

# Teton County, Idaho Housing Program Goals & Objectives Report

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# INTRODUCTION

## Purpose

The Housing Program Goals and Objectives Report summarizes the outcome of a process with elected officials designed to establish goals and objectives for a potential housing program in Teton Valley.

The purpose of this process was to provide Teton County, and the cities of Victor, Driggs, and Tetonida with the information needed to:

- Determine whether or not a housing program will be necessary in order to effectively address the housing needs identified in the Western Greater Yellowstone Region Housing Needs Assessment (HNA),
- Facilitate a consensus on goals and objectives of a housing program,
- Determine the preferred organizational structure of a housing program, and
- Define strategy recommendations for a housing program.

This information is intended to help the county and cities establish a housing program, which will ensure the alignment between the various jurisdictions. It will also set the foundation for establishing affordable housing strategies and policies that will cost effectively provide more opportunities for local employees to live in the Teton Valley Idaho.

## Methodology

Information from interviews and other sources was gathered and analyzed during the months of June – August, 2016 and include:

- A series of interviews with the three Teton County, Idaho Commissioners and the mayors and several city council members of the cities of Victor, Driggs and Tetonida, were conducted in order to gather information about potential goals, objectives, and outcomes of a housing program,
- A summary of data was compiled from the 2014 Western Greater Yellowstone Region Housing Needs Assessment (HNA) and distributed to elected representatives,
- Review of existing resources including the HNA, 2014 Western Greater Yellowstone Analysis of Impediments to Fair Housing Choice, 2012 Teton

County Comprehensive Plan, and City of Driggs, Victor and Tetonia  
Comprehensive Plans,

- Elected officials from Victor, Driggs, Tetonia and Teton County, Idaho attended a work session to review data from the HNA and refine goals and objectives,
- A summary of the previous Teton County Housing Authority Commission (HAC) provided by Shawn Hill, Executive Director of Valley Advocates for Responsible Development (VARD), and
- Statutes related to forming a county housing authority memo from Kathy Spitzer, Teton County Prosecuting Attorney.

## GOALS & OBJECTIVES

The elected officials in the county and cities within Teton County, Idaho participated in a process designed to facilitate the establishment of goals and objectives of a housing program. The process began with individual interviews where each interviewee was asked the same series of questions during a 45 – 60 minute period. Their responses were then compiled into draft goals and objectives.

A four-hour group work session encouraged the elected officials to individually express the community benefits of having a housing program and to collectively discuss each of the draft objectives. The results of this work session formed the basis for the following goals and objectives.

### Goals

To facilitate the development of diverse, permanently affordable housing within the city limits in order to provide a variety of housing options that will enhance the local economy, add vibrancy to downtowns and preserve the rural character of the area.

### Objectives

#### Location

Locate Affordable Housing within the city limits of Victor, Driggs and Tetonida according to the Teton County Idaho Comprehensive Plan. With the exception of housing for agricultural workers, rural areas in Teton County should be avoided to reduce public costs to improve and maintain infrastructure (i.e. public roads, water, sewer), and to preserve the rural agricultural character of the area.

#### Regional Approach

Seek out regional opportunities to collaborate with Wyoming and Idaho in creating housing options for working households and public transit improvements.

#### Owner/Renter Mix

Strive for a mix of ownership and rental product to meet the diverse needs of working households, including a variety of income levels and life stages.

#### Income Targets

Create opportunities for the market to produce housing for working households. The housing market is unproductive at providing suitable ownership opportunities below 120% of the median income and rental product below 80% AMI. The housing program should target specific underserved markets based on current data.

### Maintaining Affordability

Ensure affordability permanence of housing units created through the housing program (i.e. ground lease, covenant, deed restriction).

### Type/Quality Design

Provide a variety of dwelling types and density ranges to keep pace with job growth. Encourage development of high-quality housing that is durable, energy efficient, attractive, sanitary, safe and affordable.

### Data Collection

Prioritize the annual collection of key indicators to measure the progress of the housing program and keep stakeholders informed.

### Education

Prioritize public education to demonstrate the value of affordable housing to create and maintain a healthy, vibrant community.

## RECOMMENDED STRATEGIES

Meeting the affordable housing needs of Teton Valley residents and employees requires a variety of strategies. Housing needs are too diverse in the community for one strategy or one housing development to be able to solve. There is no “silver bullet” and there is no short-term solution. Key points to note about implementation strategies:

- Consistent commitment over time is required. The problem will not go away with just one strategy or one project built.
- Specific strategies typically address only part of the need. For example, a Low Income Housing Tax Credit project can only be used to house low-income households (e.g. those earning 60% AMI or below).
- Typically, local funding sources address the housing needs of moderate/middle income families who cannot afford homes provided by the private sector.
- Some strategies may only produce a few units. However, in combination with other efforts, various strategies are key for a diversified inventory of affordable housing that meets the wide spectrum of needs.

