the Housing Department or otherwise with insert the Town of Jackson or Teton County, Wyoming, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

SECTION 2. OWNERSHIP BY QUALIFIED HOUSEHOLD ONLY.

- A. Qualified Household. The ownership, use and occupancy of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household for Affordable Housing, as set forth below (“Qualified Household”).
1. Employment Requirement. At least one (1) member of the Qualified Household at time of purchase and during ownership must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A “local business” means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the business serves clients or customers who are physically located in Teton County, Wyoming.
 2. Income Restriction. The Qualified Household’s gross income shall fall between [Click here to enter income range](#). of the median family income in Teton County, Wyoming, as determined by the current year’s published Federal Department of Housing & Urban Development median family income chart for Teton County, Wyoming (“Income Cap”) at time of purchase.
 3. No Teton County Residential Real Estate. No member of the Qualified Household may own (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at the time of purchase or any time during ownership of the Residential Unit.
 4. Determination by the Housing Department. The Housing Department shall determine whether a prospective owner is a Qualified Household. In addition to any requirements set forth in the Rules and Regulations, such determinations shall be based upon written applications, representations, information and verification as are deemed by the Housing Department to be necessary to establish and substantiate eligibility.
 5. Asset Limit. The maximum asset limit for Qualified Households is two (2) times the income limit for a household size of four in accordance with the applicable income range, as further defined and clarified in the Housing Rules and Regulations.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against insert the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with insert the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall insert the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of insert the Town of Jackson or Teton County, Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.
- C. Ownership by Housing Department. Notwithstanding the foregoing, the Housing Department may purchase and own the Residential Unit

SECTION 3. RESTRICTIONS ON OCCUPANCY, IMPROVEMENT AND USE OF RESIDENTIAL UNITS.

In addition to any restrictions included in the Rules and Regulations, occupancy and use of a Residential Unit shall be restricted as follows:

- A. Occupancy. Each Residential Unit shall be occupied as the Qualified Household's sole and exclusive primary residence, and each owner of a Residential Unit shall physically reside therein on a full-time basis, at least ten (10) months out of each calendar year. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit.
- B. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.
- C. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of thirty (30) cumulative days per calendar year.
- D. Renting. No Residential Unit, or any part thereof, including without limitation, the garage, any portion of any structure, or any room within any structure, may be rented or otherwise occupied by persons other than the members of the Qualified Household.
- E. Maintenance. The owner shall take good care of the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association and shall make all repairs and maintain the Residential Unit in a safe, sound, habitable, and good condition and state of repair. In case of damage to the Residential Unit, the owner shall repair the damage or replace or restore any destroyed parts of the Residential Unit, as speedily as practical.
- F. Capital Improvements. The Owner may only undertake capital improvements to the Residential Unit in accordance with the policies set forth in the Rules and Regulations, which policies may include but are not limited to, a limitation on the valuation of such improvements at resale, requirements regarding the advance written approval of such improvements, and documentation of proposed and completed improvements.
- G. Insurance. The owner shall keep the Residential Unit continuously insured against "all risks" of physical loss (not otherwise covered by a homeowner's association insurance), for the full replacement value of the Residential Unit.
- H. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all supplements and amendments thereto, and any other rules and regulations of any applicable homeowner's association, as the same may be adopted from time to time.
- I. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, the Rules and Regulations and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, development or transfer of a Residential

Unit, each owner shall comply, and shall cause all occupants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.

SECTION 4. TRANSFER LIMITATIONS. Each Residential Unit may only be sold in accordance with Sections 5 and 6 below or transferred in accordance herewith as follows:

- A. Divorce. In the event of the divorce of an owner, the Housing Department may consent to the transfer of a Residential Unit to a spouse of an owner, which spouse may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- B. Death. In the event of the death of an owner, the Housing Department may consent to the transfer of a Residential Unit to an heir or devisee of such deceased owner, which heir or devisee may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- C. Nonqualified Transferee. If title to a Residential Unit vests in a Nonqualified Transferee, as defined in the Rules and Regulations, the Residential Unit shall immediately be listed for sale in accordance with these Special Restrictions and the Rules and Regulations, or in the alternative, the Housing Department may exercise its option herein to purchase the Residential Unit. The following shall apply when the Housing Department determines there is a Nonqualified Transferee:
 - 1. The Housing Department shall provide the Nonqualified Transferee a reasonable period within which to qualify as a Qualified Household.
 - 2. If the Nonqualified Transferee does not qualify as a Qualified Household within such reasonable period, he or she shall cooperate with the Housing Department to effect the sale, conveyance or transfer of the Residential Unit to a Qualified Household and shall execute any and all documents necessary to such sale, conveyance or transfer.
 - 3. A Nonqualified Transferee shall comply with these Special Restrictions, the Rules and Regulations, the Declaration, zoning and all Laws governing the ownership, occupancy, use, development or transfer of the Residential Unit, and further may only occupy the Residential Unit with the prior written consent of the Housing Department.

SECTION 5. SALE OF A RESIDENTIAL UNIT. An owner desiring to sell a Residential Unit shall give written notice to the Housing Department of such desire (the “Notice to Sell”), and after receipt of such notice, the Housing Department shall determine the “Maximum Resale Price,” as provided herein and in accordance with the Rules and Regulations. Upon the Housing Department’s determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the procedure set forth in the Rules and Regulations, which procedure may include, without limitation: a fee (not to exceed

two percent (2%)) of the Maximum Resale Price paid to the Housing Department for such facilitation; requirements regarding listing the Residential Unit with the Housing Department and/or a licensed real estate agent, as the Housing Department may direct; standard terms for the sales contract; and procedure for the selection of the purchaser (which selection procedure may include a weighted drawing process). Any such conveyance of a Residential Unit shall be subject to these Special Restrictions. Each purchaser of a Residential Unit shall execute a Buyer's Acknowledgment of Special Restrictions and Option, on a form to be provided by the Housing Department. Notwithstanding the foregoing, upon receipt of notice from an owner of such owner's desire to sell a Residential Unit, the Housing Department may purchase such Residential Unit. So long as such owner is not otherwise in default as defined herein, the purchase price in such case shall be the Maximum Resale Price as calculated below and subject to adjustment as provided herein. If an owner is in default, other provisions of these Special Restrictions may apply in determining the purchase price.

SECTION 6. MAXIMUM RESALE PRICE. To further insert the Town of Jackson or Teton County, Wyoming's goal of providing affordable housing, a Residential Unit may not be sold for a purchase price in excess of the "Maximum Resale Price." The Maximum Resale Price is the current owner's purchase price plus an increase in price of the Denver-Boulder-Greeley CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or three percent (3%), whichever is lower per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Resale Price, the actual sales proceeds delivered to a selling owner may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department's sole and absolute discretion. Finally, to ensure that the sales price of any Residential Unit is limited to the Maximum Resale Price, no purchaser of a Residential Unit shall assume any obligation of a selling owner, nor shall such purchaser pay or provide to a selling owner any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Resale Price, as made by the Housing Department, shall be final and binding on all parties.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY THAT UPON THE RESALE OF A RESIDENTIAL UNIT, OWNER SHALL OBTAIN THE ENTIRE MAXIMUM RESALE PRICE.

SECTION 7. DEFAULT. Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. Failure to pay or default of any other obligations due or to be performed with respect to a Residential Unit which failure to pay or default could result in a lien against a Residential Unit, including without limitation, homeowner dues, property taxes, payment required by a promissory note or mortgage purporting to affect a Residential Unit. Owner shall notify the Housing Department in writing of any notification received from any lender or

third party of past due payments or default in payment or other obligations due or to be performed within five (5) calendar days of Owner's notification.

- C. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially declared insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit or Owner's property by a court of competent jurisdiction.
- D. Fraud or misrepresentation by purchaser and/or Owner in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a designee of the Housing Department, shall send written notice to Owner of such violation, the required action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

SECTION 8. DEFAULT REMEDIES. In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, the Housing Department's remedies shall include without limitation, as an exercise of its regulatory authority, the following:

- A. Purchase Option.
 - 1. The Housing Department shall have the option to purchase the Residential Unit for a purchase price equal to the Maximum Resale Price, or the appraised value whichever is less, subject to the Housing Department's ability to limit appreciation as provided in this Section ("Option") and further subject to the Housing Department's ability to reduce proceeds as provided above.
 - 2. If the Housing Department desires to exercise its Option, the Housing Department shall provide written notice to the owner of such election. Such notice shall include the purchase price and the timing for the closing of the purchase. The Option must be exercised within ninety (90) days from receipt of a notification of borrower Default or the property foreclosure.
- B. Forced Sale. The Housing Department may require Owner to sell the Residential Unit in accordance with the resale procedures set forth in these Special Restrictions and the Rules and Regulations. Such sale shall be subject to these Special Restrictions.
- C. Whether the Housing Department elects to exercise its Option or to force a sale in accordance herewith, all proceeds, unless otherwise required by statute, will be applied in the following order:

FIRST, to the payment of any unpaid taxes;

SECOND, to the payment of any Qualified Mortgage;

THIRD, to assessments, claims and liens on the Residential Unit (not including any mortgage or lien purportedly affecting the Residential Unit which is not a Qualified Mortgage); and,

FOURTH, to the payment of the closing costs and fees; and,

FIFTH, any remaining proceeds shall be paid to Owner.

If there are insufficient proceeds to satisfy the foregoing, Owner shall remain personally liable for such deficiency.

- D. Appointment of Housing Department as Owner's Attorney-in-Fact. In the event the Housing Department exercises its Option or requires the Forced Sale, Owner hereby irrevocably appoints the then-serving Housing Manager as such Owner's attorney-in-fact to effect any such purchase or sale on Owner's behalf (including without limitation the right to cause an inspection of the Residential Unit and make such repairs to the Residential Unit as the Housing Department may reasonably deem necessary), and to execute any and all deeds of conveyance or other instruments necessary to fully effect such purchase or sale and conveyance.
- E. Limitation on Appreciation at Resale. The Housing Department may fix the Maximum Resale Price of a defaulting owner's Residential Unit to the Maximum Resale Price for the Residential Unit as of the date of an owner's Default (or as of such date after the Default as the Housing Department may determine), and in such event, the Maximum Resale Price shall cease thereafter to increase.
- F. Equitable Relief. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance. Any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or under the laws of the State of Wyoming.
- G. Enforcement. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, seek enforcement through the Town or County Land Development Regulations, including but not limited to Division 8.9 Enforcement.

SECTION 9. QUALIFIED MORTGAGE.

- A. Only a mortgage which is a "Qualified Mortgage" shall be permitted to encumber a Residential Unit. A "Qualified Mortgage" is a mortgage that:
 - 1. the principal amount of such mortgage at purchase does not exceed ninety-six and one half percent (96.5%) of the purchase price, and thereafter the principal amount of such mortgage, any refinanced mortgage and/or additional mortgages combined do not exceed ninety-five percent (95%) of the then current Maximum

Resale Price as the same is determined by the Housing Department at the time or times any such mortgage purports to encumber the Residential Unit; and

2. runs in favor of a "Qualified Mortgagee," defined as:

- i. An "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision; or
- ii. A "community loan fund", or similar non-profit lender to housing projects for income-eligible persons (e.g., is not given to or acquired by any individual person); or
- iii. A non-affiliated, legitimate, "finance company." In no event may such finance company be an individual or any company that is affiliated with or has any affiliation with Owner or any family member of Owner; or
- iv. JHTCA or Housing Department for any monies advanced by JHTCA or Housing Department in connection with a mortgage or other debt with respect to Residential Unit.

B. Any mortgage, lien or other encumbrance executed or recorded against a Residential Unit that is not a Qualified Mortgage shall:

1. be deemed unsecured; and
2. only be a personal obligation of an owner and shall not affect or burden, and shall not be enforceable against, such Residential Unit.

Additionally, the execution or recordation of such mortgage, lien or other encumbrance shall be deemed a default hereunder and JTCHA and/or the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation the right of the Housing Department to purchase and to force a sale.

C. In the event an owner fails to make timely payment owed or otherwise breaches any of the covenants or agreements made in connection with any mortgage, lien or other encumbrance purporting to affect the Residential Unit, including without limitation a Qualified Mortgage, fails to timely make any other payment required in connection with the Residential Unit, including without limitation homeowner association dues and fees, assessments, payments to contractors, materialmen, or other vendors for work undertaken for which a lien could be filed against the Residential Unit, the Housing Department shall have (in addition to the any other remedies) the right to:

1. Cure such default and assume the payments and other obligations of Owner. In such event, Owner shall be in default of these Special Restrictions, and the Housing Department may exercise any and all of its remedies hereunder or

otherwise, including without limitation its option to purchase and its right to force a sale. In addition to such remedies, Owner shall also be liable to the Housing Department for any amounts advanced.

2. Acquire the loan from the lender by paying the balance due together with reasonable accrued interest and costs, and the Housing Department shall thereafter have the right to foreclose upon the Residential Unit in accordance with the mortgage and other loan documents or take such other action as the Housing Department shall determine.
3. Purchase the Residential Unit at any foreclosure sale, and in such event, notwithstanding anything to the contrary herein, the Residential Unit shall remain subject to these Special Restrictions.

ANY LENDER BY ENTERING INTO A LOAN TRANSACTION WITH AN OWNER OF A RESIDENTIAL UNIT HEREBY CONSENTS TO THE FOREGOING AND ACKNOWLEDGES THAT ANY INTEREST ACQUIRED BY VIRTUE OF ITS LIEN OR MORTGAGE SHALL BE SUBJECT AND SUBORDINATE TO THESE SPECIAL RESTRICTIONS.

SECTION 10. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.

- A. Termination by insert the Town of Jackson or Teton County, Wyoming. These Special Restrictions may be terminated after a determination by insert the Town of Jackson or Teton County, Wyoming that these Special Restrictions are no longer consistent with the goal of providing affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the Land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and insert the Town of Jackson or Teton County, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors.

SECTION 11. SPECIAL RESTRICTIONS AS COVENANT. These Special Restrictions shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department and insert the Town of Jackson or Teton County.

SECTION 12. NOTICES. All notices required to be served upon the parties to this Special Restriction shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being

deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address in the manner provided for giving notice.

To Housing Department

Jackson/Teton County Affordable Housing Department
P.O. Box 714
Jackson, WY 83001

With a Copy to:

insert the Town of Jackson or Teton County.
insert the Town of Jackson or Teton County.
Jackson, WY 83001.

To Owner

SECTION 13. ATTORNEY'S FEES. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

SECTION 14. CHOICE OF LAW, FORUM, These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions.

SECTION 15. SEVERABILITY. Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

SECTION 16. SECTION HEADINGS. Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

SECTION 17. WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

SECTION 18. INDEMNIFICATION. Owner shall indemnify, defend, and hold the Housing Department and insert the Town of Jackson or Teton County, Wyoming, and each entity's directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for Owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and insert the Town of Jackson or Teton County, Wyoming.

SECTION 19. SUCCESSORS AND ASSIGNS. These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

SECTION 20. GOVERNMENTAL IMMUNITY. Neither insert the Town of Jackson or Teton County, Wyoming nor the Housing Department waives governmental immunity by executing these Special Restrictions and each specifically retain immunity and all defenses available to either of them as government pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

IN WITNESS WHEREOF, Owner has executed this instrument on the _____ day of _____, 20__ (the "Effective Date").

OWNER:

Click here to enter entity.:

Click here to enter text.

STATE OF Wyoming)
) ss.
COUNTY OF Teton)

On the Click here to enter day day of Click here to enter month, 20Click here to enter year, the foregoing Special Restrictions for Affordable Housing was acknowledged before me byClick here to enter Name of signer, as Click here to enter title of signer, of Click here to enter entity.

Witness my hand and official seal.

(Seal)

Notary Public

JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT

Insert name of Housing Manager, Housing Manager

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the [Click here to enter day.](#) day of [Click here to enter month.](#), 20[Click here to enter year.](#), the foregoing Special Restrictions for Affordable Housing was acknowledged before me by insert name of Housing Manager as Housing Manager.

Witness my hand and official seal.

(Seal)

Notary Public

AFFIRMED

INSERT TOWN OF JACKSON OR TETON COUNTY BOARD OF COUNTY COMMISSIONERS:

[Click here to enter name of Mayor or Chair.](#), insert Mayor or Chair

ATTEST

[Click here to enter name of Clerk.](#), insert Town Clerk or County Clerk

**Special Restrictions
for Affordable Rental Housing
Located at Type Address, insert The Town of Jackson or Teton County**

These Special Restrictions for Affordable Rental Housing ("Special Restrictions"), are made and entered into this _____ day of _____, 20__, by the undersigned Owner ("Owner") and insert the Town of Jackson or Teton County, Wyoming.

RECITALS:

WHEREAS, Owner holds fee ownership interest in that certain real property, located in insert the Town of Jackson or Teton County Wyoming, and more specifically described as follows:

Click here to add legal description of property.

PIDN: Click here to type PIDN # ("Land")

WHEREAS, as a condition of its approval for permit #Click here to enter Permit #. ("Approval"), Owner was required to provide and restrict as follows:

Owner developed property addressed as _____, _____, Wyoming 830__ for a _____ square foot retail/service/office/residential/etc. building. This development generated the obligation to provide Affordable Rental Housing in accordance with _____ Approval. Owner is restricting:

- *Unit _____, with _____ number of bedrooms with Income Range_____.*
- *Unit _____, with _____ number of bedrooms with Income Range_____.*
- *Unit _____, with _____ number of bedrooms with Income Range_____.*

(hereinafter "Residential Unit" or Residential Unit Complex").

The Income Ranges are defined in the Jackson/Teton County Housing Department Rules and Regulations enforced by the Jackson/Teton County Affordable Housing Department, such Rules and Regulations are defined in Section 1 below;

WHEREAS, in accordance with the _____ Approval, the Residential Unit is intended to address the need for rental housing for employees in Teton County, Wyoming and therefore Owner agrees it will not be owner-occupied;

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners resolved to form the Jackson/Teton County Housing Authority, a duly constituted housing authority

pursuant to W.S. §15-10-116, as amended, and its successors or assigns, known as the Jackson/Teton County Housing Authority ("JTCHA");

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department ("Housing Department") who are employees of Teton County and agents acting on behalf of the JTCHA, empowered to enforce this Special Restriction;

WHEREAS, in furtherance of the goals, objectives, requirements and conditions of insert approval type (FDP, CUP, etc.) Approval, and consistent with the insert the Town of Jackson or Teton County's goal of providing decent, safe and sanitary housing to qualified employees working in Teton County, Wyoming, that is affordable, Owner agrees to restrict the use and occupancy of the Residential Unit to a "Qualified Household," which meets employment, income and asset ownership qualifications as set forth herein and as further defined in the Jackson/Teton County Housing Department Rules and Regulations;

WHEREAS, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by Housing Department and insert the Town of Jackson or Teton County, Wyoming.

RESTRICTIONS:

NOW, THEREFORE, in satisfaction of the insert approval type (FDP, CUP, etc) Approval, and in further consideration of the foregoing Recitals, which are incorporated herein by this reference, Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Unit, that the Land and each Residential Unit shall be held, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT RULES AND REGULATIONS. References made herein to the "Rules and Regulations" are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended, modified, or updated from time to time and which policies, procedures, and guidelines are on file with the Housing Department or otherwise with insert the Town of Jackson or Teton County, Wyoming, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

SECTION 2. RESTRICTIONS ON OCCUPANCY AND USE OF RESIDENTIAL UNIT. In addition to any restrictions included in the current Housing Rules and Regulations, occupancy and use of the Residential Unit shall be restricted as follows:

- A. Qualified Household. The rental, use and occupancy of the Residential Unit shall be limited to a Qualified Household, as set forth below ("Qualified Household"):
1. Employment Requirement. At least one (1) member of the Qualified Household must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A "local business" means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the business serves clients or customers who are physically located in Teton County, Wyoming.
 2. Income Restriction. The Qualified Household's gross income shall fall between [Click here to enter income range.](#) of the median family income in Teton County, Wyoming, as determined by the current year's published Federal Department of Housing & Urban Development median family income chart for Teton County, Wyoming ("Income Cap").
 3. No Teton County Residential Real Estate. No member of the Qualified Household may own (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at any time during occupancy of the Residential Unit.
 4. Initial Determination by Owner. Owner shall require each prospective renter of a Residential Unit to provide information sufficient to show eligibility as a Qualified Household under the Affordable Housing Program pursuant to the requirements of this restriction and the Housing Rules and Regulations. The determination shall be based upon written applications, representations, information and verifications, including at a minimum, a W-2 for each adult renter or other IRS filing showing source of earnings, a signed and sworn statement regarding ownership of other real estate and a list of current employer(s), hours worked as well as contact information for each employer(s) and other such information reasonably requested by the Housing Department to verify and substantiate as a Qualified Household.
 5. Continuing Obligation to Remain a Qualified Household. The occupants of the Residential Unit shall satisfy the definition of a Qualified Household at all times during the occupancy of the Residential Unit.
 6. Occupancy. Each Residential Unit shall be occupied as the Qualified Household's sole and exclusive primary residence, and each tenant of a Residential Unit shall physically reside therein on a full-time basis, at least eighty percent (80%) of the

term of the lease. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit.

7. Reporting Requirement – Housing Department Determination. Owner shall, by January 31 of each year, provide to the Housing Department a summary of the eligibility verification information contained above for each occupant of a Residential Unit as set forth on the Housing Department Template that will be provided to Owner. Upon written request by the Housing Department for supporting documentation, Owner shall provide the same within fifteen (15) business days of receipt of such written request. Additionally, Owner shall, by January 31 of each year, provide the Housing Department with its most current lease form for Residential Units. Each Residential Unit Lease must state, and it is a material consideration of this restriction, that the Housing Department has the ultimate and final authority to determine eligibility of households renting Residential Units. If the Housing Department, upon review of supporting documentation determines that an occupant of a Residential Unit does not qualify as a Qualified Household, the Housing Department shall have the authority to require the Owner to terminate the lease between Owner and the occupant of a Residential Unit pursuant to Sections 4 & 5 below.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against insert the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with insert the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall insert the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of insert the Town of Jackson or Teton County, Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.
- C. No Owner Occupancy. Owner shall not reside in or occupy the Residential Unit. For purposes of this paragraph, if Owner is an entity (including without limitation, a partnership, limited partnership, Limited Liability Company, corporation, association, or other) or a trust, this prohibition on owner-occupancy shall extend to any partner, member, shareholder, other principal or owner of the entity, and any trustee or beneficiary of the trust.
- D. Household Composition. Only members of the Qualified Household may occupy a Residential Unit, except that Owner may restrict who may reside in a Residential Unit, provided that such owner-restriction does not violate Federal or state fair housing laws. Notwithstanding the foregoing, occupancy of the Residential Unit shall be in compliance with any and all building codes (or other relevant law, code, statute, ordinance or the like) regarding maximum occupancy standards or limitations.

- E. Written Lease Requirement. Occupancy of the Residential Unit shall be pursuant to a written lease, the form of which may be approved by Housing Department as it may require. Owner of the Residential Unit shall obtain written verification of income, asset ownership, and employment in Teton County, Wyoming for each Qualified Household proposing to rent the Residential Unit prior to such Household's occupancy, and upon each extension or renewal of any lease therefore.
- F. Rental Term. The Residential Unit shall be offered for rent in periods of not less than six (6) months.
- G. Rental Rate. The household size used to determine the median family income is based on one (1) person per bedroom. A studio Residential Unit's maximum rent will be fifteen percent (15%) less than the maximum rental rate for a one-bedroom Residential Unit. The maximum Rental Rate that may be charged for the Unit is variable annually based on the Housing and Urban Development Department's Median Family Income standard for Teton County, Wyoming. The Housing Department will calculate the maximum Rental Rate every year for the Unit after the Housing and Urban Development Department issues the Median Family Income for Teton County, Wyoming in the following manner: The maximum monthly rental rate for [insert median family income range] is: [insert the current year's low end of the median family income range] multiply by [thirty percent (30%) and divide by twelve (12) = _____]. The rent charged must include basic utilities (electric, gas, water, sewer) and trash removal. Notwithstanding the foregoing to the contrary, the rental rate charged by Owner may at any time be less than the maximum rent calculation.
- H. Rental Unit: Except as provided herein, the Residential Unit shall remain a rental unit for Qualified Households.
- I. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of ten percent (10%) of the Rental Term in cumulative days per calendar year.
- J. Vacancies. The Residential Unit may be vacant intermittently between tenancies to allow for proper advertisement and verification for Qualified Households and reasonable maintenance. However, a Residential Unit shall not be vacant for a period greater than sixty (60) days, unless authorized by the Housing Department. If any Residential Unit remains vacant for more than sixty (60) days without approval, the Housing Department has the right, but not the obligation, to identify a Qualified Household to rent the Residential Unit.
- K. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.

- L. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all supplements and amendments thereto, and any other rules and regulations of any applicable homeowner's association, as the same may be adopted from time to time.
- M. Insurance. Owner shall keep the Residential Unit continuously insured against "all risks" of physical loss (not otherwise covered by a homeowner's association insurance), for the full replacement value of the Residential Unit.
- N. Maintenance. Owner shall be responsible for the cost and expense to keep and maintain the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association in a safe, decent and sanitary condition. In the event Owner fails to maintain the Residential Unit in a safe, decent and sanitary condition and such condition continues for fourteen (14) days after notice from the Housing Department, the Housing Department shall have the right but not the obligation to enter the Residential Unit and repair such condition and Owner shall reimburse Housing Department for such reasonable repair costs. Payment to Housing Department from Owner shall be due upon receipt of invoice.
- O. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, each owner shall comply, and cause its tenants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to Owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.
- P. Preference. Owner may give first-priority to rent the Residential Unit to Qualified Households of which a member of the Household is an employee of Owner. In the event there are no persons directly employed by Owner to whom Owner desires to rent the Residential Unit, then Owner may rent to any Qualified Household.

SECTION 3. SALE OF THE RESIDENTIAL UNIT COMPLEX. The Residential Unit Complex may be bought and sold as Owner may determine except that all reporting and record-keeping required herein shall be continuous and any new owner shall obtain the required records from the prior owner. Any such conveyance of a Residential Unit Complex shall be subject to these Special Restrictions. Within ten (10) days prior to the closing of the sale or other transfer of the Complex, Owner shall notify the Housing Department of the pending sale or transfer and, prior to closing, provide the Housing Department with contact information (including without limitation, mailing address, phone number and email) for the new owner.

SECTION 4. DEFAULT. Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. A violation of any term of these Special Restrictions or any laws affecting the Residential Unit.
- C. Vacancy of a Residential Unit for more than sixty (60) days continuously.
- D. Fraud or misrepresentation by Owner and/or occupant in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.
- E. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit or Owner's property by a court of competent jurisdiction.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a Designee of the Housing Department shall send written notice to Owner of such violation, the required action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

SECTION 5. DEFAULT REMEDIES. In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, after notice and opportunity to cure as set forth in the preceding section, the Housing Department's remedies shall include, without limitation, as an exercise of its regulatory authority, the following:

- A. Specific Performance. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations, and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance.
- B. Equitable Relief. In addition to subsection A, any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or any other action authorized under the laws of the State of Wyoming.
- C. Revocation. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, revoke or seek revocation of Permit # _____ or any other authorization of development, use or occupancy of the Residential Unit Complex

SECTION 6. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.

- A. Termination. These Special Restrictions may be terminated after a determination by the insert the Town of Jackson or Teton County, Wyoming that these Special Restrictions are no longer consistent with the insert the Town of Jackson or Teton County, Wyoming goals for affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the Land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and insert the Town of Jackson or Teton County, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors.

SECTION 7. SPECIAL RESTRICTIONS AS COVENANT. These Special Restrictions shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department and insert the Town of Jackson or Teton County. These Special Restrictions shall be prior and superior to any mortgage or lien interest encumbering the Land and/or Residential Unit Complex.

SECTION 8. NOTICES. All notices required to be served upon the parties to this Special Restriction shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address and/or owner and/or other contact information in the manner provided for giving notice.

To Housing Department

Jackson/Teton County Affordable Housing Department
P.O. Box 714
Jackson, WY 83001

With a Copy to:

insert the Town of Jackson or Teton County.
insert the Town of Jackson or Teton County.
Jackson, WY 83001.

To Owner

SECTION 9. ATTORNEY'S FEES. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

SECTION 10. CHOICE OF LAW, FORUM. These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions

SECTION 11. SEVERABILITY. Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

SECTION 12. SECTION HEADINGS. Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

SECTION 13. WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

SECTION 14. INDEMNIFICATION. Owner shall indemnify, defend, and hold the Housing Department and insert the Town of Jackson or Teton County, and its directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for an owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and insert the Town of Jackson or Teton County.

SECTION 15. SUCCESSORS AND ASSIGNS. These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

SECTION 16. GOVERNMENTAL IMMUNITY. Neither insert the Town of Jackson or Teton County, JTCHA, nor the Housing Department waive governmental immunity by executing these Special Restrictions and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

IN WITNESS WHEREOF, Owner has executed this instrument on the _____ day of _____, 20____ (the "Effective Date").

OWNER:

Click here to enter name of LLC or other entity.

Click here to enter Name and Title of authorized signer.

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _____ day of _____, 20____, the foregoing Special Restrictions for Employee Housing was acknowledged before me by Click here to enter Name of signer.as Click here to enter title of signer.ofClick here to enter name of entity..

Witness my hand and official seal.

(Seal)

Notary Public

INSERT THE TOWN OF JACKSON OR TETON COUNTY:

Insert name of Mayor or Chair, insert Mayor or Chair

ATTEST:

Insert name of Town or County Clerk, insert Town Clerk or County Clerk

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _____ day of _____, 20__, the foregoing instrument was acknowledged before me by insert name of Mayor or Chair as insert Mayor or Chair of insert the Town of Jackson or Teton County Board of County Commissioners, Wyoming.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT:

Insert name of Housing Manager, Housing Manager

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the ____ day of _____, 20__, the foregoing instrument was acknowledged before me by [Click here to enter name of Housing Manager.](#), as Housing Manager of the Jackson/The Town of Jackson Affordable Housing Department.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

**Special Restrictions
For Workforce Ownership Housing
Located at**

**Insert property address insert Town of Jackson or Teton County,
Wyoming**

These Special Restrictions for Workforce Ownership Housing ("Special Restrictions") are made this ____ day of _____, 20__ (the "Effective Date"), by the undersigned Owner ("Owner") and insert the Town of Jackson or Teton County, Wyoming.

RECITALS:

WHEREAS, Owner holds fee ownership interest in that certain real property, located in insert the Town of Jackson or Teton County, Wyoming, and more specifically described as follows:

Insert legal description of property

PIDN: insert PIDN number ("Land")

WHEREAS, as a condition of its approval for permit #Click here to enter Permit #. ("_____Approval"), Owner was required to provide and restrict as follows:

Owner developed property addressed as _____, _____, Wyoming 830__ for a _____square foot retail/service/office/residential/etc. building. This development generated the obligation to provide Workforce Ownership Housing in accordance with _____ Approval. Owner is restricting:

- Unit _____, with _____ number of bedrooms.
- Unit _____, with _____ number of bedrooms.
- Unit _____, with _____ number of bedrooms.

(hereinafter "Residential Unit" or Residential Units").

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners resolved to form the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to W.S. §15-10-116, as amended, and its successors or assigns, known as the Jackson/Teton County Housing Authority ("JTCHA");

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department ("Housing Department") who are employees of Teton County and agents acting on behalf of the JTCHA, empowered to enforce this Special Restriction;

WHEREAS, in furtherance of the goals, objectives, requirements and conditions of insert approval type (FDP, CUP, etc.) Approval, and consistent with the insert the Town of Jackson or Teton County's goal of providing decent, safe and sanitary housing to qualified employees working in Teton County, Wyoming, that is affordable, Owner agrees to restrict the use and occupancy of the

Residential Unit to a “Qualified Household,” which meets employment, income and asset ownership qualifications as set forth herein and as further defined in the Jackson/Teton County Housing Department Rules and Regulations;

WHEREAS, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by Housing Department and insert the Town of Jackson or Teton County, Wyoming;

RESTRICTIONS:

NOW THEREFORE, in satisfaction of the conditions in the [Click here to enter approval type \(FDP, CUP or other\)](#) Approval, and in further consideration of the foregoing Recitals, which are by this reference incorporated herein, Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Unit, that the Land and each Residential Unit shall be owned, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT RULES AND REGULATIONS. References made herein to the “Rules and Regulations” are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended, modified, or updated from time to time and which policies, procedures and guidelines are on file with the Housing Department or otherwise with insert the Town of Jackson or Teton County, Wyoming, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

SECTION 2. OWNERSHIP BY QUALIFIED HOUSEHOLD.

- A. Qualified Household. The ownership, use and occupancy of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household for Workforce Housing, as set forth below and as may be further detailed in the Rules and Regulations (“Qualified Household”).
 - 1. Employment Requirement. At least one (1) member of the Qualified Household must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A “local business” means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the business serves clients or customers who are physically located in Teton County, Wyoming.

