

RIVERFRONT PARK
AFFORDABLE HOUSING PLAN

THIS AFFORDABLE HOUSING PLAN ("Plan") is made effective as of May 15, 2000, by CENTRAL PLATTE VALLEY MANAGEMENT LLC, a Delaware limited liability company ("Developer") as owner of the real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"), which is hereby subjected to this Plan.

RECITALS

A. As owner of the Property, Developer and its affiliates and or purchasers intend to develop a mixed-use commercial and residential neighborhood consisting of various distinct development projects within the Property, such neighborhood to be known as "Riverfront Park." The residential uses within Riverfront Park will consist of both rental apartment units as well as "for sale" units.

B. Pursuant to the Central Platte Valley Planned Unit Development Application No. 4310, 2nd Revised, dated August 15, 1997 (the "PUD Plan"), approved by the City and County of Denver, Colorado (the "City") and relating to the Property, as well as to that certain real property not subject to this Plan nor owned by Developer but subject to the PUD Plan (the "Trillium Property"), a total of two hundred (200) affordable housing units are to be developed on both the Property and the Trillium Property, as follows:

<u>Requirements</u>	<u>Unit Count</u>
Total Number of affordable units required	200
Total number of rental units required	125
Total number of ownership units required	75
Riverfront Park share	83.7% of 200 or 168 units
Trillium share	16.3% of 200 or 32 units
Riverfront Park share of rental:	125*83.7% = 105 units
Riverfront Park share of ownership:	75*83.7% = 63 units

C. Pursuant to this Plan and to the PUD Plan relative to Riverfront Park, Developer has agreed to include within certain of the projects to be constructed within Riverfront Park one hundred sixty-eight (168) units that are designed to be affordable housing units. Of the 168 units designed to be affordable in Riverfront Park, (i) certain rental units are required to be restricted with respect to the amount of rent which may be charged, (ii) the "for sale" units must be restricted with respect to sales price and price appreciation, and (iii) owners and renters of certain units must meet eligibility requirements in order to own or rent such units, all as more particularly described in this Declaration.

D. Developer desires to submit this Plan with respect to the implementation of the covenants creating affordable housing units within Riverfront Park, which Plan the City has reviewed and approved pursuant to that certain letter from the City dated April 25, 2000.

NOW, THEREFORE, Developer hereby submits the following plan:

1. Affordable Housing Units. Developer will construct within Riverfront Park one hundred sixty-eight (168) units that are designed to be affordable (the "Affordable Units"), in satisfaction of the PUD Plan. The obligations of Developer contained herein may be satisfied in part by the construction of Affordable Units within Riverfront Park by persons or entities to whom Developer conveys any portion of the Property.

a. For Sale Units. Sixty-three (63) of the Affordable Units shall be separately subdivided condominium or other units intended for individual ownership by buyers thereof (the "For Sale Units"). The For Sale Units shall be constructed such that each contains a minimum of 850 square feet as calculated using the architectural method of measuring square footage (which the parties acknowledge is a gross square footage calculation which measures from the outside edge of exterior walls to the mid-point of interior walls), together with one parking space, whether assigned or unassigned. Certain restrictions regarding price appreciation, resale and qualifications of owners of the For Sale Units shall apply as more fully described in the Master Covenants (hereinafter defined).

b. Affordable Rental Units. One hundred five (105) of the Affordable Units shall be units within certain rental apartment projects to be constructed within Riverfront Park (the "Affordable Rental Units"). Of the one hundred five (105) such units, seventy-nine (79) shall be restricted as to the amount of rent that may be charged by the owner thereof to any renter and to restrictions regarding qualifications of renters as described in Section 2.d. below. With regard to such one hundred and five (105) Affordable Rental Units, either twenty percent (20%) of such units initially must be made available to persons earning less than fifty percent (50%) of the median family income adjusted by household size (the "20% Option") or forty percent (40%) of the such units must be made available to persons earning less than sixty percent (60%) of the median income adjusted by household size (the "40% Option"). In accordance with the PUD Plan, twenty-six (26) of the Affordable Rental Units (25% of 105 total units) may be rented to persons without regard to income restrictions. The balance of Affordable Rental Units (meaning 58 units under the 20% Option or 37 units under the 40% Option) must be rented to persons earning less than one hundred percent (100%) of the median family income adjusted by household size.