The following recommendations are in order of priority.

### Re-Establish a Housing Authority

Based on the information gathered from the process it is clear that an organization needs to take the lead on housing. Development codes, impact fees, and density bonuses have been codified to incentivize the production of affordable housing. However, an entity to administer the new housing programs and manage units created using these incentives has not been established.

In addition, resources within the local planning departments are strained because of the increased housing responsibilities, and housing codes are being defined and implemented inconsistently adding unwanted complication.

The elected officials were clear about their preferred structure for a housing organization, which would include:

- Countywide organization managed by a representative board
- Board members appointed by Victor, Driggs, Teton and Teton County
- Oversight of the Board by Victor, Driggs, Teton and Teton County (i.e.: approve work plan, budget, periodic review)
- Experienced part-time staff person hired by Teton County

### Housing Authority

Several organizational structures can be utilized to govern a housing program. Three common approaches are a housing authority, department of government, or a private non-profit.

Table 1 demonstrates how the different approaches meet (marked with an X) the stated objectives of a housing program organizational structure.

**Table 1: Housing Program Organizational Structure**

Organizational Structure Objectives	Housing Authority	County or City Department	Private Non-Profit
Countywide	X		X
Representative Board	X		X
Board members appointed by cities and county	X		
Oversight by cities and county	X		
Dedicated staff person	X	X	X

A housing authority can be multi-jurisdictional, can have board members appointed by the city and county in a representative manner, can have mechanisms to provide oversight and can be staffed.

A private non-profit would have board members appointed by the organization and there is limited ability to oversee activities or control the work plan.

Since a housing authority meets the criteria of all of the objectives, in this case it seems to be the preferred organizational structure.

To create a regional housing authority, each government entity must adopt a resolution declaring that there is a need for a housing authority because it finds (a) that insanitary or unsafe inhabited dwelling accommodations exist or (b) that there is a shortage of safe or sanitary dwelling accommodations available to persons of low income or rentals they can afford. The data in the 2014 Greater Western Yellowstone Region Housing Needs Assessment supports the need for a housing authority.

### Regional Housing Authority

The housing challenge is a valley wide issue with strategies that often cross boundaries and impact the service provision of neighboring governments. A Regional Housing Authority established by Teton County, Driggs, Victor and Tetonia supports coordination between the multiple jurisdictions.

The coordinated approach also reduces duplication of services, utilizes resources effectively, and creates program consistency across jurisdictions.

#### Board Members (Commissioners) Appointed by Government Officials

Idaho Code allows for either a 5 or 7 member board (commission) appointed by the county or city that creates the authority. A board that is representative of the valley population can be achieved by appointing the 7-member regional housing authority commission in the following manner:

Teton County	2 commissioners
Driggs	2 commissioners
Victor	2 commissioners
Tetonia	1 commissioner

#### Governmental Oversight

An Intergovernmental Agreement (IGA), a contract between governmental or quasi-governmental entities, is an instrument commonly used to specify governmental oversight of a Housing Authority.

An IGA between the cities, county and regional housing authority is a mechanism that would clarify roles and responsibilities of each party and provide oversight. Items to consider in the IGA:

- Budget review and approval
- Funding and in-kind contributions
- Establishment of work plan
- Periodic review

An example of an Intergovernmental Agreement is provided in Appendix A. It is the Fifth Amended and Restated Intergovernmental Agreement Aspen/Pitkin County Housing Authority that is with the City of Aspen and Pitkin County Board of County Commissioners.

#### Board Diversity

Board members can add intellectual and practical capacity to a housing program, along with diverse perspectives representing various segments in the community.

Skill sets of the board should include:

- Informal community leaders
- Real estate agent
- Banker/Lender
- Appraiser

- Developer/Builder/Civil Engineer/Architect
- Lawyer

Representation by board members at different stages of life, gender, race, and income level is also an important consideration as housing needs differ among these groups.

### [Hire a Part-time Housing Specialist/Executive Director](#)

Implementing a housing program requires time and expertise best achieved by a dedicated staff person. Volunteer board members provide direction, expertise, and benefit from the structure provided by a dedicated staff person.

The group of elected officials identified the need for a “point-person” to manage the program and indicated that county resources may be available for a part-time position.

