



**SECOND AMENDMENT TO THE AMENDED AND RESTATED AFFORDABLE
HOUSING DEED RESTRICTION**

THIS SECOND AMENDMENT TO THE AMENDED AND RESTATED AFFORDABLE HOUSING DEED RESTRICTION ("Deed Restriction") is executed this 19th day of May, 2020, by the Town of Mt. Crested Butte, Colorado, a Colorado home rule municipality, (the "Beneficiary"). This Second Amendment amends paragraph 6.3 of the First Amended and Restated Affordable Housing Deed Restriction pursuant to paragraph 8.7 of this Deed Restriction.

1. Property Subject to Deed Restriction. The following real property ("Real Property") is hereby made subject to these Affordable Housing Restrictions ("Restrictions"):

**Lots 1 through 39, Prospect Homestead Subdivision, according to the Plat
County, Colorado,**

**Town of Mt. Crested Butte,
County of Gunnison,
State of Colorado.**

Townhome units (each a "Unit" and collectively the "Units") are being constructed on the Real Property. Pursuant to Exhibit 2 to that certain Contract to Buy, Sell, and Develop Deed Restricted Housing in the Homestead Subdivision, dated November 21, 2018, and recorded in the Office of the Gunnison County Clerk and Recorder at reception number 658307. Each Unit on the Real Property has been designated an income and net worth category of 1 through 4.

2. Qualified Individuals.

2.1 The use and occupancy of the Units shall be exclusively limited to housing for natural persons where at least one member of the household meets the definition of a "Qualified Individual", as defined in section 2.2 below. The Gunnison Valley Regional Housing Authority, or any comparable governmental agency selected by The Town of Mt. Crested Butte, Colorado responsible for the administration of affordable housing ("Housing Agency") shall determine which individuals meet the definition of Qualified Individuals and shall enforce the terms and conditions of these Affordable Housing Restrictions.

2.2 A Qualified Individual is a natural person who meets all of the following qualifications:

2.2.1 Has resided in Gunnison County, Colorado, for at least the immediately preceding one year; and

2.2.2 Is employed in Gunnison County, Colorado, works at least 30 hours per week on average, annually, and earns at least eighty percent (80%) of their adjusted total income from a business, government, or organization operating in and/or serving the County and its residents; and



2.2.3 Has a net worth less than the following amounts:

Category 1	\$122,000.00
Category 2	\$243,000.00
Category 3	\$365,000.00
Category 4	\$487,000.00

Net worth, as defined in this section 2.2.3, shall not include personal retirement plans or accounts. The amounts shall be adjusted annually by the change in the Consumer Price Index Denver-Boulder-Greeley (CPI-U), published by the U. S. Department of Labor, Bureau of Labor Statistics.

2.2.4 Will occupy the Unit as his or her primary residence. The occupant shall be deemed to have ceased to use the Unit as his or her primary residence by accepting permanent employment outside of Gunnison County, or residing in the Unit for fewer than nine (9) months out of any twelve (12) months.

2.2.5 Has a combined household income level set forth below which is within the range of percentages of the median household income for Gunnison County as published annually by the Department of Housing and Urban Development, as adjusted for household size ("AMI"), for the Unit which the person desires to be considered eligible for:

Category 1	< 80% AMI
Category 2	81% to 120% AMI
Category 3	121% to 160% AMI
Category 4	161% to 200% AMI

2.2.7 Qualified individuals are not permitted to own other improved residential real estate in or out of Gunnison County. Improved residential real estate includes stick-built homes and mobile and manufactured housing on a permanent foundation or with utilities. If such property is owned, the purchaser must list for sale, the residential real estate or mobile home prior to closing on the Unit and must still meet the asset/income limitations as set forth in 2.2 herein. Upon sale, a copy of the recorded warranty deed must be provided to the Housing Agency. If they property is not sold by the time of closing on the unit, it must remain actively listed and marketed until sold.

2.3 In order to be approved as a Qualified Individual, a person must establish by competent evidence that they meet the above qualifications contained in section 2.2. Evidence that is acceptable to establish such qualifications includes, but is not limited to, the following:

2.3.1 Rent receipts, record of mortgage payments, utility receipts, voter



registration records, and payroll records.

2.3.2 Income tax returns with all schedules.

2.3.3 Sworn affidavits regarding net worth, property ownership and/ or tax roll records, with supporting copies of deeds or bank statements, or account information.