2. Location and Designation of Affordable Units.

a. Initial Plan of Affordable Units. Exhibit B to this Plan contains a list of the various lots within the Property and Developer's initial plan of the number of Affordable Units, whether For Sale Units or Affordable Rental Units, to be included within the various projects currently planned for construction on each such lot. Exhibit B is an initial plan only, and the actual number of Affordable Units constructed upon each lot identified on Exhibit B may change provided the requirements of this Plan are satisfied over the entirety of Riverfront Park and Developer satisfies the general intent of the parties that Affordable Units be spread out over

several lots within Riverfront Park, Exhibit B being an example of an acceptable spread of Affordable Units. Certain lots within the Property will contain no Affordable Units. The authority to change the location of Affordable Units is hereby granted to Developer upon notice and consent of the Director of the Community Planning and Development Agency for the City and County of Denver (the "CPDA") or the Director's designee, which consent will not be unreasonably withheld by the CPDA provided Developer's request for a change continues to comply with and satisfy the intent of the PLD Plan. Owners of lots within Riverfront Park other than Developer shall be obligated to develop the number of Affordable Units as listed on Exhibit B unless the site plan application submitted to the City contains a writing executed by Developer and consented to by the CPDA permitting a change in the number of Affordable Units applicable to a particular lot.

b. *Designation of Affordable Units.* The project to be developed on each lot within Riverfront Park must obtain site plan approval from the CPDA. In connection with Developer's application to the CPDA for site plan approval for a project on any lot within Riverfront Park, Developer shall identify the number of units and which units, if any, within such project are Affordable Units, including, in the case of a rental apartment project, the number of units which are Affordable Rental Units.

c. *For Sale Unit Covenants.* Developer will, within thirty (30) days following the date that each For Sale Unit is created as a separately subdivided parcel of real estate, whether by recording of a condominium map or otherwise, to subject each For Sale Unit to a recorded covenant in the form as attached hereto as Exhibit C and incorporated herein by this reference ("Master Covenants"). Upon recording of the Master Covenants applicable to any lot within Riverfront Park, all units created on such lot which are not subject to the Master Covenants, together with all common elements and other property not subject to the Master Covenants and located on such lot, shall be deemed automatically and fully released from the provisions of this Plan. In the event no Affordable Housing Unit is required on a particular lot, a Memorandum evidencing same recorded in lieu of the Master Covenants will effect a full release of all units and property comprising such lot from the provisions of this Plan. A copy of such Master Covenants or Memorandum, as is applicable, shall be provided to the CPDA promptly following the recording of same in the real property records of the City and County of Denver, Colorado. The CPDA agrees to execute any document or instrument reasonably requested by Developer to evidence the release of property from the provisions of this Plan as described in this Section, although the CPDA reserves the right to consent to the specific form of such document or instrument.

d. *Rental Unit Covenants.* At the time that site plan approval is granted by the City for each project that will contain Affordable Rental Units, and before Developer obtains a building permit for such project, Developer will record against the lot upon which such project will be constructed a covenant in the form described below. With respect to each such project, Developer will, subject to the City's approval and in connection with the site plan approval process, determine the terms and conditions of the affordability covenants applicable to the Affordable Rental Units. The form of the covenant will reflect the applicable restrictions. In the event no Affordable Housing Unit is required on a particular lot, a Memorandum evidencing same recorded in lieu of the affordability covenants will effect a full release of all units and property comprising such lot from the provisions of this Plan. The CPDA agrees to execute any

document or instrument reasonably requested by Developer to evidence the release of property from the provisions of this Plan as described in this Section, although the CDPA reserves the right to consent to the specific form of such document or instrument.

3. Initial Sales.

a. Marketing. With respect to sales of the For Sale Units from Developer to Developer's purchasers (the "Initial Sales"), the Developer, in good faith collaboration with the CPDA, will market the For Sale Units to specific demographic groups within the City and County of Denver. The marketing effort for each project within Riverfront Park that contains For Sale Units will take place for a period of at least thirty (30) days prior to Developer entering into any contracts for the sale of For Sale Units in such project. Criteria for choosing buyers of the For Sale Units with respect to Initial Sales shall generally be as required in the Master Covenants. In the event more than one such eligible buyer is interested in purchasing the same For Sale Unit, Developer, in cooperation with the CDPA, may consider other criteria designed to further the goals of the Plan (i.e., gross assets) in choosing a buyer, may elect a lottery process or may implement another equitable election procedure (i.e., first come, first served).

b. Initial Sales Price. The initial conveyance of each For Sale Unit by Developer to a purchaser from Developer (the "Initial Sale") shall be for a purchase price not to exceed One Hundred Fifty Thousand and No 100 Dollars (\$150,000.00), increased by the percentage increase, if any, of the Hensel Phelps construction cost index for Denver, Colorado, from 1997 to the year in which the closing of the Initial Sale occurs. In order to provide certainty to buyers of For Sale Units, such maximum purchase price may be established at the time a purchase and sale contract is entered into based upon the projected percentage increase, if any, contained in the Hensel Phelps index and the projected closing date. No commission shall be paid to real estate agents or brokers representing purchasers upon the Initial Sale of any For Sale Unit.