A part-time housing specialist could add capacity in the following manner:

- Manage the housing board
- Coordinate with the cities and county
- Assist with code provisions, implementation and monitoring
- Manage deed restrictions on units
- Create and implement an annual work plan
- Foster relationships and partnerships for the production of housing

## **Create a Management System**

A management system is a set of policies, processes and procedures used by an organization to implement its objectives. With housing programs management systems typically include:

- Housing Guidelines
- Restriction templates
- Record keeping

Most mature housing organizations struggle with complex management systems that have evolved over many years. Challenges include high administrative costs, large staffs to administer, gaps in understanding the inventory, difficult for the public to understand and to update.

Take advantage of the trials and errors of other communities (often called “bloopers”) and create a straightforward and standardized management system.

### Guidelines

Housing Guidelines are the core set of policies and procedures of a housing program and are directly tied to goals and objectives such as maintaining affordability, quality/type of units and employee prioritization.

Housing Guidelines normally include the following:

- Definitions
- Affordability standards
- Rental procedures
- Sale and resale processes
- Selection criteria and process
- Unit standards – size, quality, amenities
- Development code standards
- Compliance and grievance procedures

There is some urgency to establish Housing Guidelines because existing development code encourages affordable housing units to be provided without any policies or procedures to offer direction to developers or staff. The former Teton County Housing Authority Commission (HAC) made some progress with draft guidelines that could be used as a foundation.

### Restriction Templates

Create restriction templates for ownership and rental product that will be price and/or occupancy restricted. A new housing program has the benefit of learning from the successes and shortfalls of established housing programs in other similar communities.

Most established housing programs struggle with the lack of standardized restrictions because their programs and related restrictions have evolved over time in response to various matters. This evolution results in numerous restrictions with slightly different requirements. The variety and nuanced differences are burdensome to administer, are very hard to update and difficult to understand.

Standardized restriction templates will minimize complexities in the housing program, which will streamline management, reduce administration costs, and increase understanding of the program.

### Record Keeping

Establish a centralized record keeping system to collect, track and disseminate data. Initiating this system at the outset will streamline administration, keep track of what is working well and where changes may be needed, effectively disseminate information, and make the system less reliant upon institutional knowledge.

Housing units will be created through various mechanisms (development agreements, impact fee waivers, accessory residential units, apartments, cooperatives, Habitat for Humanity, low income housing tax credits, etc.) and within each jurisdiction. A centralized record keeping system can capture all of these methods and enable the evaluation of the entire housing program.

## **Establish an Education Plan**

Community education is fundamental to the success of a housing program as an informed community results in a supportive community willing to invest in solutions. An effective education plan will be ongoing and will be modified as the program evolves. At its core, an education plan will clearly present the value of having a variety of housing options affordable to all income levels.

The values voiced through the goals and objectives process include:

- Diverse and strong economy
- Vibrancy in the downtown cores
- Employees to support local businesses
- Enhance the local economy

## **Foster Relationships**

Producing housing that is affordable to working households often includes layers of funding sources and partnerships. It takes years to develop relationships that result in partnerships to create housing. The housing program should begin fostering relationships with potential housing partners such as local employers, Idaho Housing and Finance Association, Habitat for Humanity (Idaho Falls and Jackson, WY affiliates), Grand Targhee, Jackson Hole Mountain Resort, and the Jackson/Teton County Housing Department.

## **Explore Potential Funding Sources**

A secure funding source is crucial to the long-term success of a housing program. It takes dedicated resources that are consistently committed to managing a housing program effectively. The following are recommendations on funding sources primarily from the Western Greater Yellowstone Region Housing Needs Assessment (HNA):

- A number of state and federal programs provide funding for housing, particularly for households earning less than 80% AMI. Although these funds can be challenging to obtain, the housing program should seek state and federal funding (grants and tax credits, loans) and provide technical assistance to private entities applying for such funds (HNA).
- Partner with Grand Targhee to capture sales tax generated at Grand Targhee for housing and transportation if 1-cent sales tax initiative is successful in Teton County, Wyoming.

- Real estate transfer assessment (RETA) from residential unit sales at Grand Targhee Resort. A portion of the proceeds from this RETA were intended to support workforce housing in Teton County, ID as part of their housing mitigation plan. Access to these funds should be pursued (HNA).

## Create a Housing Production Plan

Create a Housing Production Plan that prioritizes the use of specific strategies based on housing needs and available resources to focus efforts.

A Housing Production Plan includes a variety of strategies to create housing options for the diverse needs of working households. Each strategy usually targets a specific income level and either a rental or ownership product.

The Greater Western Yellowstone Region Housing Needs Assessment (HNA) identifies housing strategies. Table 2 shows these housing strategies by owner and rental product, and targeted area median incomes (AMI).