2.3.4 Any other evidence deemed acceptable under the Housing Agency Guidelines, as amended.

2.4 Any person who seeks to be approved as a Qualified Individual shall submit an application therefor upon forms to be provided by the Housing Agency. The Housing Agency shall either approve or disapprove such applicant in writing as a Qualified Individual, stating the reason for any disapproval, within fifteen (15) working days of its receipt of the completed application and documentary evidence of the applicant's qualifications as a Qualified Individual. Person(s) must be determined to be a Qualified Individual prior to making any offer to purchase a unit. If an applicant is disapproved as a Qualified Individual, he may seek a hearing before the Housing Agency Board, as hereinafter provided.

2.5 The Beneficiary or The Developer, including any of its successors and assigns, will be deemed to satisfy the requirements of section 2.1 to own the Property as long as the Units within the Property are rented for 6 months or more to one or more Qualified Individuals that meet only the requirements of section 2.2.2 and 2.2.4. Prior to the initial sale of any units to a third party, the Beneficiary may purchase a maximum of 4 units each.

2.6 The Beneficiary, the Housing Agency, any special district operating and performing services in Mt. Crested Butte, Colorado, or any business owner in the Town of Mt. Crested Butte, Colorado or the Town of Crested Butte, Colorado will be considered a Qualified Individual as long as the Units within the Property are rented exclusively for 6 months or more to Qualified Individuals as defined in section 2.2. A business owner in Mt. Crested Butte or Crested Butte is defined as a business which holds a business license or sales tax license issued by the Town of Mt. Crested Butte or the Town of Crested Butte, Colorado.

2.7 Any Qualified individual who is an owner or tenant of a Unit is required to comply with annual certifications to the Housing Agency that they are in compliance with the requirements of this Deed Restriction. The Developer and Beneficiary acknowledge and recognize that the net worth and income of a Qualified Individual may increase over time. Nevertheless, in order to remain a Qualified Individual, net worth and income may not exceed Category 4 as defined herein.

3. **PREFERENTIAL OCCUPANTS.** "Preferential Occupant" means a Qualified Individual who also is one of the following categories of persons, which persons shall be given preference under section 4.2 according to the following categories in order of priority:



3.1 First, the Beneficiary, employees of the Beneficiary, or the operator of Crested Butte Mountain Resort, or their affiliates,

3.2 Second, employees of the Reserve Metropolitan Districts.

3.3 Third, an employee of a business owner in Mt. Crested Butte or self-employed person working in Mt. Crested Butte, Colorado or employees of a special district operating and performing services in Mt Crested Butte.

3.4 Fourth, an employee or business owner in the Town of Crested Butte, Colorado or self-employed person working in the Town of Crested Butte, Colorado.

3.5 Fifth, employee or self-employed person working in Gunnison County north of the intersection of County Road 813 (Jack's Cabin cut-off road) and Highway 135.

4. SALE AND RESALE LIMITATIONS

4.1 The Units may be sold only to an approved Qualified Individual, as defined in these Restrictions.

4.2 Preferential Occupants shall be considered prior to other Qualified Individuals in the sale of units if there is a waiting list or in the event that multiple offers are received.

4.3 The maximum initial sales prices of a Unit by a developer shall be calculated according to the Mt. Crested Butte Community Housing Guidelines, based upon the following assumptions:

- 4.3.1 95% loan to value ratio for Category 1 and Category 2 and 90% loan to value for Category 3 and 4, based upon a 30-year mortgage using a 10-year average of Federal Home Loan Mortgage Corporation (Freddie Mac) average annual rates.
- 4.3.2 Principal and interest, taxes, and homeowners' association dues cannot exceed 30% of the gross monthly household income. 10% shall be deducted from the 30% for taxes and insurance.
- 4.3.3 The down payment shall be a minimum of 5% for Category 1 and Category 2, and a minimum of 10% for Category 3 and Category 4.
- 4.3.4 The upper threshold of each Category shall be used in calculating the maximum initial sales price. (Category 1 = 80% AMI, Category 2 = 120% AMI, Category 3 = 160% AMI, Category 4 = 200% AMI)
- 4.3.5 The following household sizes shall correspond to the configuration of the Units:

Household Size

Bedroom Configuration



1	Studio, 1 Bedroom, 2 Bedroom
2	Studio, 1 Bedroom, 2 Bedroom, 3 Bedroom
3	2 Bedroom, 3 Bedroom
4 or more	3 Bedroom, 4 Bedroom

4.4 After the initial sale of a Unit by the Developer to a Qualified Individual, no subsequent sale of the Unit shall be for an amount greater than the "Maximum Sales Price".