4. Miscellaneous.

a. Binding Effect. This Plan shall be binding upon and inure to the benefit of Developer and the City and their respective successors and assigns, subject to Section 2.a above related to the Developer's right to revise Exhibit B.

b. Entire Plan. This Plan, together with any exhibits or documents referred to in or supplied pursuant to the terms of this Plan (all of which are incorporated in this Plan by this reference), contains the entire affordable housing plan relative to Riverfront Park and supersedes any and all prior oral representations, covenants, understandings or other agreements between the parties or their agents.

c. Conveyance of Lots. The City acknowledges that Developer may convey certain parcels of property within Riverfront Park to others for development, and that, in the event of such conveyance, the new owners of the conveyed parcel shall become solely responsible for Developer's obligations under this Plan with respect to such parcels of property conveyed.

d. *Section Headings.* The section headings are inserted only for convenient reference and do not define, limit or prescribe the scope of this Plan.

e. *Governing Law.* This Plan shall be construed under the provisions of Colorado law.

f. *Severability.* If any terms, covenants, or provisions of this Plan shall be illegal or unenforceable for any reason, the same shall not invalidate any other term, covenants, or provisions, and all of the remaining terms, covenants, and provisions shall remain in full force and effect.

g. *Covenants Running With the Land.* All provisions of this Plan shall be deemed to be covenants running with the land or equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Plan shall be binding upon and shall inure to the benefit of Developer and the City and their respective successors, and assigns.

h. *Amendment.* This Plan may be amended, modified or rescinded only upon a writing executed by Developer and the CPDA and recorded in the real property records of the City and County of Denver, Colorado.

i. *Assignment.* All obligations arising under this Plan shall burden Developer as provided herein and its successors and assigns. All rights of Developer and the City as provided herein shall inure to the benefit of Developer and the City and their respective successors and permitted assigns, as follows:

i. It is contemplated that the City may sometime in the future assign its enforcement rights under this Plan to an existing or to-be-formed entity which has as its primary purpose the development or management of affordable housing projects in the Denver metropolitan area or is otherwise qualified to undertake the responsibilities described in this Plan. Any such assignment shall be in writing and recorded in the real property records of the City and County of Denver, Colorado and, upon such recording, the assignee so named in such instrument shall in all instances replace references to the City in this Plan and in the attached Master Covenants.

ii. Developer may assign any of its rights under this Plan to an assign specifically delegated in a writing executed by Developer and recorded in the real property records of the City and County of Denver, Colorado. Developer will forward a copy of any such assignment to the City Attorney's Office promptly following its recording.

EXECUTED on the dates shown below.

DEVELOPER:

CENTRAL PLATTE VALLEY MANAGEMENT
LLC, a Delaware limited liability company

By: East West Resort Development IV, L.L.L.P.,
a Delaware limited liability limited
partnership, Manager

By: HF Holding Corp., a Colorado corporation,
general partner

By: _____
Title: Vice President
Date: 5-16-2000

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 16th day of
May, 2000, by Jim Hill as Vice President
of HF Holding Corp., a Colorado corporation, general partner of East West Resort Development
IV, L.L.L.P., a Delaware limited liability limited partnership, manager of Central Platte Valley
Management LLC, a Delaware limited liability company.

Witness my hand and official seal.

My commission expires: My Commission Expires 03/02/2004



Karen R. Hill
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All of those parcels of land depicted with identifying lot and block numbers on the plat of The Commons Subdivision - Filing No. 1 recorded at Reception No. 2000-85199 in the real property records of the City and County of Denver, Colorado, excluding, however, any public streets depicted thereon.

That certain parcel of land generally known as Parcel 10, and legally described as: Lots 1 through 7, inclusive, and Lots 70 through 76, inclusive, Block 10, Hoyt and Robinsons Addition to Denver, a plat which is on file in the City and County of Denver Clerk and Records Office, situated within the southeast quarter of Section 28, Township 3 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, Colorado.

EXHIBIT B**INITIAL PLAN OF AFFORDABLE HOUSING UNITS**

The lots and blocks described herein refer to that certain subdivision map for The Commons Subdivision Filing No. 1 recorded at Reception No. ~~2000-85197~~ in the real property records of the City and County of Denver, Colorado.

Phase One Development

Lot	Block	Estimated Number of Residential Units*	Estimated Affordable For Sale Units	Estimated Affordable Rental Units
2	1	103	0	0
3	2	240	0	24
2	4	58	6	0
2	3	50	0	0
1	5	71	7	0
2, Block 7 and Block 8 combined		370	0	37
Sub-Total		892	13	61

Future Development

Lot	Block	Estimated Number of Units*	Estimated Affordable For Sale Units	Estimated Affordable Rental Units
1	1	93	6	6
1	2	93	6	0
2	2	93	6	0
1	3	323	0	18
1	4	77	0	0
2	5	31	2	0
3	5	7	0	0
1	6	94	6	0
2	6	52	3	0
4	5	37	2	0
5	5	61	3	0
1	7	114	6	0
Parcel 10**		186	10	0
Sub-total		1,261	50	18
TOTAL		2,153	63	79

Total Affordable Units Subject to Restrictions	142
Affordable Rental Units Not Subject to Restrictions	26
Total Affordable Units	168

*Nothing herein should be construed as in any way limiting the development rights applicable to a particular lot and reference should be made solely to the PUD Plan with respect to restrictions on development rights.

**Legal description for Parcel 10 is as follows: Lots 1 through 7, inclusive, and Lots 79 through 76, inclusive, Block 10, Hoyt and Robinsons Addition to Denver, a plat which is on file in the City and County of Denver Clerk and Records Office, situated within the southeast quarter of Section 28, Township 3 South, Range 68 West of the 6th Principal Meridian, City and County of Denver, Colorado.

EXHIBIT C
MASTER COVENANTS

**MASTER COVENANT
FOR THE OCCUPANCY AND RESALE OF
UNITS _____, [PROJECT NAME]**

THIS MASTER COVENANT FOR THE OCCUPANCY AND RESALE OF UNITS
_____, [PROJECT NAME] (the "Covenant") is made and entered into this _____ day of _____, 200____, by [DEVELOPER ENTITY] (the "Declarant"), and enforceable by the CITY AND COUNTY OF DENVER, COLORADO, or its designee (the "City").

WITNESSETH:

WHEREAS, Declarant owns the real property described as follows:

Condominium Units _____, [PROJECT NAME], according to the Condominium Declaration for [PROJECT NAME] recorded in Book _____ at Page _____, under Reception No. _____, and the Condominium Map of [PROJECT NAME] recorded in Book _____ at Page _____, under Reception No. _____, in the real estate records of the City and County of Denver, Colorado

(collectively, the "Affordable Units" and each such unit, individually, an "Affordable Unit").

WHEREAS, [PROJECT NAME] is subject to a certain Riverfront Park Affordable Housing Plan recorded _____, 200____ at Reception No. _____ in the real property records of the City and County of Denver, Colorado (the "Affordable Housing Plan") and Declarant has executed and recorded this Covenant in satisfaction of its obligations with respect to [PROJECT NAME] arising under the Affordable Housing Plan, whereupon all units within [PROJECT NAME] not subject to this Covenant are hereby released from the provisions of the Affordable Housing Plan pursuant to Section 2.e thereto.

WHEREAS, Declarant agrees to restrict the acquisition or transfer of the Affordable Units to Eligible Buyers as that term is defined in this Covenant. In addition, the Declarant agrees that this Covenant shall constitute a resale restriction setting forth the maximum sales price for which each Affordable Unit may be sold, the amount of appreciation and the terms and provisions controlling the resale of the Affordable Units should a subsequent owner of an Affordable Unit desire to sell his or her interest in the Affordable Unit at any time after the date of this Covenant. Finally, by this Covenant, Declarant agrees to restrict the Affordable Units against use and occupancy inconsistent with this Covenant.

NOW, THEREFORE, for consideration hereby acknowledged by Declarant, Declarant hereby represents, covenants and declares as follows:

1. Definitions. The following terms shall have the following meanings when used in this Covenant:

(a) "CPI-U" means the most recent United States Department of Labor (Bureau of Labor Statistics) Consumer Price Index for All Urban Consumers for the consolidated

metropolitan statistical area which includes the City. In the event that the CPI-U is substantially changed, re-named, or abandoned by the United States Government, then in its place shall be substituted the index established by the United States Government that most closely resembles the CPI-U.

(b) "Eligible Buyer" means a natural person with a Maximum Gross Monthly Income such that the Proposed Monthly Housing Expense for a Maximum Loan at the Current Market Interest Rate equals 28% of such Maximum Gross Monthly Income. This definition of Eligible Buyer is to be used solely to calculate the maximum income level of buyers eligible to purchase an Affordable Unit and shall not be construed as in any way limiting the type of lending program or loan terms which an Eligible Buyer may accept to finance the purchase of an Affordable Unit.

Example:

Sales Price \$180,524	HOA Dues \$2,000 yr.	Est. Taxes \$1,500 yr.	Private Mtg. Ins. .78% yr.
Loan Amount (95%)	\$171,500	Interest Rate	8.125%
Principal and Interest		\$ 1,273.38	
H.O.A.		\$ 166.67	
Est. Taxes		\$ 125.00	
Private Mtg. Ins.		\$ 111.48	
Proposed Monthly Housing Expense		\$ 1,676.53	
Maximum Gross Monthly Income		\$ 5,987.61	(\$1,676.53 .28)
Maximum Annual Income:		\$71,851.00	

(c) "Market Interest Rate" means the Fannie Mae yield on 30-year mortgage commitments (priced at par) for delivery within thirty (30) days, rounded up to the nearest .125 of 1.00% as of the first business day of the month (printed in the Wall Street Journal).

(d) "Maximum Gross Monthly Income" means the pre-tax income from all acceptable sources as defined in the Fannie Mae Seller Servicer Guide.

(e) "Maximum Loan" means 95% of the purchase price for the applicable For Sale Unit.

(f) "Owner" means the Declarant and any subsequent buyer, devisee, transferee, grantee, owner or holder of title of any Affordable Unit.

(g) "Proposed Monthly Housing Expense" means the total of the principal and interest, private mortgage insurance, homeowners association dues and 1/12th of estimated real property taxes.

(h) "Transfer" means any sale, assignment or transfer that is voluntary, involuntary or by operation of law (whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in an Affordable Unit, including, but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, or any interest evidenced by a land contract by which possession of an Affordable Unit is transferred and the Owner obtains title.

2. Transfer Subject to Covenant. Declarant and each subsequent Owner of each of the Affordable Units hereby covenant and agrees that the Affordable Units shall be used, occupied and Transferred strictly in conformance with the provisions of this Covenant for so long as this Covenant remains in force and effect with respect to each such Affordable Unit. Each Owner who takes title from Declarant and every subsequent Owner of each Affordable Unit shall execute and record the Memorandum of Acceptance attached hereto as Exhibit A (completed with the appropriate information relating to the Affordable Unit and such Owner) with such Owner's deed to his or her Affordable Unit in the real property records of the City and County of Denver, Colorado.

3. Use and Occupancy. An Owner (other than Declarant), in connection with the purchase and ownership of an Affordable Unit, must:

(a) occupy the Affordable Unit as his or her sole, exclusive and permanent place of residence during the time that such Affordable Unit is owned by such Owner. A permanent residence shall mean the home or place in which one's habitation is fixed and to which one, whenever he or she is absent, has a present intention of returning after a departure or absence therefrom, regardless of the duration of the absence. In determining what is a permanent residence, the following circumstances relating to the Owner shall be taken into account: business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse and children, if any, location of personal and real property, and motor vehicle registration;

(b) not engage in any business activity on or in such Affordable Unit, other than permitted under applicable zoning ordinances and the condominium declaration governing the Affordable Unit; and

(c) not permit any use or occupancy of such Affordable Unit except in compliance with this Covenant during the period of such Owner's ownership of the Affordable Unit.

4. Initial Sale Price. The initial Transfer of each Affordable Unit by Declarant to a purchaser from Declarant (the "Initial Sale") shall be for a purchase price of _____ and No 100 Dollars (\$_____), increased, however, with respect to Initial Sales occurring in the year(s) following the year of this Agreement pursuant to the

following formula: One Hundred Fifty Thousand and No 100s Dollars (\$150,000.00) increased by the percentage increase, if any, of the Hensel Phelps construction cost index for Denver, Colorado, from 1997 to the year in which the closing of the Initial Sale occurs.

5. Maximum Sales Price.

(a) During the time that this Covenant is in effect, but excluding the Transfer pursuant to the Initial Sale, no Affordable Unit may be Transferred for more than an amount calculated in accordance with this Subsection 5(a) (the "Maximum Sales Price"), as follows:

(i) Start with the purchase price paid for the Affordable Unit by the selling Owner upon such Owner's acquisition of the Affordable Unit (the "Prior Purchase Price"), which Prior Purchase Price may include all reasonable and customary expenses of the purchase incurred at the time of purchase by the selling Owner as evidenced by a title company settlement sheet;

(ii) For each year from the date that the selling Owner acquired the Affordable Unit until the date of closing of the selling Owner's Transfer of the Affordable Unit, multiply the Prior Purchase Price by the greater of (A) one-half (1/2) of the percentage increase in the most recent CPI-U for such year or (B) three percent (3%). Any such increase shall be prorated for any partial years and shall not be compounded;

(iii) Each such year add the product of the multiplication described in (ii) to the Prior Purchase Price; and

(iv) Add the amount of any real estate brokerage commission, if any, to be actually paid by the selling Owner upon the Transfer of the Affordable Unit.

THE MAXIMUM SALES PRICE IS ONLY AN UPPER LIMIT ON PRICE APPRECIATION FOR EACH AFFORDABLE UNIT, AND NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION, WARRANTY OR GUARANTEE BY THE DECLARANT OR THE CITY THAT UPON TRANSFER THE OWNER SHALL OBTAIN THE MAXIMUM SALES PRICE.

(b) A selling Owner shall not permit any prospective buyer to assume any or all of the selling Owner's customary closing costs nor accept any other consideration which would cause an increase in the purchase price above the Maximum Sales Price, and all such additional consideration, in any form, shall be considered by the City's Community Development Agency ("CDA") when determining whether the purchase price for the Affordable Unit exceeds the Maximum Sales Price.

(c) Example The following is a hypothetical calculation of the Maximum Sales Price associated with one Affordable Unit:

\$181,000.00 as Previous Purchase Price (including customary expenses of purchase)
on December 31, 2001

+ \$ 5,430.00 (3% increase for year 2002)

= \$ 2,715.00 (3% increase for 6 months in year 2003) for planned June 30, 2003 sale
= \$189,145.00

= \$ 13,240.00 (7% brokerage commission)

= \$202,385.00 Maximum Sales Price for June 30, 2002 sale

6. Transfer of Affordable Unit.

(a) In the event that an Owner (other than Declarant, it being understood and agreed that the provisions of this Section 6 shall not apply to Declarant's Initial Sales) desires to sell the Affordable Unit owned by such Owner, the Owner shall provide notice of such Owner's intent to sell at least ten (10) days prior to engaging a broker to list the Affordable Unit for sale. The CDA may keep a list of interested purchasers and may provide same to any selling Owner in the CDA's discretion.

(b) After providing the notice required in Subsection 6(a), the selling Owner may list the Affordable Unit for sale with a real estate agent licensed in the State of Colorado or the selling Owner may market the Affordable Unit as a so-called "for sale by owner", and may enter into a contract for the sale of the Affordable Unit upon such terms and conditions as the selling Owner shall, in the selling Owner's sole discretion, deem acceptable, provided, however, that:

(i) the purchase price shall not exceed the Maximum Price;

(ii) the selling Owner must believe in good faith that the purchaser is an Eligible Buyer and that the purchase price does not exceed the Maximum Sales Price; and

(iii) the contract must state as a contingency that the purchaser will submit the application described in Subsection 6(c) below to the CDA within three (3) days after contract acceptance, and that the selling Owner's obligations under the contract are expressly contingent upon the City's determination that the purchaser is an Eligible Buyer and that the purchase price does not exceed the Maximum Sales Price as evidenced by issuance of the Certificate described in Subsection 6(c) below.

(c) Within three (3) days after contract acceptance (defined as the date of last execution of the contract by the purchaser or the selling Owner), the purchaser shall complete and submit an application form to the City requesting a determination that the purchaser is an Eligible Buyer and that the purchase price does not exceed the Maximum Sales Price. The CDA shall promulgate the form of such application, which shall request only such information as is necessary to determine whether the purchaser is an Eligible Buyer and whether the purchase price exceeds the Maximum Sales Price. The City shall make its Determination within ten (10) days after receipt of the completed application, as evidenced either by (A) the issuance of a certificate, signed by the City and in recordable form, stating that the purchaser is an Eligible

Buyer, the amount of the purchase price and that the purchase price does not exceed the Maximum Sales Price (the "Certificate"); or (B) delivering a notice to seller and purchaser that a Certificate cannot be issued and stating the reason(s) therefor. Failure by the City to make its determination and deliver the Certificate or the notice as described above within the 10-day period will be deemed an approval of the purchaser and the purchase price, and the City shall thereafter issue a Certificate with respect to the transaction immediately upon request therefor by the selling Owner or the purchaser.

(d) Upon the Transfer of the Affordable Unit, the Certificate shall be recorded in the real estate records of the City and County of Denver, Colorado, along with the deed for the Affordable Unit, and if the Certificate is not so recorded, then the Transfer shall be voidable at the option of the City.

7. No Rental of Affordable Units. An Owner may not rent such Owner's Affordable Unit for any period of time. The requirements of this Section shall not preclude an Owner from sharing occupancy of the Affordable Units or Affordable Unit with non-owners on a rental basis provided Owner continues to reside in the Affordable Unit and to meet the obligations contained in this Covenant.

8. Remedies in the Event of Breach.

(a) In the event that the CDA has reasonable cause to believe that an Owner is violating the provisions of this Covenant, the CDA, by its authorized representative, may inspect the Affordable Unit owned by such Owner between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing such Owner with no less than twenty-four (24) hours advance written notice.

(b) In the event a violation of this Covenant is discovered, the City shall send a notice of violation to the Owner detailing the nature of the violation and allowing the Owner fifteen (15) days to cure such default. Said notice shall state that the Owner may request a hearing before the City within fifteen (15) days 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 Covenant. If a hearing is held before the City, the decision of the City based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

(c) There is hereby reserved to the City the right to enforce this Covenant, including any and all remedies provided by law for breach of this Covenant or any of its terms, including, but not limited to, disgorgement of profits received by the selling Owner over the Maximum Sales Price, specific performance of this Covenant, and or a mandatory injunction requiring sale of an Affordable Unit by the Owner thereof. The costs of such sale shall be assessed against the proceeds of the sale with the balance being paid to the Owner. In the event the City resorts to litigation with respect to any or all provisions of this Covenant and the City prevails, the City shall be entitled to recover damages and costs, including reasonable attorneys' fees.

(d) In the event any Affordable Unit is Transferred in a manner that is not in full compliance with the terms and conditions of this Covenant, such Transfer shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Each and every Transfer of an Affordable Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, regardless of reference therein to this Covenant.

9. Release of Covenant in Foreclosure; City's Option to Buy.

(a) The City, pursuant to the process and rights described in Subsection 9 (b) below (the "Option to Buy"), shall release this Covenant of record and waive its ability to enforce the provisions of this Covenant with respect to a particular Affordable Unit in the event of foreclosure or the acceptance of a deed in lieu of foreclosure with respect to such Affordable Unit by a holder of a first priority deed of trust against the Affordable Unit (the "First Lien Holder") (which shall be the only party entitled to take the Affordable Unit free of this Covenant pursuant to the provisions of this Section 9), provided that the First Lien Holder taking title to such Affordable Unit by foreclosure or acceptance of a deed in lieu of foreclosure, pursuant to the terms and conditions of the Option to Buy, grants to the CDA the option to acquire the Affordable Unit within thirty (30) days after conveyance of title to the Affordable Unit by public trustee's deed or deed in lieu of foreclosure. In the event that the CDA exercises the option pursuant to the terms of the Option to Buy, the CDA or its designee may sell the Affordable Unit to Eligible Buyers, or rent the Affordable Unit until such time that the Affordable Unit can be sold to an Eligible Buyer in accordance with this Covenant.

(b) In the event of (A) a foreclosure by the First Lien Holder (including assigns of the First Lien Holder), and subject to the issuance of a public trustee's deed to the First Lien Holder following the expiration of all statutory redemption rights, or (B) the taking by the First Lien Holder of title to the Affordable Unit by deed in lieu of foreclosure and the giving of notice by the First Lien Holder to the CDA as provided in Paragraph (i) below, the CDA shall have the option to buy the Affordable Unit which shall be exercised in the following manner:

(i) The First Lien Holder shall give such notice to the CDA as is required by law for lien holders in the foreclosure proceeding to the address of the CDA as provided in this Covenant with a copy to the City's attorneys' office. In the event that the First Lien Holder takes title to the Affordable Unit pursuant to a deed in lieu of foreclosure, the First Lien Holder shall give notice to the CDA with a copy to the City Attorney's Office upon the vesting of title to the Affordable Unit in First Lien Holder.

(ii) The CDA shall have 30 days after (A) in the case of a foreclosure, issuance of the public trustee's deed, or (B) in the case of a deed in lieu of foreclosure, the CDA's receipt of the notice required in such event pursuant to Paragraph (i) above, in which to exercise this Option to Buy by tendering to the First Lien Holder, in cash or certified funds, an amount equal to the redemption price which would have been required of the Owner or any person who might be liable upon a deficiency on the last day of the statutory redemption period(s) and any additional reasonable costs incurred by the First Lien Holder during the option period which are directly related to the foreclosure or deed in lieu of foreclosure.

(iii) Upon receipt of the option price, the First Lien Holder shall deliver to the CDA a special warranty deed conveying fee simple title in and to the Affordable Unit to the CDA, in which event this Covenant shall remain valid and in full force and effect. The First Lien Holder shall convey only such title as it is received through the public trustee's deed or the deed in lieu of foreclosure and will not create or participate in the creation of any additional liens or encumbrances against the Affordable Unit following issuance of the public trustee's deed or the deed in lieu of foreclosure to the First Lien Holder. The First Lien Holder shall not be liable for any of the costs of conveyance to the CDA or its designee.

(iv) In the event that the First Lien Holder is issued a public trustee's deed or takes title to the Affordable Unit pursuant to a deed in lieu of foreclosure and thereafter offers the Option to Buy to the CDA and the CDA does not exercise the option, as provided herein, the City shall cause to be recorded in the records of the Clerk and Recorder of the CDA and County of Denver, Colorado, a full and complete release of this Covenant as it affects the Affordable Unit only. Such release shall be placed of record within thirty (30) days after demand therefor by the First Lien Holder following expiration of the option and a certified copy of the release shall be mailed to the First Lien Holder upon its recordation.

(v) If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by the Option to Buy shall be unlawful or void for violation of: (A) the rule against perpetuities or any 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 City Council of the City and County of Denver, Colorado, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.

10 Covenant Running with Land; Duration of Covenant.

(a) The terms of this Covenant shall constitute covenants running with the Affordable Units, as a burden thereof, for the benefit of, and shall be specifically enforceable by the City and its successors and assigns, as applicable, by any appropriate legal action including but not limited to specific performance, injunction, reversion or eviction of non-complying Owners and or occupants.

(b) This Covenant shall terminate, expire and be of no further force and effect with respect to a particular Affordable Unit following the first Transfer of said Affordable Unit that occurs more than twenty (20) years after the date that this Covenant is placed of record in the Office of the Clerk and Recorder of the City and County of Denver, Colorado. However, upon the first Transfer of an Affordable Unit occurring later than twenty (20) years after the date that this Covenant is recorded (the "First Transfer For Value"), this Covenant shall remain in full force and effect for purposes of this Section 10(b) only, with all other provisions of this Covenant being of no further force or effect. Accordingly, the First Transfer For Value may be effected at the then fair market value of the Affordable Unit to any purchaser, whether or not an Eligible Buyer; provided, however, that all amounts paid by the buyer of such Affordable Unit in excess of the Maximum Sales Price that would have otherwise applied under Section 5 hereinabove shall be divided and paid over at the closing of the First Transfer For Value and

from the proceeds thereof in the following proportions to the following parties: (i) twenty-five percent (25%) to the selling Owner of the Affordable Unit; (ii) twenty-five percent (25%) to Declarant; and fifty percent (50%) to the City, provided that the amount paid to the City shall be used only for future affordable housing initiatives by the City.

11. Miscellaneous.

(a) Notices. Any notice, consent or approval which is required or permitted to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with posting 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 Covenant.

Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Declarant:	[DEVELOPMENT ENTITY] 1443 Larimer Square Denver, Colorado 80202
To the City:	The City and County of Denver c/o Community Planning and Development Agency 200 W. 14th Avenue, Room 203 Denver, Colorado 80204
To CDA:	Community Development Agency 216 16th Street, Suite 400 Denver, Colorado 80202
with a copy to:	City of Denver Attorney's Office 1437 Bannock Street, Room 353 Denver, Colorado 80202
To the Owner:	To be determined pursuant to the Memorandum of Acceptance (as shown on <u>Exhibit A</u>) recorded with respect to each Transfer of an Affordable Unit.

(b) Exhibits. All exhibits attached hereto are incorporated herein and by this reference made a part hereof.

(c) Severability. Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision 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 such documents.

(d) *Choice of Law.* This Covenant and each and every related document are to be governed and construed in accordance with the law of the State of Colorado.

(e) *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.

(f) *Section Headings.* Paragraph or section headings within this Covenant 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.

(g) *Waiver.* No claim of waiver, consent or acquiescence with respect to any provision of this Covenant shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Covenant. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

(h) *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.

(i) *Personal Liability.* Owner agrees that he or she shall be personally liable for any of the transactions contemplated herein.

(j) *Further Actions.* The parties to this Covenant 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 Covenant or any restriction or document relating hereto or entered into in connection herewith.

(k) *Modifications.* The parties to this Covenant agree that any modifications of this Covenant shall be effective only when made by writings signed by both parties and recorded with the Clerk and Recorder of the City and County of Denver, Colorado.

(l) *Owner and Successors.* The term Owner shall mean the person or persons who shall acquire an ownership interest in an Affordable Unit in compliance with the terms and provisions of this Covenant; it being understood that such person or persons shall be deemed an Owner hereunder only during the period of his, her or their ownership interest in the Affordable Unit and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period.

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

DECLARANT:

[DEVELOPMENT ENTITY], a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me, this _____ day of _____, 200____, by _____ as _____ of [DEVELOPMENT ENTITY], a Delaware limited liability company.

Witness my hand and official seal.
My commission expires: _____.

Notary Public

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ACCEPTANCE BY THE CITY AND COUNTY OF DENVER

The foregoing Master Covenant for the Occupancy and Resale of Units _____, [PROJECT], and its terms are hereby approved, agreed to, adopted and declared by the City and County of Denver, Colorado.

CITY AND COUNTY OF DENVER, COLORADO

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this _____ day of _____, 200____, by _____ as _____ of the City and County of Denver, Colorado.

Witness my hand and official seal.
My commission expires: _____

Notary Public

EXHIBIT A

Memorandum of Acceptance

**MEMORANDUM OF ACCEPTANCE
OF
MASTER COVENANTS
FOR THE OCCUPANCY AND RESALE OF
UNITS _____, [PROJECT]**

WHEREAS, _____, the Buyer, is purchasing from _____, the Seller, at a price of \$ _____, a condominium unit described as:

Condominium Unit _____, [PROJECT], according to the Condominium Declaration for [PROJECT] recorded in Book _____ at Page _____, under Reception No. _____, and the Condominium Map of [PROJECT] recorded in Book _____ at Page _____, under Reception No. _____, in the real estate records of the City and County of Denver, Colorado (the "Unit"); and

WHEREAS, the Seller of the Unit is requiring as a prerequisite to the sale transactions, that the Buyer acknowledge and agree to the terms, conditions and restrictions found in that certain instrument entitled "Master Covenant for The Occupancy and Resale of Units _____, [PROJECT]", recorded on _____, 2000, in Book _____ at Page _____, under Reception No. _____, in the real property records of the City and County of Denver, Colorado (the "Master Covenant").

NOW, THEREFORE, as an inducement to the Seller to sell the Unit, the Buyer:

1. Acknowledges that Buyer has carefully read the entire Master Covenant, has had the opportunity to consult with legal and financial counsel concerning the Master Covenant and fully understands the terms, conditions, provisions, and restrictions contained in the Master Covenant. **Resale may be restricted and profits may be required to be shared after the termination of this Covenant.**

2. Notice to Buyer, pursuant to Subsection 11(a) of the Master Covenant, should be sent to:

3. Directs that this memorandum be placed of record in the real estate records of the City and County of Denver, Colorado.

BUYER(S):

The foregoing instrument was acknowledged before me this _____ day of _____, by _____.

My commission expires: _____

Denver - 85199-2000