**Table 2 – Housing Strategies by Area Median Income**

	Area Median Income (AMI)			
	<50%	50.1% - 80%	80.1% - 120%	>120%
Max. Income	\$26,750	\$42,750	\$64,200	>\$64,200
Max. Affordable Purchase Price	\$99,400	\$158,700	\$238,700	>\$238,700
Housing Strategies - Ownership	Habitat for Humanity, Public sector development of entry level housing	Self Help Housing, Public sector development of entry level housing	New Development Code* - condos and townhomes, Public/private partnership for mixed-income housing, Fee waiver incentives	New Development Code - condos and townhomes, private sector development
Housing Strategies - Rental	Low Income Housing Tax Credits (LIHTC)	Low Income Housing Tax Credits (LIHTC), Public sector development	New Development Code* - apartments, ARUs*	New Development Code - apartments, ARUs
Net Units Needed	45	143	272	191

Source: 2014 Greater Western Region Housing Needs Assessment; consultant Team

\*Not restricted to income level or for occupancy

Housing strategies that serve the lower income levels tend to be private non-profits (Habitat for Humanity) or government agencies (Self Help, LIHTC, Public Sector development). There is a gap between the cost to construct housing and the price these households can afford. This gap is bridged through a combination of sweat equity, philanthropic dollars, and public funds. The complexity of accessing public funds, raising philanthropic dollars, and managing sweat equity takes time and resources. These strategies tend to be slower to implement and produce a limited number of units.

Housing strategies that serve the higher income households tend to be zoning tools (new development codes), incentives (fee waivers, ARUs), or public/private partnerships. Zoning and incentives can be effective at leveraging the skills of the private sector to produce housing, often in higher numbers and at a quicker pace.

Without a mechanism to limit price and occupancy prices often escalate beyond wages and occupancy transitions to part-time residents or visitors (short-term rentals). This is prevalent in desirable locations with high amenities such as Teton Valley and walkable neighborhoods near vibrant downtowns. Zoning is effective at creating supply but is ineffective at maintaining affordability.

# RECOMMENDED ACTION ITEMS AND TIMELINE

## First 6 months (Oct 2016 – March 2017)

### Organizational Structure Actions

Step 1: Adopt or revise resolutions to establish a regional housing authority of the County, City of Driggs, City of Victor, and City of Teton

*Responsibility: County and city attorneys draft resolutions for adoption by Board of County Commissioners and City Councils*

Step 2: Determine the split of administrative funding between the county and cities

*Responsibility: Board of County Commissioners and City Councils*

Step 3: Create Intergovernmental Agreement to define roles and responsibilities of the Housing Authority, the county and cities. Include the following items:

- Housing authority budget review and approval by county and cities
- Funding and in-kind contributions from county and cities
- Establishment of housing authority work plan
- Periodic performance review of housing authority

*Responsibility: Drafted by planning staff with adoption by Board of County Commissioners and City Councils, signed by housing authority once established*

Step 4: Appoint 7-member regional housing authority board pursuant to Idaho Code in the following manner:

Teton County	2 commissioners
Driggs	2 commissioners
Victor	2 commissioners
Tetonia	1 commissioner

*Responsibility: Board of County Commissioners and City Council*

Step 5: Hire a part-time housing specialist/Executive Director. In the interim, the county long-range planner could fill this position with defined hours dedicated to and oversight by the housing authority. Eventually, the housing authority should hire this position.

*Responsibility: Board of County Commissioners and/or housing authority board*

### Management System Actions

Step 1: Establish bylaws for the housing authority using the template created by the former Teton County Idaho Housing Commission.

*Responsibility: Housing authority*

Step 2: Define key terms such as “affordable” and adopt in the development codes of the county and cities to ensure consistency across jurisdictions.

*Responsibility: Housing authority to identify and define key terms, city and county planners to facilitate adoption in development codes*

## **First 2 years**

### Management System Actions

- Create Affordable Housing Guidelines using the draft from the former Teton County Housing Authority Commission
- Establish restriction templates
- Establish a centralized record keeping system

*Responsibility: Housing authority board and staff*

### Funding Actions

Explore long-term dedicated sources of funds to manage and facilitate the production of restricted housing units

*Responsibility: Housing authority board and staff to explore options, county and city elected officials to assist with securing*

### Housing Production Plan Actions

Create a Housing Production Plan that prioritizes the use of specific strategies based on housing needs and available resources to focus efforts.

*Responsibility: Housing authority board and staff with approval by the county and city according to the Intergovernmental Agreement*

## Ongoing and Long-term

### Education Plan Actions

Inform the community about the process to establish a housing authority, the goals and objectives of the housing program and value of having a variety of housing options affordable to all income levels.