2. Income Requirement: The entire Qualified Household must earn at least seventy-five percent (75%) of the Household's income from a local business, as defined above.
 3. No Teton County Residential Real Estate. No member of the Qualified Household may own or have any interest (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) in whole or in part in any other residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at any time during occupancy of the Residential Unit.
 4. Determination by the Housing Department. The Housing Department shall determine whether a prospective occupant is a Qualified Household. In addition to any requirements set forth in the Rules and Regulations, such determinations shall be based upon written applications, representations, information and verification as are deemed by the Housing Department to be necessary to establish and substantiate eligibility.
 5. Continuing Obligation to Remain a Qualified Household. Households residing in the Residential Unit shall satisfy the definition of a Qualified Household at all times during occupancy of the Residential Unit.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of insert the Town of Jackson or Teton County, Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.
- C. Ownership by Housing Department. Notwithstanding the foregoing, the Housing Department may purchase and own the Residential Unit.

SECTION 3. RESTRICTIONS ON OCCUPANCY, IMPROVEMENT AND USE OF RESIDENTIAL UNIT. In addition to any restrictions included in the Rules and Regulations, occupancy and use of the Residential Unit shall be restricted as follows:

- A. Occupancy.
1. Occupancy by Owner. The Residential Unit may only be occupied by a Qualified Household, shall be such Qualified Household's sole and exclusive primary residence, and each Qualified Household occupying the Residential Unit shall physically reside therein on a full-time basis, at least ten (10) months out of each calendar year. Except for permitted guests, no person other than those comprising the Qualified Household may occupy the Unit, provided that such requirement does not violate federal or state fair housing laws.
 2. Occupancy by Tenant. The Residential Unit occupied by a tenant shall be the Qualified Household's sole and exclusive primary residence, and each tenant of a

Residential Unit shall physically reside therein on a full-time basis, at least eighty percent (80%) of the term of the lease. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit. Only members of the Qualified Household may occupy a Residential Unit.

- B. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.
- C. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of thirty (30) cumulative days per calendar year.
- D. Renting. Owners may rent the Residential Unit to a Qualified Household after verification and qualification of eligibility by the Housing Department.
- E. Rental Term. The Residential Unit shall be offered for rent in periods of not less than thirty-one (31) days.
- F. Vacancies. The Residential Unit may be vacant intermittently between tenancies to allow for proper advertisement and verification for Qualified Households and reasonable maintenance. However, a Residential Unit shall not be vacant for a period greater than sixty (60) days, unless authorized by the Housing Department. If any Residential Unit remains vacant for more than sixty (60) days without approval, the Housing Department has the right, but not the obligation, to identify a Qualified Household to rent the Residential Unit.
- G. Maintenance. The owner shall take good care of the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association and shall make all repairs and maintain the Residential Unit in a safe, sound, habitable, and good condition and state of repair. In case of damage to the Residential Unit, the owner shall repair the damage or replace or restore any destroyed parts of the Residential Unit, as speedily as practical.
- H. Capital Improvements. The Owner may only undertake capital improvements to the Residential Unit in accordance with the policies set forth in the Rules and Regulations, which policies may include but are not limited to, a limitation on the valuation of such improvements at resale, requirements regarding the advance written approval of such improvements, and documentation of proposed and completed improvements.
- I. Insurance. The owner shall keep the Residential Unit continuously insured against "all risks" of physical loss (not otherwise covered by a homeowner's association insurance), for the full replacement value of the Residential Unit.
- J. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all

supplements and amendments thereto, and any other rules and regulations of any applicable homeowner's association, as the same may be adopted from time to time.

- K. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, the Rules and Regulations and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, development or transfer of a Residential Unit, Owner shall comply, and shall cause all occupants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to Owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.

SECTION 4. TRANSFER LIMITATIONS. Each Residential Unit may only be sold in accordance with Sections 5, 6 and 7 below or transferred in accordance herewith as follows:

- A. Divorce. In the event of the divorce of an owner, the Housing Department may consent to the transfer of the Residential Unit to the spouse of such owner, which spouse may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- B. Death. In the event of the death of an owner, the Housing Department may consent to the transfer of the Residential Unit to an heir or devisee of such deceased owner, which heir or devisee may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- C. Nonqualified Transferee. If title to the Residential Unit vests in a Nonqualified Transferee, as defined in the Rules and Regulations, the Residential Unit shall immediately be listed for sale in accordance with these Special Restrictions and the Rules and Regulations, or in the alternative, the Housing Department may exercise its option herein to purchase the Residential Unit. The following shall apply when the Housing Department determines there is a Nonqualified Transferee:
1. The Housing Department shall provide the Nonqualified Transferee a reasonable period within which to qualify as a Qualified Household.
 2. If the Nonqualified Transferee does not qualify as a Qualified Household within such reasonable period, he or she shall cooperate with the Housing Department to effect the sale, conveyance or transfer of the Residential Unit to a Qualified Household and shall execute any and all documents necessary to such sale, conveyance or transfer.
 3. A Nonqualified Transferee shall comply with these Special Restrictions, the Rules and Regulations, the Declaration, zoning and all Laws governing the ownership, occupancy, use, development or transfer of the Residential Unit, and further may

only occupy the Residential Unit with the prior written consent of the Housing Department

SECTION 5. INITIAL SALE OF THE RESIDENTIAL UNIT. At initial sale, the Residential Unit may only be sold to a Qualified Household at a purchase price as Owner and prospective buyer may determine and subject to these Special Restrictions. After Owner and a prospective buyer enter into a purchase agreement for the purchase and sale of the Unit and at least thirty (30) days prior to purported closing of the purchase and sale, the prospective buyer shall provide such information as may be required by the Housing Department for it to determine if the prospective buyer is a Qualified Household. If the prospective buyer does not qualify as a Qualified Household, such buyer may not purchase the Unit. At all subsequent sales, the Housing Department will conduct a Weighted Drawing to identify a buyer.

SECTION 6. RESALE OF RESIDENTIAL UNIT. An Owner desiring to sell a Residential Unit shall give written notice to the Housing Department of such desire (the “Notice to Sell”), and after receipt of such notice, the Housing Department shall determine the “Maximum Resale Price,” as provided herein and in accordance with the Rules and Regulations. Upon the Housing Department’s determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the procedure set forth in the Rules and Regulations, which procedure may include, without limitation: a fee (not to exceed two percent (2%)) of the Maximum Resale Price paid to the Housing Department for such facilitation; requirements regarding listing the Residential Unit with the Housing Department and/or a licensed real estate agent, as the Housing Department may direct; standard terms for the sales contract; and procedure for the selection of the purchaser (which selection procedure may include a weighted drawing process). Any such conveyance of a Residential Unit shall be subject to these Special Restrictions. Each purchaser of a Residential Unit shall execute a Buyer’s Acknowledgment of Special Restrictions and Option, on a form to be provided by the Housing Department. Notwithstanding the foregoing, upon receipt of notice from an owner of such owner’s desire to sell a Residential Unit, the Housing Department may purchase such Residential Unit. So long as such owner is not otherwise in default as defined herein, the purchase price in such case shall be the Maximum Resale Price as calculated below and subject to adjustment as provided herein. If an owner is in default, other provisions of these Special Restrictions may apply in determining the purchase price.

SECTION 7. MAXIMUM RESALE PRICE. To further insert the Town of Jackson or Teton County, Wyoming’s goal of providing affordable housing, after the initial sale, a Residential Unit may not be sold for a purchase price in excess of the “Maximum Resale Price.” The Maximum Resale Price is the current owner’s purchase price plus an increase in price of the Denver-Boulder-Greeley CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or three percent (3%), whichever is lower, per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Resale Price, the actual sales proceeds delivered to a selling owner may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department’s sole and

absolute discretion. Finally, to ensure that the sales price of any Residential Unit is limited to the Maximum Resale Price, no purchaser of a Residential Unit shall assume any obligation of a selling owner, nor shall such purchaser pay or provide to a selling owner any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Resale Price, as made by the Housing Department, shall be final and binding on all parties.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY THAT UPON THE RESALE OF A RESIDENTIAL UNIT, OWNER SHALL OBTAIN THE ENTIRE MAXIMUM RESALE PRICE.

SECTION 8. DEFAULT. Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. Vacancy of a Residential Unit for more than sixty (60) days continuously
- C. Failure to pay or default of any other obligations due or to be performed with respect to a Residential Unit which failure to pay or default could result in a lien against a Residential Unit, including without limitation, homeowner dues, property taxes, payment required by a promissory note or mortgage purporting to affect a Residential Unit. Owner shall notify the Housing Department in writing of any notification received from any lender or third party of past due payments or default in payment or other obligations due or to be performed within five (5) calendar days of Owner's notification.
- D. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially declared insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit or Owner's property by a court of competent jurisdiction.
- E. Fraud or misrepresentation by purchaser, Owner and/or occupant in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a designee of the Housing Department, shall send written notice to Owner of such violation, the required action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

SECTION 9. DEFAULT REMEDIES. In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, the Housing Department's remedies shall include, without limitation, as an exercise of its regulatory authority, the following:

A. Purchase Option.

1. The Housing Department shall have the option to purchase the Residential Unit for a purchase price equal to the Maximum Resale Price, or the appraised value whichever is less, subject to the Housing Department's ability to limit appreciation as provided in this Section ("Option") and further subject to the Housing Department's ability to reduce proceeds as provided above.
2. If the Housing Department desires to exercise its Option, the Housing Department shall provide written notice to Owner of such election. Such notice shall include the purchase price and the timing for the closing of the purchase. The Option must be exercised within ninety (90) days from receipt of a notification of borrower Default or the property foreclosure.

B. Forced Sale. The Housing Department may require Owner to sell the Residential Unit in accordance with the resale procedures set forth in these Special Restrictions and the Rules and Regulations. Such sale shall be subject to these Special Restrictions.

C. Whether the Housing Department elects to exercise its Option or to force a sale in accordance herewith, all proceeds, unless otherwise required by statute, will be applied in the following order:

FIRST, to the payment of any unpaid taxes;

SECOND, to the payment of any Qualified Mortgage;

THIRD, to assessments, claims and liens on the Residential Unit (not including any mortgage or lien purportedly affecting the Residential Unit which is not a Qualified Mortgage);

FOURTH, to the payment of the closing costs and fees; and,

FIFTH, any remaining proceeds shall be paid to Owner.

If there are insufficient proceeds to satisfy the foregoing, Owner shall remain personally liable for such deficiency.

D. Appointment of Housing Department as Owner's Attorney-in-Fact. In the event the Housing Department exercises its Option or requires the Forced Sale, Owner hereby irrevocably appoints the then-serving Housing Manager as such Owner's attorney-in-fact to effect any such purchase or sale on Owner's behalf (including without limitation the right to cause an inspection of the Residential Unit and make such repairs to the Residential Unit as the Housing Department may reasonably deem necessary), and to execute any and all deeds of conveyance or other instruments necessary to fully effect such purchase or sale and conveyance.

- E. Limitation on Appreciation at Resale. The Housing Department may fix the Maximum Resale Price of a defaulting owner's Residential Unit to the Maximum Resale Price for the Residential Unit as of the date of an owner's Default (or as of such date after the Default as the Housing Department may determine), and in such event, the Maximum Resale Price shall cease thereafter to increase.
- F. Equitable Relief. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations, and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance. Any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or under the laws of the State of Wyoming.
- G. Enforcement. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, seek enforcement through the Town or County Land Development Regulations, including but not limited to Division 8.9 Enforcement.

SECTION 10. QUALIFIED MORTGAGE.

- A. Only a mortgage which is a "Qualified Mortgage" shall be permitted to encumber a Residential Unit. A "Qualified Mortgage" is a mortgage that:
 - 1. the principal amount of such mortgage at purchase does not exceed ninety-six and one half percent (96.5%) of the purchase price, and thereafter the principal amount of such mortgage, any refinanced mortgage and/or additional mortgages combined do not exceed ninety-five percent (95%) of the then current Maximum Resale Price as the same is determined by the Housing Department at the time or times any such mortgage purports to encumber the Residential Unit; and
 - 2. runs in favor of a "Qualified Mortgagee," defined as:
 - i. An "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision; or
 - ii. A "community loan fund", or similar non-profit lender to housing projects for income-eligible persons (e.g., is not given to or acquired by any individual person); or
 - iii. A non-affiliated, legitimate, "finance company." In no event may such finance company be an individual or any company that is affiliated with or has any affiliation with Owner or any family member of Owner; or

- iv. JHTCA or Housing Department for any monies advanced by JHTCA or Housing Department in connection with a mortgage or other debt with respect to Residential Unit.
- B. Any mortgage, lien or other encumbrance executed or recorded against a Residential Unit that is not a Qualified Mortgage shall:
 1. be deemed unsecured; and
 2. only be a personal obligation of an owner and shall not affect or burden, and shall not be enforceable against, such Residential Unit.

Additionally, the execution or recordation of such mortgage, lien or other encumbrance shall be deemed a default hereunder and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation the right of the Housing Department to purchase and to force a sale.

- C. In the event an owner fails to make timely payment owed or otherwise breaches any of the covenants or agreements made in connection with any mortgage, lien or other encumbrance purporting to affect the Residential Unit, including without limitation a Qualified Mortgage, fails to timely make any other payment required in connection with the Residential Unit, including without limitation homeowner association dues and fees, assessments, payments to contractors, materialmen, or other vendors for work undertaken for which a lien could be filed against the Residential Unit, the Housing Department shall have (in addition to the any other remedies) the right to:
 1. Cure such default and assume the payments and other obligations of Owner. In such event, Owner shall be in default of these Special Restrictions, and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation its option to purchase and its right to force a sale. In addition to such remedies, Owner shall also be liable to the Housing Department for any amounts advanced.
 2. Acquire the loan from the lender by paying the balance due together with reasonable accrued interest and costs, and the Housing Department shall thereafter have the right to foreclose upon the Residential Unit in accordance with the mortgage and other loan documents or take such other action as the Housing Department shall determine.
 3. Purchase the Residential Unit at any foreclosure sale, and in such event, notwithstanding anything to the contrary herein, the Residential Unit shall remain subject to these Special Restrictions.

ANY LENDER BY ENTERING INTO A LOAN TRANSACTION WITH AN OWNER OF A RESIDENTIAL UNIT HEREBY CONSENTS TO THE FOREGOING AND ACKNOWLEDGES THAT ANY INTEREST ACQUIRED BY VIRTUE OF ITS LIEN OR MORTGAGE SHALL BE SUBJECT AND SUBORDINATE TO THESE SPECIAL RESTRICTIONS.

SECTION 11. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.

- A. Termination by insert the Town of Jackson or Teton County, Wyoming. These Special Restrictions may be terminated after a determination by insert the Town of Jackson or Teton County, Wyoming that these Special Restrictions are no longer consistent with the Town's goals for affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the Land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and insert the Town of Jackson or Teton County, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors

SECTION 12. SPECIAL RESTRICTIONS AS COVENANT. These Special Restrictions shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department and insert the Town of Jackson or Teton County.

SECTION 13. NOTICES. All notices required to be served upon the parties to this Special Restriction shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address in the manner provided for giving notice.

To Housing Department

Jackson/Teton County Affordable Housing Department
P.O. Box 714
Jackson, WY 83001

With a Copy to:

insert the Town of Jackson or Teton County.
insert the Town of Jackson or Teton County.
Jackson, WY 83001.

To Owner

SECTION 14. ATTORNEY'S FEES. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

SECTION 15. CHOICE OF LAW, FORUM. These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions.

SECTION 16. SEVERABILITY. Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

SECTION 17. SECTION HEADINGS. Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

SECTION 18. WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

SECTION 19. INDEMNIFICATION. Owner shall indemnify, defend, and hold the Housing Department and insert the Town of Jackson or Teton County, Wyoming, and each entity's directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for Owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and insert the Town of Jackson or Teton County, Wyoming.

SECTION 20. SUCCESSORS AND ASSIGNS. These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

SECTION 21. GOVERNMENTAL IMMUNITY. Neither insert the Town of Jackson or Teton County, Wyoming nor the Housing Department waives governmental immunity by executing these Special Restrictions and specifically retain immunity and all defenses available to them as government pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the Effective Date.

Insert declarant's organization (corporation):

Insert name of signor, insert title of signor

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _____ day of _____, 20__, the foregoing instrument was acknowledged before me by insert name of signor, as insert title of signor, of insert declarant's organization.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

INSERT TOWN OF JACKSON OR TETON COUNTY BOARD OF COUNTY COMMISSIONERS

Click here to enter name of Mayor or Chair, insert Mayor or Chair

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _____ day of _____, 20__, the foregoing instrument was acknowledged before me by [Click here to enter name of Mayor or Chair](#) as [insert Mayor or Chair](#), of [insert the Town of Jackson or Teton County Board of County Commissioners, Wyoming](#).

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

Approved as to form:

JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT:

[Insert name of Housing Manager](#), Housing Manager

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the [Click here to enter day](#). day of [Click here to enter month](#)., 20[Click here to enter year](#), the foregoing Special Restrictions for Affordable Housing was acknowledged before me by [insert name of Housing Manager as Housing Manager](#).

Witness my hand and official seal.

(Seal)

Notary Public

AFFIRMED

INSERT TOWN OF JACKSON OR TETON COUNTY BOARD OF COUNTY COMMISSIONERS:

Click here to enter name of Mayor or Chair., insert Mayor or Chair

ATTEST

Click here to enter name of Clerk, insert Town Clerk or County Clerk

COMPLETE AMENDMENT AND RESTATEMENT

Special Restrictions

For Workforce Ownership Housing

Located at

Insert property address insert Town of Jackson or Teton County

This Complete Amendment and Restatement of the insert name of Special Restriction recorded in the Office of the Teton County Clerk as document number enter doc number book of photo insert book number pages insert page numbers for insert property address is made this _____ Day of _____, 20__ (the "Effective Date"), by insert name appropriate party from previous restriction and the undersigned owner ("Owner") ("Special Restrictions").

RECITALS:

WHEREAS, the undersigned Owner holds fee ownership interest in that certain real property known as insert property address. located in Teton County, Wyoming, and more specifically described as follows:

Insert legal description

PIDN: insert property identification number (the "Land");

WHEREAS, as a condition of its insert approval type (FDP, CUP etc.) (insert approval number), dated _____, 20__ for the _____ to insert the Town of Jackson or Teton County (the "Approval"), Owner was required to dedicate _____ (insert appropriate term, e.g. units, number of bedrooms, square footage, etc.) as _____ (insert appropriate term, e.g. employee housing, attainable, etc.) to be owned or rented by households who work in Teton County and will occupy the units as their sole primary residences (the "Residential Units");

Click here enter appropriate description

WHEREAS, in furtherance of the goals, objectives, requirements and conditions of the insert approval type. FDP, CUP, or other Approval, Owner was required to restrict the initial and all subsequent sales and transfers of each Residential Unit, defined above, to a "Qualified Household,";

WHEREAS, consistent with the foregoing, the Land is subject to those certain insert name of Special Restrictions recorded insert date recorded as Document number insert doc number in book of photo insert book number pages insert page numbers (the "insert year recorded Special Restrictions");

WHEREAS, in accordance with Section insert section number of the insert year recorded Special Restrictions, the Special Restrictions may be modified with the written consent of insert who may consent ;

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners voted to amend their 1990 Resolution creating the Teton County Housing Authority (“TCHA”) and further amend the 1999 Resolution, to form a regional Housing Authority pursuant to Wyoming Statute §15-10-116(b) with the County of Teton and the Town of Jackson forming the regional housing authority known as the Jackson/Teton County Housing Authority (“JTCHA”), making the JTCHA the successor in interest to all deeds, documents, leases, and contracts of TCHA;

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department (“Housing Department”) who will be employees of Teton County and agents acting on behalf of the JTCHA;

WHEREAS, in accordance with such Section ~~insert section~~ of the ~~insert year~~ recorded Special Restrictions, and consistent with the foregoing Recitals, JTCHA and the undersigned Owner now desire to amend, restate and replace in their entirety with respect to the Residential Unit and Land the ~~insert year~~ recorded Special Restrictions by adopting these Complete Amended and Restated ~~Insert name of this new restriction~~ (“Special Restrictions”);

WHEREAS, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to W.S. §15-10-116, as amended, and its successors or assigns, the Jackson/Teton County Affordable Housing Department (collectively “Housing Department”) and ~~insert the Town of Jackson or Teton County, Wyoming~~;

RESTRICTIONS:

NOW THEREFORE, in satisfaction of the conditions in the ~~Click here to enter approval type (FDP, CUP or other)~~ Approval, and in further consideration of the foregoing Recitals, which are by this reference incorporated herein, Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Unit, that the Land and each Residential Unit shall be owned, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT RULES AND REGULATIONS.

References made herein to the “Rules and Regulations” are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended, modified, or updated from time to time and which policies, procedures and guidelines are on file with the Housing Department or otherwise with ~~insert the Town of Jackson or Teton County, Wyoming~~, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

SECTION 2. OWNERSHIP BY QUALIFIED HOUSEHOLD.

- A. Qualified Household. The ownership, use and occupancy of the Residential Unit shall be limited to natural persons who meet the definition of a Qualified Household for Workforce Housing, as set forth below ("Qualified Household").
1. Employment Requirement. At least one (1) member of the Qualified Household must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A "local business" means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the business serves clients or customers who are physically located in Teton County, Wyoming.
 2. Income Requirement: The entire Qualified Household must earn at least seventy-five percent (75%) of the Household's income from a local business, as defined above.
 3. No Teton County Residential Real Estate. No member of the Qualified Household may own or have any interest (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company, corporation, association, or the like) in whole or in part in any other residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at any time during occupancy of the Residential Unit.
 4. Determination by the Housing Department. The Housing Department shall determine whether a prospective occupant is a Qualified Household. In addition to any requirements set forth in the Rules and Regulations, such determinations shall be based upon written applications, representations, information and verification as are deemed by the Housing Department to be necessary to establish and substantiate eligibility.
 5. Continuing Obligation to Remain a Qualified Household. Households residing in the Residential Unit shall satisfy the definition of a Qualified Household at all times during occupancy of the Residential Unit.
- B. No Legal Action. No owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of insert the Town of Jackson or Teton County, Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.
- C. Ownership by Housing Department. Notwithstanding the foregoing, the Housing Department may purchase and own the Residential Unit.

SECTION 3. RESTRICTIONS ON OCCUPANCY, IMPROVEMENT AND USE OF RESIDENTIAL UNIT. In addition to any restrictions included in the Rules and Regulations, occupancy and use of the Residential Unit shall be restricted as follows:

- A. Occupancy.
 - a. Occupancy by Owner. The Residential Unit may only be occupied by a Qualified Household, shall be such Qualified Household's sole and exclusive primary residence, and each Qualified Household occupying the Residential Unit shall physically reside therein on a full-time basis, at least ten (10) months out of each calendar year. Except for permitted guests, no person other than those comprising the Qualified Household may occupy the Unit, provided that such requirement does not violate federal or state fair housing laws.
 - b. Occupancy by Tenant. The Residential Unit occupied by a tenant shall be the Qualified Household's sole and exclusive primary residence, and each tenant of a Residential Unit shall physically reside therein on a full-time basis, at least eighty percent (80%) of the term of the lease. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit. Only members of the Qualified Household may occupy a Residential Unit.
- B. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.
- C. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of thirty (30) cumulative days per calendar year.
- D. Renting. Owners may rent the Residential Unit to a Qualified Household after verification and qualification of eligibility by the Housing Department.
- E. Rental Term. The Residential Unit shall be offered for rent in periods of not less than thirty-one (31) days.
- F. Vacancies. The Residential Unit may be vacant intermittently between tenancies to allow for proper advertisement and verification for Qualified Households and reasonable maintenance. However, a Residential Unit shall not be vacant for a period greater than sixty (60) days, unless authorized by the Housing Department. If any Residential Unit remains vacant for more than sixty (60) days without approval, the Housing Department has the right, but not the obligation, to identify a Qualified Household to rent the Residential Unit.
- G. Maintenance. The owner shall take good care of the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association and shall make all repairs and maintain the Residential Unit in a safe, sound, habitable, and good condition and state of repair. In case of damage to the Residential Unit, the owner shall repair the damage or replace or restore any destroyed parts of the Residential Unit, as speedily as practical.

- H. Capital Improvements. The Owner may only undertake capital improvements to the Residential Unit in accordance with the policies set forth in the Rules and Regulations, which policies may include but are not limited to, a limitation on the valuation of such improvements at resale, requirements regarding the advance written approval of such improvements, and documentation of proposed and completed improvements.
- I. Insurance. The owner shall keep the Residential Unit continuously insured against “all risks” of physical loss (not otherwise covered by a homeowner’s association insurance), for the full replacement value of the Residential Unit.
- J. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all supplements and amendments thereto, and any other rules and regulations of any applicable homeowner’s association, as the same may be adopted from time to time.
- K. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, the Rules and Regulations and other covenants, regulations, ordinances, or rules governing the ownership, occupancy, use, development or transfer of a Residential Unit, Owner shall comply, and shall cause all occupants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to Owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.

SECTION 4. TRANSFER LIMITATIONS. Each Residential Unit may only be sold in accordance with Sections 5, 6 and 7 below or transferred in accordance herewith as follows:

- A. Divorce. In the event of the divorce of an owner, the Housing Department may consent to the transfer of the Residential Unit to the spouse of such owner, which spouse may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- B. Death. In the event of the death of an owner, the Housing Department may consent to the transfer of the Residential Unit to an heir or devisee of such deceased owner, which heir or devisee may not otherwise qualify as a Qualified Household, only upon receipt of an order issued by a Court of competent jurisdiction ordering such transfer.
- C. Nonqualified Transferee. If title to the Residential Unit vests in a Nonqualified Transferee, as defined in the Rules and Regulations, the Residential Unit shall immediately be listed for sale in accordance with these Special Restrictions and the Rules and Regulations, or in the alternative, the Housing Department may exercise its option herein to purchase the Residential Unit. The following shall apply when the Housing Department determines there is a Nonqualified Transferee:

1. The Housing Department shall provide the Nonqualified Transferee a reasonable period within which to qualify as a Qualified Household.
2. If the Nonqualified Transferee does not qualify as a Qualified Household within such reasonable period, he or she shall cooperate with the Housing Department to effect the sale, conveyance or transfer of the Residential Unit to a Qualified Household and shall execute any and all documents necessary to such sale, conveyance or transfer.
3. A Nonqualified Transferee shall comply with these Special Restrictions, the Rules and Regulations, the Declaration, zoning and all Laws governing the ownership, occupancy, use, development or transfer of the Residential Unit, and further may only occupy the Residential Unit with the prior written consent of the Housing Department

SECTION 5. INITIAL SALE OF THE RESIDENTIAL UNIT. At initial sale, the Residential Unit may only be sold to a Qualified Household at a purchase price as Owner and prospective buyer may determine and subject to these Special Restrictions. After Owner and a prospective buyer enter into a purchase agreement for the purchase and sale of the Unit and at least thirty (30) days prior to purported closing of the purchase and sale, the prospective buyer shall provide such information as may be required by the Housing Department for it to determine if the prospective buyer is a Qualified Household. If the prospective buyer does not qualify as a Qualified Household, such buyer may not purchase the Unit. At all subsequent sales, the Housing Department will conduct a Weighted Drawing to identify a buyer.

SECTION 6. RESALE OF RESIDENTIAL UNIT. An Owner desiring to sell a Residential Unit shall give written notice to the Housing Department of such desire (the “Notice to Sell”), and after receipt of such notice, the Housing Department shall determine the “Maximum Resale Price,” as provided herein and in accordance with the Rules and Regulations. Upon the Housing Department’s determination of the Maximum Resale Price, the sale of the Residential Unit shall be facilitated by the Housing Department and shall be completed in accordance with the procedure set forth in the Rules and Regulations, which procedure may include, without limitation: a fee (not to exceed two percent (2%)) of the Maximum Resale Price paid to the Housing Department for such facilitation; requirements regarding listing the Residential Unit with the Housing Department and/or a licensed real estate agent, as the Housing Department may direct; standard terms for the sales contract; and procedure for the selection of the purchaser (which selection procedure may include a weighted drawing process). Any such conveyance of a Residential Unit shall be subject to these Special Restrictions. Each purchaser of a Residential Unit shall execute a Buyer’s Acknowledgment of Special Restrictions and Option, on a form to be provided by the Housing Department. Notwithstanding the foregoing, upon receipt of notice from an owner of such owner’s desire to sell a Residential Unit, the Housing Department may purchase such Residential Unit. So long as such owner is not otherwise in default as defined herein, the purchase price in such case shall be the Maximum Resale Price as calculated below and subject to adjustment as provided herein. If an owner is in default, other provisions of these Special Restrictions may apply in determining the purchase price.

SECTION 7. MAXIMUM RESALE PRICE. To further insert the Town of Jackson or Teton County, Wyoming's goal of providing affordable housing, after the initial sale, a Residential Unit may not be sold for a purchase price in excess of the "Maximum Resale Price." The Maximum Resale Price is the current owner's purchase price plus an increase in price of the Denver-Boulder-Greeley CPI (if such ceases to exist then a comparable CPI Index as determined in the sole discretion of the Housing Department) or three percent (3%), whichever is lower, per year of ownership compounded annually, plus the depreciated cost of pre-approved or government-required capital improvements, plus any other costs allowed by the Housing Department, less any required maintenance and/or repair adjustment, all as more fully described in the Rules and Regulations. Notwithstanding the determination of the Maximum Resale Price, the actual sales proceeds delivered to a selling owner may be reduced to account for restoration or repair of a Residential Unit (including without limitation, replacement of carpets, painting, roof repair, siding maintenance/replacement, etc.) determined necessary in the Housing Department's sole and absolute discretion. Finally, to ensure that the sales price of any Residential Unit is limited to the Maximum Resale Price, no purchaser of a Residential Unit shall assume any obligation of a selling owner, nor shall such purchaser pay or provide to a selling owner any other form of consideration in connection with the sale of the Residential Unit. The calculation of the Maximum Resale Price, as made by the Housing Department, shall be final and binding on all parties.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTY THAT UPON THE RESALE OF A RESIDENTIAL UNIT, OWNER SHALL OBTAIN THE ENTIRE MAXIMUM RESALE PRICE.

SECTION 8. DEFAULT. Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. Vacancy of a Residential Unit for more than sixty (60) days continuously
- C. Failure to pay or default of any other obligations due or to be performed with respect to a Residential Unit which failure to pay or default could result in a lien against a Residential Unit, including without limitation, homeowner dues, property taxes, payment required by a promissory note or mortgage purporting to affect a Residential Unit. Owner shall notify the Housing Department in writing of any notification received from any lender or third party of past due payments or default in payment or other obligations due or to be performed within five (5) calendar days of Owner's notification.
- D. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially declared insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit or Owner's property by a court of competent jurisdiction.
- E. Fraud or misrepresentation by purchaser, Owner and/or occupant in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a Designee of the Housing Department, shall send written notice to Owner of such violation, the required action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

SECTION 9. DEFAULT REMEDIES. In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, the Housing Department's remedies shall include, without limitation, as an exercise of its regulatory authority, the following:

A. Purchase Option.

1. The Housing Department shall have the option to purchase the Residential Unit for a purchase price equal to the Maximum Resale Price, or the appraised value whichever is less, subject to the Housing Department's ability to limit appreciation as provided in this Section ("Option") and further subject to the Housing Department's ability to reduce proceeds as provided above.
2. If the Housing Department desires to exercise its Option, the Housing Department shall provide written notice to Owner of such election. Such notice shall include the purchase price and the timing for the closing of the purchase. The Option must be exercised within ninety (90) days from receipt of a notification of borrower Default or the property foreclosure.

B. Forced Sale. The Housing Department may require Owner to sell the Residential Unit in accordance with the resale procedures set forth in these Special Restrictions and the Rules and Regulations. Such sale shall be subject to these Special Restrictions.

C. Whether the Housing Department elects to exercise its Option or to force a sale in accordance herewith, all proceeds, unless otherwise required by statute, will be applied in the following order:

FIRST, to the payment of any unpaid taxes;

SECOND, to the payment of any Qualified Mortgage;

THIRD, to assessments, claims and liens on the Residential Unit (not including any mortgage or lien purportedly affecting the Residential Unit which is not a Qualified Mortgage);

FOURTH, to the payment of the closing costs and fees; and,

FIFTH, any remaining proceeds shall be paid to Owner.

If there are insufficient proceeds to satisfy the foregoing, Owner shall remain personally liable for such deficiency.

- D. Appointment of Housing Department as Owner's Attorney-in-Fact. In the event the Housing Department exercises its Option or requires the Forced Sale, Owner hereby irrevocably appoints the then-serving Housing Manager as such Owner's attorney-in-fact to effect any such purchase or sale on Owner's behalf (including without limitation the right to cause an inspection of the Residential Unit and make such repairs to the Residential Unit as the Housing Department may reasonably deem necessary), and to execute any and all deeds of conveyance or other instruments necessary to fully effect such purchase or sale and conveyance.
- E. Limitation on Appreciation at Resale. The Housing Department may fix the Maximum Resale Price of a defaulting owner's Residential Unit to the Maximum Resale Price for the Residential Unit as of the date of an owner's Default (or as of such date after the Default as the Housing Department may determine), and in such event, the Maximum Resale Price shall cease thereafter to increase.
- F. Equitable Relief. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations, and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance. Any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or under the laws of the State of Wyoming.
- G. Enforcement. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, seek enforcement through the Town or County Land Development Regulations, including but not limited to Division 8.9 Enforcement or as amended.