4.5 The Maximum Sales Price shall be the aggregate of the following amounts:

4.5.1 The seller's purchase price of the Unit;

4.5.2 An amount equal to 3 per cent per annum of the seller's purchase price, prorated at the rate of 0.25 per cent per month from the date of seller's purchase of the Unit to the date of seller's sale of the Unit;

4.5.3 An amount equal to the actual cost incurred by seller in making improvements to the Unit which are eligible to add to the seller's basis in the Unit pursuant to the Internal Revenue Code up to a maximum of 10% of the seller's cost of the Unit.

4.6 Prior to the listing for sale of a Unit, the seller shall obtain confirmation from the Housing Agency that the sales price of the Unit does not exceed the Maximum Sales Price. The seller shall submit to the Housing Agency a copy of the proposed sales contract for the Unit, verified by affidavit of the seller, as being a true and correct copy, and a calculation of the Maximum Sales Price accompanied by evidence of the cost of any improvements which seller believes qualify for inclusion in the Maximum Sales Price. At a minimum, seller shall submit receipts to verify the costs of the improvements and affidavit verifying that the receipts are valid and correct and represent costs actually paid by seller at the time the improvements were made, and a copy of any building permit required for the improvement.

4.7 The seller shall provide the Housing Agency with a copy of an executed sales contract within 10 days of accepting such offer to purchase. Such offer to purchase must comply with all terms of this Deed Restriction.

4.8 The seller, and not the buyer, shall be responsible for the cost of the title insurance policy, including owner's extended coverage. In addition, seller shall not accept any other consideration which would cause an increase in the sales price of the Units, above the Maximum Sales Price so as to induce the seller to sell the Unit to such buyer.

4.9 NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTEE THAT UPON SALE OF THE UNIT, THE SELLER SHALL OBTAIN THE MAXIMUM SALES PRICE.



5. OWNERSHIP AND RENTAL

5.1 After the initial sale of the Unit, each subsequent owner of the Unit, by acceptance of a deed thereto, represents and warrants that the Unit shall be used only as his or her sole and exclusive place of residence at all times during his or her ownership of the unit, and he or she is and shall remain a Qualified Individual.

5.2 It is agreed that in the event an owner ceases to have the qualifications of a Qualified Individual, or if the owner changes his or her place of domicile or ceases to use the Unit as his or her sole and exclusive place of residence, the Unit will be offered for sale and will be sold to a Qualified Individual as provided herein. While the property is listed for sale, the owner may rent the Unit to a Qualified Individual as described in paragraph 5.4 below. An owner shall be deemed to have changed domicile by becoming a resident elsewhere, accepting permanent employment outside of Gunnison County, Colorado, or residing in the Unit fewer than nine months per calendar year, without the express written consent of the Housing Agency.

5.3 In the event that title to the Unit vests by descent in individuals and/or entities who are not Qualified Individuals, as that term is defined herein, the Unit shall be transferred to a Qualified Individual or listed for sale and sold to a Qualified Individual as provided herein. While the property is listed for sale, the owner may rent the Unit to a Qualified Individual.

5.4 During the time a Unit is listed for sale, an owner may rent the Unit to a Qualified Individual. Any rental agreement for the Unit to a Qualified Individual shall be for a minimum term of three (3) months and shall allow for no less than sixty (60) days notice of termination to the tenant in the event the Unit sells. In the event a Unit is rented, the Tenant shall meet all the criteria of a Qualified Individual under section 2.2 above, with the exception of the residency requirement under section 2.2.1.

5.5 The requirements of this section shall not preclude an owner from sharing occupancy of the Unit with non-owners who do not meet the requirements concerning occupancy of the Unit, or with non-owners who do not meet the requirements of a Qualified Individual, provided that the owner continues to meet the obligations contained in this Deed Restriction. At no time during the ownership of the unit may any portion of the unit be rented out for less than 3 months.

5.6 IN NO EVENT SHALL THE OWNER OR ANY SUBSEQUENT OWNER CREATE AN ADDITIONAL DWELLING UNIT WITHIN THE UNIT.

5.7 Nothing in these restrictions shall be construed to require the Beneficiary or Housing Agency to protect or indemnify the owner or a subsequent owner against any losses attributable to the rental of the unit, including but not limited to non-payment of rent or damage to the premises; nor to require the Beneficiary or Housing Agency to obtain a tenant meeting the requirements of a Qualified Individual for the owner in the event such a tenant is not found by the owner.



5.8 Any owner or prospective buyer must agree to and execute the Notice of Lien form attached hereto as **Exhibit A**.

6. FORECLOSURE

6.1 It shall be a breach of these Restrictions for an owner to default in the payments or other obligations due or to be performed under a promissory note secured by deed of trust encumbering the Unit. The owner hereby agrees to notify the Beneficiary, in writing, of any notification owner receives from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a deed of trust, as described herein, within five (5) calendar days of owner's notification from lender, or its assigns, of said default or past due payments.

6.2 Upon receipt of notice as provided herein, the Beneficiary shall have the right, in its sole discretion, to cure the default or any portion thereof. ("Curing Party"). In such event, the owner shall be personally liable to the Curing Party for past due payments made by the Curing Party, together with interest thereon at the rate specified in the promissory note secured by the deed of trust, plus one (1) per cent, and all actual expenses of the Curing Party incurred in curing the default. In the event the Owner does not repay the Curing Party within sixty (60) days of notice that the Curing Party has cured the owner's default, the owner agrees that the Curing Party shall be entitled to a lien against the Unit to secure payment of such amounts. Such a lien may be evidenced by a notice of lien setting the amounts due and rate of interest accruing thereon, and such notice of lien may be recorded in the real property records of Gunnison County, Colorado, until such lien is paid and discharged. The Curing Party shall have the additional right to bring an action to foreclose on the Unit for the payment of the lien set forth in this section 6.2.

6.3 In the event of a foreclosure on a promissory note secured by a first deed of trust on the Property, or any Unit, and the issuance of a public trustee's deed by the holder of such note and deed of trust ("Holder"), or the acceptance by Holder of such note and deed of trust of a deed in lieu of foreclosure of the Property, or any Unit, and Holder's subsequent recordation of the same in the Office of the Gunnison County Clerk and Recorder, the Beneficiary may acquire the Property or Unit by exercising that certain "Option to Purchase," a copy of which is attached hereto as **Exhibit B**. In the event that the Option is not exercised by the Beneficiary, this Deed Restriction shall be released and shall be of no further force or effect.

7. DEFAULT/BREACH

7.1 In the event the Beneficiary or Housing Agency has reasonable cause to believe an owner is violating the provisions of these Restrictions, the Beneficiary or the Housing Agency, through their authorized representatives, may inspect the Unit between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, after providing the owner with no less than 24 hours written notice.



7.2 The Housing Agency shall send a notice of violation to the owner detailing the nature of the violation and allowing the owner fifteen (15) days to determine the merits of the allegations, or to correct the violation. In the event the owner disagrees with the allegation of violation of these Restrictions, the owner may request, in writing, a hearing before the Housing Agency. If the owner does not request a hearing and the violation is not cured within the fifteen-day period, the owner shall be considered in violation of these Restrictions.

7.3 Whenever these Restrictions provide for a hearing before the Housing Agency, such hearing shall be scheduled by the Housing Agency within 21 days of the date of receipt of a written request for a hearing. At any such hearing, the owner or other aggrieved party may be represented by counsel and may present evidence on the issues to be determined at the hearing. An electronic record of the hearing shall be made, and the decision of the Housing Agency shall be a final decision, subject to judicial review.

7.4 There is hereby reserved to the parties hereto any and all remedies provided by law for breach of these Restrictions or any of its terms. In the event the parties resort to litigation with respect to any or all provisions of these Restrictions, the prevailing party shall be awarded its damages and costs, including reasonable attorney's fees.

7.5 In the event the Unit is sold and/or conveyed without compliance with the terms of these Restrictions, such sale and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of the Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, even without reference therein to these Restrictions.

7.6 In the event an owner fails to cure any breach of these Restrictions, the Housing Agency may resort to any and all available legal or equitable actions, including but not limited to specific performance of these Restrictions.

8. GENERAL PROVISIONS

8.1 These Restrictions shall constitute covenants running with the Real Property as a burden thereon, for the benefit of, and shall be specifically enforceable by the Beneficiary, Housing Agency, and/or their respective successors and assigns, as applicable. Enforcement by any appropriate legal action may include, but is not limited to specific performance injunction, reversion, or eviction of noncomplying owners and/or occupants.

8.2 Any notice, consent, approval, or request which is required to be given by any party hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to the address provided herein or to the address of the owner. The owner shall advise the Housing Agency of any change in address, in writing said notices, consents, and approvals, shall be sent to the parties hereto at the following addresses, unless otherwise notified in writing:



To Developer: Prospect Development Company, Inc.
Post Office Box 5700
Mt. Crested Butte, Colorado 81225
Telephone: 970-349-2202
Fax: 970-349-2208

To Beneficiary: Town of Mt. Crested Butte, Colorado
P.O. Box 5800
Mt. Crested Butte, Colorado 81225
Telephone: 970-349-6632
Fax: 970-349-6326

To Subsequent Owners: At the address maintained in the records
of the Gunnison County Assessor's office

8.3 Whenever possible, each provision of these Restrictions and any other related document shall be interpreted in such manner as to be valid under applicable law; but if any provision of these Restrictions 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 document.

8.4 These Restrictions and each and every related document is to be governed and construed in accordance with the laws of the State of Colorado.

8.5 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.

8.6 Owners and subsequent owners agree that he or she shall be personally liable for their participation in any of the transactions contemplated herein and that he or she will execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of these Restrictions or any agreement or document relating hereto or entered into in connection herewith. The Developer, Beneficiary, and Housing Agency agree to reform these Restrictions as necessary to ensure that mortgages or deeds of trust on the units to be constructed on the Property remain eligible for purchase by Fannie Mae and Freddie Mac.

8.7 Any modifications of these Restrictions shall be effective only when made by a duly executed instrument by the Housing Agency and an owner, with the written consent of the Beneficiary, and recorded with the Clerk and Recorder of Gunnison County, Colorado. Notwithstanding the foregoing, the Parties agree that the Beneficiary may unilaterally amend these Restrictions where deemed necessary to effectuate the purpose and intent of these Restrictions.



TOWN OF MT. CRESTED BUTTE, COLORADO,
A Colorado home rule municipality

By: Janet R. Farmer
Janet R. Farmer, Mayor

Attest



Tiffany O'Connell
Town Clerk



Exhibit A

NOTICE OF LIEN

AND MEMORANDUM OF ACCEPTANCE OF THE
SECOND AMENDMENT TO THE AMENDED AND
RESTATED AFFORDABLE HOUSING DEED
RESTRICTION FOR (insert property address here),
HOMESTEAD SUBDIVISION, TOWN OF MT.
CRESTED BUTTE, COLORADO, GUNNISON
COUNTY, COLORADO

WHEREAS, {insert Buyer name(s), the "Buyer" is
purchasing from (insert name of seller here), the "Seller" at a price of \$ (insert purchase price
here) the real property described as:

(insert legal description here)

known as the "Property"; and

WHEREAS, the Seller of the Property is requiring, as a condition to the sale transaction,
that the Buyer acknowledge and agree to the terms, conditions and restrictions found in that
certain instrument entitled "Second Amendment to the Amended and Restated Affordable
Housing Deed Restriction" for the Property, recorded on [REDACTED], 20 [REDACTED] under
Reception No. [REDACTED] in the real property records of Gunnison, Colorado (the "Deed
Restriction").

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

1. Acknowledges that Buyer has carefully read the entire Second Amendment to the
Amended and Restated Affordable Housing Deed Restriction, has had the opportunity to
consult with legal and financial counsel concerning the Deed Restriction and fully
understands the terms, conditions, provisions, and restrictions contained in the Deed
Restriction.
2. States that any Notice to Buyer should be sent to:
(insert Buyer mailing address here)



3. Directs any Notice to the Town of Mt. Crested Butte and the Gunnison Valley Regional Housing Authority be sent to:

Gunnison Valley Regional Housing Authority
Attn: Executive Director
202 E. Georgia Avenue
Gunnison, CO 81230

Town of Mt. Crested Butte
Attn: Town Manager
PO Box 5800
Mt. Crested Butte, CO 81225

4. Directs that this Notice be placed of record in the real estate records of Gunnison County, Colorado and a copy provided to the Gunnison Valley Regional Housing Authority and the Town of Mt Crested Butte

IN WITNESS WHEREOF, the Buyer has executed this instrument on the _____ day of _____, 20____.

Buyer(s):

Printed Name(s):

STATE OF COLORADO)
) ss.
COUNTY OF)

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

Witness my hand and official seal.

My commission expires _____.

Notary Public



EXHIBIT B

**PROSPECT HOMESTEAD
SECOND AMENDMENT TO THE AMENDED
AND RESTATED AFFORDABLE HOUSING
DEED RESTRICTION
OPTION TO PURCHASE**

This Option to Purchase is hereby granted to the Town of Mt. Crested Butte, Colorado, a Colorado home rule municipality ("**Beneficiary**") by [REDACTED], its successors and/or assigns who is the "**Holder**" of a promissory note ("**Promissory Note**") secured by a first deed of trust on the Unit (defined below), and [REDACTED], Owner of the Unit and borrower under the Promissory Note ("**Owner**"). Beneficiary, Holder, and Owner are collectively referenced herein as the "**Parties**".

Recitals

WHEREAS, Owner is currently vested in title to the real property, which is more particularly described as follows:

[REDACTED], Prospect Homestead Subdivision, according to the Plat recorded December 10, 2008, as Reception No. 587999, Town of Mt. Crested Butte, County of Gunnison, State of Colorado;

Also known as [REDACTED], Town of Mt Crested Butte, CO ("**Unit**") and

WHEREAS, the Unit is subject to that certain Second Amendment to the Amended and Restated Affordable Housing Deed Restriction (the "**Amended Deed Restriction**"), recorded at reception number [REDACTED] in the Office of the Gunnison County Clerk and Recorder; and

WHEREAS, the Parties desire to enter into this Option regarding the purchase of the Unit, as set forth herein.

Agreement

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the Parties hereby agree as follows:

A. Definitions. Capitalized terms not otherwise defined herein shall have the meaning given to them in Second Amendment to the Amended and Restated Deed Restriction.

B. Grant of Option. In the event of (i) a foreclosure by Holder of the Promissory Note and the issuance of a public trustee's deed in and to the Unit to Holder following the



expiration of all statutory redemption rights; or (ii) the acceptance by Holder of a deed in lieu of foreclosure of the Unit and Holder's subsequent recordation of the same in the Office of the Gunnison County Clerk and Recorder, Beneficiary shall have the option to purchase the Unit ("**Option**"), which Option shall be exercised as set forth herein.

C. Notice. Upon Holder's receipt of a public trustee's deed to the Unit, or upon recording the deed in lieu of foreclosure, Holder shall provide written notice to Beneficiary of the commencement of the option period ("**Notice of Option Period**"), which Notice of Option Period shall be sent by email and certified mail, return receipt requested, and addressed as follows:

BENEFICIARY: Town Manager
Town of Mt. Crested Butte, Colorado
P.O. Box 5800
Mt Crested Butte, CO 81225
Email: _____

D. Exercise of Option. Beneficiary shall have thirty (30) days after receipt of the above-described notice ("**Option Period**") within which to exercise this Option to purchase by delivering to Holder a "Notice of Exercise of Option" substantially in the form attached hereto as **Exhibit B-1**. The Notice of Exercise of Option shall be sent by email and certified mail, return receipt requested, and addressed as follows:

HOLDER: _____

Email: _____

E. Title and Closing. Closing shall occur no later than ninety (90) days from the exercise of the Option. At closing, and in exchange for the Option Price (as defined below), Holder shall deliver to Beneficiary a special warranty deed conveying the Unit to Beneficiary, and also shall deliver possession of the Unit. Holder shall convey only such title as it received through the public trustee's deed or deed in lieu of foreclosure and will not create or participate in the creation of any additional liens or encumbrances against the Unit following issuance of the public trustee's deed or deed in lieu of foreclosure to Holder. Holder shall not be liable for any of the costs of conveyance to Beneficiary. At closing, and in exchange for the special warranty deed described above, Beneficiary shall tender to Holder in cash or certified funds, the following option price ("**Option Price**"):

(1) if a public trustee's deed in and to the Unit has been issued, an amount equal to the amount paid or bid at the public trustee's sale (plus any bid deficiency); plus any additional reasonable costs directly related to the foreclosure or the ownership of the Unit subsequent to the public trustee's sale up to the conveyance of the Unit to Beneficiary; OR



(2) if a deed in lieu of foreclosure has been recorded, (i) an amount equal to the amount due to Holder with respect to the Unit on the date the deed in lieu of foreclosure was recorded; plus (ii) any additional reasonable costs related to the deed in lieu of foreclosure or the ownership of the Unit incurred by Holder subsequent to the date the deed in lieu of foreclosure was recorded up to the conveyance of the Unit to Beneficiary, less (iii) any unpaid amounts secured by any other lien, deed of trust or other encumbrance on the Unit (*provided*, however, that if any such other lien, deed of trust or other encumbrance which is subordinate to Holder's deed of trust was removed by Holder, the amounts paid by Holder to obtain such removal shall also be added to the Option Price).

F. Time is of the essence / remedies. Time is of the essence hereof; provided, however, that the term of this Option shall be extended in a manner deemed reasonable by the Parties hereto in order to account for any circumstances beyond the reasonable control of a Party that prevent or impede the due performance of this Option. If Holder is in default, after written notice of such default is given and Holder has not cured the same within a reasonable period thereafter, Beneficiary may elect to treat this Option as being in full force and effect and shall have the right to specific performance or damages, or both.

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

H. Successors and Assigns. The provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the Parties.

I. Modifications. The Parties agree that any modification to this Option Agreement shall be effective only when made by a writing signed by all Parties and recorded in the Office of the Gunnison County Clerk and Recorder.

IN WITNESS WHEREOF, the Parties have executed this instrument on this ____ day of _____, 20__.

**[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY;
SIGNATURES OF THE PARTIES APPEAR ON THE FOLLOWING PAGES]**



HOLDER

By: _____

Name: _____

Title: _____

Mailing Address: _____

STATE OF _____)
County of _____) ss.

The foregoing Option to Purchase for Prospect Homestead has been acknowledged before me this day of _____, 20____, by _____.

Witness my hand and official seal.
My commission expires:

Notary Public

OWNER:

Name: _____

Mailing Address: _____

STATE OF _____)
County of _____) ss.

The foregoing Option to Purchase for Prospect Homestead has been acknowledged before me this day of _____, 20____, by _____.

Witness my hand and official seal.
My commission expires:

Notary Public



BENEFICIARY:

TOWN OF MT. CRESTED BUTTE, COLORADO,
A Colorado home rule municipality

By: _____
_____, Mayor

Attest:

_____, its Town Clerk



EXHIBIT B-1
FORM OF NOTICE OF EXERCISE OF OPTION

To HOLDER:

Please take notice that pursuant to paragraph D of that certain Option to Purchase dated, _____, _____, 20____, and recorded at reception number _____ in the Office of the Gunnison County Clerk and Recorder, the undersigned Beneficiary hereby exercises its option to purchase the Unit described therein.

By:

BENEFICIARY:

TOWN OF MT. CRESTED BUTTE, COLORADO,
A Colorado home rule municipality

By: _____
_____, Mayor

Attest:

_____, its Town Clerk



EXHIBIT C

ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT (this "Agreement") is entered into this ____ day of _____, 20____, by and among the Town of Mt. Crested Butte, Colorado, a Colorado home rule municipality ("**Beneficiary**"), _____, its successors and/or assigns who is the "**Holder**" of a promissory note ("**Promissory Note**") secured by a first deed of trust on the Unit recorded at Reception No. _____, and _____, Owner of the Unit and borrower under the Promissory Note ("**Owner**"). Beneficiary, Holder, and Owner are collectively referenced herein as the "**Parties**".

Recitals

WHEREAS, Owner is currently vested in title to the real property, which is more particularly described as follows:

_____, Prospect Homestead Subdivision, according to the Plat recorded December 10, 2008, as Reception No. 587999, Town of Mt. Crested Butte, County of Gunnison, State of Colorado;

Also known as _____, Town of Mt Crested Butte, CO ("**Unit**"); and

WHEREAS, the Unit is subject to that certain Second Amendment to the Amended and Restated Affordable Housing Deed Restriction (the "**Amended Deed Restriction**"), recorded at reception number _____ in the Office of the Gunnison County Clerk and Recorder; and

WHEREAS, the Parties desire to enter into this Agreement regarding the Assumption of the Promissory Note and Deed of Trust on the Unit, as set forth herein.

Agreement

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, the Parties hereby agree as follows:

A. Definitions. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Amended Deed Restriction.

B. Notice. Upon Holder's recording of a Notice of Election and Demand ("**NED**") to initiate a public trustee's foreclosure on the Unit, Holder shall provide written notice to Beneficiary of the NED ("**Notice of NED**"), which Notice of NED shall be sent by email and certified mail, return receipt requested, and addressed as follows:



BENEFICIARY: Town Manager
Town of Mt. Crested Butte, Colorado
P.O. Box 5800
Mt Crested Butte, CO 81225
Email: _____

D. Timing of Exercise of Assumption Right. Beneficiary shall have thirty (30) days after receipt of the above-described Notice of NED within which to exercise its right to assume the Note and Deed of Trust from Owner.

E. Assumption. By delivering a "Notice of Assumption" to Holder and Owner substantially in the form attached hereto as **Exhibit C-1**, Beneficiary hereby assumes and agrees to perform and discharge all of the obligations of Owner under the Promissory Note and Deed of Trust from and after the date thereof, and the Holder accepts Beneficiary as the successor and assign of Owner. The Notice of Assumption shall be sent by email and certified mail, return receipt requested, and addressed as follows:

HOLDER: _____

Email: _____

OWNER: _____

Email: _____

F. Title. Upon receipt of said Notice of Assumption, Owner shall deliver, to Beneficiary, a deed in lieu of foreclosure from the Owner conveying the Unit to Beneficiary, and also shall deliver possession of the Unit. The deed in lieu of foreclosure and possession of the Unit shall be conditions precedent to the obligations of the Beneficiary to assume the obligations of the Owner under the Promissory Note and Deed of Trust.

G. Time is of the Essence/Remedies. Time is of the essence hereof; provided, however, that the term of this Assumption Agreement shall be extended in a manner deemed reasonable by the Parties hereto in order to account for any circumstances beyond the reasonable control of a Party that prevent or impede the due performance of this Assumption Agreement. If Holder is in default, after written notice of such default is given and Holder has not cured the same within a reasonable period thereafter, Beneficiary may elect to treat this Assumption as being in full force and effect and shall have the right to specific performance or damages, or both.



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

I. This Agreement is made pursuant and subject to the Second Amendment to the Amended and Restated Deed Restriction and incorporates all of the terms and conditions contained therein.

J. Each of the Parties shall at any time, and from time to time, do, execute, acknowledge, and deliver any and all other instruments necessary or proper to carry out the terms of this Agreement.

K. This Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns.

IN WITNESS WHEREOF, the Parties have executed this instrument on this ____ day of _____, 20__.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]
[THE SIGNATURE OF THE PARTIES APPEAR ON THE FOLLOWING THREE PAGES]



HOLDER

By: _____

Name: _____

Title: _____

Mailing Address: _____

State of _____ }
County of _____ } ss.

The foregoing Assumption Agreement for Prospect Homestead has been acknowledged before me this day of _____, 20____, by _____.

Witness my hand and official seal.
My commission expires:

Notary Public



OWNER:

Name: _____

Mailing Address: _____

State of Colorado _____ }
County of _____ } ss.

The foregoing Assumption Agreement for Prospect Homestead has been acknowledged before me this day of _____, 20____, by _____.

Witness my hand and official seal.
My commission expires:

Notary Public



BENEFICIARY:

TOWN OF MT. CRESTED BUTTE, COLORADO,
A Colorado home rule municipality

By: _____
_____, Mayor

Attest:

_____, its Town Clerk
Town Clerk



**EXHIBIT C-1
FORM OF NOTICE OF ASSUMPTION**

To OWNER and HOLDER:

Please take notice that pursuant to paragraph E of that certain Assumption Agreement dated, _____, _____, 20__, and recorded at reception number _____ in the Office of the Gunnison County Clerk and Recorder, the undersigned Beneficiary hereby assumes and agrees to perform and discharge all of the obligations of Owner under the Promissory Note and Deed of Trust from and after the date hereof.

By:

BENEFICIARY:

TOWN OF MT. CRESTED BUTTE, COLORADO,
A Colorado home rule municipality

By: _____
_____, Mayor

Attest:

_____, its Town Clerk