Responsibility: *Housing authority board and staff*

### Fostering Relationships Actions

Build relationships with potential housing partners such as local employers, Idaho Housing and Finance Association, Habitat for Humanity (Idaho Falls and Jackson, WY affiliates), Grand Targhee, Jackson Hole Mountain Resort, and the Jackson/Teton County Housing Department.

Responsibility: *Housing authority board and staff, county and city elected officials*

APPENDIX A

**FIFTH AMENDED AND RESTATED  
INTERGOVERNMENTAL AGREEMENT  
ASPEN/PITKIN COUNTY HOUSING AUTHORITY**

This **FIFTH AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT** (hereinafter referred to as "Agreement"), made and entered into this 18<sup>th</sup> day of December 2013, by and between the CITY OF ASPEN, Colorado, a home rule municipal corporation (hereinafter referred to as "City") and the BOARD OF COUNTY COMMISSIONERS of Pitkin County, Colorado, a body corporate and politic (hereinafter referred to as "County"):

**WITNESSETH:**

**WHEREAS**, the City is authorized by Article XX, Section 6 of the Colorado Constitution and City and County are each authorized by Article XIV, Section 18 of the Colorado Constitution, Section 29-1-204.5, Colorado Revised Statutes to contract with each other to establish a multi-jurisdictional housing authority as a separate government entity; and

**WHEREAS**, the City and County entered into an *Intergovernmental Agreement* on January 9, 1984, an *Amended and Restated Intergovernmental Agreement* on September 26, 1989, a *Second Amended and Restated Intergovernmental Agreement* on September 13, 1999, a *Third Amended and Restated Intergovernmental Agreement* on October 28, 2002, and a *Fourth Amended and Restated Intergovernmental Agreement* on December 20, 2007, establishing a multi-jurisdictional housing authority under the provision of C.R.S. 1973, Section 29-1-204.5 which authority is known as the Aspen/Pitkin County Housing Authority (hereinafter referred to as "Authority") for the purpose of providing a program and a system to assure the existence of a supply of desirable and affordable housing for permanent residents, persons employed in the City or the County, senior citizens, disabled persons and other population segments residing or needing to reside in the Roaring Fork Valley which are necessary for a balanced community; and

**WHEREAS**, the City and County desire to create an independent housing authority that has all of the powers set forth at Section 29-1-204.5, C.R.S., and that will function as an advisory and recommending board to the Aspen City Council and the Board of County Commissioners on all matters relating to affordable housing in their respective jurisdictions; and

**WHEREAS**, the City and the County desire to further amend and to restate the *Fourth Amended Intergovernmental Agreement*.

**NOW, THEREFORE**, in consideration of the mutual benefits to be derived hereby, the City and the County amend and restate the *Intergovernmental Agreement* of January 9, 1984, the *Amended and Restated Intergovernmental Agreement* on September 26, 1989, the *Second Amended and Restated Intergovernmental Agreement* on September 13, 1989, the *Third Amended and Restated Intergovernmental Agreement* on October 28, 2002, the *Fourth Amended and Restated Intergovernmental Agreement* on December 20, 2007, and the *Fifth Amended and Restated Intergovernmental Agreement* effective on the date first stated above, and said Agreement shall replace and supersede all prior agreements of any kind, to the extent and for the limited purpose as such other agreements may be related to the provision of services by the Aspen/Pitkin County Housing Authority, and the previous Agreement as amended is hereby cancelled and of no further effect, and to read as follows:

**I. MULTI-JURISDICTIONAL HOUSING AUTHORITY – PURPOSE:**

The Aspen/Pitkin County Housing Authority (hereinafter referred to as "Authority") has been established as a multi-jurisdictional housing authority for the purpose of assisting the City and County,

upon request by either party, in effecting the planning, financing, acquisition, construction, development, reconstruction or repair, maintenance, management and operation of housing projects pursuant to a multi-jurisdictional plan to provide residential facilities and dwelling accommodations at rental or sale prices within the means of families or persons of low, moderate and middle income who are employed in the City or the County, who reside or need to reside in the City or County, and who have identifiable needs for affordable housing; e.g., limited incomes, senior citizens and disabled persons, as defined by the Authority in published guidelines. The Authority shall be a political subdivision and a public corporation for the State of Colorado, separate from the City and County, and shall be a validly created and existing political subdivision and public corporation of the State of Colorado. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The provisions of Articles 10.5 (the "Public Deposit Protection Act") of Title 11, Colorado Revised Statutes, shall apply to monies of the Authority.

The Authority shall have any and all powers, duties, rights and obligations as such are set forth herein and subject to the terms and conditions of this Agreement. In order to facilitate management oversight and to provide additional resources to the Authority, the Authority shall delegate to the City certain administrative functions as more fully described herein:

## **II. BOARD OF DIRECTORS:**

### ***A. Number, Manner of Appointment, Qualifications, etc.:***

The Board shall consist of seven (7) directors (hereinafter referred to as "Directors"), and one (1) alternate, serving staggered terms to be appointed as follows:

1. Three Directors shall be appointed by the Board of County Commissioners.
2. Three Directors shall be appointed by the City Council.
3. One Director and one alternate shall be appointed jointly by the Board of County Commissioners and the City Council.
4. As soon as reasonable after the effective date of this Amended Agreement, the City Council and the Board of County Commissioners shall appoint two additional Directors – one by the BOCC and one by the City Council. All Directors shall be appointed for a four-year term. Each director will be term limited to two (2) consecutive four-year terms. A one-year absence from the Authority Board will be required before a director can reapply. Terms limits will begin with the approval of the *Fifth Amended Intergovernmental Agreement*.
5. Directors and the Alternate Director shall continue to serve as Directors until such time as a successor has been appointed.
6. Directors appointed by the City Council may be removed at the sole discretion of the City Council. Directors appointed by the County Commissioners may be removed at the sole discretion of the County Commissioners. The Jointly appointed Director and the Alternate Director may be removed at the sole discretion of either the City Council or County Commissioners. Upon the removal of a Director or Alternate Director, a replacement shall be appointed by the respective governmental entity(ies) that originally appointed the Director for the unexpired term of the removed Director or Alternate Director.

## ***B. Officers.***

The officers of the Authority shall be a Chair, a Vice Chair, a Treasurer, and a Secretary.

1. *Chair.* The Chair shall preside at all meetings of the Authority. At each meeting, the Chair shall submit such recommendations and information as she or he may consider proper concerning the business, affairs and policies of the Authority.
2. *Vice Chair.* The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair; and in case of the resignation or death of the Chair, the Vice Chair shall perform such duties as are imposed on the Chair until such time as the Authority shall select a new Chair.
3. *Treasurer.* The Treasurer shall perform the duties of the Chair in the absence or incapacity of both the Chair and the Vice Chair. With respect to expenses incurred directly by the Authority (as distinguished from expenses of either the City or County for affordable housing projects and their operations), either the Treasurer or the Secretary shall approve all orders and checks for payment of money and shall payout and disburse such monies under the direction of the City's Finance Director. The Treasurer shall serve as advisor to the Authority and the Board on financial matters.
4. *Secretary.* The Secretary shall ensure that the records of the Authority are properly maintained, shall act as Secretary of the meetings of the Authority and ensure that all votes are recorded, and shall ensure that a record of the proceedings of the Authority are maintained in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to his or her office.
5. *Election or Appointment.* The Chair, Vice Chair, Treasurer, and Secretary shall be elected at the annual meeting of the Authority from among the Directors of the Board, and shall hold office for one year or until their successors are elected and qualified.
6. *Vacancies.* Should the office of Chair, Vice Chair, Treasurer, or Secretary become vacant, the Board shall elect a successor from its membership at the next regular meeting and such election shall be for the unexpired term of said office.

## ***C. Voting Requirements:***

1. *Quorum.* The powers of the Authority shall be vested in the Directors of the Board in office from time to time. Four Directors of the Board shall constitute a quorum for the purpose of conducting Authority business and exercising Authority powers and for all other purposes. When a quorum is in attendance, action may be taken by the Authority upon a vote of a majority of the Directors of the Board present. The Alternate Director may be counted for purposes of determining the existence of a quorum at a meeting and may have his or her vote counted only if at least one Director is not present.
2. *Manner of Voting.* The voting on all questions coming before the Authority shall be by roll call, and the yeas and nays shall be entered upon the minutes of each meeting by name, except on the election of officers that may be by ballot.

***D. Duties of the Officers.***

The officers of the Authority shall perform the duties and functions of the Authority as prescribed herein and such other duties and functions as may from time to time be required by the Authority, the by-laws or rules and regulations of the Authority, or upon the request of the City and County.

**III. DUTIES OF THE PARTIES:**

***A. Personnel.***

1. An Executive Director of the Authority shall be employed by the City who shall report to and be supervised by the City Manager. The City Manager and County Manager shall jointly hire the Executive Director. The City Manager shall have the authority to terminate the employment of the Executive Director in accordance with City Personnel Policies and Procedures, but shall exercise this authority only after reasonable consultation with the County Manager.
2. The Executive Director and all other personnel employed to work under the supervision of the Executive Director shall be City employees, subject to the City's payroll, benefits, and personnel policies and procedures (including disciplinary procedures).
3. The Executive Director shall work under the supervision of the City Manager and shall receive work assignments from the City Manager. Directors of the Housing Authority may suggest work assignments for the Executive Manager to the City Manager, but shall have no authority to directly assign work, tasks, or priorities to the Executive Director or any of his or her staff.
4. Nothing in this Agreement shall create, or is intended to create, or shall be construed to constitute a contract of employment, express or implied, between the Executive Director and the Authority, the City or the County.

***B. Finances and Accounting.***

1. The Executive Director shall annually consult and cooperatively work with the City and County Finance Directors to prepare proposed budgets for the City and County relating to affordable housing in their respective jurisdictions. The Authority, upon reviewing the annual budget as presented by the Executive Director shall make recommendation to the City and County for their adoption. The annual budgets shall include funds necessary to reimburse the City for overhead expenses for personnel, finance, administrative, legal, and asset management services consistent with fees charged to other City departments.
2. The Executive Director shall annually consult and cooperatively work with the City's Finance Director to ensure the proper care and custody of all funds of the Authority, the prompt payment of all obligations of the Authority, and the keeping of regular books of accounts showing receipts and expenditures of the Authority. The Executive Director shall render to the Authority, the City and the County, at their regular meetings, or sooner if requested, an account of Authority transactions and also of the

financial condition of the Authority. The Executive Director shall give such bond for the faithful performance of his or her duties as the City may require.

3. All accounting, payroll, and audit services for the Authority shall be performed by the Finance Department of the City.
4. The City's procurement policies, contract documents, and approval policies shall be used for all procurements of goods and services of the Authority except for any goods or services purchased entirely for County projects. A County project shall be defined for purposes of this section as any purchase for goods or services funded entirely by County funds or a combination of County funds and funds from a source other than from the City.
5. For each fiscal year of the City, the County and the Authority (each January 1 through each December 31), the City and County shall each appropriate their prorated share of operational monies necessary to provide for any budgeted deficit arising in connection with the Authority's operations which has been approved by the City and County, provided, however, that bonds, notes or other obligations payable solely from revenues as described in Section III hereof shall never constitute an indebtedness of the City or the County. The City and County shall each pay for 50% of the normal operating expenses of the Housing Office. This shall include such normal operating expenses as guideline development, qualifying applicants, enforcement, property management, etc. The City and County shall pay its share of any special projects, which either party may request to be included in the Annual Work Plan.
6. The County shall pay to the City for the benefit of the Authority its share of the Authority's annual budget upon the request of the Finance Director of the City. Both the City Council and the Board of County Commissioners shall approve any increases to the expense budget.
7. On or before April 15 of each fiscal year, the actual operations for the Authority for the immediate preceding fiscal year shall be reviewed by the City and County Finance Directors with the Executive Director for the determination of any necessary final reimbursements (and, therefore, necessary supplemental appropriations of monies by the City and the County) as a result of any non-budget appropriation of Authority staff or expenditure. The City and County hereby agree to make all necessary appropriations within a reasonable time to reconcile the final appropriations of each entity.

### C. *Operations.*

1. Annual Work Plan. The Executive Director, with the assistance of the Authority, shall annually prepare a detailed Annual Work Plan that specifies goals, tasks, responsible employees and timelines, for the operation of the Authority. The Annual Work Plan shall include a summary detailing progress made in the implementation of action plans set forth in any adopted Housing Strategic Plan and recommendations for changes to the Housing Strategic Plan. Following the review of the Annual Work Plan by the Authority, the Executive Director shall meet with the City Manager for approval. The Authority shall review the Annual Work Plan as approved by the City and County Managers and shall make recommendations to the City and County for

its approval and adoption. Upon the adoption of the Annual Work Plan by the City or County, the Executive Director shall regularly meet with the City and County Managers to review the progress of the implementation of the Annual Work Plan.

2. Annual Affordable Housing Guidelines. The Executive Director shall review the Affordable Housing Guidelines when necessary , including updates and recommendations for changes every year that:

a. Identifies category qualifications for ownership and rental housing within the City and County for the population segments identified by the Authority as required by existing agreements and land use regulations.

b. The Authority shall review the Affordable Housing Guidelines, including deletions and additions, submitted to it by the Executive Director. Final approval by the APCHA Board shall be brought forward in a resolution with public comment through a public hearing process. The resolution will be brought forward to the City Council and the BOCC for their review. There shall be an appeals process via a Call-up Procedure as stated below:

- Call-up and Notice to City Council and the Board of County Commissioners. Following the adoption of an APCHA Board resolution approving changes and/or additions to the Affordable Housing Guidelines, notification will be provided to the City Council and the Board of County Commissioners. The notification shall consist of a description in written form of the change and/or addition and the reasoning behind the change and/or addition. As soon as it can be scheduled, the notification shall be placed on the Consent Agenda of a regular City Council meeting and a Memorandum of Interest shall be provided to the Board of County Commissioners containing the same language.
- The City Council and the BOCC will have 60 days from the date that the information was provided to the respective entity. If a call-up is not requested within the 60 days, the policy will be incorporated into the Guidelines.