SECTION 10. QUALIFIED MORTGAGE.

- A. Only a mortgage which is a "Qualified Mortgage" shall be permitted to encumber a Residential Unit. A "Qualified Mortgage" is a mortgage that:
1. the principal amount of such mortgage at purchase does not exceed ninety-six and one half percent (96.5%) of the purchase price, and thereafter the principal amount of such mortgage, any refinanced mortgage and/or additional mortgages combined do not exceed ninety-five percent (95%) of the then current Maximum Resale Price as the same is determined by the Housing Department at the time or times any such mortgage purports to encumber the Residential Unit; and
 2. runs in favor of a "Qualified Mortgagee," defined as:
 - i. An "institutional lender" such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, or any

combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision; or

- ii. A "community loan fund", or similar non-profit lender to housing projects for income-eligible persons (e.g., is not given to or acquired by any individual person); or
- iii. A non-affiliated, legitimate, "finance company." In no event may such finance company be an individual or any company that is affiliated with or has any affiliation with Owner or any family member of Owner; or
- iv. JHTCA or Housing Department for any monies advanced by JHTCA or Housing Department in connection with a mortgage or other debt with respect to Residential Unit.

B. Any mortgage, lien or other encumbrance executed or recorded against a Residential Unit that is not a Qualified Mortgage shall:

- 1. be deemed unsecured; and
- 2. only be a personal obligation of an owner and shall not affect or burden, and shall not be enforceable against, such Residential Unit.

Additionally, the execution or recordation of such mortgage, lien or other encumbrance shall be deemed a default hereunder and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation the right of the Housing Department to purchase and to force a sale.

C. In the event an owner fails to make timely payment owed or otherwise breaches any of the covenants or agreements made in connection with any mortgage, lien or other encumbrance purporting to affect the Residential Unit, including without limitation a Qualified Mortgage, fails to timely make any other payment required in connection with the Residential Unit, including without limitation homeowner association dues and fees, assessments, payments to contractors, materialmen, or other vendors for work undertaken for which a lien could be filed against the Residential Unit, the Housing Department shall have (in addition to the any other remedies) the right to:

- 1. Cure such default and assume the payments and other obligations of Owner. In such event, Owner shall be in default of these Special Restrictions, and the Housing Department may exercise any and all of its remedies hereunder or otherwise, including without limitation its option to purchase and its right to force a sale. In addition to such remedies, Owner shall also be liable to the Housing Department for any amounts advanced.
- 2. Acquire the loan from the lender by paying the balance due together with reasonable accrued interest and costs, and the Housing Department shall thereafter have the right to foreclose upon the Residential Unit in accordance

with the mortgage and other loan documents or take such other action as the Housing Department shall determine.

3. Purchase the Residential Unit at any foreclosure sale, and in such event, notwithstanding anything to the contrary herein, the Residential Unit shall remain subject to these Special Restrictions.

ANY LENDER BY ENTERING INTO A LOAN TRANSACTION WITH AN OWNER OF A RESIDENTIAL UNIT HEREBY CONSENTS TO THE FOREGOING AND ACKNOWLEDGES THAT ANY INTEREST ACQUIRED BY VIRTUE OF ITS LIEN OR MORTGAGE SHALL BE SUBJECT AND SUBORDINATE TO THESE SPECIAL RESTRICTIONS.

SECTION 11. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.

- A. Termination by insert the Town of Jackson or Teton County, Wyoming. These Special Restrictions may be terminated after a determination by insert the Town of Jackson or Teton County, Wyoming that these Special Restrictions are no longer consistent with the Town's goals for affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the Land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and insert the Town of Jackson or Teton County, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors

SECTION 12. SPECIAL RESTRICTIONS AS COVENANT. These Special Restrictions shall constitute covenants running with the Land and the Residential Unit, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Land, the Residential Unit, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by JTCHA, the Housing Department and insert the Town of Jackson or Teton County.

SECTION 13. NOTICES. All notices required to be served upon the parties to this Special Restriction shall be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address in the manner provided for giving notice.

To Housing Department

Jackson/Teton County Affordable Housing Department
P.O. Box 714
Jackson, WY 83001

With a Copy to:

insert the Town of Jackson or Teton County.
insert the Town of Jackson or Teton County.
Jackson, WY 83001.

To Owner

SECTION 14. ATTORNEY'S FEES. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

SECTION 15. CHOICE OF LAW, FORUM. These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions.

SECTION 16. SEVERABILITY. Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

SECTION 17. SECTION HEADINGS. Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

SECTION 18. WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

SECTION 19. INDEMNIFICATION. Owner shall indemnify, defend, and hold the Housing Department and insert the Town of Jackson or Teton County, Wyoming, and each entity's directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for Owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and insert the Town of Jackson or Teton County, Wyoming.

SECTION 20. SUCCESSORS AND ASSIGNS. These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

SECTION 21. GOVERNMENTAL IMMUNITY. Neither insert the Town of Jackson or Teton County, Wyoming nor the Housing Department waives governmental immunity by executing these Special Restrictions and specifically retain immunity and all defenses available to them as government pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the Effective Date.

Insert declarant's organization (corporation):

Insert name of signor, insert title of signor

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _____ day of _____, 20__, the foregoing instrument was acknowledged before me by insert name of signor, as insert title of signor, of insert declarant's organization.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

INSERT TOWN OF JACKSON OR TETON COUNTY BOARD OF COUNTY COMMISSIONERS

Click here to enter name of Mayor or Chair, insert Mayor or Chair

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _____ day of _____, 20__, the foregoing instrument was acknowledged before me by Click here to enter name of Mayor or Chair as insert Mayor or Chair, of insert the Town of Jackson or Teton County Board of County Commissioners, Wyoming.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

Approved as to form:

JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT:

Insert name of Housing Manager, Housing Manager

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the Click here to enter day. day ofClick here to enter month., 20Click here to enter year, the foregoing Special Restrictions for Affordable Housing was acknowledged before me by insert name of Housing Manager as Housing Manager.

Witness my hand and official seal.

(Seal)

Notary Public

AFFIRMED

INSERT TOWN OF JACKSON OR TETON COUNTY BOARD OF COUNTY COMMISSIONERS:

Click here to enter name of Mayor or Chair., insert Mayor or Chair

ATTEST

Click here to enter name of Clerk, insert Town Clerk or County Clerk

Special Restrictions
for Workforce Rental Housing
Located at insert Town of Jackson or Teton County, Wyoming

These Special Restrictions for Workforce Rental Housing, ("Special Restrictions"), are made this ____ day of _____, 20____(the "Effective Date"), by the undersigned Owner ("Owner") and insert the Town of Jackson or Teton County, Wyoming.

RECITALS:

WHEREAS, Owner holds fee ownership interest in that certain real property, located in insert the Town of Jackson or Teton County, Wyoming, and more specifically described as follows:

Click here to add legal description of property.

PIDN: _____("Land")

WHEREAS, as a condition of its approval for permit #Click here to enter Permit #. ("Approval"), Owner was required to provide and restrict as follows:

Owner developed property addressed as _____, _____, Wyoming 830____ for a _____square foot retail/service/office/residential/etc. building. This development generated the obligation to provide Workforce Ownership Housing in accordance with _____ Approval. Owner is restricting:

- Unit _____, with _____ number of bedrooms.
- Unit _____, with _____ number of bedrooms.
- Unit _____, with _____ number of bedrooms.

(hereinafter each is a "Residential Unit" and in the aggregate "Residential Unit Complex").

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners resolved to form the Jackson/Teton County Housing Authority, a duly constituted housing authority pursuant to W.S. §15-10-116, as amended, and its successors or assigns, known as the Jackson/Teton County Housing Authority ("JTCHA");

WHEREAS, the Jackson Town Council and Teton County Board of County Commissioners further resolved to create the Jackson/Teton County Affordable Housing Department ("Housing Department") who are employees of Teton County and agents acting on behalf of the JTCHA, empowered to enforce this Special Restriction;

WHEREAS, in furtherance of the goals, objectives, requirements and conditions of insert approval type (FDP, CUP, etc.) Approval, and consistent with the insert the Town of Jackson or Teton County's goal of providing decent, safe and sanitary housing to qualified employees working in Teton County, Wyoming, that is affordable, Owner agrees to restrict the use and occupancy of the Residential Unit to a "Qualified Household," which meets employment, income and asset ownership qualifications as set forth herein and as further defined in the Jackson/Teton County Housing Department Rules and Regulations;

WHEREAS, Owner desires to adopt these Special Restrictions and declare that the Residential Unit and Land shall be held, sold, and conveyed in perpetuity subject to these Special Restrictions, which Special Restrictions shall be in addition to all other covenants, conditions or restrictions of record affecting the Residential Unit and Land, and shall be enforceable by Housing Department and insert the Town of Jackson or Teton County, Wyoming.

RESTRICTIONS:

NOW THEREFORE, in satisfaction of the conditions in the _____ Approval, and in consideration of such _____ Approval and further consideration of the foregoing Recitals, which are by this reference incorporated herein, Owner hereby declares, covenants and agrees for itself and each and every person acquiring ownership of the Residential Units, Residential Unit Complex and Land shall be owned, used, occupied, developed, transferred and conveyed subject to the following Special Restrictions in perpetuity.

SECTION 1. JACKSON/TETON COUNTY HOUSING DEPARTMENT RULES AND REGULATIONS.

References made herein to the “Rules and Regulations” are references to the written policies, procedures and guidelines of the Housing Department, as the same may be amended, modified, or updated from time to time and which policies, procedures, and guidelines are on file with the Housing Department or otherwise with insert the Town of Jackson or Teton County, Wyoming, or if there are no such written policies, procedures or guidelines (or a written policy, procedure or guideline with respect to a specific matter) then the reference shall be to the current applied policy or policies of the Housing Department or its successor. Procedural and administrative matters not otherwise addressed in these Special Restrictions shall be as set forth in the Rules and Regulations.

SECTION 2. RESTRICTIONS ON OCCUPATION AND USE OF RESIDENTIAL UNIT. In addition to any restrictions included in the current Housing Rules and Regulations, occupancy and use of the Residential Unit shall be restricted as follows:

- A. Qualified Household. The rental, use and occupancy of the Residential Units shall be limited to natural persons who meet the definition of a Qualified Household for Workforce Housing, as set forth below (“Qualified Household”).
 1. Employment Requirement. At least one (1) member of the Qualified Household must maintain an average of thirty (30) hours per week employment on an annual basis, or a minimum of one thousand five hundred and sixty hours (1,560) per year, for a local business. A “local business” means a business physically located within Teton County, Wyoming, holding a business license with the Town of Jackson, Wyoming or one that can provide other verification of business status physically located in Teton County, Wyoming, and the business serves clients or customers who are physically located in Teton County, Wyoming.
 2. Income Requirement. The entire Qualified Household must earn at least seventy-five percent (75%) of the Household’s income from a local business, as defined above.
 3. No Teton County Residential Real Estate. No member of the Qualified Household may own or have any interest (whether individually, in trust, or through an entity including without limitation a partnership, limited partnership, limited liability company,

corporation, association, or the like) in whole or in part in any other residential real estate within one hundred and fifty (150) miles of Teton County, Wyoming at any time during occupancy of the Residential Unit.

4. Initial Determination by the Owner. Owner shall require each prospective renter of a Residential Unit to provide information sufficient to show eligibility as a Qualified Household under the Workforce Housing Program pursuant to the requirements of this restriction and the Housing Rules and Regulations. The determination shall be based upon written applications, representations, information and verifications, including *at a minimum*, a W-2 for each adult renter or other IRS filing showing source of earnings, a signed and sworn statement regarding ownership of other real estate and a list of current employer(s), hours worked as well as contact information for each employer(s) and other such information reasonably requested by the Housing Department to verify and substantiate as a Qualified Household.
 5. Continuing Obligation to Remain a Qualified Household. The occupants of the Residential Unit shall satisfy the definition of a Qualified Household at all times during the occupancy of the Residential Unit.
 6. Occupancy. Each Residential Unit shall be occupied as the Qualified Household's sole and exclusive primary residence, and each tenant of a Residential Unit shall physically reside therein on a fulltime basis, at least eighty percent (80%) of the term of the lease. Except for permitted guests, no persons other than the members of the Qualified Household may occupy the Residential Unit.
 7. Reporting Requirement – Housing Department Determination. Owner shall, by January 31 of each year, provide to the Housing Department a summary of the eligibility verification information contained above for each occupant of a Residential Unit as set forth on the Housing Department Template that will be provided to Owner. Upon written request by the Housing Department for supporting documentation, Owner shall provide the same within fifteen (15) business days of receipt of such written request. Additionally, Owner shall, by January 31 of each year, provide the Housing Department with its most current lease form for Residential Units. Each Residential Unit Lease must state, and it is a material consideration of this restriction, that the Housing Department has the ultimate and final authority to determine eligibility of households renting Residential Units. If the Housing Department, upon review of supporting documentation determines that an occupant of a Residential Unit does not qualify as a Qualified Household, the Housing Department shall have the authority to require the Owner to terminate the lease between Owner and the occupant of a Residential Unit pursuant to Sections 4 & 5 below.
- B. No Legal Action. No Owner of the Residential Unit, prospective purchaser of the Residential Unit, Tenant, renter or occupant, or other party shall have the right to sue or bring other legal process against insert the Town of Jackson or Teton County, Wyoming or the Housing Department, or any person affiliated with insert the Town of Jackson or Teton County, Wyoming or the Housing Department arising out of these Special Restrictions, and neither shall insert the Town of Jackson or Teton County, Wyoming or the Housing Department have any liability to any person aggrieved by the decision of insert the Town of Jackson or Teton County, Wyoming or the Housing Department regarding qualification of a Qualified Household or any other matter relating to these Special Restrictions.

- C. Household Composition. Only members of the Qualified Household may occupy a Residential

Unit, except that Owner may restrict who may reside in a Residential Unit, provided that such owner-restriction does not violate Federal or state fair housing laws. Notwithstanding the foregoing, occupancy of the Residential Unit shall be in compliance with any and all building codes (or other relevant law, code, statute, ordinance or the like) regarding maximum occupancy standards or limitations.

- D. Written Lease Requirement. Occupancy of the Residential Unit shall be pursuant to a written lease, the form of which may be approved by Housing Department as it may require. Owner of the Residential Unit shall obtain written verification of income, asset ownership, and employment in Teton County, Wyoming for each Qualified Household proposing to rent the Residential Unit prior to such Household's occupancy, and upon each extension or renewal of any lease therefore.
- E. Rental Term. The Residential Unit shall be offered for rent in periods of not less than six (6) months.
- F. Rental Rate: Owner shall set the rent. There is no cap on rent or rent appreciation.
- G. Rental Unit: Except as provided herein, the Residential Unit shall remain a rental unit for Qualified Households.
- H. Guests. No persons other than those comprising the Qualified Household shall be permitted to occupy the Residential Unit for periods in excess of ten percent (10%) of the Rental Term in cumulative days per calendar year
- I. Vacancies. The Residential Unit may be vacant intermittently between tenancies to allow for proper advertisement and verification for Qualified Households and reasonable maintenance. However, a Residential Unit shall not be vacant for a period greater than sixty (60) days, unless authorized by the Housing Department. If any Residential Unit remains vacant for more than sixty (60) days without approval, the Housing Department has the right, but not the obligation, to identify a Qualified Household to rent the Residential Unit.
- J. Business Activity. No business activities shall occur in a Residential Unit, other than a home occupation use that is allowed by applicable zoning and properly permitted.
- K. Compliance with Laws, Declaration. The Residential Unit shall be occupied in full compliance with these Special Restrictions and the Rules and Regulations, along with all laws, statutes, codes, rules, or regulations, covenants, conditions and restrictions, and all supplements and amendments thereto, and any other rules and regulations of any applicable homeowner's association, as the same may be adopted from time to time.
- L. Insurance. Owner shall keep the Residential Unit Complex continuously insured against physical loss for the full replacement value of the Residential Unit Complex.
- M. Maintenance. Owner shall be responsible for the cost and expense to keep and maintain the interior of the Residential Unit and all other aspects of the Residential Unit not otherwise maintained by a homeowner's association in a safe, decent and sanitary condition. In the event Owner fails to maintain the Residential Unit in a safe, decent and sanitary condition and such

condition continues for fourteen (14) days after notice from the Housing Department, the Housing Department shall have the right but not the obligation to enter the Residential Unit and repair such condition and Owner shall reimburse Housing Department for such reasonable repair costs. Payment to Housing Department from Owner shall be due upon receipt of invoice.

- N. Periodic Reporting, Inspection. In order to confirm compliance with these Special Restrictions, each owner shall comply, and cause its tenants to comply, with any reporting or inspection requirements as set forth herein and as may be required by the Housing Department from time to time. Upon reasonable notice to owner, the Housing Department shall have the right to inspect the Residential Unit from time to time to determine compliance with these Special Restrictions and to review the written records required to be maintained by Owner. Owner shall maintain such records for a period of two (2) years.
- O. Preference. Owner may give first-priority to rent the Residential Unit to Qualified Households of which a member of the Household is an employee of Owner. In the event there are no persons directly employed by Owner to whom Owner desires to rent the Residential Unit, then Owner may rent to any Qualified Household.

SECTION 3. SALE OF THE RESIDENTIAL UNIT COMPLEX. The Residential Unit Complex may be bought and sold as Owner may determine except that all reporting and record-keeping required herein shall be continuous and any new owner shall obtain the required records from the prior owner. Any such conveyance of a Residential Unit Complex shall be subject to these Special Restrictions. Within ten (10) days prior to the closing of the sale or other transfer of the Complex, Owner shall notify the Housing Department of the pending sale or transfer and, prior to closing, provide the Housing Department with contact information (including without limitation, mailing address, phone number and email) for the new owner.

SECTION 4. DEFAULT. Each of the following shall be considered a default ("Default"):

- A. A violation of any term of these Special Restrictions, the Rules and Regulations, the Declaration, or any laws affecting a Residential Unit.
- B. A violation of any term of these Special Restrictions or any laws affecting the Residential Unit.
- C. Vacancy of a Residential Unit for more than sixty (60) days continuously.
- D. Fraud or misrepresentation by Owner and/or occupant in the provision of an application, reporting requirement, inspection requirement or any other informational requirement to the Housing Department.
- E. If the Residential Unit is taken by execution or by other process of law, or if Owner is judicially insolvent according to law, or if any assignment is made of the property of Owner for the benefit of creditors, or if a receiver, trustee or other similar officer is appointed to take charge of any substantial part of the Residential Unit, Residential Unit Complex or Owner's property by a court of competent jurisdiction.

In the event the Housing Department believes there to be a Default, the Housing Manager, or a Designee of the Housing Department, shall send written notice to Owner of such violation, the required

action to cure and the timing for such cure. If Owner disputes the Housing Department's decision, Owner shall proceed in accordance with the Rules and Regulations.

SECTION 5. DEFAULT REMEDIES. In addition to any other remedies the Housing Department may have at law or equity, in the event of a Default, after notice and opportunity to cure as set forth in the preceding section, the Housing Department's remedies shall include, without limitation, as an exercise of its regulatory authority, the following:

- A. Specific Performance. The Housing Department shall have the right of specific performance of these Special Restrictions and the Rules and Regulations, and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent injunction to obtain such performance.
- B. Equitable Relief. In addition to subsection A, any equitable relief provided for herein may be sought singly or in combination with such other remedies as the Housing Department may be entitled to, either pursuant to these Special Restrictions or any other action authorized under the laws of the State of Wyoming.
- C. EnforcementRevocation. The Housing Department may, for purposes of enforcing these Special Restrictions or the Rules and Regulations, seek enforcement through the Town or County Land Development Regulations, including but not limited to Division 8.9 Enforcement. revoke or seek revocation of Permit # _____ or any other authorization of development, use or occupancy of the Residential Unit Complex.

SECTION 6. TERMINATION, AMENDMENT AND CORRECTION OF SPECIAL RESTRICTIONS.

- A. Termination. These Special Restrictions may be terminated after a determination by the insert the Town of Jackson or Teton County, Wyoming that these Special Restrictions are no longer consistent with the insert the Town of Jackson or Teton County, Wyoming goals for affordable housing.
- B. Amendment. These Special Restrictions may be amended by a signed, written amendment executed by the Parties hereto and recorded in the Teton County Clerk's Office against the title to the land, in whole or in part, with the written consent of Owner of the Residential Unit Complex and insert the Town of Jackson or Teton County, Wyoming.
- C. Correction. The Housing Department may unilaterally correct these Special Restrictions to address scrivener's errors, erroneous legal descriptions or typographical errors.

SECTION 7. SPECIAL RESTRICTIONS AS COVENANT. These Special Restrictions shall constitute covenants running with the Residential Units, as a burden thereon, and shall be binding on all parties having any right, title, or interest in the Residential Units, or any part thereof, their heirs, devisees, successors and assigns, and shall inure to the benefit of and shall be enforceable by the Housing Department and insert the Town of Jackson or Teton County, Wyoming. Where these Special Restrictions are silent, the Housing Rules and Regulations govern. These Special Restrictions shall be prior and superior to any mortgage or lien interest encumbering the Land and/or Residential Unit Complex.

SECTION 8. NOTICES. All notices required to be served upon the parties to this Special Restriction shall

be transmitted by one of the following methods: hand delivery; prepaid overnight courier; or by postage paid certified mail, return receipt requested, at the address set forth below for said party; or at such other address as one party notifies the other in writing pursuant to this paragraph. Notice shall be effective when hand delivered, one (1) day after being deposited with an overnight courier or five (5) business days after being placed in the mail. Either party may change its address and/or owner and/or other contact information in the manner provided for giving notice.

To Housing Department

Jackson/Teton County Affordable Housing Department
P.O. Box 714
Jackson, WY 83001

With a Copy to:

insert the Town of Jackson or Teton County.
insert the Town of Jackson or Teton County.
Jackson, WY 83001.

To Owner

SECTION 9. ATTORNEY'S FEES. In the event any party shall be required to retain counsel and file suit for the purpose of enforcing the terms and conditions of these Special Restrictions, the prevailing party shall be entitled to recover, in addition to any other relief recovered, a reasonable sum as determined by the court for attorney's fees and costs of litigation.

SECTION 10. CHOICE OF LAW, FORUM. These Special Restrictions and each and every related document, are to be governed by and construed in accordance with the laws of the State of Wyoming. The parties agree that the appropriate court in Teton County, Wyoming and/or the Ninth Judicial District for the State of Wyoming shall have sole and exclusive jurisdiction over any dispute, claim, or controversy which may arise involving these Special Restrictions or its subject matter. Owner by accepting a deed for the Land hereby submits to the personal jurisdiction of any such court in any action or proceeding arising out of or relating to this Special Restrictions.

SECTION 11. SEVERABILITY. Each provision of these Special Restrictions and any other related document shall be interpreted in such a manner as to be valid under applicable law; but, if any provision, or any portion thereof, of any of the foregoing shall be invalid or prohibited under said applicable law, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable, or if such modification is not possible, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provision(s) of such document.

SECTION 12. SECTION HEADINGS. Paragraph or section headings within these Special Restrictions are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

SECTION 13. WAIVER. No claim of waiver, consent or acquiescence with respect to any provision of these Special Restrictions shall be valid against any party hereto except on the basis of a written

instrument executed by the parties to these Special Restrictions. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

SECTION 14. INDEMNIFICATION. Owner shall indemnify, defend, and hold, the Housing Department and insert the Town of Jackson or Teton County, and its directors, officers, agents and employees harmless against any and all loss, liability, claim, or cost (including reasonable attorneys' fees and expenses) for damage or injury to persons or property from any cause whatsoever on or about the Residential Unit, or for an owner's breach of any provision of these Special Restrictions. Owner waives any and all such claims against the Housing Department and insert the Town of Jackson or Teton County.

SECTION 15. SUCCESSORS AND ASSIGNS. These Special Restrictions shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, devisees, administrators and assigns.

SECTION 16. GOVERNMENTAL IMMUNITY. Neither insert the Town of Jackson or Teton County, JTCHA, nor the Housing Department waive governmental immunity by executing these Special Restrictions and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. Ann. § 1-39-104(a) and any other applicable law.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the Effective Date.

Owner:

STATE OF WYOMING)
) ss
COUNTY OF TETON)

On this _____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared _____ for _____, LLC, a Wyoming limited liability company, and known to me, or proven by satisfactory evidence, to be the _____ of the company that executed the foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the company, by authority of Statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that such person is authorized to execute said instrument on behalf of the limited liability company.

[SEAL]

Notary Public

TOWN OF JACKSON

Pete Muldoon, Mayor

ATTEST: _____
By: Sandy Birdyshaw, Town Clerk

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _ day of _____, 20__, the foregoing instrument was acknowledged before me by Pete Muldoon as Mayor, of the Town of Jackson, Wyoming.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the _ day of _____, 20__, the foregoing instrument was acknowledged before me by Sandy Birdyshaw as Town Clerk, of the Town of Jackson, Wyoming.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

Approved as to form:

JACKSON/TETON COUNTY AFFORDABLE HOUSING DEPARTMENT:

Special Restrictions

10 of 12

Rental Workforce Housing

11 24 2018

Insert name of Housing Manager, Housing Manager

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

On the day _____ of _____, 20__, the foregoing instrument was acknowledged before me by Insert name of Housing Manager, as Housing Manager of the Jackson/Teton County Affordable Housing Department.

Witness my hand and official seal.

(Seal)

Notary Public
My commission expires:

FINAL DRAFT



**BOARD OF COUNTY
COMMISSIONERS**



TOWN COUNCIL

JOINT INFORMATION MEETING AGENDA DOCUMENTATION

PREPARATION DATE: November 28, 2018

MEETING DATE: December 3, 2018

SUBMITTING DEPARTMENT: Housing

DEPARTMENT DIRECTOR: April Norton

PRESENTER: April Norton

SUBJECT: Redmond Street Rentals Ground Lease Addendum

STATEMENT/PURPOSE:

Staff is bringing this attached Addendum to the ground leases for Redmond Street Rentals for the purposes of 1) stating the current Project Percentages for each entity at this time, 2) clarifying how future contributions will count toward the Project Percentage calculation in the future, and 3) determining how to handle an annual surplus or deficit.

BACKGROUND/ALTERNATIVES

Redmond Street Rentals (RSR) is a 28-unit affordable rental housing project, developed by the Jackson Hole Community Housing Trust (Housing Trust). Tenants moved into their units in August 2018.

RSR began in 2013 when the Town of Jackson paid \$1.65M to purchase two parcels (Lots 3 & 4) and received three (3) revolving rights of purchase or rent from the Housing Trust. This is set forth in the "Agreement with the Town of Jackson Regarding Redmond Street Rental Project". At that time, the project consisted of 12 rental units to be constructed on the Town-owned property (Lots 3 & 4). It is not the result of an RFP process like what the Housing Department is utilizing today.

In 2013 and 2015, the Housing Trust purchased two adjacent parcels (Lots 1 & 6) to add to the project. Together, the four parcels consist of 1.29 acres. With the additional land, the project grew from 12 rental units to 28 rental units.

In early 2017, the Town of Jackson provided an additional \$2.1M in general funds for the project and the Jackson Teton County Housing Authority (JTCHA) provided \$1.95M in SPET funds. In consideration of the allocation of these funds to the project:

- The Housing Trust conveyed Lots 1 and 6 exclusive of any improvements (the improvements are owned by the Housing Trust) to the Housing Authority and the Town, respectively; and
- The Housing Trust assumed sole responsibility for the development and construction of the project; and
- The Housing Trust assumed sole responsibility for the financing of the Redmond Street Rental Project; and
- The Housing Trust assumed sole responsibility for the management of rental operations, including securing tenants, maintenance, budgeting, insurance and enforcement, for so long as the Trust is the guarantor of the third-party financing required for the project; and
- Once the leasehold mortgage on the project is satisfied in full (it has a term of 25 years), the Town and JTCHA will receive an annual land lease payment as described in Section 2.3(b) of the Ground Leases (the “Ground Lease Fee”). The amount of the payment is based on each party’s “Project Percentage” as such term is defined in the Ground Leases.

The Town, JTCHA, and Housing Trust agreed to share the rental revenues based on each party’s pro rata portion once the Housing Trust retired the debt. The Housing Trust is the sole owner of Redmond Street Rentals, LLC (RSR LLC).

Now that the project development is complete, the parties to the ground leases desire to memorialize the initial Project Percentage for each entity. The parties also desire to memorialize their agreement regarding contributions, surpluses, and deficits.

The version of the Addendum that is attached to this staff report has been reviewed by the Housing Trust board already and they agree to its terms. Should the Town Council (Council) or Board of County Commissioners (Board) make changes to the Addendum, it will need to also receive approval from the Housing Trust board prior to execution.

Key Issue One: Determining Current Project Percentage

According to the ground leases executed by each party, the pro rata portion of net rents will be calculated by multiplying the net rents by the entity’s Project Percentage. The ground lease provides as follows:

The “Project Percentage” shall mean the percentage that results from the following fraction: (a) the numerator will be the total amount that a party has contributed to the RSR Project subsequent to this agreement, and (b) the denominator will be the total amount of all financial contributions made by the Town, Housing Authority, and Housing Trust to the project. For the purpose of calculating the numerator and the denominator, the \$1,650,000 paid by the Town for purposes of purchasing Lots 3 and 4 and obtaining three rights of first purchase or rental, is excluded. If additional monies are contributed to the project at any time by the Town, the Housing Authority or the JHCHT (for example if additional monies are contributed for the purpose of paying down any loan on the property), the numerator and denominator in the above calculation will be adjusted accordingly, thereby adjusting each party’s Project Percentage.

Based on a memo received November 19, 2018, the Housing Trust states it has raised \$2,389,284 in funds restricted for the planning and construction of RSR and \$905,000 in funds generated from the sale of three 15-year leases for a total contribution of \$3,467,617. They have \$173,333 in pledges for the

project, but these have not yet been contributed to the project and will not be counted towards the Project Percentage.

Summary of the three leases sold by the Housing Trust:

- 1) TC Library Foundation pre-paid for a unit for a Library employee. The Library will set the rental rate for the tenant; RSR LLC, as administrator of the sublease agreement with the Tenant, will withhold funds from gross rents to cover management and maintenance costs (adjusted on an annual basis). The net rental revenue will be returned to the Library Foundation. This lease agreement includes an obligation of the Housing Trust (not the RSR, LLC) to repay rent not yet received by the Library Foundation if the lease terminates prior to the 15-year term. This performance obligation will be carried in the footnotes of the Housing Trust's financial statements as a contingent liability.
- 2) A donor made a gift directly to the Housing Trust to pre-pay for a unit for a local artist. The donor specified that net rents should be directed to the Center of Wonder. Center of Wonder will set the rental rate for the tenant. RSR will withhold funds from gross rents to cover management and maintenance costs (adjusted on an annual basis). The net rental revenue will be returned to the Center of Wonder. There is no contingent liability associated with this lease.
- 3) Teton County Sheriff's Auxiliary pre-paid for a unit for Sheriff's employee. The TCSA will set the rental rate for the tenant. RSR will withhold funds from gross rents to cover management and maintenance costs (adjusted on an annual basis). The net rental revenue will be returned to the TCSA. There is no contingent liability associated with this lease.

The central issue surrounding these three leases is whether they should be characterized as "contributions" for the purpose of determining Project Percentages. The Town Finance Director has shared that the transactions are not by definition a "prepaid lease", that occurs when an entity recognizes revenue over a lease term. The management and maintenance costs retained by RSR is considered a prepaid lease/deferred revenue. The remaining funds are returned to the original payer, which makes this money a cash advance/lease deposit.

The reason to count the three leases is that the \$905,000 generated from the sale of the leases was contributed by RSR to the project and was essential to the development and construction of the project. The Housing Trust is obligated under the ground leases to service the long-term note, which is anticipated to take 25 years, and maintain and manage the short-term needs and long-term reserves of the project. The Town and JTCHA will not begin receiving (or paying) their Project Percentage until the long-term loan is paid. The leases will terminate prior to the Trust retiring the debt, so the rent revenue that is not generated on an annual basis because of the prepayment is part of the RSR annual budget for the first 15 years and is therefore a risk the Trust is assuming because they are solely responsible for annual budget deficits prior to retiring the long term debt (see key issue 3).

On the other hand, the money generated by the leases will only partially stay with the project in the form of the management and maintenance coverage. The money generated from the leases is essentially a financing tool that enabled the project to get built, but that should not be counted toward the Project Percentage for the Housing Trust just like the long-term note is not being counted toward the Project Percentage for the Housing Trust.

Options going forward are to a) count all prepaid leases as part of the Housing Trust's Project Percentage, b) count none of the prepaid leases as part of the Housing Trust's Project Percentage, c) count the Sheriff's Auxiliary and Center of Wonder leases as part of the Project Percentage now and to

count the Library Foundation lease once the performance obligation is fulfilled, or d) count the money saved (interest payments) by receiving the rent revenue up front as part of the Project Percentage, but not to count all funds generated by the prepayments.

Project Percentage Calculations:

Option A - all leases count now		Option B - no leases count		Option C - 2 leases count now, 1 may count later		Option D - interest savings on \$905k at 4.6% over 25 years	
Housing Trust	46%	Housing Trust	37%	Housing Trust	44%	Housing Trust	42%
Town	28%	Town	33%	Town	29%	Town	30%
JTCHA	26%	JTCHA	30%	JTCHA	27%	JTCHA	28%

The attached Addendum includes Option C.

Key Issue Two: How future contributions will count toward Project Percentages

The executed ground leases state that if additional monies are contributed to the RSR Project at any time by the Town, Housing Authority, or Housing Trust (for example if additional monies are contributed for the purpose of paying down any loan on the properties), the numerator and denominator will be adjusted accordingly, thereby adjusting each party's Project Percentage.

The Ground Lease is not specific about what happens if an entity provides money for a capital project or debt acceleration and how the three entities go about agreeing on and calculating Project Percentages. Staff and the Housing Trust have agreed, and the addendum attached reflects, that all three entities must agree to Project Percentage credits in the future, whether it be for a capital project that was not anticipated or debt acceleration. Requiring all three entities to agree limits any one entity's ability to acquire a larger Project Percentage without acknowledgement and approval of the other two partners.

Key Issue Three: Handling of annual surplus or deficit?

The annual surplus or deficit generated by the project will vary over time.

The Housing Trust is the sole owner of Redmond Street Rentals LLC. If RSR LLC experiences an operational deficit, staff recommends and the Housing Trust has agreed, that any money provided by the Housing Trust to cover this deficit should not be counted toward their Project Percentage unless the expense arises from a revision to RSR's management obligations mandated by the Town and JTCHA. An example of this might be a change in reporting requirements from an annual report to a monthly report. If the Town or JTCHA contribute to the payment of operational expenses that amount may be included as part of the Project Percentage calculation. This is reflected in the attached Addendum.

If RSR LLC experiences a surplus once all reserves are funded, staff recommends and the Housing Trust has agreed, that the Housing Trust as sole owner of the LLC can choose to withdraw the surplus to utilize for their own purposes without any adjustment to their Project Percentage. This is reflected in the attached Addendum.

ATTACHMENTS

- Addendum to Ground Leases (Redmond Street Rentals Project)
- January 9, 2017 JIM staff report
- March 6, 2017 JIM staff report

- Agreement with Jackson/Teton County Housing Authority Regarding Redmond Street Rental Project

FISCAL IMPACT

The fiscal impacts of the project will vary based on policy decisions, annual operations, etc. These have been summarized throughout this staff report.

STAFF IMPACT

Impact on housing staff is ongoing as it relates to annual reporting for the project. Town and County legal, Town and County administration, and Town finance staff have also spent considerable time on this item.

STAKEHOLDER ANALYSIS

Stakeholders: Teton County; Town of Jackson; Jackson Hole Community Housing Trust; Town and County taxpayers and residents; potential renters; local businesses; community members at-large; neighbors living near the development; etc.

LEGAL REVIEW

This staff report and the Ground Lease Addendum have been reviewed by Keith Gingery and Audrey Cohen-Davis.

RECOMMENDATION

Staff makes no collective recommendation. If changes are made to the proposed ground lease addendum the Housing Trust board of directors will also need to approve and sign the Addendum.

SUGGESTED MOTION

For the Commission and the Town Council:

I move to approve the Addendum to the Ground Lease for Redmond Street Rentals as presented.

OR

I move to approve the Addendum to the Ground Lease for Redmond Street Rentals with the following changes, subject to approval by the Jackson Hole Community Housing Trust Board of Directors:

ADDENDUM TO GROUND LEASES
(REDMOND STREET RENTALS PROJECT)

THIS ADDENDUM TO GROUND LEASES (this “**Addendum**”) is entered into as of December __, 2018 (“**Effective Date**”), by and between Redmond Street Rentals LLC, a Wyoming limited liability company (“**RSR**”), the Jackson/Teton County Housing Authority (the “**Housing Authority**”), and the Town of Jackson, a Wyoming municipal corporation (the “**Town.**”

RECITALS

WHEREAS, RSR is wholly-owned by the Jackson Hole Community Housing Trust (the “**JHCHT**”), a Wyoming 501(c)(3) tax exempt organization organized exclusively for charitable purposes, including, but not limited to, the provision, management and administration of affordable housing in Teton County, Wyoming and lessening the burden of government;

WHEREAS, the Housing Authority and RSR entered into that certain Ground Lease, dated April 10, 2017, whereby the Housing Authority leased to RSR that certain real property described as Lot 1 of the James G. and Julia L. Scarlet Addition Second Filing to the Town of Jackson, Plat No. 1316 (the “**Housing Authority Lot**”), together with all rights, privileges and appurtenances thereto, but exclusive of any improvements (the “**Housing Authority Ground Lease**”);

WHEREAS, the Town and RSR entered into that certain Ground Lease, dated March 20, 2017, whereby the Town leased to RSR that certain real property described as Lot 3, Lot 4 and Lot 6 of the James G. and Julia L. Scarlet Addition Second Filing to the Town of Jackson, Plat No. 1316 (the “**Town Lots**”), together with all rights, privileges and appurtenances thereto, but exclusive of any improvements (the “**Town Ground Lease**,” and together with the Housing Authority Ground Lease, the “**Ground Leases**”);

WHEREAS, RSR, in accordance with the Ground Leases, that certain Agreement with the Jackson/Teton County Housing Authority Regarding Redmond Street Rental Project, dated April 10, 2017, and that certain Agreement with the Town of Jackson Regarding Redmond Street Rental Project, dated March 20, 2017 (collectively, the “**Governing Documents**”), has completed the development and construction of permanently restricted affordable rental units on the Housing Authority Lot and the Town Lots (the “**Redmond Street Rental Project**”);

WHEREAS, now that the development and construction of the Redmond Street Rental Project is complete and all certificates of occupancy have been obtained, RSR (i) is the owner of twenty-eight (28) permanently restricted affordable rental units (the “**Rental Units**”) on the Housing Authority Lot and the Town Lots subject to the Ground Leases, (ii) is the borrower under the Loan (as defined in the Ground Leases) and the mortgagor under the Leasehold Mortgage (as defined in the Ground Leases), which Loan is guaranteed by the JHCHT; and (iii) so long as the Leasehold Mortgage is outstanding or JHCHT is the guarantor of the Loan secured thereby, is solely obligated under the Governing Documents to manage, operate and maintain the Redmond Street Rental Project in accordance with the terms thereof; and

WHEREAS, RSR entered into three leases with non-profit entities for three separate Rental Units for a lease term of fifteen (15) years each (the “**Long-Term Leases**”), in exchange for the

upfront payment by each non-profit entity to RSR of an amount representing fifteen (15) years of rental payments under each such lease (the “**Lease Price**”); and

WHEREAS, in light of the foregoing, the parties hereto desire to clarify and confirm certain provisions contained in the Ground Leases.

AGREEMENT

NOW THEREFORE, for and in consideration of the foregoing recitals, which are hereby incorporated into this Addendum, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, RSR, the Housing Authority and the Town agree as follows:

1. Definitions. All capitalized terms utilized in this Addendum and not defined herein shall have the meanings ascribed to them in the Ground Leases.

2. Establishment of Project Percentages. For purposes of Section 2.3(b) of the Ground Leases, the “Project Percentage” of each of RSR, the Housing Authority and the Town as of the Effective Date of this Agreement are as follows:

RSR:	44%
Housing Authority:	27%
Town of Jackson:	29%

On an annual basis as part of the reporting required in Section 2.4(d) of the Ground Leases, each party hereto will have the opportunity to submit documentation to the other parties hereto in support of an adjustment to the Project Percentages. Any adjustments to Project Percentages must be mutually agreed upon the parties hereto. The parties agree that after RSR fulfills its performance obligations under its lease to the Teton County Library Foundation (“TCLF”), which is expected to occur in 2033, the Lease Price paid by TCLF to RSR will be included in the Project Percentage of RSR

3. Provisions Regarding Long-Term Leases. The parties agree as follows with respect to the Long-Term Leases:

a. RSR contributed the Lease Price paid to RSR under each Long-Term Lease to the Redmond Street Rental Project for the purpose of reducing the balance outstanding under the construction loan, and the Lease Prices are therefore included in the Project Percentage of RSR stated above, except for the Lease Price paid by TCLF which shall be included in the Project Percentage of RSR at a later date as described above in Section 2.

b. No Long-Term Lease may be renewed, and no new Long-Term Leases shall be entered into, without the prior written approval of the Housing Authority, the Town and RSR.

c. The parties hereto acknowledge that the current term of the Loan is twenty-five (25) years, and Section 2.3(b) of the Ground Leases provides that upon the satisfaction in full of the Leasehold Mortgage, the Town, the Housing Authority and RSR will begin to receive an

annual lease fee payment from the Redmond Street Rental Project in an amount equal to each such party's "pro rata portion of net rents" generated from the Redmond Street Rental Project as described therein. Therefore, if the Loan is prepaid in full prior to the expiration of the term of the Long-Term Leases, the parties hereto agree that the Town and the Housing Authority shall receive, in addition to their annual lease fee, an additional amount of "net rents" (as defined in Section 2.3 of the Ground Leases) to account for the loss in rental revenue from the Rental Units still subject to the Long-Term Leases (the "**Adjustment Amount**"). The Adjustment Amount shall be calculated by multiplying (i) the number of months remaining in the terms of the Long-Term Leases as of the date the Loan is prepaid in full, by (ii) the then current monthly amount of "net rents" generated by Rental Units that are comparable in size to the Rental Units subject to the Long-Term Leases. The Adjustment Amount shall be payable in equal monthly installments over the remaining term of the Long-Term Leases.

4. Contributions to the Redmond Street Rental Project. The parties agree as follows regarding certain categories of contributions a party may make to the Redmond Street Rental Project and the effect of those contributions on the Project Percentages:

a. *Operations:* RSR's payment of operational expenses related to the Redmond Street Rental Project shall not be included in the calculation of Project Percentages, unless the expense arises from a revision to RSR's management obligations mandated by either the Town or the Housing Authority (e.g., the Housing Authority requires monthly, rather than annual, reporting), and so long as the Town, Housing Authority, and RSR all agree to the expense being included in the calculation of Project Percentages. On the other hand, if the Town or the Housing Authority contribute to the payment of operational expenses related to the Redmond Street Rental Project (which they are under no obligation to do until the Loan is paid in full), the amount of such contributions shall be included in the calculation of Project Percentages for the benefit of the party making such contribution, so long as the Town, Housing Authority, and RSR all agree to the expense being included in the calculation of Project Percentages.

b. *Capital Improvements.* If any party hereto makes a capital investment to the Redmond Street Rental Project that is above and beyond the funding available in the reserve fund and not included in the activities anticipated in the then current reserve fund schedule (e.g., finishing out the basements in the Rental Units), the amount of such capital investment shall be included in the calculation of Project Percentages for the benefit of the party making such contribution, so long as the Town, Housing Authority, and RSR all agree to the investment being included in the calculation of Project Percentages.

c. *Debt Service Acceleration.* If any party hereto contributes funds to the Redmond Street Rental Project for the purpose of accelerating the repayment of the Loan, the amount of such funds shall be included in the calculation of Project Percentages for the benefit of the party making such contribution, so long as the Town, Housing Authority, and RSR all agree to the contribution being included in the calculation of Project Percentages. The parties hereto acknowledge that the prepayment of the Loan may result in prepayment penalties.

5. Surplus; Deficit. So long as the Leasehold Mortgage is outstanding or JHCHT is the guarantor of the Loan secured thereby, RSR is obligated to manage, operate and maintain, at

its sole cost and expense, the Redmond Street Rental Project in accordance with the terms of the Governing Documents.

a. *Surplus.* During such period, RSR shall have sole responsibility and discretion regarding the use of all funds, including any surplus funds, generated by the Redmond Street Rental Project. Also, during such period: (i) RSR may distribute surplus funds to the JHCHT and the Project Percentages shall not be adjusted, and (ii) RSR may contribute surplus funds to the Redmond Street Rental Project for any category described in Section 4 above, so long as the Town, Housing Authority, and RSR all agree to the contribution being included in the calculation of Project Percentages.

b. *Deficit.* During such period, RSR bears full responsibility to fund any deficit that occurs with respect to the costs of the management, operations and maintenance of the Redmond Street Rental Project (which for the avoidance of doubt includes debt service on the Loan and funding the reserves).

6. Continued Effectiveness of Terms of Agreement. Except as expressly modified in this Addendum, the terms and conditions contained in the Ground Leases shall remain unmodified and in full force and effect. In the event of any conflict between the terms in this Addendum and the terms of any Governing Document, the terms of this Addendum shall control.

7. Counterpart Signatures. This Addendum may be executed in any number of counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute one agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed as of the Effective Date.

RSR:

**Redmond Street Rentals, LLC,
a Wyoming nonprofit corporation**

By: Jackson Hole Community Housing Trust, a
Wyoming nonprofit corporation, its Manager

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

The foregoing instrument was acknowledged before me by _____ and _____, as Officers of the Jackson Hole Community Housing Trust, a Wyoming nonprofit corporation, as the Manager of Redmond Street Rentals LLC, a Wyoming limited liability company, this ____ day of _____, 20____.

WITNESS my hand and official seal.

Notary Public

My commission expires:

Housing Authority:

The foregoing Agreement is hereby accepted by the Jackson/Teton County Housing Authority this _____ day of _____, 20_____.

JACKSON/TETON COUNTY HOUSING AUTHORITY

Matt Faupel, Chairman

Attest: _____
Danielle Goldyn-Haigh, Clerk

Affirmed and Approved By:

JACKSON TOWN COUNCIL

Pete Muldoon, Mayor

Attest: _____
Sandy Birdyshaw, Jackson Town Clerk

Affirmed and Approved By:

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

Mark Newcomb, Chairman

Attest: _____
Sherry Daigle, Teton County Clerk

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

The foregoing instrument was acknowledged before me by Matt Faupel and Danielle Goldyn-Haigh, Chairman and Clerk, respectively, of the Jackson/Teton County Housing Authority, this _____ day of _____, 20____.

Witness my hand and official seal.

Notary Public

My Commission Expires:

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

The foregoing instrument was acknowledged before me by Pete Muldoon and Sandy Birdyshaw, Mayor and Town Clerk, respectively, of the Jackson Town Council, this ____ day of _____, 20____.

Witness my hand and official seal.

Notary Public

My Commission Expires:

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

The foregoing instrument was acknowledged before me by Mark Newcomb and Sherry Daigle, Chairman and Teton County Clerk, respectively, of the Teton County Board of County Commissioners, this _ day of _____, 20____.

Witness my hand and official seal.

Notary Public

My Commission Expires:

Town of Jackson

JACKSON TOWN COUNCIL

Pete Muldoon, Mayor

Attest: _____
Sandy Birdyshaw, Jackson Town Clerk

STATE OF WYOMING)
) ss.
COUNTY OF TETON)

The foregoing instrument was acknowledged before me by Pete Muldoon and Sandy Birdyshaw, Mayor and Town Clerk, respectively, of the Jackson Town Council, this ____ day of _____, 20____.

Witness my hand and official seal.

Notary Public

My Commission Expires:



**BOARD OF COUNTY
COMMISSIONERS**



TOWN COUNCIL

**JOINT INFORMATION MEETING
AGENDA DOCUMENTATION**

PREPARATION DATE: January 5, 2017
MEETING DATE: January 9, 2017

SUBMITTING DEPARTMENT: Housing
DEPARTMENT DIRECTOR: April Norton
PRESENTER: April Norton

SUBJECT: Redmond and Hall Project

STATEMENT/PURPOSE:

In early December the Housing Trust requested funding from the Town of Jackson (\$2.1M) and the Jackson/Teton County Housing Authority (\$1.95M) for the Redmond and Hall workforce housing project. This staff report contextualizes those requests and provides a funding recommendation.

BACKGROUND/ALTERNATIVES

Redmond and Hall is an affordable rental housing project, developed by the Jackson Hole Community Housing Trust, that will provide 26 new units in addition to the 2 existing units at the corner of Redmond and Hall Streets in East Jackson.

In 2013, the Town of Jackson purchased two parcels (Lots 3 & 4) for \$1.6M and entered into a 99-year ground lease with the Trust. At that time, the project consisted of 12 rental units to be constructed on the Town-owned property (Lots 3 & 4). As a requirement of the ground lease, the Trust must complete construction of rental housing on the parcels by January 1, 2018 or the lease is revoked.

In 2013 and 2015, the Trust purchased two adjacent parcels (Lots 1 & 6) to add to the project. Together, the four parcels consist of 1.29 acres. With the additional land, the project grew from 12 rental units to 28 rental units. In 2016, the Trust requested an additional \$6M in public funds to complete the project. Those funds were not provided.

Today, the Trust is requesting \$4.05M in additional funding from the Town, County, and Jackson Teton County Housing Authority (JTCHA) to complete the project.

From a planning perspective, the project has received development plan approval and needs only a building permit to proceed. Project bid documents were released on December 15, 2016; responses are due January 26, 2017.

Key Issues:

- Long term funding for housing. In light of the failure to pass the local option sales tax in November 2016, public funds available for housing are limited. The Trust is asking the Town and County to invest almost all of the cash available for housing into this project. Should a SPET measure for housing fail this spring, the Town and County will be faced with minimal capital with which to pursue workforce housing projects.
- Product Type. The ground lease with the Town requires the project be 100% rental. Is there support for allowing the Trust to build a project that is a hybrid of ownership and rental?
- SPET. A Special Excise Tax vote is scheduled for May 2017. Is this project more suitable for a SPET vote? If so, approximately \$4.05M in Town/County funds will be available for housing immediately; how should these funds be used?
- Ground Lease. The ground lease on Lots 3 and 4 requires the Housing Trust to complete construction by January 1, 2018. The Trust will not meet this deadline. How does the Council want to handle this? What precedent exists to extend the deadline? What precedent is being set by allowing an extension?
- Can existing SPET funds legally be used to fund this project?
- Will the Town provide funding for this project?
 - If so, in what amount and for what product type?
- If the Town chooses to provide \$2.1M, will it do so:
 - Regardless of whether or not the Town/County jointly direct and authorize the JTCHA Board to provide an additional \$1.95M?
 - Only if the Town/County direct and authorize the JTCHA Board to provide an additional \$1.95M?
- Should the JTCHA provide \$1.95M if the Town does not opt to provide \$2.1M?
- If funding is provided:
 - What are the terms of the agreement?
 - What is the timeframe for agreement negotiations?

Financing: This project utilizes diverse funding streams, summarized below.

Private Philanthropy: The Housing Trust has \$1.27M “in hand”. Some of this money is in their bank account, but most of it has been spent on various project expenses (design, land, etc.). The Trust has \$1.08M in pledged funds. Of this \$1.08M; \$500,000 is a conditional pledge that initially expired at the end of 2016 should the Trust fail to raise the remaining dollars needed for the project by December 31, 2016. The donor has extended that timeline to allow the JIM to consider project funding. \$580,000 is in the form of multi-year pledges, which the Trust has discounted 5%.

Public Funding: In 2013, the Town of Jackson purchased 2 parcels for \$1.6M. The Town then entered into a 99-year lease with the Trust, allowing the Trust to borrow against the improvements on the land. This expires if the Trust has not completed the project by January 1, 2018. For this contribution (plus \$50,000) the Town received three revolving rights of first purchase or first rental from the Trust. The Trust is requesting an additional \$2.1M contribution from the Town of Jackson. They are also requesting a \$1.95M contribution from the Town and County (via the JTCHA). Should the Town, County and Housing Authority agree to provide the requested funds, the public will contribute \$5.7M in capital to the project.

Debt: The Housing Trust proposes to take out a \$3.85M fixed rate loan for the project. The loan will be used to construct 26 units and remove mortgages on the Trust properties associated with the purchase. The Trust owes \$756,000 on Lot 1 and \$709,570 on Lot 6 (total is \$1,465,570). The Trust estimates that it will take approximately 25 years to pay back the loan.

Gap: The estimated total project cost is \$12,595,542; which includes \$730,000 in GC and owner contingency. The funding described above leaves a \$695,542 gap to be raised for the project. The Housing Trust has agreed to take responsibility for raising these additional funds.

Consideration: For the \$1.65M the Town of Jackson has already contributed, 3 rights of first rental or first purchase were given as consideration. The Trust has offered 26,000 square feet of land as consideration should they receive an additional \$4.05M in public funding. \$1,465,570 is still owed on that 26,000 square feet. Per Wyoming Constitution Article 16 Section 6, no public funds may be provided to a developer unless equivalent consideration is being given. In this scenario, the land being offered for consideration will ultimately have mortgaged improvements built on it. An evaluation as to whether or not this is appropriate consideration may need to be completed.

Ground Lease: The ground lease on Lots 3 and 4, signed in February 2014, requires the Trust to complete construction on the Town-owned land by January 1, 2018. This deadline will not be met regardless of when the Trust receives funding. Should the project move forward, the Town will need to extend the ground lease.

Community Need: The Housing Action Plan adopted in 2015 estimates that 2,800 workforce housing units are needed over the next 10 years. As stated in the Workforce Housing Action Plan and the Housing Supply Plan, the greatest demand for workforce housing is for rental housing serving households earning less than 50% of area median income (less than \$43,000 per year for a family of 4) and demand for ownership and rental housing for households earning 80-120% of area median income.

For this project, the ground lease signed by the Town allows that, “the monthly rental rate for each unit shall be determined by the rental policies adopted by the Housing Trust, as amended”. The Housing Trust serves households earning less than 120% of area median income, unless the household includes a public sector employee. In that case, the household may earn more than 120% of area median income and still qualify for Housing Trust units. The chart, below, compares the proposed Redmond and Hall rental rates with three existing rental properties in the Town of Jackson.

	The Grove	Redmond Hall	Aspen Meadows	Blair Place
Studio/1 bath		\$989	\$1,300	\$1,489
1 bed/1 bath	\$1,125-\$1,175	\$1,289	\$1,450	
1+bed/1 bath	\$1,175-\$1,225	\$1,414		
2 bed/2 bath	\$1,225-\$1,275	\$1,653		\$1,878
2+ bed/2 bath	\$1,275-\$1,325			
3 bed/1 bath	\$1,375-\$1,425			
3 bed/2 bath				\$2,400

Product Type: This project could be built as an ownership product or a hybrid of ownership and rental. These scenarios would cost the public less money and, should the Trust raise more private philanthropy, allow them to convert some or all of the ownership units to rental. The ground lease on Lots 3 and 4 specifically requires that 100% of the units built on that land be rental product. Should the project change from rental to a hybrid or ownership, the ground lease may need to be amended. It is also likely that, should the project change from rental to ownership, philanthropic investments may be withdrawn.

Long-Term Funding for Housing: The local option sales tax failed in November 2016, which means public funds available for workforce housing are limited and there is no certain revenue stream other than what is required by the land development regulations and provided by the Town and County governments as part of their annual budgeting process. A May SPET ballot will provide an opportunity to seek additional funds for workforce housing. If a measure to support housing passes, funds will not begin accruing until October 2017.

Other Housing Projects:

- Opportunities currently exist to purchase appropriately zoned land in Town and put out a request for proposals to construct housing. Housing units would not be ready for occupancy before 2018.
- Providing START with up to \$600,000 to complete designs for the proposed housing (24 units) at the bus barn facility would accelerate the development of that housing should a SPET item to fund that

work be passed in May. Housing units would likely not be ready for occupancy before late 2018, but would be publicly owned.

- Opportunities exist to purchase ownership restrictions and/or to purchase units for the purposes of restricting and renting them, but a more thorough analysis is needed to better understand the timing and fiscal impact of these opportunities.

SPET: In a letter dated December 27, 2016, the Housing Trust asks the SPET committee not to include Redmond and Hall on the ballot because “we [Housing Trust] will be forced to bear the cost and time implications of *re*-re-bidding the project in the early summer (6-8 weeks), we will lose the value of prime pricing, and ground breaking would not be possible until September 1st (when we are able to close on construction and long term financing)”. Instead, the Trust requests that the BCC and Town Council opt to provide an additional \$4.05M in public funds for the project now.

Timing: The Trust is requesting \$4.05M for this project, which will require a BCC and Town Council vote to direct and authorize the JTCHA to provide the Trust with \$1.95M along with a Town Council vote to spend an additional \$2.1M on the project. A SPET vote is scheduled for May 2017 and final ballot language must be approved by March 1, 2017. BCC and Town Council are considering items for a SPET ballot at the January 9 JIM. If the BCC and Town Council decide to put the project on the May SPET, construction would be delayed.

ATTACHMENTS

None.

FISCAL IMPACT

The Town of Jackson has \$2.1M available in the housing fund for this project. JTCHA has \$1.95M in funding available from the sale of the Cheney Lane parcel.

If \$2.1M is allocated by the Town to this project, limited funds remain for workforce housing projects. Likewise, should the Town and County direct and authorize the JTCHA to allocate the proceeds from the sale of Cheney Lane to this project, JTCHA will have two remaining assets and no capital with which to catalyze the construction of workforce housing. The County will be similarly situated, having limited funds to provide affordable housing for the community.

STAFF IMPACT

Impact on housing and legal staff will be considerable during the agreement negotiation period. Ongoing impact on housing staff will include project oversight (project reports, etc.) and potentially project managements.

STAKEHOLDER ANALYSIS

Stakeholders: Teton County; Town of Jackson; Town and County taxpayers and residents; potential renters; local businesses; community members at-large; neighbors living near the development; etc.

LEGAL REVIEW

This staff report has been reviewed by both the Teton County Attorney’s Office and the Town of Jackson Attorney’s office. Legal review is ongoing.

RECOMMENDATION

This project began in 2013, prior to the adoption of the Housing Action Plan, creation of the Housing Department, adoption of a Housing Supply Plan, and appointment of a Housing Supply Advisory Board. In November 2015 the Board of County Commissioners and Jackson Town Council adopted the Workforce Housing Action Plan, which outlines a new approach to the creation of workforce housing. This new approach is predicated on Purchase, Partner, and Preserve. In this new model, the Town and County will work to identify land to purchase and then issue a request for proposals for the construction of workforce housing on the land that meets publicly defined criteria. The Housing Department fully intends to carry forth this approach, as reflected in the unanimously approved 2016 Housing Supply Plan.

While this project does not follow the newly adopted process, staff finds there is still value in providing funding to construct workforce housing this spring. Our shortage of housing is acute and this project will provide some relief in the near term, as it is through the planning process and essentially primed to begin construction once the ground thaws. Because of that, staff recommends that the Town and County approve \$4.05M in funding for the project, but *only if* a negotiated agreement can be reached between the Trust and the Town and County.

By providing an additional \$4.05M to this project, the public will be contributing \$5.7M or 65% of the equity in the project, as the project is currently proposed (Trust contributes \$3M in philanthropy; public invests \$5.7M; public and Trust jointly invest in \$3.85M debt). Because of the considerable public capital investment in the project, staff recommends negotiating terms of agreement with the Housing Trust prior to the exchange of any funds. Providing the funding, but negotiating terms, transitions this project into the new Housing Action Plan approach, while acknowledging that it predates the approach.

The staff recommendation for moving forward with agreement negotiations is outlined below; an alternate approach is also provided. In both scenarios, all costs incurred to-date by the Housing Trust related to this project are the sole responsibility of the Housing Trust. Staff did pursue a third approach with the Trust where the Town, County, and Trust revenue share starting in Year 1, with the Trust paying off the debt. The split in that scenario would be 45% public, 55% Trust. When discussing this as an option, the Trust informed the Housing Director that they would be unable to secure financing under this scenario. The recommended approach outlined below seems to be the only viable option that protects tax payer dollars.

Should an agreement not be reached by the February 6, 2017 JIM; staff recommends the Town and County utilize the \$4.05M to purchase land in Complete Neighborhoods and partner with private developers to construct workforce housing through an RFP process designed with the Housing Supply Advisory Board.

Recommended Approach: Town of Jackson provides \$2.1M in funding for the project. The Town Council and BCC direct and authorize the JTCHA to provide \$1.95M in funding for the project. Town, County, and Trust revenue share starting in Year 1, with all three entities jointly paying off the \$3.85M loan. In this scenario, the public is a 65% equity partner and would receive 65% of revenues for the lifetime of the project and would pay 65% of the \$3.85M loan. The public would also be liable for 65% of the operations and maintenance of the project. All revenues accrued from the project will be reinvested in affordable housing for the local workforce.

In this scenario the public would require the following:

- The Trust raise \$3.05M (or whatever the funding gap may be once bids are opened January 26, 2017) in private philanthropy before receiving a building permit for the project and no later than May 1, 2017. Should the Trust fail to raise these funds, the public has the first right to purchase Lots 1 and 6 for \$2.045M and the existing ground lease with the Town on Lots 3 and 4 will be voided immediately.
- The Trust provide 26,000 square feet (Lots 1 & 6) as consideration split between the Town of Jackson and JTCHA.
- The Housing Department and Trust jointly define criteria for choosing a general contractor for the project construction and each participate on the selection committee consistent with equity investment in the project.
- Households must annually qualify to rent a unit in the development in accordance with Housing Department Rules and Regulations. Housing Department will ensure compliance.
- The Housing Department assume management of the project; including maintenance, rental agreements, rental rates, and administration of lotteries for all units.
- The Trust provide quarterly project reporting for the duration of construction. The Housing Department will create reporting criteria. The Housing Department will provide annual reporting for the lifetime of the project.

Alternate Approach: Town and County place the Redmond and Hall Project on the May SPET ballot and immediately utilize the \$4.05M in housing funds to purchase land in Complete Neighborhoods and partner with private developers to construct workforce housing through an RFP process designed with the Housing Supply Advisory Board. If this approach is pursued, consideration for the public funds will need to be defined.

SUGGESTED MOTION

I move to direct and authorize the Jackson Teton County Housing Authority to provide the Jackson Hole Community Housing Trust with \$1.95M in funding for the Redmond and Hall Project, but only if an agreement can be reached by February 6, 2017. The agreement shall require the following:

- Assuming the Town provide an additional \$2.1M in funding for the project; Town, County, and Trust revenue share starting in Year 1, with all three entities jointly paying off the \$3.85M loan. In this scenario, the public is a 65% equity partner and would receive 65% of revenues for the lifetime of the project and would pay 65% of the \$3.85M loan. The public would also be liable for 65% of the operations and maintenance of the project. All revenues accrued from the project will be reinvested in affordable housing for the local workforce.
- The Trust raise \$3.05M (or whatever the funding gap may be once bids are opened January 26, 2017) in private philanthropy before receiving a building permit for the project and no later than May 1, 2017. Should the Trust fail to raise these funds, the public has the first right to purchase Lots 1 and 6 for \$2.045M and the existing ground lease with the Town on Lots 3 and 4 will be voided immediately.
- The Trust provide 26,000 square feet (Lots 1 & 6) as consideration split between the Town of Jackson and JTCHA.
- The Housing Department and Trust jointly define criteria for choosing a general contractor for the project construction and each participate on the selection committee consistent with equity investment in the project.
- Households must annually qualify to rent a unit in the development in accordance with Housing Department Rules and Regulations. Housing Department will ensure compliance.
- The Housing Department assume management of the project; including maintenance, rental agreements, rental rates, and administration of lotteries for all units.
- The Trust provide quarterly project reporting for the duration of construction. The Housing Department will create reporting criteria. The Housing Department will provide annual reporting for the lifetime of the project.



**BOARD OF COUNTY
COMMISSIONERS**



TOWN COUNCIL

**JOINT INFORMATION MEETING
AGENDA DOCUMENTATION**

PREPARATION DATE: March 5, 2017
MEETING DATE: March 6, 2017

SUBMITTING DEPARTMENT: Administration
DEPARTMENT DIRECTOR: Bob McLaurin & Alyssa Watkins
PRESENTER: Bob McLaurin & Alyssa Watkins

SUBJECT: Redmond Hall Agreement and Ground Lease

STATEMENT/PURPOSE

To update the Town Council and Board of County Commissioners on the current status of negotiations with the Jackson Hole Community Housing Trust regarding the Redmond Hall Project, to present an Agreement for \$1.95 million dollars from the Jackson/Teton County Housing Authority towards the Redmond Hall Project, and to present a Ground Lease for the same.

BACKGROUND/ALTERNATIVES

The Redmond Hall project is an affordable rental housing project developed by the Jackson Hole Community Housing Trust that will provide 26 new units in addition to the 2 existing units at the corner of Redmond and Hall Streets in East Jackson.

In 2013, the Town of Jackson purchased two parcels (Lots 3 & 4) for \$1.6M and entered into a 99-year ground lease with the Trust. At that time, the project consisted of 12 rental units to be constructed on the Town-owned property (Lots 3 & 4). As a requirement of the ground lease, the Trust must complete construction of rental housing on the parcels by January 1, 2018 or the lease is revoked. At that time JHCHT committed to raising \$3.969M by the end of 2015.

In 2013 and 2015, JHCHT purchased two adjacent parcels (Lots 1 & 6) to add to the project. Together, the four parcels consist of 1.29 acres. With the additional land, the project grew from 12 rental units to 28 rental units. In 2016, JHCHT requested an additional \$6M in public funds to complete the project. Those funds were not provided.

At the January 9, 2017 JIM staff presented a \$4.05M funding request from JHCHT. JHCHT requested \$1.95M from the Jackson/Teton County Housing Authority and \$2.1M from the Town of Jackson. The JIM directed staff to work with JHCHT to reach an agreement for the \$1.95M request from the Housing Authority by February 6th, 2017, using the criteria set forth in the staff report as a starting point for negotiations.

At the February 6th, 2017 JIM, staff presented on the status of negotiations to date, including three areas highlighted as policy considerations for the elected officials. Those areas were the guidelines to be used, the

guarantor fee, and the borrowing cap. The JIM did not approve the draft agreement, but directed staff to work with JHCHT to continue trying to reach agreement. No new commitment to the funding was made.

On February 16, 2017 at the Town Council evening meeting, Town staff discussed the agreement with the Town for the \$2.1 million dollars. The item was continued for staff to further work out the details with the Housing Trust regarding the items.

The Housing Authority agreement being considered today contains the following provisions that were of note during the January 9th JIM discussions:

1) **Guarantor fee –**

The Housing Trust has confirmed that no guarantor fee will be required. This fee and prior paragraph 2.B(ii)(3) has been removed.

2) **Selection criteria –**

Either under the Teton County Affordable Housing Department Guidelines or the Housing Trust guidelines. Section 2(B)(i) establishes (through the Ground Leases) that the project will be used only for rental affordable housing for qualified applicants. Both the agreement and the Ground Lease between the Housing Authority and Housing Trust currently provide that the qualifications and guidelines are to be established by the **Housing Trust**.

As outlined at the February 6th JIM, use of the Housing Trust guidelines allows the project to serve households earning over 120% of AMI, as well as those earning less than 120% of AMI. This is a departure from the direction specified in the Housing Action Plan, which states that “to meet the greatest need, public subsidy will focus on the 70% of workforce households making less than 120% of area median income, of which the year-round workforce will be the priority....To coordinate efforts, non-profits are encouraged to mirror this focus by concentrating their efforts on the lower-income, year-round workforce.” Also of note to staff is that the JHCHT criteria provide preference to households that contain critical service providers and individuals who volunteer. The concern with the latter being that the households who most need livable, affordable rental units according to the data collected over the past several years, are those households earning <50% of AMI and who may not have the capacity to volunteer on top of raising families and working full time. That said, the JHCHT has provided compelling reasons for use of their criteria, and this remains a policy decision for the elected officials.

3) **Financing Cap –**

Section 2(C) requires verification that the Trust holds sufficient private sector funds and third party financing sufficient to complete the project. The agreement furthermore establishes a maximum long term loan not to exceed \$4,000,000.

Draft Ground Lease -

The proposed draft Ground Lease is structured almost identically with the current Town of Jackson/JHCHT Ground Lease approved in 2012, although it includes the particulars of the revised Agreement between the Housing Authority and the Trust.

Under paragraph 2.3.A of the Ground Lease, the **equity contributions** will apply to the net revenue calculations as follows:

Entity	Equity Contribution	Equity Percentage
Town of Jackson	\$2.10 million	30%
Housing Authority	\$1.95 million	28%

The calculation of each party's Project Percentage and resulting "pro rata portion of net rents" will occur when the Leasehold Mortgage for the Redmond Street Rental Project is retired. Per the attached, it has also been clarified that there will be an adjustment to project percentages if the debt is paid down by a party.

"Net rents" will be determined on an annual basis by deducting all expenses (including taxes, insurance, maintenance, reserves, administrative expenses and management fees) of the Redmond Street Rental Project from the gross rents generated from the Redmond Street Rental Project. Capital expenses deemed necessary in the sole discretion of the property manager that are not paid for out of the reserve fund for the Redmond Street Rental Project will also be deducted from gross rents.

As a note, if the SPET item for \$4,050,000.00 is passed by the voters, the elected officials may choose to use the funds to reimburse the JTCHA and the Town for their respective contributions to the Project, or may determine that the SPET item should be used to cover the financing gap. In the latter event, the equity and "Net rents" numbers would change accordingly such that the public would be the majority owner of the project and would receive 76% of the "Net rents" (collectively to the Town and Housing Authority) and the Housing Trust will receive 24% of the "Net rents" starting immediately, rather than in 20 years when the debt is paid off. Staff have suggested that, in this scenario, public restrictions be placed on these units to best protect the public investment.

Specific Items of Note in the Ground Lease:

The negotiating committee met to discuss the ground lease, as a whole, for the first time on March 3rd, 2017. The discussion centered primarily on the following items of note:

Term and Extension of Term

Under paragraph 2.2(a), the term of the lease was reduced from 99 years to 50 years as these units are for a rental project. Under paragraph 2.2(b) Extension, the Trust added in a paragraph with two renewal terms (a 25 year and a 24 year renewal term) with the same language as set forth in the Center for the Arts Lease (if 5 Conditions Precedent are met, the lease automatically renews). That language includes condition (v) that the Housing Authority may deny a renewal if it finds that "that Lessee lacks the financial, operational or business stability to continue to effectively operate the Redmond Street Rental Project in the best interest of the citizens of the Town of Jackson and Teton County, Wyoming." The Trust's reasoning for this extension is that without the automatic renewals, the Trust will only see a share of the revenue for the remaining term of the lease after the debt is paid off and they don't want to lose sight of the investment the Trust is making in the Project. The County Attorney's Office staff has expressed concern with this arrangement as it commits the land to a specific use for an extended length of time, allowing little discretion for the elected officials to change that use should different needs present.

Escrow Agreement

There were discussions regarding the JHCHT's new proposal to use an alternative to an Escrow Account Agreement, such as a Deposit Account Control Agreement, in order to save interest and carrying costs (which equal approximately \$248,000 for the Escrow Account). This would also require that the public monies were utilized at the start of the project rather than being held and released at Certificate of Occupancy, which represents a significant change from the initial proposal and one that caused concern at the staff level. In addition to flagging this change, discussion by the negotiating committee on Friday, March 3rd, 2017 raised concern regarding how increased project costs (due to change orders or other unanticipated costs) could affect the project's completion. There was discussion regarding the role a "Completion" Bond might play in that situation. The Agreement has been revised by the JHCHT to allow an alternative for the Deposit Account Control Agreement to replace the

Escrow Agreement. The Housing Trust, Contractor and bank representatives will be available at the JIM and Town meeting to further explain and discuss.

Rental Rates

The ground lease contains a provision that allows the JHCHT “in its sole and absolute discretion” to establish the rental pricing of each unit. The JHCHT has included language to help address concerns raised by staff, specifically, “The rental pricing shall be determined in a manner that is consistent with the Department of Housing and Urban Development’s affordability standards and the charitable purposes of Lessee, as amended.” As with the qualification guidelines, this is another policy question for the elected officials. Although this provision requires the JHCHT to fall within the spectrum of “affordability” determined by HUD, the Housing Trust’s practice varies significantly from that of the Housing Department. While the Housing Department sets rental rates at a standard considered affordable for the category of household (e.g., category 3 households pay more than category 1 and 2 households), the Housing Trust sets rental rates at a standard considered affordable for the unit (e.g., all household categories pay the same amount of rent for the same type of unit). The Housing Trust has also noted that, due to their obligation to guarantee to the bank that they can service the debt, they are not able to lower rents should affordability standards go down. For context, the rental rates currently being proposed by the JHCHT are affordable at a Category 1 level, with the exception of a 2 or 3-person household occupying a 2-bedroom unit, that rental rate is set at a level considered affordable for Category 2 households. All households, regardless of category, will pay these rental rates (i.e. a category 5 household may qualify for a Redmond Hall unit and would pay a rate affordable for a category 1 household, or stated differently, this extends a subsidized rental rate that is affordable for a household earning 80% of AMI to households earning more than 80% AMI).

At the February 21 workshop Councilman Lenz presented an alternate proposal for a governmental entity (which includes the TCHA as a political sub-division) to partner or form a separate corporation with a private non-profit entity. The Town Attorney and County Attorney’s office reviewed the Wyoming Statutes, Wyoming Constitution and case law, and did not find any express authority allowing for a governmental entity to partner or form a separate corporation with a private non-profit entity. There are provisions under Wyoming Statutes for intergovernmental cooperation, which allows for joint powers boards or special districts to be formed as an “agency” that can take part in agreements with other agencies (e.g. municipalities). That statute however, does not include non-profit entities. Additionally, the State of Wyoming has not yet adopted legislation (that other states have adopted) allowing for public-private partnerships or P3 entities. Without statutory authority to form such a public-private entity, the Town, County nor TCHA can do so.

Councilman Lenz has since presented a new (March 3rd, 2017) proposal. This proposal suggests that the Housing Authority would carry the project debt, and the three entities (TOJ, JTCHA, and JHCHT) would each own specific buildings within the development. The idea that the Housing Authority would own and/or finance this project has also been suggested by staff. In this scenario, the public could own, and therefore restrict units based on public (i.e., Housing Department) standards.

ATTACHMENTS

- 1) Draft Agreement Between the Housing Authority and Housing Trust
- 2) Proposed Land Conveyance Image.
- 3) Exhibit A – Site Plan
- 4) Draft Ground Lease Between the Housing Authority and Housing Trust

FISCAL IMPACT

\$1.95 million dollars in JTCHA monies. If this \$1.95 million is subsequently reimbursed with the funds from the SPET ballot (if approved) there will be no long-term fiscal impact and such monies may be used for other affordable housing projects. If the SPET monies are approved by the voters and applied instead to the

outstanding debt on this project, then the \$1.95M will be permanently expended but the rental revenue percentages will change as will the Housing Authority's Net Rents.

STAFF IMPACT

Unknown at this time.

LEGAL REVIEW

Ongoing. However, from a legal standpoint, the revised Agreement and proposed revised Ground Lease are substantially complete and ready for action should the elected officials choose to move forward, subject to any future decisions or changes deemed necessary by the elected officials or the Town or Deputy County Attorney.

RECOMMENDATION

Staff has specifically identified policy areas of concern in this staff report for the elected officials and has no further recommendations at this time.

SUGGESTED MOTION

Should the elected officials want to approve the agreements substantially unchanged, suggested motions are:

- 1) I move to direct and authorize the Jackson/Teton County Housing Authority to provide the Jackson Hole Community Housing Trust with \$1.95M in funding for the Redmond Hall Project and to approve and sign the Agreement Between the Jackson Hole Community Housing Trust and the Jackson/Teton County Housing Authority Regarding the Redmond Street Rental Project, subject to any final changes deemed necessary by the elected officials and/or the Town or Deputy County Attorneys, and
- 2) I move to direct and authorize the Jackson/Teton County Housing Authority to approve and sign the attached Ground Lease Agreement Regarding the Redmond Street Rental Project, subject to any changes deemed necessary by the elected officials and/or the Town or Deputy County Attorney.

Synopsis for PowerPoint (120 words max):

**AGREEMENT WITH JACKSON/TETON COUNTY HOUSING
AUTHORITY REGARDING
REDMOND STREET RENTAL PROJECT**

This Agreement Regarding Redmond Street Rental Project (“Agreement”) is entered into on the ____ day of _____, 2017 (“Effective Date”), by and between the Jackson/Teton County Housing Authority, a duly created housing authority pursuant to Wyo. Stat. §15-10-116(b) (the “Housing Authority”) and the Jackson Hole Community Housing Trust, a Wyoming nonprofit corporation (the “Housing Trust”). The Housing Authority and the Housing Trust are each referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Teton County, Wyoming, and the Town of Jackson, Wyoming, continue to experience a significant shortage of safe and sanitary dwelling accommodations available to persons of low income at rentals or prices they can afford;

WHEREAS, Division 7.4 of the Land Development Regulations of the Town of Jackson and of the Land Development Regulations of Teton County state that it is the objective of the Town of Jackson and the County to make measurable progress toward reducing the existing shortage of affordable housing;

WHEREAS, Wyo. Stat. § 15-10-101(a)(ii)(C) states that the Housing Authority may provide, or assist in providing by any suitable method decent, safe and sanitary housing and related facilities to persons of low income, and through Wyo. Stat. § 15-10-113(a)(vi) may cause services to be furnished of the character that the public body is empowered to furnish;

WHEREAS, the Housing Trust is a non-profit, public benefit corporation incorporated in the State of Wyoming and recognized by the United States Department of the Treasury as a public charity pursuant to § 501(c)(3) of the Internal Revenue Code of 1986;

WHEREAS, the Housing Trust is organized exclusively for charitable purposes including but not limited to the provision, management and administration of affordable housing in Teton County, Wyoming and lessening the burden of government;

WHEREAS, the Housing Authority currently holds one million nine hundred fifty thousand dollars and no cents (\$1,950,000) of specific purpose excise tax funds (the “SPET Funds”) remaining from the May 2006 specific purpose excise tax ballot, which provided four million fifty thousand dollars and no cents (\$4,050,000) for the acquisition, planning, improvement and financing of properties to be utilized for affordable housing;

WHEREAS, the Housing Trust currently owns Lot 1 of the James G. and Julia L. Scarlett Addition to the Town of Jackson, Plat Number 1128 (“Lot 1”), and Lot 6 of the James G. and Julia L. Scarlett Addition Second Filing to the Town of Jackson, Plat Number 1316 (“Lot 6”);

WHEREAS the Housing Trust is the Lessee of Lot 3 and Lot 4 of the James G. and Julia L. Scarlett Addition to the Town of Jackson, Plat Number 1128 (“Lot 3” and “Lot 4” respectively) under that certain 99-Year Ground Lease, dated February 27, 2014 (the “Town Ground Lease”), with the Town of Jackson as Lessor;

WHEREAS, the Housing Authority desires that the Housing Trust develop permanently restricted affordable rental units on Lots 1, 3, 4, and 6 of the James G. and Julia L. Scarlett Addition as illustrated on the site plan attached hereto as **Exhibit A** and is commonly known as the “Redmond Street Rental Project”;

WHEREAS, the Housing Authority, in consideration of the significant housing shortage in Teton County, Wyoming, would like to accelerate the development of affordable housing and enable the Housing Trust to begin construction of the Redmond Street Rental Project in the spring season of 2017, on the terms and conditions set forth herein;

WHEREAS, the Housing Authority’s provision of the SPET Funds to the Housing Trust on the terms and conditions set forth herein is in compliance with Article 16, Section 6 of the Wyoming Constitution, given the public purpose served and the following consideration that will be received by the Housing Authority (collectively, the foregoing will hereinafter be referred to as the “Housing Trust Consideration”):

- The Housing Trust will convey Lot 1 exclusive of any improvements (approximately 11,500 square feet) to the Housing Authority as depicted on **Exhibit B** attached hereto (“Lot 1”), on the terms and conditions set forth herein; and
- The Housing Trust will have sole responsibility for the development and construction of the Redmond Street Rental Project; and
- The Housing Trust will have sole responsibility for the financing of the Redmond Street Rental Project; and
- The Housing Trust will have sole responsibility for the management of rental operations, including securing tenants, maintenance, budgeting, insurance and enforcement, for so long as the Housing Trust is the guarantor of the third-party financing required for the Redmond Street Rental Project; and
- The Housing Authority will receive an annual land lease payment on the terms and conditions described below.

WHEREAS, upon the conveyance of Lot 1, the Parties will enter into a 50-Year Ground Lease in form and substance similar to the Town Ground Lease, which lease will govern Lot 1 as further described herein.

NOW, THEREFORE, for and in consideration of the Housing Trust Consideration and the Recitals described above, which Recitals the Parties hereby acknowledge as true and accurate, and in consideration of the respective mutual covenants and agreements hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Town Agreement. The commencement of the Parties' obligations under this Agreement is expressly conditioned upon the complete execution by the Town of Jackson and the Housing Trust of that certain Agreement with the Town of Jackson Regarding Redmond Street Rental Project (the "Town Agreement") containing terms and conditions substantively similar in form and substance to those contained herein. In the event the Town Agreement is not executed by the Town of Jackson and the Housing Trust, the Parties agree this Agreement will automatically terminate and the Parties will have no further obligations hereunder.

2. Conveyance of Lot 1; Ground Lease; Verification of Sufficient Funds.

A. *Conveyance of Lot 1.* Upon the finalization of the HA Ground Lease as described below, the Housing Trust will convey Lot 1 to the Housing Authority, exclusive of any improvements, by execution and delivery of a good and sufficient warranty deed, in form and substance satisfactory to the Housing Authority. Lot 1 will be conveyed free and clear of all liens, except for any encumbrances related to the third-party construction financing for the Redmond Street Rental Project.

B. *Ground Lease.*

(i) Promptly following the execution of this Agreement, the Housing Trust and the Housing Authority will use their best efforts to finalize a 50-Year Ground Lease for Lot 1 (the "HA Ground Lease"). If the Housing Authority and the Housing Trust are unable to reach agreement on the HA Ground Lease, this Agreement will automatically terminate and the Parties will have no further obligation hereunder. Contemporaneous with the conveyance of Lot 1 to the Housing Authority, the Housing Trust and the Housing Authority will execute the HA Ground Lease. The HA Ground Lease will contain terms and conditions mutually agreeable to the Housing Authority and the Housing Trust and will be substantially similar to the Town Ground Lease, which will ensure that Lot 1 may be used only for rental affordable housing for qualified applicants for the term of the HA Ground Lease based upon the Housing Trust's guidelines and policies, and provide enforcement and recourse provisions to the Housing Authority. All tenants of the rental units within the Redmond Street Rental Project must qualify with the Housing Trust's guidelines and policies, regardless of whether the landlord is the Housing Trust or a sub-landlord housing its employees.

(ii) The HA Ground Lease will contain the following terms:

a. The HA Ground Lease will also provide that upon retirement of the Housing Trust's third party financing for the Redmond Street Rental Project, the Housing Authority, Town of Jackson and the Housing Trust will begin to receive an annual land lease payment from the Redmond Street Rental Project in an amount equal to each Party's "pro rata portion of net rents" generated from the Redmond Street Rental Project as described below.

1. The Housing Authority's "pro rata portion of net rents" will be calculated by multiplying the "net rents" (as defined below) by the Housing Authority's Project Percentage (as described below).

2. For purposes of this Agreement, "Project Percentage" shall mean the percentage that results from the following fraction: (a) the numerator will be the total amount that a party has contributed to the Redmond Street Rental Project subsequent to this Agreement, and (b) the denominator will be the total amount of all financial contributions made by the Housing Authority, the Town of Jackson and the Housing Trust to the Redmond Street Rental Project. For the purpose of calculating the numerator and the denominator, the \$1,650,000 paid by the Town of Jackson for purposes of purchasing Lots 3 and 4 and obtaining three rights of first purchase or rental, will be excluded. If additional monies are contributed to the Redmond Street Rental Project at any time by the Town of Jackson, the Housing Authority or the Housing Trust (for example, if additional monies are contributed for the purpose of paying down the loan on the project), the numerator and denominator in the above calculation will be adjusted accordingly, thereby adjusting each party's Project Percentage. For illustration purposes only, and not taking into account any potential adjustment under the following paragraph, if the total amount contributed by the Housing Authority totals \$1,950,000, the total amount contributed by the Town of Jackson totals \$2,100,000, and the total amount contributed by the Housing Trust totals \$3,000,000, then the Project Percentage of the Housing Authority will be 28%, the Project Percentage of the Town of Jackson will be 30% and the Project Percentage of the Housing Trust will be 42%.

3. The calculation of each party's Project Percentage and resulting "pro rata portion of net rents" will occur when the third-party financing for the Redmond Street Rental Project is retired.

4. "Net rents" will be determined on an annual basis by deducting all expenses (including taxes, insurance, maintenance, reserves, administrative expenses and management fees) of the Redmond Street Rental Project from the gross rents generated from the Redmond Street Rental Project. Capital expenses deemed necessary by the mutual agreement of the Housing Authority, the Town of Jackson and the Housing Trust that are not paid for out of the reserve fund for the Redmond Street Rental Project will also be deducted from gross rents.

b. The HA Ground Lease will also provide that the parties will either retain the Housing Trust, the Town of Jackson/Teton County Housing Department or hire a Property Manager (such election to be made by mutual agreement of the Town of Jackson, the Housing Trust, and the Housing Authority) to manage the Redmond Street Rental Project when the debt is retired or in the event the Housing Trust is no longer the Guarantor, whichever occurs first. The Parties will mutually agree to a management fee to cover the cost of the continued management of any and all rental units at the Redmond Street Rental Project, which management fee will be mutually agreeable to the Housing Authority, the Town of Jackson and the Housing Trust and will be comparable with management fees paid to property managers that provide similar services to comparable projects in Teton County at such time. The management fee will be deducted from gross rents generated from the Redmond Street Rental Project. The Property Manager must report on at least a quarterly basis to the Housing Trust, the Town of Jackson and the Housing Authority regarding the current financial and operational status of the development.

c. The affordable rental restrictions contained in the HA Ground Lease will provide that leases on individual units will not be renewed without the tenant re-qualifying for such unit under the then applicable guidelines. In furtherance of the Housing Trust's commitment to keep the units occupied by qualified community members, the Housing Trust will provide an annual report on the Redmond Street Rental Project to the Housing Department that details household incomes served, demographics (i.e. number of adults, children and pets), and confirmation of employment, and any other information directly related to the Redmond Street Rental Project that the Housing Department reasonably requests.

d. A short-form memorandum of the HA Ground Lease will be recorded immediately after the recording of the warranty deed described in subsection A above.

e. The HA Ground Lease will also provide that in the event of a conflict between the terms of the HA Ground Lease and this Agreement, the HA Ground Lease will apply.

C. Building Permit; Verification of Sufficient Funds. Prior to the issuance of the building permit for the Redmond Street Rental Project, the Housing Trust will provide written verification to the Housing Authority that the Housing Trust holds sufficient private funding and has secured sufficient third-party financing funds for the completion of the construction of the Redmond Street Rental Project. The third-party financing may not exceed \$4,000,000 without the consent of the Housing Authority. The building permit will not be issued until the foregoing requirement has been deemed satisfied by the Housing Authority in its reasonable discretion.

3. Funding; Timing. In exchange for the public purpose served in connection with the development of the Redmond Street Rental Project and the Housing Trust Consideration to be received by the Housing Authority as described in this Agreement, detailed in the Recitals above, contemporaneous with the conveyance of Lot 1 to the Housing Authority and the execution and delivery of the HA Ground Lease, the Housing Authority will deposit the SPET Funds (the "SPET Funds") either (i) into a non-interest bearing escrow account with Jackson Hole Title and Escrow Company (the "Escrow Agent") or (ii) a deposit account at Rocky Mountain Bank as the lender for the project (the "Lender"), which election will be made upon the mutual agreement of the Parties and the Lender after taking into account the potential cost savings to the Redmond Street Rental Project and the necessary protection of the SPET Funds. The Escrow Agent will hold and release the SPET Funds in accordance with an escrow agreement in form and substance mutually agreeable to the Parties and the Escrow Agent (the "Escrow Agreement"), or if applicable, the Lender will hold and release the SPET Funds in accordance with a deposit account control agreement mutually agreeable to the Parties and the Lender.

A. Release of Funds. The Escrow Agreement will provide that a pro rata portion of the SPET Funds will be released to the Housing Trust immediately upon its receipt of a Certificate of Occupancy for each building of the Redmond Street Rental Project. The pro rata portion will be calculated by multiplying the SPET Funds by the following fraction: (i) the numerator will be the square footage of the building for which the Certificate of Occupancy was issued and (ii) the denominator will be the total square footage of all buildings in the Redmond Street Rental Project. If a Certificate of Occupancy is withheld by the Town of Jackson, the Town of Jackson has agreed to detail the specific actions the Housing Trust or Lender must take in order to receive the Certificate of Occupancy.

B. Retainage. Notwithstanding the foregoing, each release of SPET Funds to the Housing Trust will be subject to a retainage of an amount equal to ten percent (10%) of the amount of each such release. The final retainage will be released to the Housing Trust following a 45-day public notice to all contractors and subcontractors involved in the project confirming that all bills have been paid and all lien waivers have been collected and the landscaping and infrastructure bonds have been released by the Town of Jackson thereby confirming completion of construction. If any change orders are not approved by the Housing Authority, the Housing Trust is solely responsible for such overages.

4. Reporting Requirements. Upon commencement of construction, the Housing Trust will review, on a quarterly basis, the progress of the construction with the Housing Department for the Redmond Street Rental Project. This review would include budget and schedule tracking, as well as a discussion of any key project issues, to ensure the construction is on time and on budget. Upon project completion, the Housing Trust shall provide to the Housing Department and the Town Clerk, before the end of the first quarter of the calendar year, the year-end financials (which will indicate gross revenues, net revenues and expenses) for Redmond Street Rental Project of the previous year and a summary of the incomes being served at each unit, and any other information directly related to the Redmond Street Rental Project that the Housing Department reasonably requests.

A. Review of Books and Records. The Housing Trust agrees that the Housing Authority, upon reasonable notice to the Housing Trust, may review such of its books and records at the Housing Trust's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to: (i) any books and records required to be kept by the Housing Trust pursuant to the management of the Redmond Street Rental Project and/or financial statements prepared by an accountant; and/or (ii) any annual or other periodic report compiled from data available from the Housing Trust's records showing any forecast of profits or losses for the Redmond Street Rental Project.

5. Default/Termination. The Parties acknowledge that because the Housing Trust cannot commence construction of the Redmond Street Rental Project until such time that the SPET Funds are deposited, Lot 1 is conveyed to the Housing Authority, and the HA Ground Lease is fully executed, upon a Party's default or failure to otherwise perform under this Agreement (a "Default"), Lot 1 will still be owned by the Housing Trust and the SPET Funds will still be held by the Housing Authority. Thus, if the Housing Trust Defaults under this Agreement, and if such Default is not cured by the Housing Trust within thirty (30) days after the Housing Trust has received written notice of such Default from the Housing Authority, the Housing Authority may terminate this Agreement by written notice to the Housing Trust and will have no further obligations under this Agreement. Further, if a Default of the Housing Authority occurs under the terms of this Agreement and if such Default is not cured by the Housing Authority within thirty (30) days after the Housing Authority has received written notice of such Default from the Housing Trust, the Housing Trust may terminate this Agreement by written notice to the Housing Authority and will have no further obligations under this Agreement. In the event of a Default that is not cured within the 30-day periods described above, each Party will have available to it all legal and

equitable remedies allowed by law. The Parties agree that a Default under the Town Agreement will constitute a Default under this Agreement.

6. Indemnification. The Housing Trust agrees to forever indemnify and hold the Housing Authority, its officers, agents, contractors, and employees harmless from any and all claims, damages, costs, liability, or expenses (including reasonable attorney's fees) incurred by the Housing Authority and arising wholly or in part, out of the Housing Trust's management of the development and construction of the Redmond Street Rental Project or the Housing Trust's management of the rental and maintenance operations of the Redmond Street Rental Project.

7. Miscellaneous

A. Dispute Resolution. Any dispute arising out of or relating to this Agreement that cannot be resolved pursuant to the provisions of this Agreement or between the Parties in a timely manner shall first be attempted to be resolved with non-binding mediation, with a mediator selected by both parties. If the parties are unable to agree on the selection of a mediator, each shall select a mediator and then the two so selected shall agree on a third person to mediate the disagreement. The parties shall attempt to complete mediation within thirty (30) days of any disagreement. If mediation is not successful at resolving the disagreement or if the parties are unable to complete the mediation within thirty (30) days of the first written notice of a disagreement, then either party retains the right to pursue resolution of the dispute through final and binding arbitration in Jackson, Wyoming in accordance with the following procedure and applicable state law. The Housing Trust or the Housing Authority, as the case may be, shall give written notice to the other party of its desire for arbitration, and shall state the name of one (1) disinterested arbitrator. Within fifteen (15) days of receipt, such other party shall give written notice of the name of one (1) disinterested arbitrator. These two (2) arbitrators shall then meet within fifteen (15) days and select a third (3rd) disinterested arbitrator. If either party fails to deliver notice of its arbitrator selection, then the Parties shall arbitrate with just the one (1) arbitrator selected in accordance with this paragraph. All arbitrators so chosen shall be a licensed attorney or arbitrator. Within thirty (30) days thereafter, the parties shall meet and present evidence and witnesses, if any, to the arbitrator(s), who shall then make a decision within fifteen (15) days. The arbitrator(s), by majority opinion, shall deliver a written opinion for their decision, and judgment upon the decision may be entered in any court having competent jurisdiction. The Parties shall split the arbitrators' costs evenly.

B. Governing Law, Venue. This Agreement will be construed, performed and enforced in accordance with, and governed by, the laws of the State of Wyoming. The Parties hereto irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Agreement, and consent to the jurisdiction of, the courts of the Ninth Judicial District, County of Teton, State of Wyoming.

C. Amendments; Waivers. This Agreement may be amended or modified only by a written instrument executed by the Parties, or in the case of a waiver, by the Party waiving compliance.

D. Entire Agreement. This Agreement and the HA Ground Lease contain the entire understanding between the Parties with respect to these matters and supersedes and replaces

all prior and contemporaneous agreements and understandings, oral or written, with regard to these matters.

E. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, and all of which when taken together will constitute the same instrument.

F. Severability. In case any one or more of the provisions contained in this Agreement will for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

G. Notices. Any notice or communication required or permitted herein will be given in writing and will be personally delivered or sent by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

To Housing Authority at:

Jackson Teton County Housing Authority
Attn: Chair
P.O. Box 1727
Jackson, WY 83001

To Housing Trust at:

Jackson Hole Community Housing Trust
Attn: Executive Director
P.O. Box 4498
Jackson, WY 83001

H. Attorney Fees. If any party hereto fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not prevailing in such dispute, as the case may be, will pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, all court costs and all reasonable attorneys' fees (including the costs of in-house counsel) regardless of whether litigation is commenced.

I. Governmental Immunity. The Housing Authority does not waive its sovereign or governmental immunity by entering into this Agreement with the Housing Trust, and fully retains all immunities and defenses provided by law with respect to any action based on or arising out of this Agreement.

J. Successors and Assigns. This Agreement is binding upon the successors and permitted assigns of the Parties hereto. The Housing Trust may not, without the prior written consent of the Housing Authority, which shall not be unreasonably withheld, conditioned or delayed, assign the Housing Trust's interest in this Agreement. Any attempt by the Housing Trust

to assign its interest in this Agreement without the Housing Authority's prior written consent will be null and void, and any such assignee will acquire no right or interest by reason of such attempted assignment.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

JACKSON HOLE COMMUNITY HOUSING TRUST,
a Wyoming nonprofit corporation

By: _____
Its: _____

WITNESS:

JACKSON/TETON COUNTY HOUSING AUTHORITY

Matt Faupel, Chairman

Attest: _____
Danielle Goldyn-Haigh, Clerk

Approved and Affirmed By:

JACKSON TOWN COUNCIL

Pete Muldoon, Mayor

Attest: _____
Sandy Birdyshaw, Jackson Teton Clerk

Approved and Affirmed By:

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

Mark Newcomb, Chairman

Attest: _____
Sherry Daigle, Teton County Clerk

Exhibit B
Redmond Street Rentals
Proposed Land Conveyance

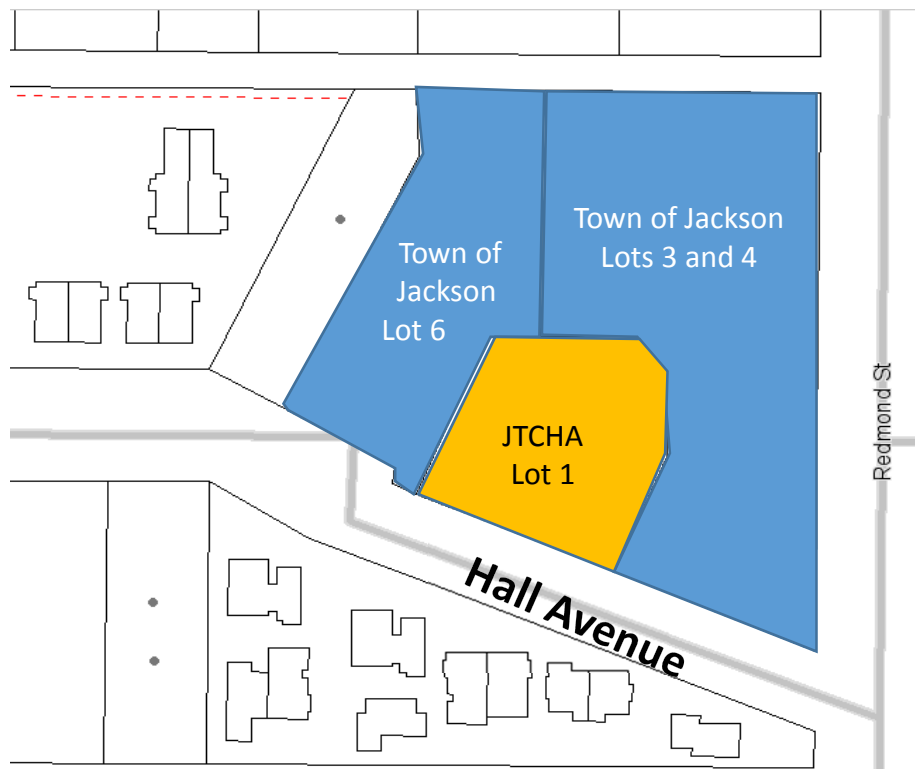


Exhibit A

Redmond Street Rentals

Site Plan



GROUND LEASE
(REDMOND STREET RENTAL PROJECT)

THIS GROUND LEASE (the "Lease") is entered into and made to be effective as of the ____ day of _____, 2017, by and among the **Jackson/Teton County Housing Authority** (the "Lessor" or "Housing Authority") and the **Jackson Hole Community Housing Trust**, a Wyoming nonprofit corporation (the "Lessee" or "JHCHT").

RECITALS

WHEREAS, Lessee is a 501(c)3 tax exempt organization organized exclusively for charitable purposes including, but not limited to, the provision, management and administration of affordable housing in Teton County, Wyoming and lessening the burden of government;

WHEREAS, Lessor has determined the shortage of rental housing opportunities is a growing burden of the Town of Jackson and Teton County, and part of its governmental function, and that there is a strong need for the assistance of the Lessee in meeting such need;

WHEREAS, in accordance with that certain Agreement with the Jackson/Teton County Housing Authority Regarding Redmond Street Rental Project, dated _____, 2017, between the Housing Authority and JHCHT (the "Project Agreement"), immediately prior to the execution of this Lease, the JHCHT conveyed to the Housing Authority Lot 1 of the James G. and Julia L. Scarlett Addition Second Filing to the Town of Jackson, Plat Number 1316 as further described on Exhibit A attached hereto, together with all rights, privileges and appurtenances thereto, but exclusive of any improvements ("Lot 1");

WHEREAS, the conveyance of Lot 1, along with the following items of consideration set forth in the Project Rental Agreement, established the consideration necessary for the Housing Authority's contribution of \$1,950,000 in specific purpose excise tax funds to the Redmond Street Rental Project: (i) JHCHT will be solely responsible for the development and construction of the Redmond Street Rental Project; (ii) JHCHT will have sole responsibility for the financing of the Redmond Street Rental Project, (iii) JHCHT will have sole responsibility for the management of rental operations, including securing tenants, maintenance, budgeting, insurance and enforcement, for so long as JHCHT is the guarantor of the third-party financing required for the Redmond Street Rental Project; and (iv) rental revenue payment to the Housing Authority on the terms and conditions described below;

WHEREAS, in accordance with the Project Agreement, Lessor now desires to enter into this 50 Year Ground Lease with Lessee pursuant to the terms and conditions set forth herein so that Lessee can construct and manage affordable rental units on Lot 1 (collectively, the "Scarlett Property");

WHEREAS, in accordance with the Project Agreement, Lessee desires to enter into this 50 Year Ground Lease with Lessor pursuant to the terms and conditions set forth herein so that Lessee can construct and manage affordable rental units on the Scarlett Property and lessen the burden of government; and

NOW THEREFORE, in consideration of the foregoing Recitals and the mutual promises and covenants herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lessor hereby leases the Scarlett Property to the Lessee, and the Lessee hereby leases the Scarlett Property from Lessor subject to the terms and conditions set forth hereafter.

ARTICLE 1. DEFINITIONS

1.1 Definitions. The following terms shall have the following meanings in this Lease.

(a) "Award" means any compensation or payment made or paid for the Total, Partial or Temporary Taking of all of any part of or interest in the Scarlett Property and/or the Improvements, whether pursuant to judgment, agreement or otherwise.

(b) "Housing Authority" means the Jackson/Teton County Housing Authority

established pursuant to Wyo. Stat. §15-10-116(b).

(c) "Housing Department" means the Town of Jackson/Teton County Housing Department.

(d) "Improvements" shall mean the buildings, structures and other improvements, including the building fixtures therein, now or hereafter located on the Scarlett Property, including but not limited to the Scarlett Units.

(e) "Lease" shall mean this ground lease between the Lessee and the Lessor for the Scarlett Property and shall include any and all duly approved amendments made to this Lease in writing.

(f) "Lease Term" shall mean the initial fifty (50) year period beginning on the date of this Lease, and any option period that may be granted pursuant to the terms of this Lease

(g) "Leasehold Mortgage" shall mean any mortgage, deed of trust, security agreement or collateral assignment securing a Loan and encumbering Lessee's leasehold interest in the Scarlett Property.

(g) "Lender(s)" shall mean only those lenders identified by Lessee to the Lessor in writing, and any assignee of such Lenders who are also identified to the Lessor in writing during the term of the identified loans.

(h) "Lessee" shall mean the Jackson Hole Community Housing Trust, and its successors and assigns.

(i) "Lessor" shall mean the Housing Authority.

(j) "Loans" shall mean collectively any loans or funding sources originated by Lessee for construction of the Scarlett Units on the Scarlett Property.

(k) "Loan Documents" shall mean all loan agreements, notes, deeds of trust, security documents, including regulatory agreements, use agreements, security agreements, fixture filings, and financing statements required in connection with any Loans.

(l) "Notice of Intended Taking" means any notice or notification on which a reasonably prudent person would rely and which said person would interpret as expressing an existing intention of Taking as distinguished from a mere preliminary inquiry or proposal. It includes, without limitation, the service of a condemnation summons and complaint on a party to this Lease. The notice is considered to have been received when a party to this Lease receives from the condemning agency or entity a notice of intent to take, in writing, containing a description or map of the taking which reasonably defines the extent of the taking.

(m) "Partial Taking" means any taking of the fee title of the Scarlett Property and/or the Improvements that is not either a Total, Substantial or Temporary Taking.

(n) "Party" shall mean the Lessor or the Lessee individually.

(o) "Parties" shall mean the Lessor and the Lessee collectively.

(p) "Redmond Street Rental Project" shall mean the twenty-eight (28) rental units (which includes the Scarlett Units) on the Scarlett Property and on Lots 3, 4 and 6 of the James G. and Julia L. Scarlett Addition as illustrated on the site plan attached hereto as Exhibit A.

(q) "Scarlett Property" means Lot 1.

(r) "Scarlett Units" means the rental units to be constructed on the Scarlett Property by Lessee pursuant to the Final Development Plan approval provided for in Section 2.4(a).

(s) "Taking" means institution of any proceedings for the taking or condemnation of all or a portion of the Scarlett Property by the government of the United States, State of Wyoming, County of Teton, or any other governmental authority, or any other entity under the right of eminent domain. Unless otherwise provided, the taking shall be deemed to occur as of the earlier of (a) the date actual physical possession is taken by the condemnor, or (b) the date on which the right to compensation and damages accrues under the law applicable to the Scarlett Property and/or the Improvements.

(t) "Tenant" means any sublessee of any of the Scarlett Units.

(u) "Town" means the Town of Jackson.

(v) "Substantial Taking" means the taking of so much of the Scarlett Property and/or the Improvements that the portion of the Scarlett Property and/or the Improvements not taken cannot be repaired or reconstructed, taking into consideration the amount of the Award available for repair or reconstruction, so as to constitute a complete, rentable structure, capable of producing a proportionately fair and reasonable net annual income, and all other charges payable under this Lease, and after performance of all covenants and conditions required by Lessee by law and under this Lease. Eminent domain actions filed by Lessor against owners of portions of the Scarlett Property and pending as of the date of this Lease shall not be deemed, construed or interpreted as a Substantial Taking under this Lease.

(w) "Temporary Taking" means a taking of all or any part of the Scarlett Property and/or the Improvements for a term certain which term is specified at the time of taking. Temporary Taking does not include a taking which is to last for an indefinite period or a taking which will terminate only upon the happening of a specified event unless it can be determined at the time of the taking substantially when such event will occur. If a taking for an indefinite term should take place, it shall be treated as a Total, Substantial or Partial Taking in accordance with the definitions set forth herein.

(x) "Total Taking" means the taking of the fee title to all of the Scarlett Property.

ARTICLE 2. LEASE OF THE SCARLETT PROPERTY: LEASE PAYMENTS: TAXES AND ASSESSMENTS

2.1 Lease of the Scarlett Property. The Lessor, for and in consideration of the covenants and agreements to be kept and performed by the Lessee, leases the Scarlett Property to the Lessee, and in consideration thereof, the Lessee does take, hire and lease the Scarlett Property from the Lessor pursuant to the terms of this Lease. The Lessee or its designee shall operate the Scarlett Units in compliance with all applicable laws. This Lease hereby amends and restates in its entirety the Existing Lease, and the Existing Lease shall have no further force or effect. Concurrently with the execution of this Lease, Lessor and Lessee shall record this Lease in the Office of the Teton County Clerk.

2.2 Term.

(a) Initial Term. The term of this Lease shall commence upon the date this Lease is executed and end fifty (50) years from that date (the "Initial Term"), unless extended pursuant to section (b) below, or terminated by the parties or pursuant to the terms and conditions of this Lease.

(b) Extension. Provided the Conditions Precedent to Renewal described below are satisfied as of the time of Lessee's exercise of a renewal option and again upon commencement of the

renewal period, Lessee shall have the right and option to extend the term for two (2) additional terms. The first such term shall be for a period of twenty-five (25) years, and the second such term shall be for a period of twenty-four (24) years. Each option to extend the term of this Lease may be exercised by delivering to Lessor written notice of such renewal no later than two (2) years prior to either the Initial Expiration Date or the end of the first options period of twenty-five (25) years, as appropriate. All other terms and provisions of this Lease shall be applicable during the renewal periods with the same force and effect as the initial term. In order to extend the term of this Lease as contemplated herein, the following Conditions Precedent to Renewal must be satisfied as of the dates set forth above: (i) Lessee shall not be in material breach of the terms of this Lease; (ii) Lessee shall be a public charity qualified under §501(c)(3) of the IRC, or any successor code section; (iii) Lessor, in its reasonable determination, has not previously found that the Lessee has materially breached its obligation to hold the Improvements in trust for the benefit of the citizens of the Town of Jackson and Teton County; (iv) Lessor, in its reasonable determination, has not previously found that the Lessee has materially breached its obligation to operate and maintain the Redmond Street Rental Project primarily for the public benefit and not for the benefit of any private individual or entity; and (v) Lessor does not determine, at the time of an extension, that the Lessee lacks the financial, operational or business stability to continue to effectively operate the Redmond Street Rental Project in the best interest of the citizens of the Town of Jackson and Teton County, Wyoming.

(c) Rent During Extended Term. Rent for any extended term will be as set forth in Section 2.3.

2.3 Lease Payments. The Lessee shall make all lease payments to the Lessor, at Post Office Box 1727, Jackson, Wyoming 83001, or such other place as Lessor may designate in writing.

(a) Rent for the Scarlett Property will be \$1.00 per year for the first five (5) years of the Term which shall be due and payable upon execution of this Lease. Thereafter, rent for the Scarlett Property will be \$400.00 per year which shall be due annually no later than the 1st of May. This amount shall be adjusted each year in accordance with any percentage of increase or decrease in the Wyoming Cost of Living Index (incorporating all items included in the Wyoming Cost of Living Index except for the housing component) for the Northwest Region, as promulgated by the Wyoming Department of Administration, Division of Research and Statistics pursuant to the fourth quarter report of the Index for the preceding year (which report is published in April of each year). If the Wyoming index is not published or available, the CPI-U published by the United States, or other similar index as selected by the CLT may be used to determine the applicable inflation factor. Rent shall be payable for the first year of the Lease Term within five (5) days of commencement of this Lease and thereafter within five (5) days of the date of each one year anniversary. The prepayment of Rent is prohibited.

(b) As provided in the Project Agreement, upon the satisfaction in full of the Leasehold Mortgage, the Town, the Housing Authority and the JHCHT will begin to receive an annual lease fee payment from the Redmond Street Rental Project in an amount equal to each such party's "pro rata portion of net rents" generated from the Redmond Street Rental Project as described below. Contemporaneously with the execution of this Lease, the Town has entered into a Ground Lease with the JHCHT for Lots 3, 4 and 6 of the James G. Scarlett and Julia L. Scarlett Addition to the Town of Jackson, Teton County, Wyoming according to the plat recorded in the Office of the Teton County Clerk as Plat No. 1128, which Ground Lease contains the same terms set forth herein. The Town's "pro rata portion of net rents" will be calculated by multiplying the "net rents" (as defined below) by the Town's Project Percentage (as described below).

- For purposes of this Lease, "Project Percentage" shall mean the percentage that results from the following fraction: (a) the numerator will be the total amount that a party has contributed to the Redmond Street Rental Project subsequent to this Lease, and (b) the denominator will be the total amount of all financial contributions made by the Town, the Housing Authority and the JHCHT to the Redmond Street Rental Project. For the purpose of calculating the numerator and the denominator, the \$1,650,000 paid by the Town for purposes of purchasing Lots 3 and 4 and obtaining three rights of first purchase or rental, will be excluded. If additional

monies are contributed to the Redmond Street Rental Project at any time by the Town, the Housing Authority or the JHCHT (for example if additional monies are contributed for the purpose of paying down any loan on the Scarlett Property), the numerator and denominator in the above calculation will be adjusted accordingly, thereby adjusting each party's Project Percentage. For illustration purposes only, and not taking into account any potential adjustment under the following paragraph, if the total amount contributed by the Housing Authority totals \$1,950,000, the total amount contributed by the Town totals \$2,100,000, and the total amount contributed by the JHCHT totals \$3,000,000, then the Project Percentage of the Housing Authority will be 28%, the Project Percentage of the Town will be 30% and the Project Percentage of the Housing Trust will be 42%.

- The calculation of each party's Project Percentage and resulting "pro rata portion of net rents" will occur when the Leasehold Mortgage for the Redmond Street Rental Project is retired.
- "Net rents" will be determined on an annual basis by deducting all expenses (including taxes, insurance, maintenance, reserves, administrative expenses and management fees) of the Redmond Street Rental Project from the gross rents generated from the Redmond Street Rental Project. Capital expenses deemed necessary in the sole discretion of the property manager that are not paid for out of the reserve fund for the Redmond Street Rental Project will also be deducted from gross rents.

2.4 Construction of Scarlett Units; Occupancy Requirements.

(a) Scarlett Units. The Lessee shall be obligated to construct only the nine (9) units approved by the Town for the Scarlett Property (the "Scarlett Units");

(b) Verification of Sufficient Funds to Commence Construction of Affordable Rental Units. Prior to the issuance of the building permit for the Scarlett Units, the Lessee will provide written verification to the Housing Authority that the Lessee holds sufficient private funding and has secured sufficient third-party financing funds for the completion of the construction of the Scarlett Units. The third-party financing may not exceed \$4,000,000 without the consent of the Housing Authority. The building permit will not be issued until the foregoing requirement has been deemed satisfied by the Housing Authority in its reasonable discretion;

(c) Completion of Construction of Scarlett Units. The Lessee shall complete, to the Housing Authority's reasonable discretion, on or before 5PM MT on January 1, 2019, the Scarlett Units on the Scarlett Property, which performance obligation shall be deemed to be satisfied by the Lessee if the Town has issued certificates of occupancy (or similar documentation) to permit occupancy of all of the units permitted for construction by Town. If the foregoing performance obligation is not satisfied by the Lessee, the Housing Authority shall have the unilateral right to terminate this Lease after providing notice to the Lessee and after the expiration of a 180-day cure period if the Lessee has commenced construction;

(d) Occupancy, Income and Rental Pricing Requirements. Prior to renting the first of the Scarlett Units, the Lessee shall establish, in its sole and absolute discretion, the occupancy, income and rental pricing of each Scarlett Unit in accordance with the policies of the Lessee and Internal Revenue Service guidelines in furtherance of the charitable purposes of Lessee, as amended. The rental pricing shall be determined in a manner that is consistent with the Department of Housing and Urban Development's affordability standards and the charitable purposes of Lessee, as amended. The JHCHT is permitted to lease Scarlett Units to Teton County employers, provided that the employee to which the employer subleases the unit satisfies the occupancy and income policies of the JHCHT. Lessee shall determine whether a prospective Tenant is qualified and therefore eligible to rent each of the Scarlett Units. Such determination shall be based upon the written applications, representations, information and verification as are deemed by Lessee, in its sole discretion, to be necessary to establish and substantiate eligibility. No Tenant shall have the right to any appeal of such decision by Lessee, and each Tenant applicant shall, by making the application, waive any such right he or she may otherwise have. No lease

(or sub-lease in the case of an employer renting to an employee) for a Scarlett Unit shall be renewed without the Tenant re-qualifying for such unit under the then applicable occupancy and income guidelines. In furtherance of the Housing Trust's commitment to keep the units occupied by qualified community members, the Housing Trust will provide an annual report on the Scarlett Units to the Housing Department that details household incomes served, demographics (i.e. number of adults, children and pets), and confirmation of employment, and any other information directly related to the Scarlett Units that the Housing Department reasonably requests.

2.5 Taxes and Assessments.

(a) Payment by Lessee. Lessee covenants and agrees during the entire Lease Term, at its own cost and expense, to pay, subject to any applicable exemptions, prior to delinquency and before any fine, penalty, interest, or other charge may be added to them for nonpayment, all real estate taxes, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature, made, assessed, levied or imposed upon, or due and payable in connection with, or which become a lien upon, the Scarlett Property, the Improvements located thereon, or any part of the Scarlett Property or Improvements located thereon, or upon this Lease, as well as assessments for sidewalks, streets, sewers, water, or any other public improvements and any other improvements or benefits which shall, during the Lease Term, be made, assessed, levied, or imposed upon or become due and payable in connection with, or a lien upon the Scarlett Property, the Improvements, or any part of the Scarlett Property or Improvements, or upon this Lease. Nothing herein shall impair Lessee's right to request and receive exemption from the payment of real estate taxes. Notwithstanding anything in this Lease to the contrary, Lessee shall not be required to pay any franchise tax or transfer tax imposed on any document to which Lessor is a party (other than this Lease) creating or transferring an estate or interest in Scarlett Property, any municipal, state or federal income taxes levied against Lessor, any income, profits or revenues tax, assessment or charge imposed upon the Rent received by Lessor under this Lease, any estate, gift, succession, inheritance or transfer taxes of Lessor, or any business and occupational tax attributed and imposed upon Lessor for work, business or income not related or attributable to Scarlett Property.

(b) Lessee's Right to Contest. If Lessee disputes any amount or validity of any liens, taxes, assessments, or charges upon the Scarlett Property or the Improvements located thereon, Lessee may contest and defend against the same at its cost, and in good faith diligently conduct any necessary proceedings in connection therewith to prevent and avoid the same; provided, however, that such contest shall be prosecuted to a final conclusion as speedily as possible. Lessor agrees to render to Lessee all reasonable assistance, at no expense to Lessor, in contesting the validity or amount of any such liens, taxes, assessments or charges, including joining in the signing of any protests or pleadings which Lessee may deem advisable to file. During any such contest, Lessee shall (by the payment or bonding of such liens, disputed taxes, assessments or charges, if necessary) prevent any advertisement of tax sale, any foreclosure of, or any divesting thereby of Lessor's title, reversion or other interest in or to the Scarlett Property.

(c) Triple Net Lease. This Lease is a triple net lease and the Lessee shall be responsible to pay all costs, charges, taxes, impositions and other obligations related thereto. If the Lessor pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, the Lessor will be entitled to be reimbursed by Lessee the full amount of such payments as additional rent within thirty (30) days of written demand by Lessor. Failure to timely pay the additional rent shall be an Event of Default (as defined in Section 9.1).

ARTICLE 3. MAINTENANCE; USE OF PREMISES

3.1 Title to Improvements; Personal Property.

(a) During the Lease Term title to all Improvements, now existing or later made, on the Scarlett Property are and shall be vested in Lessee, provided, however, that Lessee shall have no right to destroy, demolish or remove the Improvements except as specifically provided for in this Lease or as approved in writing by Lessor. When the Lease Term expires or, when the Lease is otherwise terminated under the terms of this Lease, title to the Improvements shall revert to and vest in Lessor

without cost to Lessor. It is the intent of the Parties that this Lease shall create a constructive notice of severance of the Improvements from the Scarlett Property without the necessity of a deed from Lessor to Lessee. The Improvements shall be and remain real property and shall be owned in fee by the Lessee for the Lease Term. At the request of Lessor and at the end of the Lease Term, Lessee agrees to execute a confirmatory quitclaim deed of the Improvements to Lessor to be recorded at Lessor's option and expense and any other documents that may be reasonably required by Lessor or Lessor's title company to provide Lessor title to the Scarlett Property and the Improvements free and clear of Lessee's leasehold interest in the Scarlett Property, ownership interest in the Improvements and all monetary liens and monetary encumbrances not caused or agreed to by Lessor in writing. Lessor acknowledges and agrees that any and all depreciation, amortization and tax credits for federal or state tax purposes relating to the Improvements located on the Scarlett Property and any and all additions thereto, substitutions therefor, fixtures therein and other property relating thereto shall be deducted or credited exclusively to Lessee during the Lease Term and for the tax years during which the Term begins and ends.

(b) All personal property, furnishings, fixtures and equipment, including, without limitation, Lessee-owned appliances, which are not so affixed to the Scarlett Property or the buildings thereon as to require substantial damage to the buildings upon removal thereof shall constitute personal property including, but not limited to, (a) functional items related to the everyday operations of the Scarlett Property, and (b) personal property and furnishings. At any time during the Lease Term, and at the termination thereof, Lessee shall have the right to remove any and all such personal property, furnishings, fixtures and equipment; provided, that Lessee repairs any damage to the Scarlett Property or the Improvements caused by such removal.

3.2 Permits, Licenses and Easements; Utilities. The Lessor agrees that, within a reasonable period after receipt of written request from the Lessee, it shall (at no expense to the Lessor) join in any and all applications for permits, licenses or other authorizations required by any governmental or other body claiming jurisdiction in connection with any work the Lessee may do pursuant to this Lease, and shall also join in any grants of easements for public utilities useful or necessary to the development of the Scarlett Units. The Lessor, by virtue of its fee title to the Scarlett Property, may hold certain rights, entitlements or credit with respect to utility capacity, connections, etc.

3.3 Use of Property. The Lessee shall at all times during the Lease Term use or cause Scarlett Units and Scarlett Property to be used for the purposes set forth in this Lease, consistent with all applicable zoning and environmental laws of any governmental authority having jurisdiction over Scarlett Units and Scarlett Property. The Lessee agrees to comply with all applicable statutes, rules, orders, ordinances, requirements and regulations of the United States, the State of Wyoming, the County of Teton, and of any other governmental authority having jurisdiction over the Scarlett Property or the Improvements.

3.4 Maintenance of the Scarlett Property.

(a) So long as the Leasehold Mortgage is outstanding or the JHCHT serves as the guarantor of the Leasehold Mortgage, the Lessee shall maintain the Redmond Street Rental Project in good repair and working order, and in a neat, clean and orderly condition, including the walkways, driveways, alleyways and landscaping, and from time to time make all necessary and proper repairs, renewals, and replacements.

(b) Commensurate with the satisfaction in full of the Leasehold Mortgage or the release of JHCHT as the guarantor of the Leasehold Mortgage, whichever occurs first, either the Lessee, the Housing Department or a third-party Property Manager will be engaged to manage the Redmond Street Rental Project. This election shall be made by the mutual agreement of the Town, the JHCHT and the Housing Authority. The Town, the JHCHT and the Housing Authority shall also mutually agree to a management fee to cover the cost of the continued management of the Redmond Street Rental Project, which management fee will be comparable with management fees paid to property managers in Teton County at such time. The management fee will be deducted from gross rents generated from the

Redmond Street Rental Project. The Property Manager must report on at least a quarterly basis to the JHCHT, the Town and the Housing Authority regarding the current financial and operational status of the development.

(c) For so long as the Lessee is obligated to maintain the Redmond Street Rental Project in accordance with this Lease, if the Housing Authority gives written notice to Lessee that the maintenance, repair, operation or condition of the Scarlett Property or any portion thereof or any Improvements thereon does not comply with this Lease and such notice describes the deficiencies, Lessee shall correct, remedy or cure the deficiency within thirty (30) days following the submission of such notice, unless (1) such deficiency cannot be reasonably corrected within such thirty (30) day period in which case such deficiency shall be deemed cured if Lessee commences such cure within such thirty (30) day period and thereafter diligently completes such cure within ninety (90) days following the submission of such notice or (2) the notice states that the deficiency is an urgent matter relating to public health and safety in which case Lessee shall cure the deficiency with all due diligence and shall complete the cure at the earliest possible time but in no event more than seventy-two (72) hours following the submission of the notice. In the event Lessee fails to maintain the Scarlett Property, or any portion thereof, or any Improvements thereon in accordance with this Lease and fails to cure any deficiencies with the applicable period described above, the Housing Authority shall have, in addition to any other rights and remedies hereunder, the right to maintain the Scarlett Property and the Improvements thereon, or portion thereof, or to contract for the correction of any deficiencies and Lessee shall be responsible for payment of all costs reasonably incurred by the Housing Authority.

3.5 Utilities. The Lessee shall be responsible for the cost of all utilities, including water, heat, gas, electricity, waste removal, sewers, and other utilities or services supplied to the Scarlett Property, and the Lessee shall pay or cause same to be paid currently and as due. The Lessee shall pass this obligation on to the tenants of the Redmond Street Rental Project pursuant to the lease agreements with those tenants.

3.6 Damage to Person or Property; Hazardous Materials; Indemnification.

3.6.1 Damage to Person or Property-General Indemnification. During the Lease Term Lessor shall not in any event whatsoever be liable for any injury or damage to any person happening on or about the Scarlett Property, for any injury or damage to the Improvements, or to any property of Lessee, or to any property of any other person, entity or association on or about the Scarlett Property. Lessee shall defend, hold harmless and indemnify the Lessor, and its respective officers, agents, and employees (each an "Indemnified Party" and together, the "Indemnified Parties"), of and from all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising from and during its tenancy, its use of the Scarlett Property and the Scarlett Units, and any of its operations activities thereon or connected thereto; provided, however, that this Section 3.6 shall not be deemed or construed to and shall not impose an obligation to indemnify and save harmless the Lessor, the Housing Authority or any of their officers, agents or employees from any claim, loss, damage, liability or expense, of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence by the person or entity seeking such indemnity. This Section 3.6.1 shall survive termination of this Ground Lease.

3.6.2 Hazardous Materials – Indemnification.

(a) Lessee shall indemnify, defend, and hold the Lessor, and its officials, officers, agents and employees (individually, an "Indemnified Party" and collectively, the "Indemnified Parties") harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) (the "Liabilities") incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to violation of any Environmental Law, or any Release, threatened Release and any condition of pollution, contamination or Hazardous Substance-related nuisance on, or under or from the Scarlett Property. The foregoing indemnity shall apply to any Liabilities arising from and during Lessee's tenancy. This Section 3.6.2 shall survive termination of this Ground Lease.

(b) For purposes of this Section 3.6.2, the following definitions shall apply:

(i) "Hazardous Substance" shall have the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Agreement, 42 U.S.C. '9601(14), and in addition shall include, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, all hazardous substances identified in the Wyoming Health & Safety Code 25316 and 25281(d), all chemicals listed pursuant to the Wyoming Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law.

(ii) "Environmental Law" shall include all federal, state and local laws, regulations and ordinances governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Agreement.

(iii) "Release" shall mean any spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substances.

ARTICLE 4. MORTGAGE LOANS

4.1 Liens and Encumbrances Against Lessee's Interest in the Leasehold Estate. The Lessee shall have the right to mortgage, pledge, deed in trust, assign rents, issues and profits and/or collaterally (or absolutely for purposes of security if required by any lender) assign its interest in this Lease or otherwise encumber the leasehold estate, and/or the interest of Lessee hereunder, in whole or in part, and any interests or rights appurtenant to this Lease, and to assign or pledge the same as security for any debt (the holder of such mortgage, pledge or other encumbrance, and the beneficiary of any such deed of trust being hereinafter referred to as "Mortgagee" and the mortgage, pledge, deed of trust or other instrument hereinafter referred to as "Leasehold Mortgage") in order to construct the Scarlett Units with prior written consent for each encumbrance by the Lessor. Such consent will not be unreasonably withheld, conditioned or delayed.

4.2 Cost of Loans to be Paid by Lessee. The Lessee affirms that it shall bear all of the costs and expenses in connection with (i) the preparation and securing of the Loans, (ii) the delivery of any instruments and documents and their filing and recording, if required, and (iii) all taxes and charges payable in connection with the Loans.

4.3 Proceeds of Loans. It is expressly understood and agreed that all Loan proceeds shall be paid to and become the property of Lessee, and that the Lessor shall have no right to receive any such Loan proceeds.

4.4 Notice and Right to Cure Defaults Under Loans. Any loan which encumbers the leasehold must provide the Lessor with adequate rights to cure any defaults by Lessee, including (a) providing the Lessor or its successor with copies of any notices of default at the same time and in the same manner as provided to Borrower, and (b) providing the Lessor with a cure period of at least sixty (60) days to cure any default.

4.5 Notice to Lessor of Leasehold Mortgages. Lessee shall provide written notice to Lessor of the name and address of each Lender under this Lease, and shall provide Lessor with updates based on any changes in name or address or assignments that occur.

ARTICLE 5. INSURANCE

5.1 Required Insurance Coverage.

(a) Property Insurance. The Lessee shall during the Lease Term keep the Scarlett

Units insured against loss or damage by a property insurance policy providing coverage of the perils of direct damage as insured under the Insurance Services Office (ISO) "Causes of Loss-Special Form" or equivalent with limits in sufficient amounts such that the proceeds of such insurance shall not be less than the replacement value of the Scarlett Units.

(b) Commercial General Liability (CGL) Insurance. During the Lease Term, the Lessee shall keep in full force and effect a policy or policies of Commercial General Liability insurance against liability for bodily injury to or death of any person or property damage arising out of an occurrence on or about the Scarlett Property. The limits of such insurance shall be not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage.

(c) Builders' Risk Insurance. During the course of any alteration, construction or reconstruction, the cost of which exceeds One Hundred Thousand Dollars (\$100,000), either Lessee or its contractor shall provide builders' risk insurance for not less than the amount of work to be performed, insuring against the perils of direct damage as insured under the Insurance Services Office ISO "Causes of Loss – Special Form" or equivalent.

(d) Adjustment of Coverage Limits. Whenever the insurance coverages required by this Section 5.1 are renewed or extended, the Lessee shall increase the coverage limits required to an amount that incorporates the insurance coverage limits customarily required by Lenders in Teton County, Wyoming at the time the insurance is renewed or extended which shall be confirmed at such time by Lessee by obtaining documentation of the insurance coverage limits required by at least one Teton County, Wyoming Lender for financing of similar types of property.

5.2 Insurance Policies and Premiums.

(a) All policies required by this Lease shall name the Lessor as an additional insured.

(b) Any policy of insurance shall provide that any change or cancellation of said policy shall be made in writing and sent to the Lessee and the Lessor at their respective principal offices at least thirty (30) days before the effective date of change or cancellation.

(c) Any insurance provided for in this Article 5 may be placed by a policy or policies of blanket and/or excess liability (or umbrella) insurance.

5.3 Proceeds of Insurance.

(a) For so long as any Loan on the Scarlett Units is outstanding, all fire and standard risk or extended coverage (casualty) insurance proceeds shall be applied to the payment of the costs of repairing or rebuilding that part of the Scarlett Units damaged or destroyed if to the extent required, each Lender with an outstanding Loan permits such repair or rebuilding. If the Scarlett Units are not repaired or rebuilt, all such proceeds shall be applied in a manner consistent with the terms of the Loans.

(b) In the event that no Loan is outstanding, all insurance proceeds received under the policies set forth in this Article shall be paid to the Lessee, provided that the Lessee shall apply such proceeds to the repair or rebuilding of the Improvements, and if repair or rebuilding is not economically feasible in Lessee's reasonable discretion, then all insurance proceeds shall be paid to Lessor and Lessee shall have no further obligation to repair or rebuild the Improvements.

ARTICLE 6. CONDEMNATION

6.1 Taking of Land or Improvements. If, during the term of this Lease, there is any Taking of all or any part of the Improvements, or the Scarlett Property, the rights and obligations of the parties shall be determined as follows:

6.2 Total Taking. If the Improvements, or the Scarlett Property are totally taken by

condemnation, this Lease shall terminate on the date of the taking. If this Lease is terminated pursuant to this Section 6.2, the Award for such taking shall be apportioned and distributed as follows:

(a) First, to the Mortgagees, if any, to the extent of the Leasehold Mortgage;

(b) Second, to Lessee, a sum equal to the fair market value of the Improvements on the date immediately preceding the Taking as determined by the appraisal method set forth in Section 6.7 and determined as if there were no Taking, nor threat of condemnation; plus the residual value of the Term, subject to the rent reserved; and

(c) Third, to Lessor, the remainder, if any.

6.3 Reserved.

6.4 Substantial Taking.

(a) In the event of a Taking which is substantial, Lessee may, subject to the rights of the Mortgagee, if any, terminate this Lease. For purposes hereof, a Taking shall be deemed to be "substantial" if it renders the Scarlett Property and/or Improvements economically infeasible for Lessee's intended purpose. If Lessee elects to terminate this Lease under this provision, Lessee shall give written notice of its election to do so to Lessor within forty-five (45) days after receipt of a copy of a Notice of Intended Taking.

(b) In the event Lessee terminates this Lease in accordance with this Section 6.4, such termination shall be as of the time when the Taking entity takes possession of the portion of the Scarlett Property and the Improvements taken. In such event, the Award for such Substantial Taking (including any award for severance, consequential or other damages which will accrue to the portion of the Scarlett Property and/or the Improvements not taken) shall be apportioned and distributed as follows:

(i) First, to the Mortgagee, if any, to the extent of the Leasehold Mortgage;

(ii) Second, to Lessee a sum equal to the fair market value of the Improvements taken preceding the date of the Taking as determined by the appraisal process provided for in Section 6.7, commenced as provided in Section 6.2, and as modified by Section 6.5(c); plus the residual value of the Term, subject to the rent reserved; and

(iii) Third, to Lessor, the remainder, if any.

(c) Notwithstanding anything to the contrary contained in Section 6.7, if Lessee has elected to terminate this Lease, and the taking authority abandons or revises the Taking, Lessee shall have forty-five (45) days from receipt of written notice of such abandonment or revision to revoke its notice of termination of this Lease.

6.5 Partial Taking.

(a) In the event of a Partial Taking, this Lease shall continue in full force and effect and there shall be no abatement in or reduction of any of Lessee's obligations hereunder.

(b) The Award for such Partial Taking shall be apportioned and distributed first to the Mortgagee, if any, to the extent of the Leasehold Mortgage, then to Lessor and Lessee in proportion to the fair market value of their respective interests in the Scarlett Property and Improvements, as such interests existed immediately prior to such Partial Taking.

(c) The fair market value of the parties' respective interests in the Scarlett Property and the Improvements shall be determined by the appraisal process provided in Section 6.7, except the assumptions listed in such Section shall not apply. Rather, the appraisal shall be based on the value of the Scarlett Property as improved and encumbered by this Lease and on the value of the Improvements as they stand, but without regard to any Taking or threat of condemnation.

(d) Any Award for severance, consequential or other damages which accrues by reason of the Partial Taking to the portion of the Scarlett Property or the Improvements not taken shall be distributed first to the Mortgagee, if any, to the extent of the Leasehold Mortgage, then shall be apportioned between Lessor and Lessee in accordance with the diminution in value of their respective interests.

6.6 Temporary Taking.

(a) In the event of a Temporary Taking of the whole or any part of the Scarlett Property and/or Improvements, the Term shall not be reduced or affected in any way and Lessee shall continue to pay in full any sum or sums of money and charges herein reserved and provided to be paid by Lessee, and, Lessee shall be entitled to any Award or payment for the temporary use of the Scarlett Property and/or Improvements prior to the termination of this Lease, and Lessor shall be entitled to any Award or payment for such use after the termination of this Lease.

(b) Any Award or payment for damages or cost of restoration made on or after the termination of this Lease shall be paid first to the Mortgagee, if any, to the extent of the Leasehold Mortgage, then to Lessor absolutely, together with the remaining balance of any other funds paid to Lessee for such damages or cost of restoration.

6.7 Appraisal. Whenever an appraisal of the Scarlett Property or the Improvements is called for under the terms of this Lease, the parties shall use the following procedure:

(a) Appointment of Appraiser. Within ten (10) days after notice from Lessor to Lessee, Lessor and Lessee shall each appoint an MAI appraiser to participate in the appraisal process provided for in this Section 6.7 and shall give written notice thereof to the other party. Upon the failure of either party to appoint, the non-defaulting party shall have the right to apply to the District Court of Teton County, Wyoming, to appoint an appraiser to represent the defaulting party. Within ten (10) days of the parties' appointment, the two (2) appraisers shall jointly appoint a third MAI appraiser and give written notice thereof to Lessor and Lessee, or if within ten (10) days of the appointment of said appraisers the two (2) appraisers shall fail to appoint a third, then either party hereto shall have the right to make application to said District Court to appoint such third appraiser.

(b) Determination of Fair Market Value.

(i) Within thirty (30) days after the appointment of the third appraiser, the appraisers shall determine the fair market value of the Scarlett Property and/or the Improvements in accordance with the provisions hereof, and shall execute and acknowledge their determination of fair market value in writing and cause a copy thereof to be delivered to each of the parties hereto.

(ii) The appraisers shall determine the fair market value of the Scarlett Property and the Improvements based on sales of comparable property in the area in which the Scarlett Property are located; provided, however, the appraisal should reasonably reflect the rent restrictions imposed on the Scarlett Property and/or the Improvements pursuant to Article 2 of this Lease, as well as the Housing Authority's right to a reversion of title to the Improvements to the Housing Authority at the end of the Lease Term.

(iii) If a majority of the appraisers are unable to agree on fair market value within thirty (30) days of the appointment of the third appraiser, the three (3) appraisals shall be added together and their total divided by three (3). The resulting quotient shall be the fair market value of the Scarlett Property and the Improvements. If, however, either the low appraisal and/or high appraisal is

ten percent (10%) lower or higher than the middle appraisal, such appraisal shall be disregarded. If only one appraisal is disregarded, the remaining two appraisals shall be added together and their total divided by two (2). The resulting quotient shall be the fair market value of the Scarlett Property and the Improvements. If both the low and high appraisals are disregarded, the middle appraisal shall be the fair market value of the Scarlett Property.

(c) Payment of Fees. Each of the parties hereto shall (a) pay for the services of its appointee, (b) pay one-half (1/2) of the fee charged by the appraiser selected by their appointees, and (c) pay one-half (1/2) of all other proper costs of the appraisal.

6.8 Lessor's Waiver of Rights to Eminent Domain. Lessor hereby waives any and all rights to condemnation or eminent domain of the Scarlett Property for the duration of the Lease Term.

ARTICLE 7. ASSURANCES OF LESSOR

7.1 Lessor to Give Peaceful Possession. The Lessor covenants that it owns in fee simple, and that it has good and marketable title to the Scarlett Property and the Improvements, that as of the date of execution of this Lease, the Scarlett Property and Improvements were free of all easements, covenants, conditions and restrictions except as disclosed in writing to Lessee. The Lessor has the full right and authority to make this Lease. The Lessor covenants and warrants that the Lessee and its Tenants shall have, hold and enjoy, during the Lease Term, peaceful, quiet and undisputed possession of the Scarlett Property leased without hindrance or molestation by or from Lessor so long as no Event of Default exists and is continuing under this Lease.

7.2 Lessor to Lease Scarlett Units with Marketable Title. The Lessor covenants and warrants that as of the date of execution of this Lease, there were no outstanding liens and encumbrances on the Scarlett Property, other than created by Lessee or disclosed in the Title Commitments issued by Stewart Title Guaranty Company on _____ for the Scarlett Property as Order No. _____.

7.3 Release of Lessor. The Lessor may sell, assign, transfer or convey (but not encumber), with the prior written consent of the Lenders which shall not be unreasonably withheld, conditioned or delayed, all or any part of Lessor's interest in the Scarlett Property, reversionary interest in the Improvements or this Lease without obtaining Lessee's consent, provided that the purchaser, assignee, or transferee expressly assumes all of the obligations of the Lessor under this Lease by a written instrument in a form reasonably satisfactory to the Lessee and recordable in the Office of the Teton County Clerk (an "Assumption Agreement"). In the event of a sale, assignment, transfer or conveyance by Lessor of the Scarlett Property or its rights under this Lease, provided an assumption agreement is executed as required above, the same shall operate to release the Lessor from any future liability upon any of the covenants or conditions of this Lease, expressed or implied, in favor of Lessee, and in such event the Lessee shall look solely to the successor in interest of Lessor in and to the Scarlett Property or this Lease. This Lease shall not be affected by any such sale, and the Lessee agrees to attorn to any such purchaser or assignee provided Lessee has received an Assumption Agreement.

ARTICLE 8. ASSURANCES OF LESSEE

8.1 Use of Site and Rents. Lessee covenants and agrees for itself, and its successors and assigns to or of the Scarlett Property, or any part thereof, that during the term of this Lease, Lessee and such successors and assigns shall comply with the following requirements:

(a) Permitted Uses. Lessee shall devote the Scarlett Property to, exclusively and in accordance with, the uses specified in this Lease.

(b) Non Discriminatory Advertising. All advertising (including signs) for sublease of the whole or any part of the Scarlett Units and the Scarlett Property shall include the legend "Equal Housing Opportunity" in type or lettering of easily legible size and design.

(c) Access for Disabled Persons. Comply with all applicable laws providing for access for persons with disabilities, including but not limited to the American with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, if applicable.

8.2 Annual Reporting to Lessor. Prior to the expiration of the first quarter of each calendar year during the Lease Term, the Lessee will provide to the Housing Department, the Teton County Clerk and the Town Clerk the year-end financials (which will indicate gross revenues, net revenues and expenses) for the Redmond Street Rental Project of the previous year and a summary of the incomes being served at each unit, and any other information directly related to the Redmond Street Rental Project that the Housing Department reasonably requests.

8.3 Lessor Deemed Beneficiary of Covenants. In amplification of, and not in restriction of, the provisions of the preceding subsections, it is intended and agreed that the Lessor shall be deemed beneficiary of the agreements and covenants provided in this Article for and in its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall be in full force and effect, without regard to whether the Lessor has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which such agreements and covenants relate. The Lessor shall have the right, in the event of any breach of any such agreements or covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenants, to which it or any other beneficiaries of such agreements or covenants may be entitled.

8.4 Review of Books and Records. The Lessee agrees that the Housing Authority, upon reasonable notice to the Lessee, may review such of its books and records at the Lessee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to: (i) any books and records required to be kept by the Lessee pursuant to the management of the Redmond Street Rental Project and/or financial statements prepared by an accountant; and/or (ii) any annual or other periodic report compiled from data available from the Lessee's records showing any forecast of profits or losses for the Redmond Street Rental Project.

ARTICLE 9. DEFAULTS AND REMEDIES

9.1 Events of Default; Notices.

(a) Any one or more of the following events shall constitute an "Event of Default".

(1) Failure to make lease payments, as required pursuant to Section 2.3 of this Lease, or any other payment required under this Lease, and continuance of such failure for a period of thirty (30) days after receipt by the Lessee of written notice specifying the nonpayment;

(2) Failure of the Lessee to observe and perform any material covenant, condition or agreement hereunder on its part to be performed, and (i) continuance of such failure for a period of ninety (90) days after receipt by the Lessee of written notice specifying the nature of such default, or (ii) if by reason of the nature of such default the same cannot be remedied within said ninety (90) days, the Lessee fails to proceed with reasonable diligence after receipt of said notice to cure the same; or

(3) A general assignment by the Lessee for the benefit of creditors; or

(4) The filing of a voluntary petition by the Lessee, or the filing of an involuntary petition by any of the Lessee's creditors seeking the rehabilitation, liquidation or reorganization of the Lessee under any law relating to bankruptcy, insolvency or other relief of debtors, provided that in the case of an involuntary petition Lessee shall have ninety (90) days to cause such petition to be withdrawn or dismissed; or

(5) The appointment of a receiver or other custodian to take possession of substantially all of Lessee's assets or of this leasehold which appointment is not withdrawn or dismissed within ninety (90) days; or

(6) The Lessee becomes insolvent or declares it is unwilling to pay its debts as they become due; or any court enters a decree or order directing the winding up or liquidation of Lessee or of substantially all of its assets; or the Lessee takes any action toward the dissolution or winding up of its affairs or the cessation or suspension of its use of the Scarlett Units; or

(7) Attachment, execution or other judicial seizure of substantially all of the Lessee's assets or this leasehold, which is not dismissed, bonded, or stayed within ninety (90) days; or

(8) Failure to complete the Scarlett Units to the Housing Authority's reasonable discretion, on or before 5PM MT on January 1, 2019, which performance obligation shall be deemed to be satisfied by the Lessee if the Town has issued certificates of occupancy (or similar documentation) to permit occupancy of all of the units permitted for construction by Town. If the foregoing performance obligation is not satisfied by the Lessee, the Housing Authority shall have the unilateral right to terminate this Lease upon providing notice to the Lessee and the expiration of a 180-day cure period if Lessee has commenced construction of such incomplete units.

9.2 Remedy of Material Breach by Lessee. At any time after the occurrence of an Event of Default hereunder, Lessor may terminate this Lease by giving Lessee written notice thereof, setting forth in such notice an effective date for termination which is not less than thirty (30) days after the date of such notice, in which event this Lease and Lessee's estate created hereby and all interest of Lessee and all parties claiming by, through or under Lessee shall automatically terminate upon the effective date for termination as set forth in such notice, with the same force and effect and to the same extent as if the effective date of such notice had been the date originally fixed in Article 2 hereof for the expiration of the Lease Term. In such event, Lessor, its agents or representatives, shall have the right, without further demand or notice, to reenter and take possession of the Scarlett Property (including all buildings and other Improvements comprising any part thereof) at any time from and after the effective termination date without being deemed guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or existing breaches of covenants; provided that Lessor shall not be entitled to disturb possession of any Tenants or others in possession pursuant to Tenant Leases with Lessee so long as such Tenants or others are not in default thereunder and attorn to Lessor as their lessor. Upon the exercise of Lessor's remedies pursuant to this Section 9.2, Lessee shall execute such releases, deeds and other instruments in recordable form as Lessor shall reasonably request in order to accurately set forth of record the then current status of Lessee's estate and Lessee's rights hereunder.

9.3 Deficiency Judgments. Lessor, for itself and for each and every succeeding owner of Lessor's estate in the Scarlett Property, agrees that it shall not be entitled to seek a personal judgment against Lessee and that upon any Event of Default hereunder, the rights of Lessor to enforce the obligations of Lessee, its successors or assigns, or to collect any judgment, shall be limited to the termination of this Lease and of Lessee's estate and the enforcement of any other rights and remedies specifically granted to Lessor hereunder.

ARTICLE 10. ASSIGNMENTS AND TRANSFERS

10.1 Consent Required. Except as expressly provided herein, Lessee shall not, without the prior written consent of Lessor which shall not be unreasonably withheld, conditioned or delayed, assign this Lease or any interest therein ("Transfer"). A Transfer shall be deemed to include any attempt by Lessee to make or permit any voluntary or involuntary, total or partial, sale, assignment, conveyance, mortgage, pledge, encumbrance, or other transfer of any or all of the Improvements. Any attempt to Transfer Lessee's interest in this Lease without Lessor's prior written consent shall be null and void, and any assignee, sublessee, secured party or transferee shall acquire no right or interest by

reason of such attempted Transfer.

10.2 Permitted Transfers. Notwithstanding the foregoing, Lessor's prior written consent of an assignment or transfer of this Lease or conveyance of Lessee's leasehold interest in the Scarlett Property, or any part thereof, shall not be required to effectuate any of the following ("Permitted Transfers"):

(a) A transfer to a Wyoming entity owned entirely by Lessee or co-owned by Lessee.

(b) In the event of a Permitted Transfer by Lessee pursuant to this Section, Lessee nevertheless agrees that within thirty (30) days following such Permitted Transfer it shall give written notice to Lessor of such assignment or transfer along with a true and complete copy of the executed assignment or transfer document.

(c) Notwithstanding anything to the contrary in this Lease, any party owning an interest in Lessee shall have the right, without the approval or consent of the Lessor, to pledge or otherwise encumber its partnership interest in Lessee and the foreclosure of such pledge by a Mortgagee shall not cause an Event of Default hereunder.

ARTICLE 11. MISCELLANEOUS

11.1 Instrument Is Entire Agreement. This Lease including the Recitals above and the attached Exhibits constitute the entire agreement between the Parties with respect to the matters set forth in this Lease. This Lease shall completely and fully supersede all other prior understandings or agreements, both written and oral, previously entered into between the Lessor and the Lessee relating to the lease of the Scarlett Property by the Lessor to the Lessee.

11.2 Notices. All notices, requests, demands, or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or by certified mail, return receipt requested, or by Federal Express, or by hand delivery by a recognized, reputable courier, to each party at the addresses set forth below. Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior written notice thereof, any Party, from time to time, may change its address for notices hereunder. Legal counsel for the respective Parties may send to the other Party any notices, requests, demands or other communications required or permitted to be given hereunder by such Party:

If to the Lessee:

Jackson Hole Community Housing Trust
P.O. Box 4498
Jackson, Wyoming 83001
Facsimile: 307-739-0922

To Lessor at:

Housing Authority
Attn: Chair
P.O. Box 1727
Jackson, Wyoming 83001
Facsimile: 307-734-7068

11.3 Non-Waiver of Breach. Neither the failure of the Lessor or the Lessee to insist upon strict performance of any of the covenants and agreements of this Lease nor the failure by the Lessor or the Lessee to exercise any rights or remedies granted to such Party under the terms of this Lease shall be deemed a waiver or relinquishment (i) of any covenant contained in this Lease or of any of the rights or remedies of the Lessee or the Lessor under this Lease, or (ii) of the right in the future of the Lessor or the Lessee to insist upon and to enforce by any appropriate legal remedy a strict compliance with all of the covenants and conditions of this Lease.

11.4 Effective Date; Counterparts. This Lease shall be effective during the Lease Term. This Lease may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

11.5 Lease Binding on Successors. This Lease and all of its provisions and attached Exhibits shall inure to the benefit of, and shall be binding upon, the Lessor, the Lessee, and their respective permitted successors and permitted assigns and, as provided in this Lease, Lenders of the Lessee.

11.6 Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the Parties or by any third party to create the relationship of principal or agent or of partnership, joint venture or association or of buyer and seller between the Lessor and the Lessee, it being expressly understood and agreed that neither the computation of any payments and other charges under the terms of this Lease nor any other provisions contained in this Lease, nor any act or acts of the Parties, shall be deemed to create any relationship between the Lessor and the Lessee other than the relationship of landlord and tenant.

11.7 No Merger. There shall be no merger of this Lease or any interest in this Lease nor of the leasehold estate created by this Lease, with the fee estate in the Scarlett Property, by reason of the fact that this Lease or such interest in the Lease, or such leasehold estate may be directly or indirectly held by or for the account of any person who shall hold the fee estate in the Scarlett Property, or any interest in such fee estate, nor shall there be such a merger by reason of the fact that all or any part of the leasehold estate created by this Lease may be conveyed or mortgaged in a leasehold mortgage to a leasehold mortgagee who shall hold the fee estate in the Scarlett Property or any interest of the Lessor under this lease.

11.8 Gender and Number. Words of any gender used in this Lease shall be held to include any other gender, and any words in the singular number shall be held to include the plural (and vice versa), when the sense requires.

11.9 Titles. The titles and article or paragraph headings are inserted only for convenience, and are in no way to be construed as a part of this Lease or as a limitation on the scope of the particular provisions to which they refer.

11.10 Severability. If any provision of this Lease or the application of any provision to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

11.11 Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of Wyoming.

11.12 Amendments. This Lease may not be amended or modified without the prior written consent of Lessor and Lessee.

11.13 No Mortgage Encumbrance by Lessor. Lessor shall not mortgage its fee estate unless there exists an express subordination of any fee mortgage to Lessee's interest in the Lease. Lessee shall not be obligated to subordinate its leasehold interest and any interests in subleases and subrents to a subsequent mortgage of the fee estate granted by Lessor.

11.14 Conflicts. In the event of a conflict between this Lease and the Project Agreement, the Project Agreement shall control.

11.15 Governmental Immunity. The Housing Authority does not waive its sovereign or governmental immunity by entering into this Lease with the Housing Trust, and fully retains all immunities and defenses provided by law with respect to any action based on or arising out of this Lease.

ARTICLE 12. NON-DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

12.1 If Lessee provides any aid, service or benefit to others on the Lessor's behalf, Lessee shall, in the provision of such aid, service or benefit, observe and comply with all applicable provisions of Title 11 of the Americans with Disabilities Act of 1990 and any amendments thereto. Lessee shall further observe and comply with all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination against individuals with disabilities or ensuring that individuals with disabilities are not excluded from participating in or receiving benefits, services or activities of the Lessor.

12.2 If Lessee is or becomes a "public accommodation" as defined in Title III of the Americans with Disabilities Act of 1990, Lessee shall observe and comply with all applicable provisions of the Act and any amendments thereto, and all applicable federal, state, municipal and local laws, ordinances, codes and regulations prohibiting discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations offered by the Lessee. All of Lessee's activities must be in accordance with these laws, ordinances, codes, and regulations, and Lessee shall be solely responsible for complying therewith.

ARTICLE 13. LENDER PROTECTIONS AND OBLIGATIONS

13.1 Rights and Obligations of Lenders. If Lessee obtains a Leasehold Mortgage in accordance with the provisions of Article 4, as long as any such Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(a) No Cancellation. Lessor will not cancel, accept a surrender of, terminate or modify this Lease in the absence of a default by Lessee without the prior consent in writing of the Lender and until Lessor has complied with the provisions of this Article as to the Lender's rights to cure and obtain a new lease.

(b) Notice of Defaults to Lender. Lessor agrees to give to each Lender a written copy of all notices of default that Lessor gives to Lessee. Such copy shall be mailed or delivered to any Lender at, or as near as possible to, the same time such notices are given to Lessee. Upon the execution of any Leasehold Mortgage, Lessor shall be informed in writing of the vesting of the security interest evidenced by the Leasehold Mortgage and of the address to which all notices to the Lender are to be sent. Any notices of default given by Lessor under the Lease shall describe the default(s) with reasonable detail. Each Lender shall have the right to cure any breach or default within the time periods given below.

(c) Lender's Cure Rights.

(i) Notice and Cure. After receipt by Lessee of a notice of default under the Lease and the expiration of any applicable period of cure given to Lessee under the Lease, Lessor shall not terminate the Lease or exercise its other remedies under the Lease if:

1. Within sixty (60) days after Lender's receipt of the notice of default, any Lender (i) cures the default, or (ii) if the default reasonably requires more than sixty (60) days to cure, commences to cure said default within such sixty (60) day period and thereafter diligently prosecutes the same to completion; or

2. Where the default cannot be cured by payment or expenditure of money or without possession of the Scarlett Property or otherwise, Lender initiates foreclosure or other appropriate proceedings (after Lender complies with its obligations set forth in Section 13.2 below) within sixty (60) days after receipt of the notice of default, thereafter cures all other defaults reasonably capable of cure by the payment of money to Lessor, and thereafter continues to pay all rents, real property taxes and assessments, and insurance premiums to be paid by

Lessee under the Lease. Lender shall then have sixty (60) days following the later to occur of (i) the date of execution and delivery of a New Lease of the Scarlett Property pursuant to Section 13.1(d) of the Lease, or (ii) the date on which Lender or its nominee is able to occupy the Scarlett Property following foreclosure under such Leasehold Mortgage and the eviction of or vacating by Lessee of the leased premises, to cure such default; provided, however, that if any such default, by its nature, is such that it cannot practicably be cured within sixty (60) days, then Lender shall have such additional time as shall be reasonably necessary to cure the default provided that Lender commences such cure within such sixty (60)-day period and thereafter diligently prosecutes the cure to completion.

(ii) Lessor agrees to accept performance by Lender of all cures, conditions and covenants as though performed by Lessee, and agrees to permit Lender access to the Scarlett Property to take all such actions as may be necessary or useful to perform any condition or covenants of the Lease or to cure any default of Lessee. Lender shall not be required to perform any act or cure any default which is not reasonably susceptible to performance or cure by Lender.

(iii) If Lender elects any of the above-mentioned options after complying with the obligations of Lender set forth in Section 13.2 below, then upon Lender's acquisition of the Lease by foreclosure, whether by power of sale or otherwise or by deed or assignment in lieu of foreclosure, or if a receiver be appointed, the Lease shall continue in full force and effect (and Lessor shall treat the Lender as Lessee) except that the covenants, agreements, conditions, provisions, restrictions and limitations contained in Section 2.4 of the Lease shall be deleted and Lessor shall have the right, but not the obligation, to increase the annual rent for each lot set forth in Section 2.3 to fair market value rental rates which shall be determined by the appraisal process provided in Section 6.7. If Lender elects the option provided in Section 13.1(c)(i)(2) above, then upon Lender's acquisition of the Lease, Lender shall cure all prior defaults of Lessee under the Lease that are reasonably capable of being cured by Lender within the time set forth in said Section, Lessor shall treat Lender as Lessee under the Lease. If Lender commences an action as set forth in Section 13.1(c)(i)(2) above, and thereafter Lessee cures such defaults (which cure Lessor shall be obligated to accept) and Lender then terminates all proceedings under the option in said Section, then the Lease shall remain in full force and effect between Lessor and Lessee, in which event the covenants, agreements, conditions, provisions, restrictions and limitations contained in Section 2.4 of the Lease shall survive.

(d) New Lease. In the event the Lease is terminated for any reason prior to the end of the Lease Term, Lessor shall promptly give Lender written notice of such termination and shall enter into a new lease ("New Lease") with Lender or Lender's nominee covering the Scarlett Property, provided that Lender (a) requests such New Lease by written notice to Lessor within sixty (60) days after Lender's receipt of written notice by Lessor of termination of the Lease, and (b) cures all prior defaults of Lessee that are reasonably capable of being cured by Lender. The New Lease shall be for the remainder of the Lease Term, effective at the date of such termination, but shall not include any of the covenants, agreements, conditions, provisions, restrictions and limitations contained in Section 2.4 of the Lease and Lessor shall have the right, but not the obligation, to increase the annual rent for each lot set forth in Section 2.3 to fair market value rental rates which shall be determined by the appraisal process provided in Section 6.7. In connection with a New Lease, Lessor shall assign to Lender or its nominee all of Lessor's interest in all existing subleases of all or any part of the Scarlett Property and all attornments given by the sublessees. Lessor shall not terminate or agree to terminate any sublease or enter into any New Lease or sublease for all or any portion of the Scarlett Property without Lender's prior written consent, unless Lender fails to deliver its request for a New Lease under this Section. In connection with any such New Lease, Lessor shall, by grant deed, convey to Lender or its nominee title to the Improvements, if any, which become vested in Lessor as a result of termination of the Lease.

(e) Permitted Delays. So long as Lender is prevented by any process or injunction issued by any court or by any statutory stay, or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Lessee or any other person, from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, provided that Lender uses reasonable efforts to contest and appeal the issuance or continuance of any such process, stay

or injunction, the time periods specified in Sections 13.1(c)(i)(1) and (2) above shall be extended for the period of such prohibition; provided that Lender shall have fully cured any default in the payment of any monetary obligations of Lessee under this Lease and shall continue to pay currently such monetary obligations as and when the same fall due.

(f) Anything herein contained to the contrary notwithstanding, the provisions of this Section shall inure only to the benefit of the holders of Leasehold Mortgages. If the holders of more than one such Leasehold Mortgage shall make written requests upon Lessor in accordance with this Lease, the New Lease (as provided for in Section 13.1(d) above) shall be entered into pursuant to the request of the holder whose Leasehold Mortgage shall be prior in lien thereto and thereupon the written requests for a new lease of each holder of a Leasehold Mortgage junior in lien shall be and be deemed to be void and of no force or effect.

13.2 Lender Obligation to Provide Notice of Default and Right to Cure Default of Leasehold Mortgage; Lessor's Forbearance.

(a) Notice of Default; Right to Cure. If a Lender sends notice of default of a Leasehold Mortgage to the Lessee because the Lessee has failed to comply with the terms of the Leasehold Mortgage, the Lender shall, at the same time, send a copy of that notice to the Lessor. Upon receiving a copy of the notice of default and within that period of time in which the Lessee has a right to cure such default, the Lessor shall have the right to cure the default on the Lessee's behalf, provided that all current payments due the Lender since the notice of default was given are made to the Lender. If after the cure period has expired, the Lender intends to accelerate the note secured by the Leasehold Mortgage or begin foreclosure proceedings under the Leasehold Mortgage, the Lender shall first notify the Lessor of its intention to do so, and Lessor shall then have the right, upon notifying the Lender within thirty (30) days of receipt of such notice, to acquire the Leasehold Mortgage by paying off the debt secured by the Leasehold Mortgage. If the Lender acquires the leasehold interest and Scarlett Units through foreclosure or acceptance of a deed in lieu of foreclosure (in which event the Lease shall continue in full force and effect and Lessor shall treat the Lender as Lessee except that the covenants, agreements, conditions, provisions, restrictions and limitations contained in Section 2.4 of the Lease shall be deleted and Lessor shall have the right, but not the obligation, to increase the annual rent for each lot set forth in Section 2.3 to fair market value rental rates which shall be determined by the appraisal process provided in Section 6.7), the Lender shall give Lessor written notice of such acquisition and Lessor shall then have an option to purchase the leasehold interest and Scarlett Units from the Lender for the full amount owing to the Lender under the Leasehold Mortgage. To exercise this option to purchase, Lessor must give written notice to the Lender of its intent to purchase the foregoing within thirty (30) days following Lessor's receipt of the Lender's notice. Lessor must then complete the purchase within sixty (60) days of having given written notice of its intent to purchase. If Lessor does not complete the purchase within this sixty (60) day period, the Lender shall be free to sell the Leasehold Interest and Scarlett Units to any person or entity.

(b) Lender's Transferees. Etc. In the event the leasehold estate hereunder shall be acquired by foreclosure, trustee's sale or deed or assignment in lieu of foreclosure of a Leasehold Mortgage, the purchaser at such sale or the transferee by such assignment and its successors as holders of the leasehold estate hereunder shall not be liable for any Rent, if any, or other obligations accruing after its or their subsequent sale or transfer of such leasehold estate and such purchaser or transferee and its successors shall be entitled to transfer such estate or interest without consent or approval of Lessor; provided that, the purchaser or transferee or successor as holder of the leasehold estate hereunder shall be liable for the payment of all Rent, if any, becoming due with respect to the period during which such purchaser, transferee or other successor is the holder of the leasehold estate hereunder. This Section shall also apply to the rights of a Lender in connection with the entry into a New Lease under Section 13.1(d) and to the appointment of a receiver on behalf of a Lender.

(c) Insurance and Condemnation. In the event of any casualty to, or condemnation of, all or any part of the leased premises or any improvements now or hereafter located thereon, the provisions of the Leasehold Mortgages, relating thereto shall prevail over any provisions of this Lease relating thereto.

13.3 No Liability of Lender for Prior Indemnified Acts. A Lender shall not be obligated

to assume the liability of Lessee for any indemnities arising for a period prior to Lender's acquiring the right to possession of the Scarlett Property under this Lease.

13.4 Further Amendments: Estoppels. Lessor and Lessee shall cooperate in including in the Lease by suitable amendment from time to time any provision which may be reasonably requested by any proposed Lender for the purpose of implementing the mortgagee protection provisions contained in this Lease. Lessor and Lessee each agree to execute and deliver (and to acknowledge for recording purposes, if necessary) any agreement required to affect any such amendment. At the request of Lessee or any proposed or existing Lender, Lessor shall promptly execute and deliver (i) any documents or instruments reasonably requested to evidence, acknowledge and/or perfect the rights of Lenders as herein provided; and (ii) an estoppel certificate certifying the status of this Lease and Lessee's interest herein and such matters as are reasonably requested by Lessee or such Lenders. Any such estoppel certificate may be conclusively relied upon by any proposed or existing leasehold Lender or assignee of Lessee's interest in this Lease.

ARTICLE 14. - FORCE MAJEURE

14.1 Any prevention, delay, nonperformance or stoppage by Lessee due to any of the following causes shall be excused: any regulation, order, act, restriction or requirement or limitation imposed by any federal, state, municipal or foreign government or any department or agency thereof, or civil or military authority; acts of God; acts or omissions of Lessor or its agents or employees; fire, explosion or floods; strikes, walkouts or inability to obtain materials; war, riots, sabotage or civil insurrection; or any other causes beyond the reasonable control of Lessee.

14.2 No prevention, delay, or stoppage of performance shall be excused unless Lessee notifies Lessor within ninety (90) days of such prevention, delay or stoppage that it is claiming excuse of its obligations under this Article 14.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date first written above.

LESSEE:

Jackson Hole Community Housing Trust,
a Wyoming nonprofit corporation

By: _____
Title: _____

By: _____
Title: _____

LESSOR:

The foregoing Agreement is hereby accepted by the Jackson/Teton County Housing Authority this _____ day of _____, 20_____.

JACKSON/TETON COUNTY HOUSING AUTHORITY

Matt Faupel, Chairman

Attest: _____
Danielle Goldyn-Haigh, Clerk

Affirmed and Approved By:

JACKSON TOWN COUNCIL

Pete Muldoon, Mayor

Attest: _____
Sandy Birdyshaw, Jackson Teton Clerk

Affirmed and Approved By:

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

Mark Newcomb, Chairman

Attest: _____
Sherry Daigle, Teton County Clerk

EXHIBIT A
Legal Description of Lot 1

Lot 1 of James G. and Julia L. Scarlett Addition to the Town of Jackson, Teton County, Wyoming, according to that plat recorded in the Office of the Teton County Clerk on August 13, 2004 as Plat No. 1128. Parcel ID: 22-41-16-34-1-81-001

**AGREEMENT WITH JACKSON/TETON COUNTY HOUSING
AUTHORITY REGARDING
REDMOND STREET RENTAL PROJECT**

This Agreement Regarding Redmond Street Rental Project ("Agreement") is entered into on the 23 day of March, 2017 ("Effective Date"), by and between the Jackson/Teton County Housing Authority, a duly created housing authority pursuant to Wyo. Stat. §15-10-116(b) (the "Housing Authority") and the Jackson Hole Community Housing Trust, a Wyoming nonprofit corporation (the "Housing Trust"). The Housing Authority and the Housing Trust are each referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Teton County, Wyoming, and the Town of Jackson, Wyoming, continue to experience a significant shortage of safe and sanitary dwelling accommodations available to persons of low income at rentals or prices they can afford;

WHEREAS, Division 7.4 of the Land Development Regulations of the Town of Jackson and of the Land Development Regulations of Teton County state that it is the objective of the Town of Jackson and the County to make measurable progress toward reducing the existing shortage of affordable housing;

WHEREAS, Wyo. Stat. § 15-10-101(a)(ii)(C) states that the Housing Authority may provide, or assist in providing by any suitable method decent, safe and sanitary housing and related facilities to persons of low income, and through Wyo. Stat. § 15-10-113(a)(vi) may cause services to be furnished of the character that the public body is empowered to furnish;

WHEREAS, the Housing Trust is a non-profit, public benefit corporation incorporated in the State of Wyoming and recognized by the United States Department of the Treasury as a public charity pursuant to § 501(c)(3) of the Internal Revenue Code of 1986;

WHEREAS, the Housing Trust is organized exclusively for charitable purposes including but not limited to the provision, management and administration of affordable housing in Teton County, Wyoming and lessening the burden of government;

WHEREAS, the Housing Authority currently holds one million nine hundred fifty thousand dollars and no cents (\$1,950,000) of specific purpose excise tax funds (the "SPET Funds") remaining from the May 2006 specific purpose excise tax ballot, which provided four million fifty thousand dollars and no cents (\$4,050,000) for the acquisition, planning, improvement and financing of properties to be utilized for affordable housing;

WHEREAS, the Housing Trust currently owns Lot 1 of the James G. and Julia L. Scarlett Addition to the Town of Jackson, Plat Number 1128 ("Lot 1"), and Lot 6 of the James G. and Julia L. Scarlett Addition Second Filing to the Town of Jackson, Plat Number 1316 ("Lot 6");

WHEREAS the Housing Trust is the Lessee of Lot 3 and Lot 4 of the James G. and Julia L. Scarlett Addition to the Town of Jackson, Plat Number 1128 ("Lot 3" and "Lot 4" respectively) under that certain 99-Year Ground Lease, dated February 27, 2014 (the "Town Ground Lease"), with the Town of Jackson as Lessor;

WHEREAS, the Housing Authority desires that the Housing Trust develop permanently restricted affordable rental units on Lots 1, 3, 4, and 6 of the James G. and Julia L. Scarlett Addition as illustrated on the site plan attached hereto as **Exhibit A** and is commonly known as the "Redmond Street Rental Project";

WHEREAS, the Housing Authority, in consideration of the significant housing shortage in Teton County, Wyoming, would like to accelerate the development of affordable housing and enable the Housing Trust to begin construction of the Redmond Street Rental Project in the spring season of 2017, on the terms and conditions set forth herein;

WHEREAS, the Housing Authority's provision of the SPET Funds to the Housing Trust on the terms and conditions set forth herein is in compliance with Article 16, Section 6 of the Wyoming Constitution, given the public purpose served and the following consideration that will be received by the Housing Authority (collectively, the foregoing will hereinafter be referred to as the "Housing Trust Consideration");

- The Housing Trust will convey Lot 1 exclusive of any improvements (approximately 11,500 square feet) to the Housing Authority as depicted on **Exhibit B** attached hereto ("Lot 1"), on the terms and conditions set forth herein; and
- The Housing Trust will have sole responsibility for the development and construction of the Redmond Street Rental Project; and
- The Housing Trust will have sole responsibility for the financing of the Redmond Street Rental Project; and
- The Housing Trust will have sole responsibility for the management of rental operations, including securing tenants, maintenance, budgeting, insurance and enforcement, for so long as the Housing Trust is the guarantor of the third-party financing required for the Redmond Street Rental Project; and
- The Housing Authority will receive an annual land lease payment on the terms and conditions described below.

WHEREAS, upon the conveyance of Lot 1, the Parties will enter into a 50-Year Ground Lease in form and substance similar to the Town Ground Lease, which lease will govern Lot 1 as further described herein.

NOW, THEREFORE, for and in consideration of the Housing Trust Consideration and the Recitals described above, which Recitals the Parties hereby acknowledge as true and accurate, and in consideration of the respective mutual covenants and agreements hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Town Agreement. The commencement of the Parties' obligations under this Agreement is expressly conditioned upon the complete execution by the Town of Jackson and the Housing Trust of that certain Agreement with the Town of Jackson Regarding Redmond Street Rental Project (the "Town Agreement") containing terms and conditions substantively similar in form and substance to those contained herein. In the event the Town Agreement is not executed by the Town of Jackson and the Housing Trust, the Parties agree this Agreement will automatically terminate and the Parties will have no further obligations hereunder.

2. Conveyance of Lot 1; Ground Lease; Verification of Sufficient Funds.

A. Conveyance of Lot 1. Upon the finalization of the HA Ground Lease as described below, the Housing Trust will convey Lot 1 to the Housing Authority, exclusive of any improvements, by execution and delivery of a good and sufficient warranty deed, in form and substance satisfactory to the Housing Authority. Lot 1 will be conveyed free and clear of all liens, except for any encumbrances related to the third-party construction financing for the Redmond Street Rental Project.

B. Ground Lease.

(i) Promptly following the execution of this Agreement, the Housing Trust and the Housing Authority will use their best efforts to finalize a 50-Year Ground Lease for Lot 1 (the "HA Ground Lease"). If the Housing Authority and the Housing Trust are unable to reach agreement on the HA Ground Lease, this Agreement will automatically terminate and the Parties will have no further obligation hereunder. Contemporaneous with the conveyance of Lot 1 to the Housing Authority, the Housing Trust and the Housing Authority will execute the HA Ground Lease. The HA Ground Lease will contain terms and conditions mutually agreeable to the Housing Authority and the Housing Trust and will be substantially similar to the Town Ground Lease, which will ensure that Lot 1 may be used only for rental affordable housing for qualified applicants for the term of the HA Ground Lease as further described therein, and provide enforcement and recourse provisions to the Housing Authority. All tenants of the rental units within the Redmond Street Rental Project must qualify with the applicable guidelines and policies, regardless of whether the landlord is the Housing Trust or a sub-landlord housing its employees.

(ii) The HA Ground Lease will contain the following terms:

a. The HA Ground Lease will also provide that upon retirement of the Housing Trust's third party financing for the Redmond Street Rental Project, the Housing Authority, Town of Jackson and the Housing Trust will begin to receive an annual land lease payment from the Redmond Street Rental Project in an amount equal to each Party's "pro rata portion of net rents" generated from the Redmond Street Rental Project as described below.

1. The Housing Authority's "pro rata portion of net rents" will be calculated by multiplying the "net rents" (as defined below) by the Housing Authority's Project Percentage (as described below).

2. For purposes of this Agreement, "Project Percentage" shall mean the percentage that results from the following fraction: (a) the numerator will be the total amount that a party has contributed to the Redmond Street Rental Project subsequent to this Agreement, and (b) the denominator will be the total amount of all financial contributions made by the Housing Authority, the Town of Jackson and the Housing Trust to the Redmond Street Rental Project. For the purpose of calculating the numerator and the denominator, the \$1,650,000 paid by the Town of Jackson for purposes of purchasing Lots 3 and 4 and obtaining three rights of first purchase or rental, will be excluded. If additional monies are contributed to the Redmond Street Rental Project at any time by the Town of Jackson, the Housing Authority or the Housing Trust (for example, if additional monies are contributed for the purpose of paying down the loan on the project), the numerator and denominator in the above calculation will be adjusted accordingly, thereby adjusting each party's Project Percentage. For illustration purposes only, and not taking into account any potential adjustments due to additional contributions, if the total amount contributed by the Housing Authority totals \$1,950,000, the total amount contributed by the Town of Jackson totals \$2,100,000, and the total amount contributed by the Housing Trust totals \$3,000,000, then the Project Percentage of the Housing Authority will be 28%, the Project Percentage of the Town of Jackson will be 30% and the Project Percentage of the Housing Trust will be 42%.

3. The calculation of each party's Project Percentage and resulting "pro rata portion of net rents" will occur when the third-party financing for the Redmond Street Rental Project is retired.

4. "Net rents" will be determined on an annual basis by deducting all expenses (including taxes, insurance, maintenance, reserves, administrative expenses and management fees) of the Redmond Street Rental Project from the gross rents generated from the Redmond Street Rental Project. Capital expenses deemed necessary by the mutual agreement of the Housing Authority, the Town of Jackson and the Housing Trust that are not paid for out of the reserve fund for the Redmond Street Rental Project will also be deducted from gross rents.

b. The HA Ground Lease will also provide that the Parties will either retain the Housing Trust, the Town of Jackson/Teton County Housing Department or hire a Property Manager (such election to be made by mutual agreement of the Town of Jackson, the Housing Trust, and the Housing Authority) to manage the Redmond Street Rental Project when the debt is retired or in the event the Housing Trust is no longer the guarantor, whichever occurs first. The Parties will mutually agree to a management fee to cover the cost of the continued management of any and all rental units at the Redmond Street Rental Project, which management fee will be mutually agreeable to the Housing Authority, the Town of Jackson and the Housing Trust and will be comparable with management fees paid to property managers that provide similar services to comparable projects in Teton County at such time. The management fee will be deducted from gross rents generated from the Redmond Street Rental Project. The Property Manager must report on at least a quarterly basis to the Housing Trust, the Town of Jackson and the Housing Authority regarding the current financial and operational status of the development.

c. The affordable rental restrictions contained in the HA Ground Lease will provide that leases on individual units will not be renewed without the tenant

re-qualifying for such unit under the then applicable guidelines. In furtherance of the Housing Trust's commitment to keep the units occupied by qualified community members, the Housing Trust will provide an annual report on the Redmond Street Rental Project to the Housing Department that details household incomes served, demographics (i.e. number of adults, children and pets), and confirmation of employment, and any other information directly related to the Redmond Street Rental Project that the Housing Department reasonably requests. The HA Ground Lease will also provide that when the debt is retired or in the event the Housing Trust is no longer the guarantor, whichever occurs first, the Parties will assess the impact of the Redmond Street Rental Project on the housing needs facing the community and, if deemed necessary by the mutual agreement of the parties, the applicable guidelines and policies may be adjusted to better respond to the housing needs of Teton County residents.

d. The HA Ground Lease will be recorded immediately after the recording of the warranty deed described in subsection A above.

e. The HA Ground Lease will also provide that in the event of a conflict between the terms of the HA Ground Lease and this Agreement, the HA Ground Lease will apply.

C. *Building Permit; Verification of Sufficient Funds.* Prior to the issuance of the building permit for the Redmond Street Rental Project, the Housing Trust will provide written verification to the Housing Authority that the Housing Trust holds sufficient private funding and has secured sufficient third-party financing funds for the completion of the construction of the Redmond Street Rental Project. The third-party financing may not exceed \$4,000,000 without the consent of the Housing Authority. The building permit will not be issued until the foregoing requirement has been deemed satisfied by the Housing Authority in its reasonable discretion. The Housing Trust, at its expense, will obtain a "payment and performance bond" to ensure the completion of the Redmond Street Rental Project.

3. **Funding; Change Orders.** In exchange for the public purpose served in connection with the development of the Redmond Street Rental Project and the Housing Trust Consideration to be received by the Housing Authority as detailed in the Recitals above, contemporaneous with the conveyance of Lot 1 to the Housing Authority and the execution and delivery of the HA Ground Lease, the HA will deposit the SPET Funds into an interest bearing deposit account at Rocky Mountain Bank as the lender for the project. The deposit account will be subject to a standard form Assignment of Deposit Account between Rocky Mountain Bank and the Housing Authority, the form of which has been provided to the Housing Authority Attorney. If any change orders are not approved by the Housing Authority, the Housing Trust is solely liable for such overages.

4. **Reporting Requirements.** Upon commencement of construction, the Housing Trust will review, on a quarterly basis, the progress of the construction with the Housing Department for the Redmond Street Rental Project. This review would include budget and schedule tracking, as well as a discussion of any key project issues, to ensure the construction is on time and on budget. Upon project completion, the Housing Trust shall provide to the Housing Department, the County Clerk

and the Town Clerk, before the end of the first quarter of the calendar year, the year-end financials (which will indicate gross revenues, net revenues and expenses) for Redmond Street Rental Project of the previous year and a summary of the incomes being served at each unit, and any other information directly related to the Redmond Street Rental Project that the Housing Department reasonably requests.

A. *Review of Books and Records.* The Housing Trust agrees that the Housing Authority, upon reasonable notice to the Housing Trust, may review such of its books and records at the Housing Trust's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to: (i) any books and records required to be kept by the Housing Trust pursuant to the management of the Redmond Street Rental Project and/or financial statements prepared by an accountant; and/or (ii) any annual or other periodic report compiled from data available from the Housing Trust's records showing any forecast of profits or losses for the Redmond Street Rental Project.

5. *Default/Termination.* The Parties acknowledge that because the Housing Trust cannot commence construction of the Redmond Street Rental Project until such time that the SPET Funds are deposited, Lot 1 is conveyed to the Housing Authority, and the HA Ground Lease is fully executed, upon a Party's default or failure to otherwise perform under this Agreement (a "Default"), Lot 1 will still be owned by the Housing Trust and the SPET Funds will still be held by the Housing Authority. Thus, if the Housing Trust Defaults under this Agreement, and if such Default is not cured by the Housing Trust within thirty (30) days after the Housing Trust has received written notice of such Default from the Housing Authority, the Housing Authority may terminate this Agreement by written notice to the Housing Trust and will have no further obligations under this Agreement. Further, if a Default of the Housing Authority occurs under the terms of this Agreement and if such Default is not cured by the Housing Authority within thirty (30) days after the Housing Authority has received written notice of such Default from the Housing Trust, the Housing Trust may terminate this Agreement by written notice to the Housing Authority and will have no further obligations under this Agreement. In the event of a Default that is not cured within the 30-day periods described above, each Party will have available to it all legal and equitable remedies allowed by law. The Parties agree that a Default under the Town Agreement will constitute a Default under this Agreement.

6. *Indemnification.* The Housing Trust agrees to forever indemnify and hold the Housing Authority, its officers, agents, contractors, and employees harmless from any and all claims, damages, costs, liability, or expenses (including reasonable attorney's fees) incurred by the Housing Authority and arising wholly or in part, out of the Housing Trust's management of the development and construction of the Redmond Street Rental Project or the Housing Trust's management of the rental and maintenance operations of the Redmond Street Rental Project.

7. *Miscellaneous*

A. *Dispute Resolution.* Any dispute arising out of or relating to this Agreement that cannot be resolved pursuant to the provisions of this Agreement or between the Parties in a timely manner shall first be attempted to be resolved with non-binding mediation, with a mediator selected by both parties. If the parties are unable to agree on the selection of a mediator, each shall

select a mediator and then the two so selected shall agree on a third person to mediate the disagreement. The parties shall attempt to complete mediation within thirty (30) days of any disagreement. If mediation is not successful at resolving the disagreement or if the parties are unable to complete the mediation within thirty (30) days of the first written notice of a disagreement, then either party retains the right to pursue resolution of the dispute through final and binding arbitration in Jackson, Wyoming in accordance with the following procedure and applicable state law. The Housing Trust or the Housing Authority, as the case may be, shall give written notice to the other party of its desire for arbitration, and shall state the name of one (1) disinterested arbitrator. Within fifteen (15) days of receipt, such other party shall give written notice of the name of one (1) disinterested arbitrator. These two (2) arbitrators shall then meet within fifteen (15) days and select a third (3rd) disinterested arbitrator. If either party fails to deliver notice of its arbitrator selection, then the Parties shall arbitrate with just the one (1) arbitrator selected in accordance with this paragraph. All arbitrators so chosen shall be a licensed attorney or arbitrator. Within thirty (30) days thereafter, the parties shall meet and present evidence and witnesses, if any, to the arbitrator(s), who shall then make a decision within fifteen (15) days. The arbitrator(s), by majority opinion, shall deliver a written opinion for their decision, and judgment upon the decision may be entered in any court having competent jurisdiction. The Parties shall split the arbitrators' costs evenly.

B. Governing Law, Venue. This Agreement will be construed, performed and enforced in accordance with, and governed by, the laws of the State of Wyoming. The Parties hereto irrevocably elect as the sole judicial forum for the adjudication of any matters arising under or in connection with this Agreement, and consent to the jurisdiction of, the courts of the Ninth Judicial District, County of Teton, State of Wyoming.

C. Amendments; Waivers. This Agreement may be amended or modified only by a written instrument executed by the Parties, or in the case of a waiver, by the Party waiving compliance.

D. Entire Agreement. This Agreement and the HA Ground Lease contain the entire understanding between the Parties with respect to these matters and supersedes and replaces all prior and contemporaneous agreements and understandings, oral or written, with regard to these matters.

E. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, and all of which when taken together will constitute the same instrument.

F. Severability. In case any one or more of the provisions contained in this Agreement will for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

G. Notices. Any notice or communication required or permitted herein will be given in writing and will be personally delivered or sent by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

To Housing Authority at:

Jackson Teton County Housing Authority
Attn: Chair
P.O. Box 1727
Jackson, WY 83001

To Housing Trust at:

Jackson Hole Community Housing Trust
Attn: Executive Director
P.O. Box 4498
Jackson, WY 83001

H. Attorney Fees. If any party hereto fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not prevailing in such dispute, as the case may be, will pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, all court costs and all reasonable attorneys' fees (including the costs of in-house counsel) regardless of whether litigation is commenced.

I. Governmental Immunity. The Housing Authority does not waive its sovereign or governmental immunity by entering into this Agreement with the Housing Trust, and fully retains all immunities and defenses provided by law with respect to any action based on or arising out of this Agreement.

J. Successors and Assigns. This Agreement is binding upon the successors and permitted assigns of the Parties hereto. The Housing Trust may not, without the prior written consent of the Housing Authority, which shall not be unreasonably withheld, conditioned or delayed, assign the Housing Trust's interest in this Agreement. Any attempt by the Housing Trust to assign its interest in this Agreement without the Housing Authority's prior written consent will be null and void, and any such assignee will acquire no right or interest by reason of such attempted assignment.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

JACKSON HOLE COMMUNITY HOUSING TRUST,
a Wyoming nonprofit corporation

By: [Signature]
Its: President

WITNESS:

[Signature]

JACKSON TETON COUNTY HOUSING AUTHORITY

[Signature]
Matt Faupel, Chairman

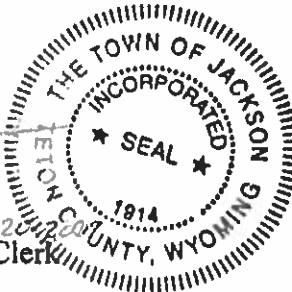
Attest: [Signature]
Danielle Goldyn-Halgh, Clerk

Approved and Affirmed By:

JACKSON TOWN COUNCIL

[Signature]
Pete Muldoon, Mayor

Attest: [Signature] 3-28-2020
Sandy Birdyshaw, Jackson Teton Clerk



Approved and Affirmed By:

TETON COUNTY BOARD OF COUNTY COMMISSIONERS

[Signature]
Mark Newcomb, Chairman

Attest: [Signature]
Sherry Dagle, Teton County Clerk



Exhibit A Redmond Street Rentals Site Plan

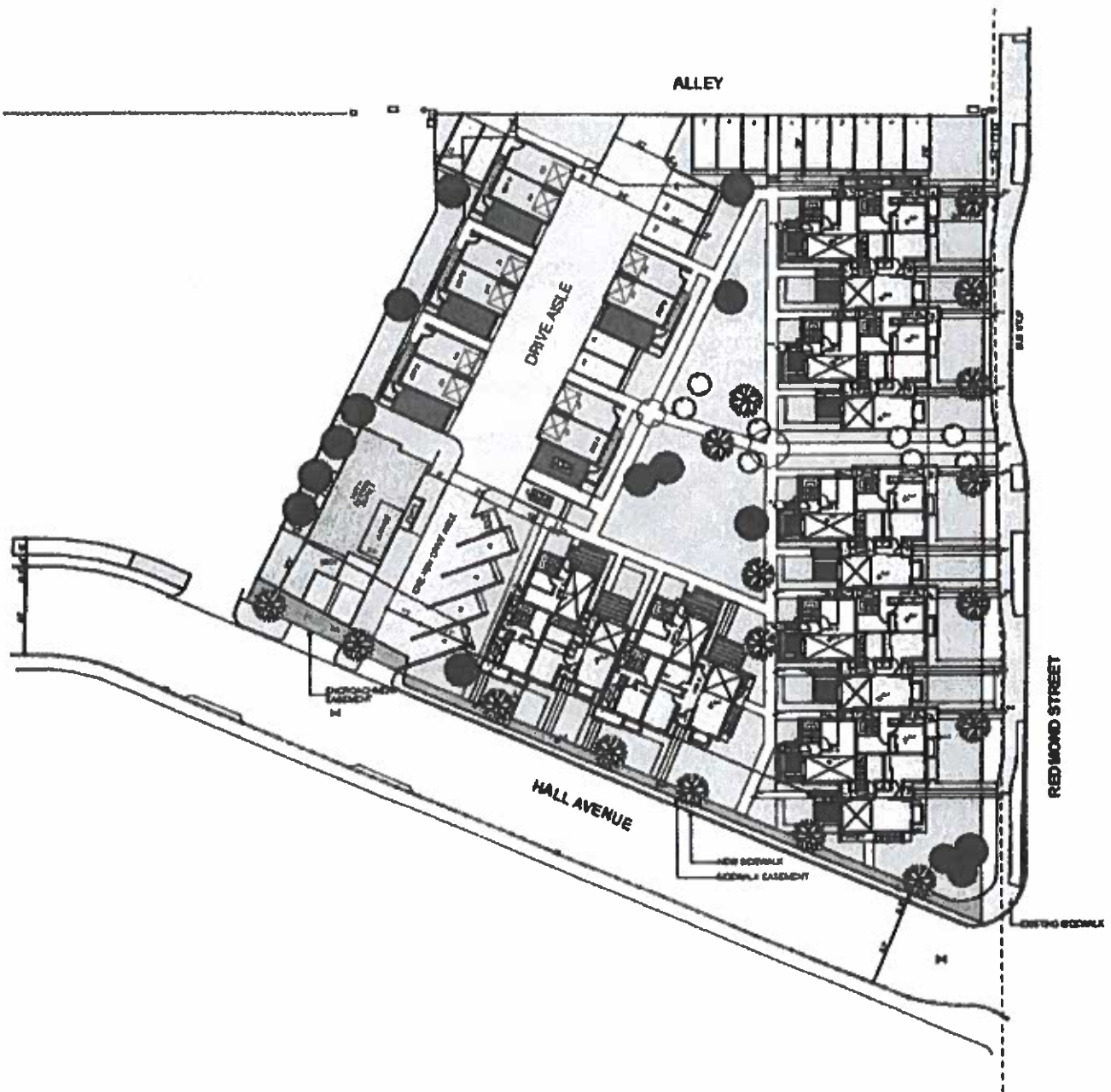
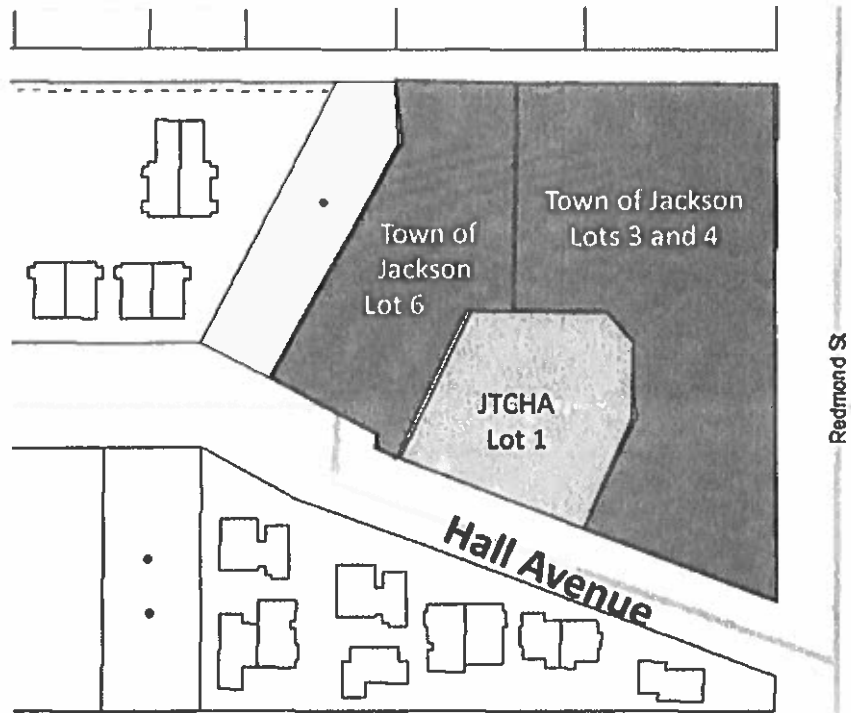


Exhibit B
Redmond Street Rentals
Proposed Land Conveyance



Stop nutrient pollution before it's worse

Clean waterways are a core feature of Jackson Hole — as intrinsic to our community character as the Tetons themselves. And yet our streams, creeks and groundwater are in peril.

Friends of Fish Creek was formed four years ago to deal with the nutrient pollution problems on the West Bank. We realized, however, that the problems we faced on the West Bank are also found throughout Teton County, so we changed our focus to encompass nutrient pollution in the entire county. We also have teamed up with other conservation organizations to form the Jackson Hole Clean Water Coalition.

Water pollution has no place in Jackson Hole. And yet it has become an ugly part of our reality, threatening our drinking water, causing excess algae growth that harms both our aquatic insect life and trout-spawning habitat.

Under certain conditions harmful algal blooms can occur that produce toxins and other irritants that pose a risk to humans, pets, wildlife, livestock and aquatic life. With some localized exceptions we are not at crisis levels yet, but we must address this problem before we get anywhere near a crisis.

Nutrient pollution is a complex problem encompassing all sources that contribute to excess levels of nitrogen and phosphorous in waterways, ranging from the fertilizer used on residential lawns to residential septic systems, the livestock grazing on ranches, golf courses and stormwater runoff. So, yes, the problem is sizable. The good news: The solutions are simple, technically speaking.

Minor changes to residential lawn-care practices: Turns out one of the largest sources of nutrient pollution is also one of the easiest to solve. Switch to slow-release lawn fertilizer, used at a rate that provides no more than 2 pounds of nitrogen per 1,000 square feet of lawn per season, top dress with compost soil mixes, water less, mow at 3 inches or higher and let buffers grow along water bodies. Consider converting some or all of your lawn area into natural vegetation that does not need watering or fertilization. Several area HOAs have already adopted our guidelines, and others are in the planning stages for adoption. For details go to our website.

Consider livestock. We are working on distilling the large body of research on best practices to reduce the nutrient footprint of cattle and horse ranches in sensitive watersheds. For now we are focused on working closely with all West Bank livestock operations.

Work with golf courses. Modern advances in design, construction and maintenance reduces potential nutrient pollution from golf courses. Water quality data collected from West Bank courses has not shown an impact on water quality. We will continue to monitor and work closely with both courses to insure these positive results continue.

Stop injecting treated effluent into the groundwa-

ter. The two injection sewer treatment plants on the West Bank do a stellar job of converting raw sewage into Class 1 groundwater standard effluent that is then injected into the groundwater. However, it still contains nitrogen and possibly other compounds. Both plants have agreed to consider alternatives if we can find funding. We are working on this.

Hook up septic systems to a sewer line. A well-designed, well-constructed and properly maintained septic system can remove most of the harmful compounds that enter the system. And yet even the best systems do not remove much nitrogen; they are just not designed to do that, which means most of the nitrogen leaves the system through the leach field pipes. The typical buffers for nitrogen leaching — 20 to 30 feet of quality soils beneath leach fields, consistently warm temperatures that promote microbial activity, low-density development, resilient watersheds — are not available to us in much of Teton County. Coarse sand, gravel and river rock below just a few inches of soil make

up most of the valley floor. When paired with our high water table, most of this water soluble nitrogen flows right into our groundwater. Our sensitive watershed cannot withstand such contamination, particularly as our community grows.

Once again, though, there is hope: The solution to our septic problem is simple, if ambitious. We need to hook up a majority of valley floor septic systems to a municipal sewer system — a major effort requiring communitywide cooperation and support. Extending the sewer lines alone will be a very expensive undertaking, with more funds likely needed to expand and upgrade the town of Jackson sewer plan.

How do we propose paying for this? Through multiple sources, including state and federal grants, specific purpose excise tax funds and, most importantly, some form of low-interest, long-term debt, paid back over many years. All residents and businesses in Teton County must help foot the bill because the return on investment will be significant for everyone. We believe that the annual cost to each taxpayer will be relatively low considering the substantial community benefit.

Over 50 years ago Lake Tahoe faced similar problems from septic systems. The community banded together, raised the funds and solved the problem.

We hope that Jackson Hole will rise to the challenge and protect our water quality by taking these technically simple yet important actions now. The consequences of inaction or delays will be devastating.

John Culbertson is the president of Friends of Fish Creek, which is one of the partners in the Jackson Hole Clean Water Coalition. Send any comments or questions to info@FishCreekFriends.org. Guest shots are solely the opinion of their authors.

GUEST SHOT

John Culbertson

Solving Nutrient Pollution in Jackson Hole

John Culbertson
Friends of Fish Creek

Formed the Jackson Hole Clean Water Coalition.

- Friends of Fish Creek formed four years ago to deal with nutrient pollution on the West Bank.
- Realized that similar problems existed through out Teton County
- Changed our focus to the entire county
- Formed the Clean Water Coalition
 - Friends of Fish Creek
 - The Conservation District
 - Trout Unlimited
 - The Snake River Fund

How do we know we have a significant nutrient problem?

- Numerous scientific studies
- I look at algae in the streams and creeks on both sides of the Snake
- Steadily getting worse over last twenty five years

Why does this need to be addressed urgently and aggressively?

- Can impact well water
 - 10 PPM of nitrate is a problem for the young and the old
 - No indication of problems in West Bank yet
 - Hoback Junction problem
- Excessive levels of algae and plant growth
 - Can impact aquatic insect life and trout spawning habitat
 - “Harmful Algal Blooms” can occur

We believe that the three largest contributors are septic systems, residential fertilizer and livestock

- Insufficient time today to go through how we arrived at these
- USGS study
 - Provided raw pounds by source
 - Did not tell us how much from each source ended up in our water
 - Difference is environmental uptake
- We will never know exactly how much from each source
 - Therefore, we will try to reduce each source as much as practically possible

Residential Landscape Fertilizer

- By some estimates, many lawns receive more than ten times the nitrogen that they need
- All that excess just flows into our water
- Our plan
 - Consider reducing maintained lawn area
 - For the maintained part
 - Use slow release fertilizer
 - Use at prescribed rate
 - Mow higher
 - Water less
 - Let buffers grow up where needed

What we will need from this group on the issue of residential fertilizer:

- Help in funding a massive and ongoing messaging campaign
- We will be coming back to propose some common sense regulations

Livestock

- Just starting on this so not much to offer at this point
- Focusing on established body of knowledge on how to minimize the impact of livestock on sensitive watersheds
- Working with Snake River Ranch

Septic Systems

- Major conclusion:
 - Even well designed and well maintained septic systems do not remove much nitrogen
 - On the valley floor, this means that much of that nitrogen goes straight into the ground water.

Septic Systems above the Valley Floor

- Not the highest priority
- Can impact water quality and human health
- Need to insure they are functioning well
- Currently, no regulations requiring inspection or maintenance of existing systems

There are simple technical solutions to these problems.

- Hook up as many valley floor home as possible to a sewer line that sends raw waste down to a state-of-the-art treatment plant
- For valley floor homes that can not be hooked up, look into “advanced treatment systems”
- For homes above the valley floor insure their septic systems are functioning

We believe that a single organization is needed to manage this process. Tasks will include:

- Staffing
- Expand sewer lines as far as they can go
- Hook up as many valley floor homes as possible
- Develop a process for securing needed easements
- Insure that the “Town Plant” has sufficient capacity
- Develop a septic inspection and maintenance program for homes not able to be hooked up
- Secure up front needed capital and annual operating revenue
 - Capital sources: State and Federal grants, SPET, local grants, bond offering
 - Annual revenue sources: contribution from town/county budgets, lodging tax??, user fees(sewer and septic maintenance).

One possibility for the “single organization” is a Joint Powers Board(JPB).

- WY statutes(16-1-101 through 110)
- Employed by other WY communities to administer utilities that benefit utility users of more than one governmental entity.
- JPB would manage all waste water in Teton County
- Individual Waste Water Management Districts would become participating entities.

Septics: Conclusion

- Highly complex subject
- Some high level ideas today
- Will require a lot more work to figure out how to move forward.

Overall Next Steps

- We will revert back with our proposal on residential landscape fertilizer regulations
- Let us know what we can do to help gain support amongst this group for a Joint Powers Board
- Provide us some funds to do cost estimates for:
 - Expanding sewer lines
 - Needed upgrades at the town plant

Overall Conclusion

- Nutrient pollution is a big problem for Teton County
- Solutions are not technically difficult
- We hope that the community will rise to the challenge to protect our water quality.