



**Fraser Housing Authority
Meeting Agenda
Wednesday May 6, 2020
6:00 PM- 7:00 PM**

**Meeting will be conducted Virtually
<https://us02web.zoom.us/j/2590408013>
Meeting ID 259 040 8013
Phone Number 1-346-248-7799**

Note: Times are approximate and agenda subject to change

1. Mill Apartments

Documents:

[The Mill Apartments - LLLP Addendum Draft - 05-05-20.Pdf](#)
[The Mill Apartments - Fraser Housing Authority 05-05-20.Pdf](#)

2. Fraser Deed Restriction Program

Documents:

[Deed Restriction Criteria Options.pdf](#)
[Deed Restriction Agreement-D5.Pdf](#)
[Purchase Agreement.pdf](#)
[Subordination Agreement.pdf](#)
[FV_FireRecDistrictBoundaries.pdf](#)

**ADDENDUM TO AMENDED AND RESTATED AGREEMENT OF LIMITED
PARTNERSHIP**

OF _____

THIS ADDENDUM, dated as of _____, 2020 (the “Effective Date”) is executed in connection with the Amended and Restated Agreement of Limited Partnership of _____, a Colorado limited liability limited partnership (the “Partnership”) dated as of the date hereof (the “Partnership Agreement”), and is among Grand Park Homes, LLC, a Colorado limited liability company (the “General Partner”), _____, LLC, a [_____] limited liability company (the “Federal Limited Partner”), MIDWEST HOUSING ASSISTANCE CORPORATION, a Nebraska nonprofit corporation (the “Special Limited Partner” and together with the Federal Limited Partner, collectively the “Limited Partner” and individually a “Limited Partner”) and [TOWN OF FRASER HOUSING AUTHORITY], a Colorado housing authority (the “Class B Special Limited Partner”).

1. This Addendum shall be effective as of the date hereof. This Addendum shall be a part of and incorporated into the Partnership Agreement.

2. Definitions.

(a) Capitalized terms used and not otherwise defined herein shall have the definitions given them in the Partnership Agreement.

(b) The following terms are defined in Article II of the Partnership Agreement and used in the Partnership Agreement as follows:

(i) “Class B Special Limited Partner Asset Management Fee Agreement” is used in Section [_____] of the Partnership Agreement.

3. Admission to Partnership; Capital Contribution; Legal and Other Expenses.

(a) The Class B Special Limited Partner is hereby admitted into the Partnership as a Limited Partner making a \$100.00 Capital Contribution and having a 0.01% interest in the Profits, Losses, depreciation deductions, Tax Credits and distributions of the Partnership as set forth in Article IV of the Partnership Agreement.

(b) The Class B Special Limited Partner represents that as of the date hereof, its Capital Contribution does not exceed \$100.00. The Class B Special Limited Partner shall have no further obligation of any kind or description to make Capital Contributions to the Partnership, to make any loans to the Partnership or to make any other payments to the Partnership.

(c) Concurrently with the execution of this Addendum, the Partnership shall pay the Class B Special Limited Partner a fee in the amount of Ten Thousand Dollars (\$10,000) for costs incurred in connection with the due diligence activities of the Class B Special Limited

Partner and other expenses associated with due diligence reviews, meetings with the Partnership and its agents, and other work related to this Addendum (the “Diligence Fee”).

4. Rights and Duties of Class B Special Limited Partner.

(a) Concurrently with the execution of this Addendum, the General Partner shall cause a fully executed Guaranty attached hereto as Exhibit B to be delivered to the Class B Special Limited Partner.

(b) Real Property Tax Exemption. The Class B Special Limited Partner shall cooperate with the Partnership in the Partnership’s request for an exemption from special assessments and real property tax provided under Colorado Revised Statutes §29-4-226 and §29-4-227. Any materials submitted in connection with such request for exemption based on the participation of the Class B Special Limited Partner shall be subject to the prior review and approval, which shall not be unreasonably withheld, of the Class B Special Limited Partner. The Class B Special Limited Partner represents that it is [a wholly-owned subsidiary of] a validly existing housing authority under the laws of the State of Colorado but otherwise makes no representation or warranty concerning any such exemption and provides no other assurances regarding the current or continued availability of any such property tax exemption or the qualification of the Partnership for any such tax exemption.

(c) Sales Tax Exemption. The Class B Special Limited Partner shall cooperate with the Partnership in the Partnership's pursuit of exemption from sales tax under Colorado Revised Statutes §39-26-704(1.5) (the "Sales Tax Exemption"). The General Partner and Class B Special Limited Partner shall work together in good faith to determine whether the Sales Tax Exemption can be realized and how any savings that result from the Sales Tax Exemption will be used, and, subject to the prior written consent of the Special Limited Partner and the Federal Limited Partner, which consent shall not be unreasonably withheld, delayed or conditioned, the Partnership Agreement or this Addendum shall be amended accordingly. Any materials that must be submitted in connection with a request for the Sales Tax Exemption based on the participation of the Class B Special Limited Partner in the Partnership shall be subject to the prior review and approval, which shall not be unreasonably withheld, of the Class B Special Limited Partner. The Class B Special Limited Partner represents that it is [a wholly-owned subsidiary of] a validly existing housing authority under the laws of the State of Colorado but otherwise makes no representation or warranty concerning the Sales Tax Exemption and provides no other assurances regarding the current or continued availability of any such Sales Tax Exemption or the qualification of the Partnership for any such tax exemption. Any application for or receipt of the Sales Tax Exemption based on the participation of the Class B Special Limited Partner in the Partnership without prior written consent of the Class B Special Limited Partner and amendment to the Partnership Agreement or this Addendum ("Sales Tax Violation") shall entitle the Class B Special Limited Partner to withdraw from the Partnership upon written notice to the General Partner and the Limited Partner, if such Sales Tax Violation is not cured by any of the General Partner, the Limited Partner, or their respective Affiliates within thirty (30) days following written notice thereof by the Class B Special Limited Partner to the General Partner and the Limited Partner.

5. Compliance with Restrictive Covenant. For as long as the Class B Special Limited Partner is a Partner in the Partnership, the Partnership shall comply with the Restrictive Covenant.

6. Liability of Class B Special Limited Partner and Partnership; Indemnification of Class B Special Limited Partner. The Class B Special Limited Partner[, the Housing Authority], and all of their past and present officers, directors, commissioners, managers, employees, partners, agents, shareholders, members, trustees, predecessors, successors, subrogees, and attorneys (collectively, the “Class B SLP Parties”), shall incur no liability for the Class B Special Limited Partner's acts or omissions in connection with the Partnership, the Project, Partnership Property, except that the Class B Special Limited Partner shall be liable and shall not be indemnified by the Partnership or any of its Partners for fraud, gross negligence, willful misconduct or violation of law. The General Partner shall indemnify and hold harmless each of the Class B SLP Parties against any loss, liability, claim or damage arising from or related to the acts, omissions or conduct of the Partnership, or the Partnership Property. Without limiting the foregoing, any indemnity obligations under the Partnership Agreement for the benefit of the Limited Partner shall also apply to each of the Class B SLP Parties. [Notwithstanding that the Housing Authority is an affiliate of the Class B Special Limited Partner,] the Partners agree that neither it nor the Class B Special Limited Partner shall be a fiduciary with respect to the Partnership or its Partners and the Housing Authority shall have no liability under this Addendum or the Class B Special Limited Partner Asset Management Fee

7. Required Consent. The written consent of the Class B Special Limited Partner, which consent shall not be unreasonably withheld or delayed, shall be required for:

(a) the transfer of either (i) control of the General Partner or (ii) a majority of the equity interests in the General Partner, in either case to a Person that is not an Affiliate controlled by the Special Limited Partner, the Federal Limited Partner or the General Partner;

(b) the withdrawal of the General Partner from the Partnership (unless such withdrawal is in accordance with the removal and replacement of the General Partner in accordance with the Partnership Agreement);

(c) the admission of a successor General Partner following the voluntary withdrawal of the General Partner; which consent shall not be unreasonably withheld, delayed or conditioned, and which consent is not required for the admission of a successor General Partner who is an Affiliate of the Special Limited Partner or the Federal Limited Partner;

(d) the admission of a successor General Partner following any exercise by the Special Limited Partner of its rights under the Partnership Agreement to remove the General Partner; which consent shall not be unreasonably withheld, delayed or conditioned, and which consent is not required for the admission of successor General Partner who is an Affiliate of the Special Limited Partner or the Federal Limited Partner;

(e) any material amendment or modification to the Restrictive Covenant;

(f) any amendment or modification (ii) to this Addendum or the Partnership Agreement that would have a material adverse effect on the rights or obligations of the Class B

Special Limited Partner under this Addendum or the Partnership Agreement (provided that the consent of the Class B Special Limited Partner shall be deemed given if not withheld in accordance with this Section 7 within 10 business days of the notice requesting consent), (ii) to the Partnership Agreement that would change the purposes of the Partnership as described in Section 1.04 of the Partnership Agreement, or (iii) to the Addendum or the Partnership Agreement that would authorize the Project to be operated other than as an affordable housing project in compliance with Section 42 of the Code, the Restrictive Covenant and the Partnership Agreement; and

(g) any application for or receipt of the Sales Tax Exemption based on the participation of the Class B Special Limited Partner in the Partnership; provided that the consent of the Class B Special Limited Partner shall not be unreasonably withheld, conditioned or delayed.

Except for those consent rights of the Class B Special Limited Partner specifically set forth in this Addendum, all other actions, approvals, rights, powers, votes, agreements and consents, including, without limitation, all actions requiring the consent of a Limited Partner as set forth in the Partnership Agreement, including this Addendum, shall be taken solely by such Limited Partner, acting singly. The Class B Special Limited Partner shall not have the power or authority to bind the Partnership or to sign any agreement or document in the name of the Partnership. Notwithstanding anything to the contrary set forth in the Partnership Agreement, as amended hereby, the Class B Special Limited Partner cannot assign, pledge or otherwise transfer its Partnership Interest in the Partnership, in whole or in part, without the prior written consent of the General Partner and the Special Limited Partner; provided, however, that in the case of an assignment or transfer by the Class B Special Limited Partner of its Partnership Interest in the Partnership to a parent, subsidiary or affiliate of the Housing Authority, the consent of the General Partner and the Special Limited Partner shall not be unreasonably withheld or delayed.

8. Closing Documents; Reports and Information.

(a) The General Partner shall provide the Class B Special Limited Partner with a complete set of the documents listed on Schedule I (collectively, the “Closing Documents”), within 30 calendar days after the execution of this Addendum; provided that if the Restrictive Covenant has not been recorded, the Restrictive Covenant can be provided separately within forty-five (45) days after the recorded copy of the Restrictive Covenant is returned to the General Partner. The Class B Special Limited Partner agrees to send written confirmation of its receipt of the Closing Documents to the General Partner upon request. If the General Partner fails to comply with this requirement within ten (10) business days after receipt of written notice from the Class B Special Limited Partner, the General Partner (and not the Partnership or any other Partner) shall be subject to a \$50.00 per week penalty payable to the Class B Special Limited Partner until the earlier of (i) the date upon which all of the Closing Documents or the Restrictive Covenant (as applicable) are provided to the Class B Special Limited Partner or (ii) the date upon which the Class B Special Limited Partner has withdrawn from the Partnership. In addition, the Class B Special Limited Partner shall have the right, in its sole discretion, to withdraw from the Partnership upon ninety (90) days written notice to the General Partner and the Limited Partner for the General Partner's failure to provide the Closing Documents if not cured within such 90-day notice period.

(b) The General Partner shall deliver to the Class B Special Limited Partner copies of all reports and other information that the General Partner delivers to the Limited Partner under the Partnership Agreement concurrently with the delivery of such reports and other information to the Limited Partner. The General Partner shall provide annual confirmation that the Partnership is in compliance with the Restrictive Covenant. Without limiting the foregoing, the General Partner shall provide the Class B Special Limited Partner, upon written request, with the final sources and uses for the Project, all quarterly financial reports, annual audited financial statements, the final cost certification for the Project, any IRS Form 8823 notification or other material documents provided to the IRS. If the General Partner fails to provide such reports and other information as required by this Section 8(b) within ten (10) business days after receipt of written notice from the Class B Special Limited Partner, the General Partner (and not the Partnership or any other Partner) shall be subject to a \$50.00 per day penalty payable to the Class B Special Limited Partner until such reports and information are provided to the Class B Special Limited Partner. When reasonably practicable, the General Partner shall deliver this information electronically by email to an address provided by the Class B Special Limited Partner.

(c) The General Partner, and its successors and assigns, shall, upon request and with reasonable notice, permit the Class B Special Limited Partner [and/or the Housing Authority] to inspect and examine (i) the Property, (ii) the equipment, buildings and other facilities of the Project, and (iii) all documents relating to the Project. Any such inspection or examination shall be made during reasonable business hours, in the presence of an officer or agent of the General Partner.

9. Withdrawal Rights.

(a) Following the end of the Compliance Period for all buildings in the Project, and upon the expiration of each Exemption Period (as defined below) and every three years thereafter, the General Partner, the Class B Special Limited Partner and the Federal Limited Partner shall review the economic condition of the Project and the Partnership (based upon the affordability restrictions set forth in the Restrictive Covenant and other relevant factors) and shall work together in good faith to determine whether the tax exemptions are needed to maintain the financial viability of the Project as an affordable housing project serving households in accordance with the Restrictive Covenant (the “Financial Viability”) for an additional three year period (the “Exemption Period”). If the General Partner, the Class B Special Limited Partner and the Federal Limited Partner determine that continuing the tax exemption is reasonably necessary to maintain the Financial Viability of the Project for such Exemption Period, the Class B Special Limited Partner shall not withdraw from the Partnership during such Exemption Period. In no event shall the property tax exemption be discontinued if, after the property tax exemption is discontinued, (i) the Property would operate at less than a 1.20:1.00 Debt Coverage Ratio on the first-priority Permanent Loan or a 1.10:1.00 Debt Coverage Ratio on all loans not payable from Cash Flow, or (ii) a default of the Partnership Agreement or any loans to the Partnership would occur. If, however, the General Partner, Class B Special Limited Partner and Federal Limited Partner all agree that continuing the tax exemption is not reasonably necessary for the Project’s Financial Viability, then the Class B Special Limited Partner shall have the right to withdraw from the Partnership upon thirty (30) days written notice to the General Partner and the Limited Partner. Upon withdrawal, the Partnership shall pay to the Class B Special Limited Partner the balance in the Class B Special Limited Partner’s Capital Account.

(b) In addition to the rights of the Class B Special Limited Partner to withdraw from the Partnership under Sections 4(c), 7, 8(a) and 9(a) of this Addendum, the Class B Special Limited Partner shall have the right to withdraw from the Partnership upon thirty (30) days written notice to the General Partner and the Limited Partner, unless any breach is cured within such thirty (30) day period, or such longer period acceptable to the Class B Special Limited Partner as may be reasonably required to effect cure, if cure is commenced within such thirty (30) day period and diligently prosecuted thereafter upon any of the following: (i) a breach by the Partnership or any Partner of any provisions of this Addendum; (ii) a failure of the Partnership to comply with the Restrictive Covenant; (iii) a failure of the Partnership to maintain the Project in compliance with applicable laws or the Partnership otherwise breaches applicable laws; (iv) the admission of a new General Partner to the Partnership without the consent of the Class B Special Limited Partner required hereunder, which consent shall not be unreasonably delayed or withheld; (v) any cash out refinancing of Partnership debt or liabilities without the consent of the Class B Special Limited Partner, which consent shall not be unreasonably delayed or withheld; (vi) a Bankruptcy with respect to the Partnership; (vii) the initiation of foreclosure proceedings by any project lender, unless such proceedings are withdrawn within thirty (30) days or unless the General Partner has in good faith contested the validity of such proceedings; or (viii) a Sales Tax Violation.

(c) The General Partner shall have the right to purchase the interest of the Class B Special Limited Partner in the Partnership, upon thirty (30) days written notice to the Class B Special Limited Partner and the Special Limited Partner, at any time after the Project does not qualify for an exemption from special assessments and real property taxes as provided in Section 4 of this Addendum. The purchase price for the Class B Special Limited Partner's interest pursuant to this Section 9(c) shall equal the Class B Special Limited Partner's Capital Account balance at the time notice of the purchase is given; provided, that the purchase shall be conditioned upon payment by the Partnership to the Class B Special Limited Partner of all amounts then owing under the Partnership Agreement and the Guaranty. Upon purchase of the Class B Special Limited Partner's interest, the Class B Special Limited Partner shall execute such amendment to the Partnership Agreement which is reasonably necessary to evidence the Class B Special Limited Partner's withdrawal as a Partner, effective upon the date of such purchase; provided, that the Partnership will pay the legal fees, costs and expenses incurred by the Class B Special Limited Partner in connection with such withdrawal in an amount not to exceed \$5,000.00.

(d) Upon the withdrawal by the Class B Special Limited Partner from the Partnership or the purchase of the interest of the Class B Special Limited Partner as provided in this Addendum, the terms of this Addendum (other than Sections 4(c) and 6, which shall continue to apply) shall cease to apply and no longer be in force, and the Class B Special Limited Partner Asset Management Fee Agreement shall terminate.

10. Notices. The following is the address of the Class B Special Limited Partner for notice purposes under this Agreement:

The Class B Special Limited Partner shall provide copies of any notices it sends to the General Partner or to the Limited Partner at the following addresses:

General Partner: Grand Park Homes, LLC
46 Market Street
Fraser, Colorado 80442

Federal Limited Partner: [Midwest Housing Assistance Corporation]
515 N. 162nd Avenue, Suite 202
Omaha, Nebraska 68118

The Limited Partner (or their Affiliates) shall have the right (but not the obligation) to cure any breaches of the provisions of this Addendum, and the Class B Special Limited Partner shall accept such cure as if made by the General Partner or the Partnership.

11. Qualified Allocations. Notwithstanding anything to the contrary contained herein or in the Partnership Agreement, the parties intend that all allocations of items of income, gain, loss, deduction, credit and basis (the “Tax Items”) contained herein and in the Partnership Agreement shall constitute “Qualified Allocations” (within the meaning of Section 168(h)(6)(B) of the Code and the Treasury Regulations promulgated thereunder) and this Addendum and the Partnership Agreement shall be construed and interpreted in a manner consistent with such intention and with the provisions of Section 168(h) of the Code and the Treasury Regulations promulgated thereunder (or under any predecessor section(s) of the Treasury Regulations that remain effective), and the Class B Special Limited Partner will only be allocated 0.01% of each item of income, gain, loss, deduction, credit and basis throughout the term of the Partnership.

12. Conflicts. If any provision of this Addendum conflicts with any provision of the Partnership Agreement or any document, the provisions of this Addendum shall be controlling in all respects. Except as specifically amended hereby, all of the terms and the provisions of the Partnership Agreement remain in full force and effect, without modification.

13. Governing Law. This Addendum shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws.

14. Binding Agreement. This Addendum shall be binding on the parties hereto, and their heirs, executors, personal representatives, successors and assigns.

15. Headings. All headings in this Addendum are for convenience of reference only and are not intended to qualify the meaning of any provision of this Addendum.

16. Counterparts. This Addendum may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

[No further text on this page; signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed as of the date first written above.

GENERAL PARTNER:

GRAND PARK HOMES, LLC

By: _____

Its: _____

[Signatures continued on following pages.]

FEDERAL LIMITED PARTNER:

By: _____

SPECIAL LIMITED PARTNER:

Midwest Housing Assistance Corporation, a
Nebraska nonprofit corporation

By: _____

[Signatures continued on following pages.]

CLASS B SPECIAL LIMITED PARTNER:

By: _____

Name:

Title:

[Signatures continued on following page.]

SCHEDULE I

The Closing Documents

1. Amended and Restated Agreement of Limited Partnership
2. Addendum to Amended and Restated Agreement of Limited Partnership
 - a) Exhibit A – Guaranty
3. Restrictive Covenant (_____ Form)

EXHIBIT A TO ADDENDUM TO AMENDED AND RESTATED
AGREEMENT OF LIMITED PARTNERSHIP

(CLASS B SPECIAL LIMITED PARTNER GUARANTY)

GUARANTY

THIS GUARANTY (this “Guaranty”), dated as of _____, 2020, is made by _____, a Colorado limited liability limited partnership (the “Partnership”) and _____, a Colorado limited liability company (the “General Partner”) together with the Partnership, Grand Park Homes, LLC, a Colorado limited liability company (the “Guarantor”) for the benefit of the Town of Fraser Housing Authority, a Colorado housing authority [the “Housing Authority”) and _____, a Colorado limited liability company] (the “Class B Special Limited Partner”) to induce the Class B Special Limited Partner to become the Class B Special Limited Partner in the Partnership.

Recitals

A. The Partnership is governed by its Amended and Restated Agreement of Limited Partnership of the Partnership and the Addendum thereto both dated as of the same date hereof (collectively, the “Partnership Agreement”), which, among other things, admits the Class B Special Limited Partner as a Limited Partner. All capitalized terms not otherwise defined herein shall have the definitions given them in the Addendum or in the Partnership Agreement.

B. The Guarantor has certain indemnification obligations to the Class B Special Limited Partner pursuant to Section 6 of the Addendum.

C. As a condition to entering into the Addendum, the Class B Special Limited Partner has required that the Guarantor guarantees to the Class B Special Limited Partner and the Housing Authority the indemnification obligations under the Addendum.

NOW, THEREFORE, in order to induce the Class B Special Limited Partner to enter into the Partnership and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Guarantor hereby jointly and severally covenants and agrees as follows:

1. Guaranty. Each Guarantor irrevocably and unconditionally fully guarantees the due, prompt and complete performance of each and every one of the following obligations: (a) the payment and performance of each and every indemnification obligation of the Partnership and the General Partner under Section 6 of the Addendum, and (b) the due, prompt and complete payment of all costs and expenses (including, without limitation, reasonable attorneys’ fees) incurred by the Class B Special Limited Partner [or the Housing Authority] in collection of the enforcement of this Guaranty against the Guarantor (the obligations described in this Section 1 are hereinafter collectively referred to as the “Obligations”).

2. Payments. The Guarantor agrees that if any of the Obligations are not fully and timely paid or performed according to the tenor thereof, the Guarantor shall immediately upon receipt of written demand therefor from the Class B Special Limited Partner [or the Housing Authority] pay all of the Obligations hereby guaranteed in like manner as if the Obligations constituted the direct and primary obligation of the Guarantor. The Guarantor shall not, until the Obligations are paid in full, have any right of subrogation as a result of any payment hereunder or any other payment made by the Guarantor on account of the Obligations, and Guarantor hereby waives, releases and relinquishes any claim based on any right of subrogation, any claim

for unjust enrichment or any other theory that would entitle a Guarantor to a claim against the Partnership based on any payment made hereunder or otherwise on account of the Obligations.

3. Continuing Guaranty:

(a) This Guaranty and the obligations of the Guarantor hereunder shall be continuing and irrevocable until the Obligations have been satisfied in full. Notwithstanding the foregoing or anything else set forth herein, and in addition thereto, if at any time all or any part of any payment received by the Class B Special Limited Partner [or the Housing Authority] from a Guarantor under or with respect to this Guaranty is or must be rescinded or returned for any reason whatsoever (including, but not limited to, determination that said payment was an avoidable preference or fraudulent transfer under insolvency, bankruptcy or reorganization laws), then Guarantor's obligations hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding such previous receipt of payment by the Class B Special Limited Partner [or the Housing Authority, as the case may be,] and Guarantor's obligations hereunder shall continue to be effective or be reinstated as to such payment, all as though such previous payment to the Class B Special Limited Partner had never been made. The provisions of the foregoing sentence shall survive termination of this Guaranty, and shall remain a valid and binding obligation of each Guarantor until satisfied.

(b) The Class B Special Limited Partner, in its sole discretion, and subject to the terms and conditions of the Partnership Agreement, may at any time enter into agreements to amend, modify or change the Addendum or any document or agreement relating in any way to the terms and provisions thereof, or may at any time waive or release any provision or provisions thereof and, with reference thereto, may make and enter into all such agreements as the Class B Special Limited Partner may deem proper or desirable, without any notice or further assent from any Guarantor and without in any manner impairing or affecting this Guaranty or any of the rights of [the each] Guarantor's obligations hereunder.

4. Acceptance of Guaranty. Each Guarantor hereby waives notice of acceptance of this Guaranty by the Class B Special Limited Partner [and Housing Authority] and this Guaranty shall immediately be binding upon each Guarantor. Any Guarantor who executes this Agreement shall be fully bound hereby regardless of whether or not any other Guarantor subsequently executes this Guaranty.

5. Waivers. Each Guarantor hereby waives and agrees not to assert or take advantage of:

(a) any right to require the Class B Special Limited Partner to proceed against the Partnership or the General Partner or any other person or to proceed against or exhaust any security held by the Class B Special Limited Partner at any time or to pursue any other remedy in the power of the Class B Special Limited Partner before proceeding against Guarantor hereunder;

(b) the defense of the statute of limitations in any action hereunder or in any action for the collection of the Obligations or the performance of any other obligations guaranteed hereby;

(c) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of the Class B Special Limited Partner to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(d) demand, presentment for payment, notice of non-payment, protest, notice of protest and all other notices of any kind, including, without limitation, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of the Class B Special Limited Partner or any endorser or creditor of the Class B Special Limited Partner or any Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with any obligation or evidence of indebtedness held by the Class B Special Limited Partner or in connection with the Obligations;

(e) any right, benefit or defense arising under Section 1111 or Section 364 of the Bankruptcy Code;

(f) any duty or obligation on the part of Class B Special Limited Partner to perfect, protect, not impair, retain or enforce any security for the payment of the Obligations or performance of any of the other obligations guaranteed hereby; and

(g) any right or defense arising out of an election of remedies by Class B Special Limited Partner, even though such election (e.g., nonjudicial foreclosure with respect to any collateral held by Class B Special Limited Partner to secure repayment of the Obligations), destroys or otherwise impairs Guarantor's rights of subrogation or the right of Guarantor (after payment of the Obligations) to proceed against the Class B Special Limited Partner for reimbursement.

6. Payment Guaranty. The liability of Guarantor under this Guaranty shall be an absolute, direct, immediate and unconditional guarantee of payment and not of collectability. The obligations of Guarantor hereunder are independent of the obligations of the Partnership and the General Partner or any other party which may be initially or otherwise responsible for performance or payment of the obligations hereunder guaranteed and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against a Guarantor, whether or not the Partnership or the General Partner is joined therein or a separate action or actions are brought against them. The Class B Special Limited Partner [or the Housing Authority] may maintain successive actions for other defaults. The rights of the Class B Special Limited Partner [and the Housing Authority] hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless the Obligations has been paid and satisfied in full.

7. Attorneys' Fees. The Guarantor hereby agrees to pay to the Class B Special Limited Partner [and the Housing Authority], upon demand, reasonable attorneys' fees and all costs and other expenses which the Class B Special Limited Partner [and the Housing Authority] expend or incur in collecting or compromising the Obligations or in enforcing this Guaranty against each Guarantor whether or not suit is filed, including, without limitation, all costs, attorneys' fees and expenses incurred by the Class B Special Limited Partner [and the Housing Authority] in connection with any insolvency, bankruptcy, reorganization, arrangement or other

similar proceedings involving a Guarantor which in any way affect the exercise by the Class B Special Limited Partner [or the Housing Authority] of their rights and remedies hereunder. Any and all such costs, attorneys' fees and expenses not so paid shall bear interest at an annual interest rate equal to 8%, from the date incurred by the Class B Special Limited Partner [or the Housing Authority, as the case may be,] until paid by the Guarantor.

8. Notice. Notices to the Guarantor shall be sent to:

With a copy to:

9. Miscellaneous.

(a) Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

(b) No provision of this Guaranty or right of the Class B Special Limited Partner [or the Housing Authority] hereunder can be waived nor shall any Guarantor be released from any obligations hereunder except by a writing duly executed by the Class B Special Limited Partner [and the Housing Authority]. This Guaranty may not be modified, amended, revised, revoked, terminated, changed or varied in any way whatsoever except by the express terms of a writing duly executed by the Class B Special Limited Partner[, the Housing Authority] and each Guarantor.

(c) Each Guarantor is jointly and severally liable with each other Guarantor.

(d) This Guaranty shall inure to the benefit of and bind the heirs, legal representatives, administrators, executors, successors and assigns of the Class B Special Limited Partner[, the Housing Authority] and the Guarantor.

(e) This Guaranty may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, with the same effect as if all parties hereto had signed the same signature page. Any signature page of this Guaranty may be detached from any counterpart of this Guaranty without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Guaranty identical in form hereto but having attached to it one or more additional signature pages.

(f) None of the parties hereto shall be deemed to have waived any rights hereunder unless such waiver shall be in writing and signed by such party. The waiver by any party of any breach of this Guaranty shall not operate or be construed to be a waiver of any subsequent breach.

10. Governing Law. This Guaranty shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to principles of conflicts of laws, and cannot be modified, amended or terminated orally.

11. Headings. All headings in this Guaranty are for convenience of reference only and are not intended to qualify the meaning of any provision of this Guaranty.

12. Terminology. All personal pronouns used in this Guaranty, whether used in the masculine, feminine, or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Guaranty as of the date first above written.

GUARANTOR:

GRAND PARK HOMES, LLC, a Colorado limited liability company

By: Clark Lipscomb

Its: _____

19154928v4

THE MILL APARTMENTS
at Byers Peak Ranch

May 5, 2020
Sent Via Email

Fraser Housing Authority
Attn: Jeff Durbin
P.O. Box 370
Fraser, CO 80442

RE: The Mill Apartments Special Limited Partnership Interest

Dear Mr. Durbin:

The Mill Apartments project at Byers Peak Ranch in Fraser, Colorado was awarded a reservation of Low-Income Housing Tax Credits by the Colorado Housing and Finance Authority (CHFA) on October 2, 2019. The project is a deed restricted project and includes three buildings bringing 60 units of affordable workforce housing to our community: one building of 36-units, one building of 24-units, and a clubhouse. The units are for families earning between 20% and 80% of the Area Median Income (AMI) with an average overall project AMI of 60%.

All units will feature balconies with enough storage to house recreational gear for mountain living as well as full kitchens with Energy Star appliances including refrigerator, range/oven, dishwashers, garbage disposals, and in-unit washer/dryers. As an Enterprise Green Communities project through CHFA, amenities such as access to open space and trails, a picnic and play area for families, and access to public transportation are top priorities alongside an active building design of energy efficient units that will achieve Energy Star certification and compliance with the Resident Health Campaign of Asthma & Respiratory Health.

The property manager will be Ross Management Group, a professional low-income property manager with vast experience in mountain towns.

The Mill Apartments will be built with 9% LIHTC and permanent financing from CHFA. Utilizing the housing tax credits will allow us to build quality affordable housing serving Fraser families from a range of incomes that will contribute to a strong community of year-round residents.

We are inviting the Fraser Housing Authority to participate in The Mill Apartments project as a 0.01% Special Limited Partner. We will pay \$10,000 to cover any due diligence activities and associated fees related to the Special Limited Partner Addendum that would cause membership of the Fraser Housing Authority into The Mill Apartments. The Draft Addendum is attached for your review.

Our community has not had an affordable housing development in 24 years and we appreciate your sincere consideration to support this affordable housing project for our Fraser Valley workforce.

Respectfully,



Clark Lipscomb
President

Attachments: ADDENDUM TO AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP

Fraser Deed Restriction Program Eligibility Criteria Options

*The property and business locations need to be defined; alternatives are suggested below.
Establishing a mission statement for the program may help define where the property location
and employment location.*

Mission alternatives:

- To provide housing opportunities for Fraser business employees (i.e regardless of where they live, our businesses need employees)
- To provide housing opportunities for Fraser and Winter Park business employees
- To provide housing opportunities for Upper Fraser Valley business employees
- To provide housing opportunities for Grand County business employees
- To provide employee housing opportunities in Fraser (i.e. employees can live in Fraser and add to the local economy or we want people to live here and be part of the community, regardless of where they work)
- To provide employees housing opportunities in Fraser and Winter Park
- To provide employees housing opportunities in the Upper Fraser Valley
- To provide employees housing opportunities in Grand County
- Or any combination thereof, ie perhaps the goal is to have people live in Fraser and work in Fraser businesses

Property Location – must be located within..

- The Town of Fraser boundary
- The Town of Fraser or Winter Park boundaries
- The Fraser Valley Metropolitan Recreation District boundary
- The East Grand Fire Protection District boundary
- 80442 Zip Code
- Grand County

Employment Location – must be located within..

- The Town of Fraser boundary
- The Town of Fraser or Winter Park boundaries
- The Fraser Valley Metropolitan Recreation District boundary
- The East Grand Fire Protection District boundary
- 80442 Zip Code
- Grand County
- What about location neutral employees?

DEED RESTRICTION AGREEMENT

THIS DEED RESTRICTION AGREEMENT (referred to herein as the "Agreement" or "Deed Restriction") is entered into this ___ day of _____, 20___ (the "Effective Date") by and between the Town of Fraser, Colorado, a Colorado municipality with an address of 153 Fraser Avenue, P. O. Box 370, Fraser, Colorado 80442 (the "Town"), and _____, an individual with an address of _____ ("Owner") (each a "Party" and collectively the "Parties").

WHEREAS, in exchange for compensation as set forth in a Deed Restriction Purchase Agreement, Owner has agreed to place certain restrictions on the use of the Property for the benefit of the Town by requiring occupancy of the Property by at least one qualified resident, as defined below.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows:

1. Property. The following real property is hereby burdened with the covenants and restrictions specified in this Agreement: _____ [address], as more specifically described in **Exhibit A**.

2. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

a. *Person* means a natural person and excludes any type of entity.

b. *Principal Place of Residence* means the home or place in which one's habitation is fixed and to which one has a present intention of returning after a departure or absence therefrom. To determine a person's Principal Place of Residence, the criteria set forth in C.R.S. § 31-10-201(3) shall apply.

c. *Qualified Household* means one Qualified Resident or a group of persons that contains at least one Qualified Resident. A Qualified Household may have occupants that are not Qualified Residents as long as at least one occupant is a Qualified Resident.

d. *Qualified Business* means a business located within the boundaries of _____, as such boundaries may be amended from time to time, which holds a valid and current business license, or pays sales taxes, or is otherwise generally recognized as a legitimate business.

e. *Qualified Resident* means a person who works an average of 30 hours or more per week at a Qualified Business. For example, if a person worked 60 hours per week for one half of the year at such a Qualified Business and worked elsewhere for the other half of the year, such person would constitute a Qualified Resident. To determine

that a person is a Qualified Resident, the Qualification Guidelines set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, shall apply.

f. *Town* means the Town of Fraser, Colorado, and its duly authorized agents.

3. Occupancy Restrictions.

a. At least one Qualified Resident shall continuously occupy the Property as his or her principal place of residence.

b. Owner may *rent* the Property as long as the Property is continuously occupied by a Qualified Household; provided, however, that the Property shall not be used for rentals of less than 30 days in duration.

c. A Qualified Resident may lease a room or rooms in the Property to one or more persons, *provided that* the Qualified Resident still occupies the Property as his or her principal place of residence.

d. No business activity shall occur on or in the Property other than as permitted within the zone district applicable to the Property.

4. Annual Verification. No later than February 1st of each year, beginning in the year following the first year of occupancy of the Property, Owner shall submit a written statement to the Town including the following information and stating that such information is true and correct to the best of Owner's knowledge and belief:

a. Evidence to establish that the Property was occupied by a Qualified Household during all of the prior calendar year;

b. If applicable, a copy of the lease form currently used for the Property; and

c. If applicable, a list of tenants who occupied the Property in the prior calendar year and the evidence submitted by each tenant to establish that they were a Qualified Resident, as set forth in the Qualification Guidelines.

5. Consent for Information. Owner agrees to provide, upon request of the Town, all documents and information necessary for the Town to establish continued compliance with this Agreement as amended from time to time. Documents may include but are not limited to federal and state income tax returns, W2's, 1099's, bank and credit card statements, release forms for employment and tax information, and invoices for utility payments. The Town shall maintain the confidentiality of financial information provided by or obtained concerning Owner, subject to the requirements of the Colorado Open Records Act, CRS §§ 24-72-201 *et seq.*, and except for such disclosures as are necessary with respect to any litigation, enforcement, or other legal proceedings.

6. Fines. The Town may impose fines for violations of the restrictions provided in this Agreement, which fines shall be in accordance with the fine schedule attached hereto as **Exhibit C**.

7. Consensual Lien; Right to Redeem. For the purpose of securing Owner's performance under the Deed Restriction and creating in favor of the Town a right to redeem in accordance with Part 3 of Article 38 of Title 38, C.R.S., as amended, Owner hereby grants to Town a consensual lien on the Property.

8. Town's Option. Owner shall first notify the Town if Owner wishes to sell the Property. The Town shall have the first option to purchase the Property for the price and upon the terms contained in a *bona fide* written purchase offer that Owner desires to accept.

9. Breach.

a. It is a breach of this Agreement for Owner to violate any provision of this Agreement, or to default in payment or other obligations due to be performed under a promissory note secured by a first deed of trust encumbering the Property. Owner shall notify the Town, in writing, of any notification received from any lender of past due payments or defaults in payments or other obligations within 5 days of receipt.

b. If the Town has reasonable cause to believe Owner is violating this Agreement, the Town may inspect the Property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing Owner with 24 hours written notice. This Agreement shall constitute Owner's permission to enter the Property during such times upon such notice.

10. Remedies.

a. The Town shall have any and all remedies provided by law and in equity for a violation of this Deed Restriction, including without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including without limitation an injunction requiring eviction of the occupant(s) and an injunction to prohibit the occupancy of the Property in violation of this Deed Restriction. In addition, fines may be imposed for violations as provided in Exhibit C. All remedies shall be cumulative.

b. The cost to the Town of any activity taken in response to any violation of this Deed Restriction, including reasonable attorney fees, shall be paid promptly by Owner.

11. Foreclosure.

a. In the event of a foreclosure, acceptance of a deed-in-lieu of foreclosure, or assignment, this Agreement shall remain in full force and effect.

b. Owner shall give immediate notice to the Town: of any notice of foreclosure under the first deed of trust or any other subordinate security interest in the Property; or when any payment on any indebtedness encumbering the Property is required to avoid foreclosure of the first deed of trust or other subordinate security interest in the Property.

c. Within 60 days after receipt of any notice described herein, the Town may (but shall not be obligated to) proceed to make any payment required to avoid foreclosure. Upon making any such payment, the Town may place a lien on the Property in the amount paid to cure the default and avoid foreclosure, including all fees and costs resulting from such foreclosure.

d. If the Property is sold at a foreclosure sale or acquired by any person or entity in lieu of foreclosure, the Town has the option to acquire such Property within 30 days after: i) the issuance of a confirmation deed to the purchaser, or ii) receipt by the Town of written notice from such person or entity of the acquisition of such property in lieu of foreclosure, as applicable, for an option price not to exceed: iii) in the event of a foreclosure, the redemption price on the last day of all statutory redemption periods and any additional reasonable costs incurred by the holder during the option period which are directly related to the foreclosure, or iv) in the event of a transfer in lieu of foreclosure, the amount paid, or the amount of debt forgiven, by the transferee plus the reasonable costs incurred by the transferee with respect to its acquisition of such Property.

12. Miscellaneous.

a. Modification. This Agreement may only be modified by subsequent written agreement of the Parties.

b. Integration. This Agreement and any attached exhibits constitute the entire agreement between Owner and the Town, superseding all prior oral or written communications.

c. Runs with the Land. The benefits and obligations of the Parties under this Agreement shall run with the land, and Owner's obligations hereunder shall be binding on any subsequent holder of an ownership interest in the Property.

d. Severability. If any provision of this Agreement is determined to be void by a court of competent jurisdiction, such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect.

e. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Grand County, Colorado.

f. Agreement Binding; Assignment. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of the Parties.

g. Third Parties. There are no intended third-party beneficiaries to this Agreement.

h. No Joint Venture. Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

i. Notice. Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

j. Recording. This Agreement shall be recorded with the Grand County Clerk and Recorder.

k. Savings Clause. If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this Agreement are held to be unlawful or void for violation of: the rule against perpetuities or some analogous statutory provision; the rule restricting restraints on alienation; or 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 members of the Fraser Board of Trustees, their now living descendants, if any, and the survivor of them, plus 21 years.

l. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

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

TOWN OF FRASER, COLORADO

Mayor

ATTEST:

Town Clerk

OWNER

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this _____ day of _____, 20____, by _____, as the owner of the Property located at _____ Fraser, Colorado 80442.

Witness my hand and official seal.
My commission expires:

Notary Public

(S E A L)

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B

QUALIFICATION GUIDELINES

1. Purpose. The purpose of these Qualification Guidelines is to set forth the occupancy requirements for the Property pursuant to the Deed Restriction.
2. Definitions. All capitalized terms herein shall have the meanings set forth in the Deed Restriction.
3. Application. To become a Qualified Resident, a person must provide the following information:
 - a. Verification (e.g., wage stubs, employer name, address, telephone number and other appropriate documentation) of the person's current employment with a Qualified Business;
 - b. Evidence that the applicant has worked, or will work, an average of 30 hours per week or more per year for one or more of such Qualified Businesses;
 - c. A valid form of identification, such as a driver's license, state-issued identification, passport or military identification; and
 - d. A signed statement certifying and acknowledging that all information submitted in such application is true to applicant's best knowledge and authorizing verification of all information submitted.

EXHIBIT C

FINE SCHEDULE

The Town may impose fines for violations of the Deed Restriction in accordance with the following schedule:

1. First violation: \$100.00;
2. Second violation: \$250.00;
3. Third and subsequent violations: \$500.00.

Prior to imposing a fine, the Town shall give notice to Owner of the violation and the fine to be imposed, and shall allow Owner 15 days from the date of the notice to either cure the violation or respond in writing contesting the violation or fine and requesting a hearing before a hearing officer appointed by the Town. If no hearing is requested and the violation is not satisfactorily cured within said 15-day period, then the violation identified in the notice and the fine imposed shall be deemed final. If a hearing is requested, the hearing officer appointed by the Town shall give notice of the time and place of the hearing, and the determination of the hearing officer regarding the violation and fine shall be final.

Unless a contest is filed, Owner shall pay all fines imposed by the Town within 15 days after notification is sent by the Town, and any amounts not paid within such time shall bear interest at the rate of 1% per month, compounded monthly, until paid in full.

The imposition of a fine shall not preclude the Town from pursuing any other remedy for a violation of the Deed Restriction.

The Town may increase the amount of the fines set forth in the above schedule for each violation by an amount not to exceed 5% each year during the time this Agreement is in effect. If the fines are so increased, the Town shall provide written notice to Owner at least 30 days prior to the effective date of such increase.

DEED RESTRICTION PURCHASE AGREEMENT

THIS DEED RESTRICTION PURCHASE AGREEMENT (the "Agreement") is entered into this ___ day of _____, 20___ (the "Effective Date") by and between the Town of Fraser, Colorado, a Colorado municipality with an address of 153 Fraser Avenue, P. O. Box 370, Fraser, Colorado 80442 (the "Town"), and _____, an individual with an address of _____, ("Owner") (each individually a "Party" and collectively the "Parties").

WHEREAS, Owner is purchasing the real property and the improvements situated thereon, located at _____, Fraser, Colorado 80442 and legally described as _____, (the "Property");

WHEREAS, Owner has agreed to place certain restrictions on the use and occupancy of the Property for the benefit of the Town, as set forth in the Deed Restriction Agreement dated _____, 20___, attached hereto and incorporated herein as **Exhibit A** (the "Deed Restriction"); and

WHEREAS, the Deed Restriction is of value to the Town, and the Town is willing to compensate Owner for the value of the Deed Restriction.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows:

1. Conveyance. Owner agrees to convey, sell, transfer and assign to the Town, and the Town agrees to purchase from Owner, on the terms and conditions of this Agreement, the Deed Restriction.
2. Purchase Price. The purchase price for the Deed Restriction shall be \$_____ (the "Purchase Price"), delivered to Owner at closing in funds which comply with all applicable Colorado laws, which include electronic transfer funds, certified check and cashier's check, at the Town's option.
3. Closing. The closing will occur at a mutually agreeable location, at a date agreed upon by the Parties within 14 days of the Effective Date.
4. Notice and Consent. Owner certifies that Owner has notified every person or entity holding a lien or other encumbrance on the Property of the proposed purchase of the Deed Restriction by the Town, and if necessary, obtained each of their consent to the recording of the Deed Restriction against the Property and subordination of the lien or encumbrance to the Deed Restriction. Should Owner not provide such notice or obtain such consent, and Owner's failure to do so causes the Deed Restriction to become unenforceable, invalid or void for any reason, Owner shall reimburse the entire Purchase Price to the Town within 30 days of receipt of written notice from the Town.

5. Owner's Representations and Warranties. Owner hereby represents and warrants that the following statements are now, and will be as of the closing date, true and correct, to the best of Owner's knowledge, and Owner shall give the Town prompt written notice if any of the representations or warranties made by Owner in this Agreement are no longer true or correct in any material manner:

a. There is no action, suit or proceeding pending, or to the best of Owner's knowledge threatened, against or otherwise affecting Owner or the Property in any court of law or equity, or before any governmental authority, in which an adverse decision might materially impair Owner's ability to perform its obligations under this Agreement.

b. There is no pending or threatened condemnation or similar proceeding affecting the Property.

6. Town's Remedies. In the case of any breach of this Agreement by Owner, the Town may terminate this Agreement by written notice to Owner, and the Town shall have all remedies available at law or equity for such breach. In addition to all other remedies, in the case of a breach of this Agreement by Owner, the Town shall have the right to recover the entire Purchase Price from Owner, in addition to all costs and fees, including attorney fees, incurred by the Town.

7. Miscellaneous.

a. Entire Agreement. This Agreement and the Deed Restriction Agreement contain the entire agreement of the Parties. There are no other agreements, oral or written, and this Agreement can be amended only by written agreement signed by the Parties.

b. Agreement Binding; Assignment. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of the Parties.

c. Notice. Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

d. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Grand County, Colorado.

e. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

f. Third Parties. There are no intended third-party beneficiaries to this Agreement.

g. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

h. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

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

TOWN OF FRASER, COLORADO

Town Manager

ATTEST:

Town Clerk

OWNER

STATE OF COLORADO)
) ss.
COUNTY OF _____)

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

My commission expires:

(S E A L)

Notary Public

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (the "Agreement") is entered into this day of _____, 20____ (the "Effective Date") by and between the Town of Fraser, Colorado, a Colorado municipality with an address of 153 Fraser Avenue, P. O. Box 370, Fraser, Colorado 80442 (the "Town"), and _____, a financial institution with an address of _____, Colorado _____ ("Lender") (each a "Party" and collectively the "Parties").

WHEREAS, the Deed Restriction Agreement dated _____, 20____, recorded on _____, 20____ under Reception No. _____ of the records of the Clerk and Recorder of Grand County, Colorado, as amended (the "Deed Restriction") burdens the real property more particularly described as _____ (the "Property") with a deed restriction limiting the use of the Property (the "Deed Restriction");

WHEREAS, the owner of the Property has requested Lender to issue a loan secured by a deed of trust encumbering the Property; and

WHEREAS, Lender is willing to subordinate the loan to the Deed Restriction under the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows :

1. Subordination. Lender unconditionally subordinates its lien under the deed of trust on the Property issued by Lender on _____, 20____ (the "Deed of Trust") to the Deed Restriction. Lender agrees that its lien on and all other rights and interests in the title to the Property resulting from the Deed of Trust will remain subordinate to all rights and interests in the title to the Property resulting from the Deed Restriction, regardless of any renewal, extension or further modification of the Deed of Trust.

2. Notice. If Lender accepts a deed in lieu of foreclosure of the Deed of Trust, Lender shall give the Town written notice within 20 days after the deed is recorded with the Clerk and Recorder of Grand County, Colorado.

3. Miscellaneous.

a. Modification. This Agreement may only be modified by subsequent written agreement of the Parties.

b. Integration. This Agreement and any attached exhibits constitute the entire agreement between the Parties, superseding all prior oral or written communications.

c. Severability. If any provision of this Agreement is determined to be void by a court of competent jurisdiction, such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect.

d. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado , and any legal action concerning the provisions hereof shall be brought in Grand County , Colorado.

e. Agreement Binding; Assignment. This Agreement, and the terms, covenants , and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives , successors , and assigns of the Parties.

f. Third Parties. There are no intended third-party beneficiaries to this Agreement.

g. No Joint Venture. Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement , and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

h. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

i. Recording. This Agreement shall be recorded with the Grand County Clerk and Recorder.

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

TOWN OF FRASER, COLORADO

Town Manager

ATTEST:

Town Clerk

LENDER:

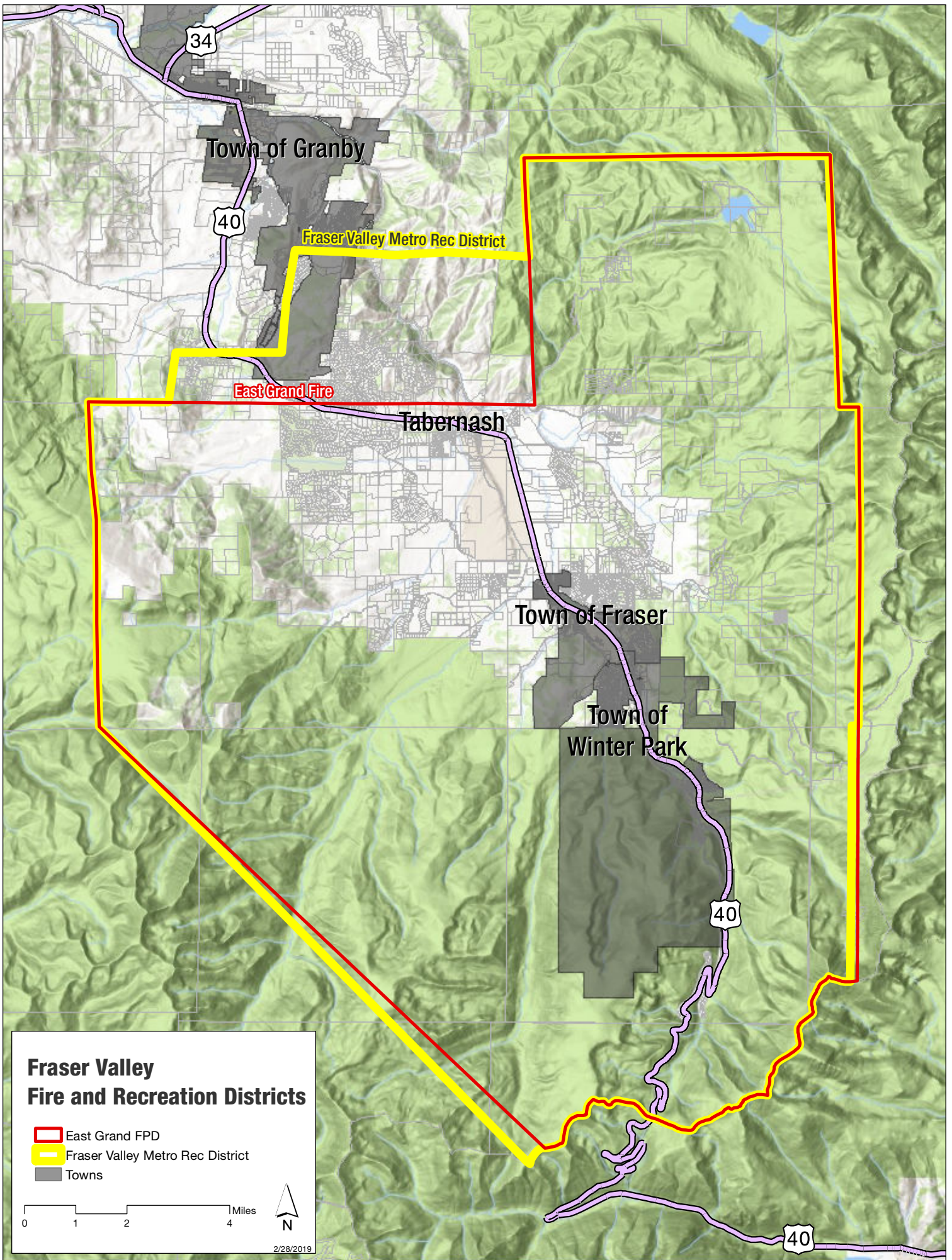
STATE OF _____)
) ss.
COUNTY of _____)

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




My commission expires:

(SEAL)

Notary Public



Fraser Valley Fire and Recreation Districts

-  East Grand FPD
-  Fraser Valley Metro Rec District
-  Towns

0 1 2 4 Miles



2/28/2019