3. The Housing Authority. The Authority shall meet monthly to conduct its business in accordance with the Colorado Open Meetings Law, Sections 24-6-401, *et seq.*, C.R.S. and the City of Aspen Municipal Code. The Authority shall be responsible for the following duties:

a. To act as affordable housing advocates in all of its business by representing the views and perspectives of the larger communities of the City and County and translating those views and perspectives into concrete recommendations to the City and County; and

b. To review and make recommendations to the City and County with respect to the Annual Work Plan, Housing Guidelines, Affordable Housing Action Plans of the Aspen Area Community Plan, any Affordable Housing Strategic Plans adopted by the City or County, and advise on any other affordable housing related matters referred to it by either the City or County; and

- c. To review specific development proposals initiated by the City or County and make recommendations thereon upon the request of either the City or County; and
  - d. To assist the City, County, and Executive Director, upon request, to define the need, planning, undertaking, construction, operation, or financing of low, lower moderate, upper moderate, middle and upper middle income housing for the population segments designated here or identified by the Authority residing in or needing to reside in the City or the County; and
  - e. To assist the City, County and Executive Director, upon request, to plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate housing projects pursuant to the Annual Work Plan; and
  - f. To assist the City, County and Executive Director, upon request, to purchase, acquire, obtain options, hold; lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service from firms, corporations, the City, the County, other governmental entities or any other persons; and
  - g. To assist the City, County and Executive Director, upon request, to investigate housing needs within the jurisdiction of the City or the County and the means and methods for improving those conditions; and
  - h. To review growth management policy applications (or equivalent application procedures as the same are developed or established from time to time) by developers for low, lower moderate; upper moderate, middle and upper middle income housing in the City or the County as requested by the respective Community Development Departments of the City or the County for conformance with housing needs; and
  - i. To enforce all aspects of the affordable housing program, including, but not necessarily limited to, deed restrictions, guidelines, and qualifications; and
  - j. To establish a system to hear appeals from the interpretation or implementation of the Affordable Housing Guidelines and issue final administrative determinations on such appeals.
4. The Executive Director. The Executive Director shall be responsible for the following duties in addition to any duties assigned to him or her by the City Manager:
- a. Working closing with the County and City Managers to develop an Annual Work Plan and thereafter implementing said Work Plan under the supervision of the City Manager; and
  - b. Maintaining records of existing low, lower moderate, upper moderate, middle and upper middle income rental or resale restricted housing for the population segments designated herein or identified by the Authority and assure that such housing is used and occupied in accordance with existing City or County development approvals, contracts, or financing requirements; and
  - c. Taking all steps reasonably necessary to assure that all deed restricted units of housing comply with City and County regulations or resolutions concerning rental or resale restricted housing; and

- d. Negotiating contracts as required to provide for management of deed-restricted Authority units (as that term is defined in the Affordable Housing Guidelines as such guidelines are published, modified, amended and supplemented from time to time); and
  - e. To review and recommend establishment of a computerized rental availability record system for use by the City, the County, the population segments designated herein or identified by the Authority and members of the general public; and
  - f. Taking all steps reasonably necessary to provide for marketing and reviewing qualification of applicants for rental deed restricted or for sale affordable housing units, and for marketing, reviewing qualifications of applicants for, and arranging for transfer of title of deed restricted units; and
  - g. Investigating housing needs within the jurisdiction of the City or the County and the means and methods for improving those conditions; and
  - h. To develop and recommend code changes associated with the provisions of the current County Strategic Plan, Housing subsection, or the current Housing subsection of the City's Aspen Area Community Plan (as they are modified, amended and supplemented from time to time); and
  - i. To maintain data indicating housing needs in the City and the County for the population segments designated herein or identified by the Authority.
5. Project Management Services by the City. The City and County acknowledge that the City, because of its current personnel and expertise in construction management, is in a better position than the County to provide construction management services for the development and construction of affordable housing. The City agrees to negotiate in good faith with the County to provide construction management services for County-funded and sponsored affordable housing projects. