

## AFFORDABLE HOUSING PLAN AND AGREEMENT FOR RIVER EDGE COLORADO

THIS AFFORDABLE HOUSING PLAN AND AGREEMENT FOR RIVER EDGE COLORADO (this "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), by and between CARBONDALE INVESTMENTS, LLC, a Texas limited liability company registered to do business in Colorado ("Developer"), the GARFIELD COUNTY HOUSING AUTHORITY ("GCHA"), and the BOARD OF COUNTY COMMISSIONERS OF GARFIELD COUNTY COLORADO (the "BOCC") on behalf of GARFIELD COUNTY, COLORADO, a body politic and corporate (the "County"). For purposes of this agreement, a "party" shall mean Developer, GCHA, or the County, as applicable, and the "parties" shall mean, collectively, Developer, GCHA, and the County.

### RECITALS

1. Developer proposes to construct 366 residential units (the "Project") on that certain parcel of land that it owns in Garfield County, Colorado, having the legal description set forth on Exhibit A attached hereto and incorporated herein by this reference (the "Property"), which Property is subject to that certain River Edge Colorado Planned Unit Development Plan, recorded \_\_\_\_\_ at Reception No. \_\_\_\_\_, in the real property records of Garfield County, Colorado, together with the River Edge Colorado Planned Unit Development Guide, recorded at Reception No. \_\_\_\_\_, in the real property records of Garfield County, Colorado, which documents (collectively, the "PUD Plan") were approved by Garfield County Board of County Commissioners Resolution No. \_\_\_\_\_. The Property also is subject to that certain River Edge Colorado Preliminary Plan, recorded at Reception No. \_\_\_\_\_ (the "Preliminary Plan"), in the real property records of Garfield County, Colorado, which Preliminary Plan was approved by Garfield County Board of County Commissioners Resolution No. \_\_\_\_\_, and that certain Development Agreement for River Edge Colorado Planned Unit Development (the "Development Agreement"), recorded \_\_\_\_\_ at Reception No. \_\_\_\_\_, in the real property records of Garfield County, Colorado, which Development Agreement was approved by Garfield County Board of County Commissioners Resolution No. \_\_\_\_\_. The PUD Plan, Preliminary Plan, and Development Agreement may be referred to herein as the "Development Approvals."

2. The Property also is subject to that certain Declaration of Covenants, Conditions and Restrictions for River Edge Colorado, recorded \_\_\_\_\_ at Reception No. \_\_\_\_\_, in the real property records of Garfield County, Colorado (the "CC&Rs"), which CC&Rs establish additional rights and obligations, among other things, of Developer, owners of the Property, and the River Edge Colorado Property Owners' Association, Inc. (the "POA").

3. Section 8-102 of the Garfield County Unified Land Use Resolution of 2008 (the "LUR") requires that fifteen percent (15%) of the homes to be located within the Project satisfy the affordable housing requirements of Article VIII of the LUR in effect as of the Effective Date (the "Affordable Housing Requirements"). Consistent with this requirement, the Development

Approvals require Developer to construct and make available for sale fifty-five (55) deed-restricted affordable homes (the "AH Units" or "AH Lots").

4. The Development Approvals provide that the Property will be developed in eleven (11) phases, wherein each phase will require County approval of a final plat (each a "Final Plat" and, collectively, the "Final Plats"), with the first phase of construction contemplated to commence sometime between 2012 and 2014, and subsequent phases to be constructed over an approximately ten (10) to twenty (20) year period, as shown on the estimated phasing and construction schedule included in the PUD Plan (the "Phasing Plan"). The Phasing Plan contemplates that the Final Plats will be submitted, and construction will commence, in the order set forth on the Phasing Plan; provided, however, that the sequence set forth in the Phasing Plan may be altered if, among other things, the total number of AH Lots that are finally platted at the time of recordation of each Final Plat shall equal or exceed fifteen percent (15%) of the total number of residential lots, including AH Lots, that have been finally platted within the Project as of the recordation of such Final Plat.

5. The Development Approvals require that, at the time of each Final Plat approval for each phase of the Project, the parties shall enter into a subdivision improvement agreement ("SIA") that specifies the public and private improvements required to support and serve such phase of the Project, and establishes the terms, security mechanism, and schedule upon which Developer shall be obligated to design, construct, and install the same.

6. By Resolution No. [\_\_\_\_], dated [\_\_\_\_], 2011, and recorded at Reception No. [\_\_\_\_], the BOCC has considered and approved Developer's applications for approval of the River Edge Colorado Final Plat Filing No. 1 and River Edge Colorado Final Plat Filing No. 1B (collectively, the "Phase 1 Final Plat") in accordance with the LUR. The Affordable Housing Requirements require, among other things, that Developer submit concurrently with the Phase 1 Final Plat an affordable housing plan that meets the Affordable Housing Requirements, which plan, upon BOCC approval, shall become the affordable housing agreement between Developer, the County, and the GCHA. In satisfaction of this requirement, this Agreement was submitted by Developer for review by GCHA and the County, and approved by the BOCC as part of the application for approval of the Phase 1 Final Plat.

7. Notwithstanding the foregoing Recitals and the Affordable Housing Requirements, due to existing and anticipated future real estate market conditions, including changes and uncertainty in the ability of low and moderate income households to obtain financing for purchasing residential properties, affordable housing developments, like the AH Units proposed as part of the Project, often have been unable to attract a sufficient pool of potential buyers and face an increased risk of unsustainable vacancies. As such, in order to increase the pool of potential purchasers of the AH Units and reduce the potential for the AH Units to sit vacant, the parties have agreed that the Project may deviate from certain Affordable Housing Requirements in the manner set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Location of AH Units.** Developer shall construct or cause to be constructed fifty-five (55) AH Units within the AH Lots that are established as part of the final platting process. The AH Lots will be located as part of the final platting process within those certain tracts identified on the Preliminary Plan as Tracts AJ, AK, and BC. The specific locations of such AH Lots to be located within Tract AJ of the Preliminary Plat shall be as set forth on the Phase 1 Final Plat, and the specific locations of such remaining AH Lots to be located within Tracts AK and BC of the Preliminary Plan shall be as set forth in the applicable future Final Plats.

2. **Number and Mix of AH Units.** The number and mix of AH Units have been calculated in accordance with the Affordable Housing Requirements, and shall be provided in accordance with the following:

- a. Each AH Unit shall be constructed with either two (2) or three (3) bedrooms.
- b. The AH Units may take one (1) of the two (2) following forms at the sole discretion of Developer:

- (i) A detached garden home, which shall be a freestanding residential structure with only one (1) dwelling unit located on one (1) AH Lot within the Project. A two (2) bedroom detached garden home shall be constructed with a minimum square footage of 1,500 square feet, and a three (3) bedroom detached garden home shall be constructed with a minimum square footage of 1,650 square feet. All units shall have an attached garage suitable for accommodating one (1) standard size automobile and one (1) asphalt surfaced parking space located in tandem in front of the garage. Said asphalt surfaced parking space shall be a minimum of 9' x 18' square feet.

- (ii) An attached garden home, which shall be constructed as an attached residential structure containing only two (2) dwelling units. A two (2) bedroom dwelling unit in an attached garden home shall be constructed with a minimum square footage of 1,100 square feet, and a three (3) bedroom dwelling unit in an attached garden home shall be constructed with a minimum square footage of 1,300 square feet. All units shall have an attached garage suitable for accommodating one (1) standard size automobile and one (1) asphalt surfaced parking space located in tandem in front of the garage. Said asphalt surfaced parking space shall be a minimum of 9' x 18' square feet. Attached garden homes also shall be constructed in accordance with the CC&Rs and the following:

- (a) Only one (1) dwelling unit shall be allowed within each AH Lot;

- (b) Only one (1) common wall shall be shared by the attached dwelling units;

- (c) The common wall shall be constructed along a side lot line shared by two (2) adjacent AH Lots;

(d) A common or party wall agreement and maintenance easement addressing the unit owners' respective maintenance and repair obligations shall be entered into by the owner of each dwelling unit;

(e) Any such attached dwelling units shall be constructed as a pair, and no certificates of occupancy shall be issued until both units are complete;

(f) No future enlargement or additions to an attached dwelling unit shall be allowed without the prior written consent of the owner of the other dwelling unit; and

c. Both detached and attached garden home AH Units:

(i) May include one (1) to two (2) stories;

(ii) Shall include a landscaped yard within the boundaries of the AH Lots; provided, however, that the POA shall be responsible for maintaining all grass, gardens, trees, shrubbery, flowers and other landscaping located within the boundaries of the detached and attached garden home lots; and

(iii) Shall be constructed using materials and methods of comparable quality as, and with fixtures similar to, surrounding market rate units within the Project. Further, residents of the AH Units shall have the same rights as residents of the market rate units within the Project to access and use common areas and common amenities within the Project.

3. **Schedule for Construction and Completion.** Notwithstanding the Affordable Housing Requirements, Developer may, but shall not be obligated to, defer construction of AH Unit(s) until a buyer has been qualified by GCHA and a lending institution in accordance with this Agreement. If Developer defers construction of AH Unit(s), upon Developer's receipt of notice from GCHA that a buyer has been qualified to purchase an AH Unit (the "Purchase Notice"), Developer shall promptly commence construction of an AH Unit and shall deliver a completed AH Unit to the qualified buyer on or before one-hundred and twenty (120) days from Developer's receipt of the Purchase Notice; provided, however, that if Developer receives a Purchase Notice on or between October 15<sup>th</sup> and April 1<sup>st</sup> of any year, Developer shall be required to deliver a completed AH Unit to the purchaser on or before the next following August 1. In addition, if Developer defers construction of AH Unit(s) as set forth in this Section 3, Developer shall offer qualified buyer(s) a reasonable selection of semi-custom finishes to be included in the AH Unit(s).

4. **Security for Construction of AH Units.** Security for construction of the AH Unit(s) shall be incorporated into the applicable SIA entered into by the County and Developer concurrently with the BOCC's approval of the applicable Final Plat.

5. **Categories of AH units.** The average price for all AH Units to be provided within the Project shall be provided in the following three (3) categories, in accordance with the distribution set forth below:

- a. 20% of the AH Units may be priced up to 70% AMI, and shall be sold to eligible households earning 100% of AMI or less;
- b. 40% of the AH Units may be priced to 90% AMI, and shall be sold to eligible households earning 120% of AMI or less; and
- c. 40% of the AH Units may be priced to 110% AMI, and shall be sold to eligible households earning 150% AMI or less.

"AMI" shall mean the most current median income levels for low and moderate income families in Garfield County as published annually by the U.S. Department of Housing and Urban Development.

6. **Deed Restriction.** A deed restriction and agreement in the form attached hereto as **Exhibit B** shall be executed by the parties and recorded in the real property records of Garfield County, Colorado against each AH Unit prior to the release of a building permit for the construction of such AH Unit; provided, however, that at the time of issuance of the certificate of occupancy for an AH Unit, the deed restriction recorded against such AH Unit shall be amended, if necessary, to reflect any changes to the deed restriction that are approved by GCHA. The original executed and recorded deed restriction(s), including any amendments thereto, shall be returned to GCHA subsequent to recordation of the same. Each deed restriction for an AH Unit shall be effective in perpetuity, subject to any early termination provisions provided for in the deed restriction, or such shorter period of time agreed to in writing by the parties.

7. **Initial Sales.** The initial sales price for each AH Unit shall be calculated by GCHA in accordance with Section 5 of this Agreement and the formulas and assumptions set forth in Section 8-302.B of the Affordable Housing Requirements. Developer shall work, in cooperation with the GCHA, to complete the initial sale of each of the AH Units to an applicant determined by GCHA to be a qualified buyer in accordance with the Affordable Housing Requirements, and selected by GCHA in accordance with the lottery process set forth in the Affordable Housing Requirements. Developer shall conduct the initial sale of each of the AH Units in accordance with the following:

- a. Developer shall make available Developer's real estate agent to act as a transaction broker for the sale of the AH Units;
- b. Developer shall provide GCHA with a marketing packet for the Project at least one-hundred twenty (120) days prior to the estimated completion of each AH Unit. The packet shall include descriptions, spec information, a copy of the CC&Rs, estimated POA dues, and POA organizational documents and any rules and regulations.

- c. Developer shall hold at least one (1) open house at the AH Unit for sale or a model AH Unit prior to the lottery to be conducted by GCHA in accordance with the Affordable Housing Requirements.

Notwithstanding anything to the contrary contained in this Agreement, GCHA may, at any time, subject to the rights of any tenant(s), choose to purchase an AH Unit for the initial sales price established for such AH Unit.

8. **Property Owners' Assessments.** Pursuant to the CC&Rs, the AH Units and the owners thereof shall be exempt from payment of Regular Assessments and Special Assessments, as such terms are defined in the CC&Rs; provided, however, that Individual Purpose Assessments and/or Default Assessments, as such terms are defined in the CC&Rs, may be levied against AH Units and the owners thereof.

9. **Leasing of AH Units by Developer.** In the event an AH Unit is completed and GCHA is unable to qualify and identify a buyer for the initial sale within one hundred twenty (120) days from the issuance of the certificate of occupancy for such AH Unit, Developer may lease such AH Unit for a period of up to twelve (12) months in accordance with the following:

- a. Developer shall provide GCHA with reasonable notice of Developer's intent to lease an unsold AH Unit;
- b. GCHA shall review and approve any proposed lease agreement, and shall certify proposed tenant(s) using the qualification criteria applied to potential buyers;
- c. The rental rate shall be determined based upon the following considerations: (i) estimated loan principle and interest and mortgage insurance for the unsold AH Unit based on most recent sales price calculated by GCHA for said AH Unit; (ii) POA fees and assessments; (iii) cost of any utilities remaining in Developer's name; and (iv) property taxes and homeowners insurance;
- d. Upon the expiration of the lease period and the tenant's vacation from the AH Unit, Developer may enter into a new lease agreement with a new tenant for a period of up to twelve (12) months;
- e. Upon the expiration of any twelve (12) month lease period, an existing tenant may remain in the AH Unit, but the lease shall convert to a month-to-month lease. Under no circumstance may a tenant be permitted to lease or occupy an AH Unit for a period in excess of (12) months, except by way of a month-to-month lease; and
- f. The lease agreement shall provide that Developer may terminate the lease, in Developer's sole discretion, upon sixty (60) days notice to the tenant.

10. **Successors and Assigns.** The obligations and rights contained herein shall be binding upon and inure to the benefit of the successors and assigns of Developer, the County, and GCHA.

11. **Contract Administration and Notice Provisions.** The representatives of Developer, the County, and GCHA, identified below, are authorized as contract administrators and notice recipients. Any notices, demands or other communications required or permitted to be given in writing hereunder shall be delivered personally, delivered by overnight courier service, or sent by certified mail, postage prepaid, return receipt requested, addressed to the parties at the addresses set forth below, or at such other address as either party may hereafter or from time to time designate by written notice to the other party given in accordance herewith. Notice shall be considered given at the time it is personally delivered, the day delivery is attempted but refused, the day following being placed with any reputable overnight courier service for next day delivery, or, if mailed, on the third day after such mailing.

TO DEVELOPER:

Carbondale Investments, LLC  
Attn: Rockwood Shepard  
7999 Highway 82  
Carbondale, CO 81623  
Phone: (970) 456-5325  
Fax:

With a copy to:

Brownstein Hyatt Farber Schreck  
Attn: Carolynne C. White, Esq.  
410 Seventeenth Street, Suite 2200  
Denver, Colorado 80203  
Phone: 303.223.1197  
Fax: 303.223.0997

TO THE COUNTY:

Garfield County Board of County Commissioners  
Attn: Building and Planning Director  
108 Eighth Street, Suite 401  
Glenwood Springs, Colorado 81601  
Phone: 970.945.8212  
Fax: 970.384.3470

TO GCHA:

Garfield County Housing Authority  
Attn:

Phone:

Fax:

12. **Force Majeure**. Any excusable delay in Developer's construction and installation of the AH Units, including, without limitation, acts of God, war, terrorism, inclement weather, labor disputes, building moratoriums or other governmental impositions, abnormal labor or material shortages, or other similar matters or causes reasonably beyond the control of Developer shall extend the time period during which this Agreement requires certain acts to be performed for a period or periods equal to the number of days of such delay.

13. **Severability**. If any covenant, term, condition, or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that the provisions of this Agreement shall be deemed severable.

14. **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

15. **Venue and Jurisdiction**. Venue and jurisdiction for any cause arising out of or related to this Agreement shall lie with the District Court of Garfield County, Colorado, and this Agreement shall be construed according to the laws of the State of Colorado.

16. **Conflicts in Documents**. In case of any conflict between this Agreement and the Affordable Housing Requirements, this Agreement shall control. Except as otherwise provided or modified by this Agreement or an applicable Deed Restriction, the AH Units shall be constructed, maintained, sold, and leased in accordance with any applicable Affordable Housing Requirements.

17. **Modifications**. This agreement may be amended only with the approval and written consent of all parties hereto.



IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**BOARD OF COUNTY COMMISSIONERS  
GARFIELD COUNTY, COLORADO**

**ATTEST:**

\_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

**DEVELOPER:**

CARBONDALE INVESTMENTS, LLC,  
a Texas limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss

COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 201\_\_, by  
\_\_\_\_\_, an authorized signatory for \_\_\_\_\_.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

**GARFIELD COUNTY HOUSING  
AUTHORITY**

By: \_\_\_\_\_  
Authorized Signatory

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 201\_, by  
\_\_\_\_\_, an authorized signatory for Garfield County  
Housing Authority.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

DRAFT

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

DRAFT

**EXHIBIT B**

**FORM OF DEED RESTRICTION**

DRAFT

After recording, please return to:

Garfield County Housing Authority  
Attn:  
2128 Railroad Avenue  
Rifle, CO 81650

**DECLARATION OF DEED RESTRICTION AND AGREEMENT CONCERNING THE  
SALE, OCCUPANCY AND RESALE OF PROPERTY DESCRIBED AS LOTS \_\_\_\_  
THROUGH \_\_\_\_, RIVER EDGE COLORADO FINAL PLAT FILING NO. [\_\_\_\_],  
GARFIELD COUNTY, COLORADO**

THIS DECLARATION OF DEED RESTRICTION AND AGREEMENT CONCERNING THE SALE, OCCUPANCY AND RESALE OF PROPERTY described as Lots \_\_\_\_ through \_\_\_\_, River Edge Colorado Final Plat Filing No. [\_\_\_\_], Garfield County, Colorado ("**Agreement**") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Carbondale Investments, LLC, a Colorado limited liability company (the "**Declarant**"), and the Garfield County Housing Authority ("**GCHA**"), a duly constituted housing authority established pursuant to Colorado law, its successor or agent, and the Board of County Commissioners of Garfield County, Colorado, acting for the County of Garfield, State of Colorado, as a body politic and corporate, directly or through its authorized representatives and agents (the "**County**"). For purposes of this Agreement, a "**Party**" shall mean the Declarant, GCHA, or the County, as applicable, and the "**Parties**" shall mean, collectively, Declarant, GCHA, and the County.

**RECITALS AND DEFINITIONS**

- A. Declarant is the owner of and is in the process of developing and platting a residential community known as River Edge Colorado Planned Unit Development ("**River Edge**" or the "**Project**"), Garfield County, Colorado; and
- B. [Pursuant to the Affordable Housing Plan and Agreement For River Edge Colorado, approved by the County on \_\_\_\_\_, and the GCHA on \_\_\_\_\_, (the "**Plan**"), Declarant shall construct or cause to be constructed as part of the Project at least fifty-five (55) affordable for-sale housing units (the "**AH Units**"). At least eleven (11) of the AH Units shall be sold to eligible households earning one-hundred percent (100%) AMI, at least twenty-two (22) of the AH Units shall be sold to eligible households earning one-hundred and twenty percent (120%) AMI, and at least twenty-two (22) of the AH Units shall be sold to eligible households earning one-hundred and fifty percent (150%) AMI. For purposes of this Agreement, "**AMI**" shall mean the most current median income levels for low and moderate income families in Garfield County as published annually by the U.S. Department of Housing and Urban Development ("**HUD**");

**and] [FHA requires that qualifying household income does not exceed 115% AMI unless a higher percentage – up to 140% AMI - has been approved by HUD Secretary. Discuss whether FHA has approved such increase for Garfield County.]**

- C. In accordance with the Plan, and pursuant to this Agreement, Declarant desires to set aside the Lots (as hereinafter defined) within River Edge, for the purpose of providing the AH Units to persons satisfying the employment and residence requirements of the County, which Lots are identified as Lots \_\_\_ through \_\_\_, River Edge Colorado Final Plat Filing No. [\_\_\_], recorded in the real property records of the Clerk and Recorder for Garfield County, Colorado on \_\_\_\_\_ as Reception No. \_\_\_\_\_. For purposes of this Agreement, such Lots and all dwellings, appurtenances, improvements and fixtures associated therewith shall be referred to herein individually as a "**Lot**" or collectively as the "**Lots**" or the "**Property**"; and
- D. After completion of construction, each Lot, together with fixtures, equipment and appurtenances thereto, shall be conveyed to "Qualified Buyers" as defined below; and
- E. Article VIII, Affordable Housing, of the Garfield County United Land Use Resolution of 2008 (the "**ULUR**"), as amended by the Garfield County Board of County Commissioners Resolution No. 2010-85, recorded in the records of the Clerk and Recorder for Garfield County on November 2, 2010 at Reception No. 793752 shall constitute the Affordable Housing Requirements, as the same maybe amended from time to time ("**Affordable Housing Requirements**"), referred to throughout this document; and
- F. GCHA is a duly constituted Housing Authority established pursuant to Colorado law, and the County is a statutory county established pursuant to Colorado law, both of which have rights to enforce this Agreement as set forth herein; and
- G. The term "**Qualified Buyers**," as used herein, are natural persons meeting the income, residency and all other qualifications contained in the Affordable Housing Requirements and the Plan, who must represent and agree pursuant to this Agreement to occupy the Lot as their primary place of residence, not engage in any business activity within the Lot except as may otherwise be permitted by the ULUR and any declaration of protective covenants affecting the Lot, and not sell or otherwise transfer the Lot for use in a trade or business; and
- H. The term "**Owner**," as used herein shall mean the person(s), other than a Non-Qualified Transferee as defined in Section 4, who acquires an ownership interest in a Lot in compliance with the terms and provisions of this Agreement, it being understood that such person(s) shall be deemed an "Owner" hereunder only during the period of his, her or their ownership interest in the Lot and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period.

NOW, THEREFORE, for value received, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby declares, covenants, and agrees as follows:

**SECTION 1  
DECLARATION**

1.1 For the purposes set forth herein, Declarant, for itself and its successors and assigns, hereby declares that the Lots shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, improved, altered and enjoyed subject to the covenants, conditions, restrictions, privileges, rights and other provisions herein set forth, for the duration hereof, and all of which shall run with the land and be binding upon all Owners, occupants and other persons, including Non-Qualified Transferees, having or acquiring any right, title or interest in or to a Lot, and their respective heirs, personal representatives, successors and assigns and shall be binding upon and inure to the benefit of GCHA and the County, and their respective successors and assigns.

1.2 Declarant hereby restricts the acquisition or transfer of the Lots to Qualified Buyers who fall within the qualifications established by the Plan, and established and adopted by the County from time to time in its Affordable Housing Requirements. In addition, Declarant agrees that this Agreement shall constitute a resale agreement setting forth the Maximum Resale Price (as hereinafter defined) for which the Lots may be sold, the amount of appreciation, and the terms and provisions controlling the resale of the Lots. Declarant restricts the Property and Lots against use and occupancy inconsistent with the terms of this Agreement.

1.3 By the acceptance of any deed conveying any Lot subject hereto, the grantee of such deed shall accept all of the terms, conditions, limitations, restrictions and uses contained in this Agreement. In addition, prior to the delivery of a deed conveying any Lot to a grantee, such grantee shall execute a Memorandum of Acceptance in the form attached hereto as Exhibit A, evidencing grantee's acknowledgment and agreement to the terms, conditions, limitations, restrictions, and uses contained in this Agreement

1.4 Notwithstanding any provision of this Agreement to the contrary, it is expressly agreed and acknowledged that the terms, conditions, and restrictions of the Agreement with respect to the use and occupancy of any Lot shall not apply to Declarant during its ownership thereof following the issuance of a Certificate of Occupancy for the Lot; provided, however, that the Declarant shall make no transfer of any Lot except to a Qualified Buyer.

**SECTION 2  
USE AND OCCUPANCY OF PROPERTY OWNER RESIDENCY REQUIRED**

2.1 Except as otherwise provided herein, the use and occupancy of any Lot shall henceforth be limited exclusively to housing for natural persons who meet the definition of Qualified Buyer(s) and their families.

2.2 An Owner, in connection with the purchase and ownership of a Lot, must: (a) occupy the Lot as his, her or their primary place of residence; (b) not engage in any business activity on or in such Lot, other than as permitted by the ULUR, the planned unit development plan applicable to the Lot, and any declaration of protective covenants affecting such Lot; (c) satisfy the residency and employment requirements of the Affordable Housing Requirements;

and (d) sell, convey, or otherwise transfer such Lot only in accordance with this Agreement and the Affordable Housing Requirements.

2.3 Except as otherwise provided in this Agreement, in the event an Owner ceases to utilize a Lot as his or her primary place of residence, the Lot shall be offered for sale pursuant to the provisions of Section 3 of this Agreement. The Owner shall be deemed to have ceased utilizing the Lot as his or her primary place of residence by residing in the Lot for fewer than nine (9) months per calendar year without the express written approval of the County or the GCHA. Where the provisions of this subsection 2.3 apply, the County or GCHA may require the Owner to rent the Lot in accordance with the provisions of Section 5.

2.4 If an Owner of a Lot must leave the area as defined in the Affordable Housing Requirements for a limited period of time, and desires to rent the Lot during such absence, a leave of absence may be granted by the GCHA in accordance with the Affordable Housing Requirements.

### **SECTION 3 SALE OF LOT; MAXIMUM RESALE PRICE**

3.1 In the event that an Owner desires to sell his or her Lot, the Owner shall consult with the GCHA to review the requirements of this Agreement, including the method for determining the Maximum Resale Price (as hereinafter defined). Following approval of the Maximum Resale Price by the GCHA, the Owner shall list such Lot for sale with the GCHA, or as otherwise provided in the Affordable Housing Requirements, for a sales price not exceeding the Maximum Resale Price and in accordance with the procedures set forth in those Affordable Housing Requirements. The GCHA shall charge a fee for its services in connection with resale in accordance with the fee schedule set forth in the Affordable Housing Requirements then in effect. In order to be able to offer the Lot for sale at the Maximum Resale Price, the Lot must be reasonably clean, all fixtures must be in working condition and any damage to the Lot beyond normal wear and tear must be repaired. If these conditions are not satisfied, the GCHA may require that the Owner agree to escrow at closing a reasonable amount to achieve compliance with these requirements or reduce the Maximum Resale Price accordingly.

3.2 In no event shall a Lot be sold for an amount in excess of the Maximum Resale Price as determined in accordance with this subsection 3.2. The Maximum Resale Price shall be equal to the sum of subsections a. through e., below (the "**Maximum Resale Price**"):

a. The purchase price for the Lot that was paid by the Owner selling the Lot (the "Original Purchase Price").

b. An appreciation amount limited to the greater of (i) the West Region, Consumer Price Index, Urban Wage Earners and Clerical Works (CPI-W) (1982-84=100), not seasonally adjusted, or (ii) three percent (3%) simple interest; provided, however, that the appreciation amount shall not exceed five percent (5%) simple interest.

c. The costs of permitted capital improvements (the "**Permitted Capital Improvements**") as allowed by the Affordable Housing Requirements or as otherwise allowed by GCHA (and as limited in paragraph 3.3 hereof).



- d. The Owner's reasonable costs of sale of the Lot.
- e. Any negative amortization on a graduated payment mortgage insured under 203.45 of Part 203, Title 24, C.F.R..

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTEE BY DECLARANT, GCHA OR THE COUNTY THAT UPON RESALE THE OWNER SHALL OBTAIN THE MAXIMUM RESALE PRICE.

3.3 In order to qualify as Permitted Capital Improvements, the Owner must furnish to GCHA the following information with respect to the improvements which the Owner seeks to include in the calculation of Maximum Resale Price:

- a. Original or duplicate receipts to verify the actual costs expended by the Owner for the Permitted Capital Improvements; and
- b. Owner's affidavit verifying that the receipts tendered are valid and correct; and
- c. True and correct copies of any building permit or certificate of occupancy required to be issued by the County or such other County as jurisdiction requires, with respect to the Permitted Capital Improvements.

3.4 For the purpose of determining the Maximum Resale Price in accordance with this Section, the Owner may also add to the amounts specified in subsection 3.2.c, the cost of any permanent improvements constructed or installed as a result of any requirement imposed by any governmental agency, provided that written certification is provided to GCHA of both the applicable requirement and the information required by subsection 3.3.

3.5 In calculating the costs under subsections 3.2.c and 3.4 only the Owner's actual out-of-pocket costs and expenses shall be eligible for inclusion. Such amount shall not include an amount attributable to Owner's "sweat equity" or to any appreciation in the value of the improvements.

3.6 Prior to Owner entering into a sales contract for the sale of his or her Lot to a prospective buyer, such potential buyer shall be qualified by the GCHA pursuant to the requirements of the Affordable Housing Requirements then in effect. Documented proof of qualification shall be provided by the potential buyer, as requested by GCHA, prior to purchase. An Owner shall neither enter into a sales contract for the sale of his or her Lot with any person other than a Qualified Buyer nor any contract which provides for a sales price greater than the Maximum Resale Price established in accordance with this Section. Prior to closing, all sales contracts for the sale of a Lot subject to this Agreement shall be submitted to the GCHA for its review and approval of the contract for consistency with this Agreement.

## SECTION 4 NON-QUALIFIED TRANSFEREE

4.1 In the event that title to a Lot vests in individuals or entities who are not Qualified Buyers ("**Non-Qualified Transferee(s)**"), and such individuals are not approved as Qualified Buyers within thirty (30) days after obtaining title to the Lot, the Lot shall immediately be listed for sale or advertised for sale by the Non-Qualified Transferee(s) in the same manner as provided for Owners in Section 3.1 above; provided, however, that such action does not otherwise conflict with applicable law. The highest bid by a Qualified Buyer, for not less than the Maximum Resale Price which satisfies all obligations under any existing first lien deed of trust or mortgage, shall be accepted. If all such bids are below the Maximum Resale Price, the Lot shall continue to be listed for sale or advertised for sale by the Non-Qualified Transferee(s) until a bid meeting the requirements of this subsection is made, which bid must be accepted. The cost of any appraisal shall be paid by the Non-Qualified Transferee(s). In the event the Non-Qualified Transferee(s) elects to sell the Lot without the assistance of a real estate broker or agent, such Non-Qualified Transferee(s) shall advertise the subject Lot for sale in a manner approved by GCHA and shall use due diligence and make all reasonable efforts to accomplish the sale of the Lot. In the event GCHA finds and determines that such Non-Qualified Transferee(s) have failed to exercise such due diligence, GCHA may require the Non-Qualified Transferee(s) to execute a standard listing contract on forms approved by the Colorado Real Estate Commission, or its successor, with a licensed real estate broker or agent.

4.2 Non-Qualified Transferee(s) shall join in any sale, conveyance or transfer of the Lot to Qualified Buyer(s) and shall execute any and all documents necessary to effect such conveyance.

4.3 Non-Qualified Transferee(s) shall not: (1) occupy the Lot; (2) rent all or any part of the Lot, except in strict compliance with Section 5 hereof; (3) engage in any other business activity on or in the Lot; (4) sell, convey or otherwise transfer the Lot except in accordance with this Agreement and the Affordable Housing Requirements; or (5) sell or otherwise transfer the Lot for use in a trade or business.

4.4 Where the provisions of this Section 4 apply, GCHA may require the Non-Qualified Transferee(s) to rent the Lot in the same manner as provided for Owners in Section 5, below.

4.5 Until sale to a Qualified Buyer is effected, Non-Qualified Transferee(s) shall comply with all obligations of Owners set forth in this Agreement.

## SECTION 5 RENTAL OF LOT

5.1 An Owner may not, except with prior written approval of GCHA, and subject to GCHA's conditions of approval, rent its AH Unit to a third party. Prior to occupancy, any tenant must be approved by GCHA in accordance with the income, occupancy and all other qualifications established by the Affordable Housing Requirements. GCHA shall not approve any rental if such rental is being made by Owner to utilize the AH Unit as an income producing

asset, except as provided below. The initial rental term shall be for a minimum of six (6) months, and each extension to any rental term, if any, shall be for a minimum of one (1) month; provided, however, that the initial lease term plus any extensions shall not exceed two (2) years. A signed copy of the lease must be provided to GCHA prior to occupancy by any tenant. The rental amount under any such lease approved by GCHA shall be determined in accordance with the Affordable Housing Requirements. The requirements of this subsection shall not preclude the Owner from sharing occupancy of a AH Unit with non-owners on a rental basis provided Owner continues to meet the obligations contained in this Agreement.

5.2 Notwithstanding anything to the contrary contained herein, the renting of an AH Unit by Declarant prior to the initial sale of such AH Unit shall not be subject to this Section 5. Rather, the renting of an AH Unit by Declarant prior to the initial sale of such AH Unit shall be subject to the requirements set forth in the Plan.

5.3 NOTHING HEREIN SHALL BE CONSTRUED TO REQUIRE THE COUNTY OR GCHA TO PROTECT OR INDEMNIFY THE OWNER AGAINST ANY LOSSES ATTRIBUTABLE TO THE RENTAL, INCLUDING (NOT BY WAY OF LIMITATION) NON-PAYMENT OF RENT OR DAMAGE TO THE PREMISES; NOR TO REQUIRE THE COUNTY OR GCHA TO OBTAIN A QUALIFIED TENANT FOR THE OWNER IN THE EVENT THAT NONE IS FOUND BY THE OWNER.

## **SECTION 6 BREACH OF AGREEMENT; OPPORTUNITY TO CURE**

6.1 In the event that the County or GCHA has reasonable cause to believe the Owner is violating the provisions of this Agreement, the County or GCHA, by its authorized representative, may inspect an AH Unit between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing the Owner with no less than 24 hours written notice.

6.2 In the event a violation of this Agreement is discovered, GCHA may send a notice of violation to the Owner detailing the nature of the violation and allowing the Owner fifteen (15) days to cure. Said notice shall state that the Owner may request, within ten (10) days of receipt of such notice, a hearing before GCHA to determine the merits of the allegations. If no hearing is requested and the violation is not cured within the fifteen (15) day period, the Owner shall be considered in violation of this Agreement. If a hearing is held before GCHA it shall be conducted in accordance with the Affordable Housing Requirements, and the decision of GCHA based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

6.3 The failure of the County or GCHA to insist upon the strict and prompt performance of any of the terms, conditions and restrictions of this Agreement shall not constitute or be construed as a waiver or relinquishment of the County's or GCHA's rights or remedies thereafter to enforce any term, condition or restriction and the same shall continue in full force and effect.

## **SECTION 7 REMEDIES**

7.1 This Agreement shall constitute covenants running with the Property, described hereinabove as a burden thereon, for the benefit of, and shall be specifically enforceable by the County, the GCHA, and their respective successors and assigns, as applicable, by any appropriate legal action against any non-complying Owners and/or occupants.

7.2 In the event the Parties or the Party(ies) and an Owner resort to litigation with respect to any or all provisions of this Agreement, the prevailing party shall be entitled to recover damages and costs, including reasonable attorneys' fees. The term "prevailing party" shall mean the party to the litigation whose initial position at the start of the litigation is most nearly upheld in the determination of the litigation.

7.3 Each and every sale, transfer, or conveyance of a Lot, for all purposes, shall be deemed to include and incorporate by this reference the covenants, conditions, limitations, and restrictions herein contained, even without reference therein to this Agreement. Notwithstanding the foregoing and anything to the contrary contained in this Agreement, this Agreement shall automatically and permanently terminate with regard to a Lot if title to such Lot is transferred by foreclosure or deed-in-lieu of foreclosure to a mortgagee whose mortgage is insured by the Federal Housing Administration.

7.4 In the event that the Owner or occupant fails to cure any breach, the County or the GCHA may resort to any and all available legal action.

## **SECTION 8 DEFAULT IN LOAN PAYMENTS FORECLOSURE**

8.1 The Owner may only finance its initial purchase of the Lot with a loan from an Institutional Lender which is secured by a First Deed of Trust. For the purpose of this limitation and as the terms are used in this Agreement, an "Institutional Lender" means any bank, savings and loan association, or any other institutional lender which is licensed to engage in the business of providing purchase money mortgage financing for residential real estate; and a "First Deed of Trust" means a deed of trust or mortgage which is recorded senior to any other deed of trust or lien against the unit to secure a loan used to purchase the Lot. The Owner may only refinance a loan secured by a First Deed of Trust so long as the total amount of such refinancing does not exceed one-hundred percent (100%) of the Maximum Resale Price in effect at the time of such refinancing and only if the lender is an Institutional Lender.

8.2 The County or the GCHA is authorized to negotiate, execute and record such consents or agreements as may be necessary which have the effect of subordinating this Agreement to the terms of a First Deed of Trust in order to facilitate favorable financing for the benefit of a Qualified Buyer of the Lot.

8.3 It shall be a breach of this Agreement for an Owner to default in payment or other obligations due or to be performed under a promissory note secured by any deed of trust or mortgage encumbering a Lot, including the First Deed of Trust, or to breach any of Owner's duties or obligations under said deed or deeds of trust. It shall also be a breach of this

Agreement for the Owner to default in the payment of real property taxes or obligations to any property owners' association (the "**POA**") for general or special assessments, if applicable. The Owner must notify GCHA and the County, in writing, of any such breach and provide a copy of any notification received from the POA, a lender, or such parties' assigns or loan servicer, within five (5) calendar days of Owner's receipt of a notification from the POA, a lender, or such parties' assigns or loan servicer, of any default, past due payment or breach.

8.4 Upon notification of a breach as provided in subsection 8.3, above, GCHA or the County may offer loan counseling or distressed loan services to the Owner, if any of these services are available.

8.5 Upon receipt of notice as provided in subsection 8.3, above, the County or GCHA shall have the right, but not the obligation, to cure the default or any portion thereof. In such event, the Owner shall be personally liable to the County or GCHA for any payments made by the County or GCHA on the Owner's behalf together with interest thereon at the rates specified in the obligation then in default, plus one percent (1%), together with all actual expenses of the County or GCHA incurred in curing the default, including reasonable attorneys' fees. The Owner shall be required by the County or GCHA to execute a promissory note to be secured by a junior deed of trust encumbering the Lot in favor of the County or GCHA for the amounts expended by the County or GCHA as specified herein, including future advances made for such purposes. The County or GCHA shall not be limited by the provisions in subsection 8.1. The Owner may pay the promissory note at any time prior to the sale of the Lot. Otherwise, Owner's indebtedness to the County or GCHA shall be satisfied from the Owner's proceeds at the closing upon sale of the Lot.

8.6 GCHA shall each be a person "who appears to have an interest in the property..." as described in CRS 38-38-100.3(1.5)(b) and, thus, shall be entitled to receive the combined notice required by and described in CRS 38-38-103. And, as a "contract vendee" pursuant to CRS 38-38-104(1)(d), GCHA shall each be entitled to cure any default which is the basis for a foreclosure action in accordance with CRS 38-38-104 et seq. Upon filing with the Public Trustee of Garfield County of a Notice of Election and Demand for Sale ("**NED**") pursuant to CRS 38-38-101(4) by the holder of the First Deed of Trust, GCHA shall have the right and option, but not the obligation, to purchase the Lot from the Owner for an amount equal to the sum of subsections a. through d. of subsection 3.2 of this Agreement, less the amount of any debt secured by the Lot (including interest, late fees, penalties, costs and other fees and reimbursement due to lender) to be assumed by GCHA. The Party electing to exercise the option shall be referred to herein as the "Purchaser." The Purchaser shall give written notice thereof to the Owner within thirty (30) days following the filing of the NED. In the event that the option is exercised, the closing on the purchase of the Lot shall occur no less than seventy-five (75) days nor more than ninety (90) days after the date of the NED. At closing, Owner shall execute and deliver a Special Warranty Deed conveying the Lot free and clear of all monetary liens and encumbrances, except those to be assumed by the Purchaser, and shall execute normal and customary closing documents. The proceeds of the sale shall be applied first to cure the default by paying off the indebtedness secured by the Lot which is the subject of the pending foreclosure action, then to Owner's closing costs, and the balance, if any, shall be disbursed to Owner. If the Owner cures the default prior to closing resulting in withdrawal of the NED and cancellation of the foreclosure sale, the option of GCHA shall terminate. Such termination shall not, however,

operate to extinguish the option of GCHA to purchase the Lot in the event that any subsequent NED is filed.

GCHA may assign the foregoing option to the County.

8.7 The provisions of this Agreement may be subordinate only to the lien of a First Deed of Trust to secure a loan to purchase the Lot made by an Institutional Lender. This Agreement shall not impair the rights of such Institutional Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Deed of Trust in the event of default by Owner. These remedies include the right to foreclose or exercise a power of sale or to accept a deed or assignment in lieu of foreclosure. This Agreement shall be senior to any other lien or encumbrance recorded in the Office of the Clerk of Recorded of Garfield County, Colorado, after the date on which this Agreement is recorded in said Office. Notwithstanding anything to the contrary contained in this Agreement, this Agreement shall automatically and permanently terminate with regard to a Lot if title to such lot is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage on such Lot is assigned to HUD.

## **SECTION 9 GENERAL PROVISIONS**

9.1 Notices. Any notice, consent or approval which is required to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the Party as long as prior written notice of the change of address has been given to the other parties to this Agreement. Notice shall be considered given at the time it is personally delivered, the day delivery is attempted but refused, the day following being placed with any reputable overnight courier service for next day delivery, or, if mailed, on the third day after such mailing.

To Declarant: Carbondale Investments, LLC  
Attn: Rockwood Shepard  
7999 Highway 82  
Carbondale, Colorado 81623  
Phone: (970) 456-5325  
Fax: (\_\_\_\_) \_\_\_\_-\_\_\_\_\_

With a copy to:

Brownstein Hyatt Farber Schreck, LLP  
Attn: Carolynne C. White, Esq.  
410 Seventeenth Street, Suite 2200  
Denver, Colorado 80203  
Phone: (303) 223-1197  
Fax: (303) 223-0997

To GCHA: Garfield County Housing Authority  
2128 Railroad Avenue  
Rifle, CO 81650

To County: Garfield County Commissioners  
109 8<sup>th</sup> Street, Suite 213  
Glenwood Springs, CO 81601

To Owner: [To be set forth in a subsequent recorded  
Memorandum of Acceptance for each  
individual Lot]

9.2 Severability. Whenever possible, each provision of this Agreement and any other related document shall be interpreted in such a manner as to be valid under applicable law, but if any provisions of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Agreement or other related document.

9.3 Choice of Law. This Agreement and each and every related document are to be governed and construed in accordance with the laws of the State of Colorado.

9.4 Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the Parties.

9.5 Section Headings. Paragraph or section headings within this Agreement are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

9.6 Perpetuities Savings Clause. If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options set forth in this Agreement shall be unlawful or void for violation of: (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the period of the lives of the current duly elected and seated governing board of the County, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.

9.7 Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement shall be valid against any Party hereto except on the basis of a written instrument executed by the Parties to this Agreement. However, the Party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

9.8 Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

9.9 Personal Liability. Owner, not including Declarant, agrees that he or she shall be personally liable for any of the transactions contemplated herein.

9.10 Further Action. The Parties to this Agreement and any Owner agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Agreement or any agreement or document relating hereto or entered into in connection herewith.

9.11 Modifications. The Parties to this Agreement agree that any modifications of this Agreement shall be effective only when made by writings signed by the Parties and recorded with the Clerk and Recorder of Garfield County, Colorado. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, Declarant may, in its sole discretion, with the approval of no other Party or person being required, amend this Agreement if necessary to do so for purposes of fulfilling the requirements of any governmental or quasi-governmental entity, including, but not limited to, GCHA, HUD, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Veterans Affairs, the Colorado Housing and Finance Authority, or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by any of such entities.

9.12 Delegation. The County and the GCHA may delegate their authority hereunder to another organization qualified to manage and enforce the rights and obligations of either the County or the GCHA pursuant to this Agreement. Either the County or GCHA may assign its rights and obligations to the other.

9.13 Conflicts in Documents. In case of any conflict between this Agreement and the Affordable Housing Requirements, this Agreement shall control. In the case of any conflict between the Affordable Housing Requirements and the Plan, the Plan shall control. In case of any conflict between this Agreement and the Plan, the Plan shall control.



IN WITNESS WHEREOF, the Parties hereto have executed this instrument on the day and year first above written.

DECLARANT:  
Carbondale Investments, LLC, a Texas limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF GARFIELD        )

The above and foregoing document was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, as authorized signatory for Carbondale Investments, LLC, a Texas limited liability company.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires:  
My address is:

ACCEPTANCE BY THE GARFIELD COUNTY BOARD OF COMMISSIONERS AND THE GARFIELD COUNTY HOUSING AUTHORITY.

The foregoing Declaration of Deed Restriction and Agreement Concerning the Sale, Occupancy and Resale of Property described as Lots \_\_\_ through \_\_\_, River Edge Colorado Final Plat Filing No. [\_\_\_], Garfield County, Colorado, and its terms are hereby adopted and declared by the Garfield County Board of Commissioners and the Garfield County Housing Authority.

GARFIELD COUNTY BOARD OF COMMISSIONERS

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_

GARFIELD COUNTY HOUSING AUTHORITY

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF GARFIELD        )

The above and foregoing document was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires:  
My address is:

**EXHIBIT A**

**MEMORANDUM OF ACCEPTANCE OF DECLARATION OF DEED RESTRICTION AND AGREEMENT CONCERNING THE SALE, OCCUPANCY AND RESALE OF PROPERTY**

**RECITALS**

\_\_\_\_\_ (hereinafter referred to as "Owner"), has simultaneous with execution of the Memorandum purchased a residential dwelling unit with the address \_\_\_\_\_, also know as Lot Number \_\_\_\_, according to Final Plat of River Edge Colorado Subdivision Filing No. \_\_\_\_, as recorded as Reception Number \_\_\_\_\_ in the Office of the Clerk and Recorder of Garfield County, Colorado.

As a condition of the sale transaction, the Buyer acknowledges and agrees to the terms, conditions and restrictions found in that certain instrument entitled Declaration of Deed Restriction and Agreement Concerning the Sale, Occupancy and Resale of Property, recorded on \_\_\_\_\_ as Reception Number \_\_\_\_\_ in the Office of the Clerk and Recorder of \_\_\_\_\_ County, Colorado (hereinafter the "Declaration and Agreement").

NOW, THEREFORE, as required by the Declaration and Agreement and in consideration of the covenants and agreements contained therein and contained herein, the Owner agrees and acknowledges as follows:

1. Owner hereby acknowledges the existence of and accepts the Declaration and Agreement, in its entirety, including all exhibits, as the same is defined herein, with the following changes and/or additions:

That the closing of Buyer's acquisition of the Property occurred on \_\_\_\_\_.

The purchase price that Buyer is paying for the Property is \$\_\_\_\_\_.

In particular, Owner acknowledges and agrees that the County and the Garfield County Housing Authority shall be entitled to exercise the rights and options set forth in Section 8 of the Declaration and Agreement in the event of a default as described therein.

2. The address of Owner for the purpose of Section 9.1 of the Declaration and Agreement is as follows:
3. This Memorandum shall be recorded in the Office of the Clerk and Recorder of Garfield County, Colorado.

IN WITNESS WHEREOF, the undersigned Owner(s) has/have executed this Memorandum of Acceptance on the date set forth opposite his/her signature.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF GARFIELD        )

The above and foregoing document was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ and \_\_\_\_\_.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires:  
My address is:

FILE NAME: P:\CARBONDALE INVESTMENTS\06.00 DESIGN TASKS\06.02 - TASK 02 PRELIM PLAT\ENGINEERING & DESIGN\CAD\EXHIBITS\MISC REPORT FIGURES\PUID-AFFORDHOUSING.DWG  
 PLOT DATE/TIME: 1/27/2010 10:25 AM  
 PLOTTED BY: CHRIS SNYDER  
 PLOT STYLE: 8140CAD\_MSTANDARD.CTB

**LEGEND**

-  RESIDENTIAL USE
-  COMMUNITY USE
-  OPEN SPACE USE



Owner/Developer:



Carbondale Investments, LLC  
 7999 HWY 82  
 Carbondale, CO 81623

Phone No:  
 970.456.5325

Title:

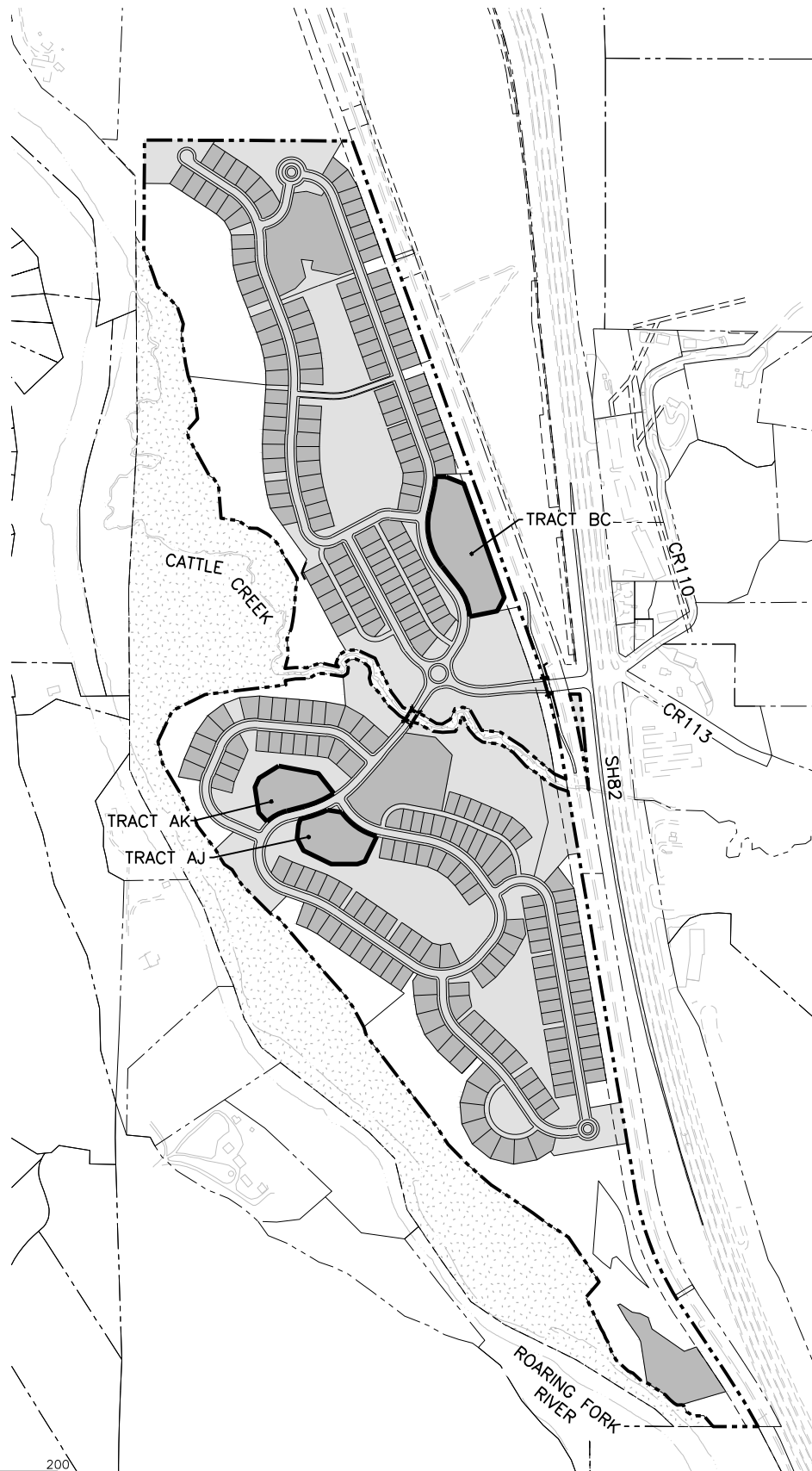
**LOCATION OF AFFORDABLE GARDEN HOME TRACTS WITHIN RIVER EDGE COLORADO PUD**

Prepared by:  
**8140 Partners, LLC**

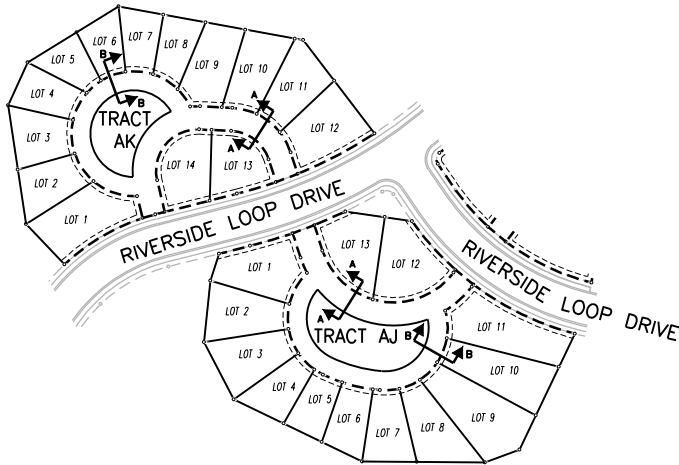
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**01/14/2011**

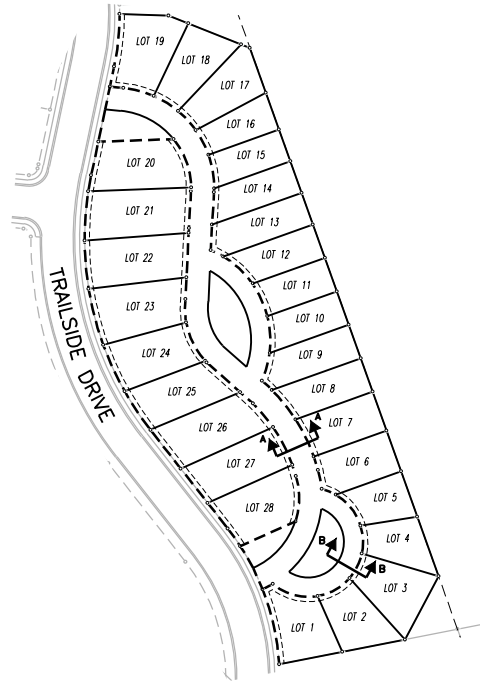
Exhibit:



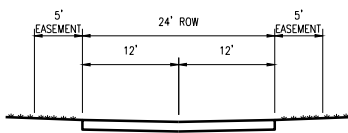
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 PLOTTED BY: CHRIS SNYDER  
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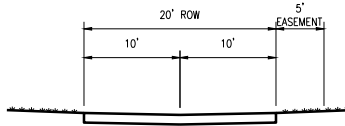
TRACT AJ & AK PLAN



TRACT BC PLAN



TYPICAL SECTION A-A



TYPICAL SECTION B-B



100 0 100 200  
 SCALE IN FEET

**LEGEND**

- — ○ PROP. LOT/TRACT LINE
- EXIST. & PROP. EASEMENT LINE

Owner/Developer:



Carbondale Investments, LLC  
 7999 HWY 82  
 Carbondale, CO 81623

Phone No:  
 970.456.5325

Title:

**EXAMPLE OF AFFORDABLE  
 GARDEN HOME TRACT LAYOUTS**

Prepared by:  
**8140 Partners, LLC**

Date:

**01/14/2011**

Exhibit: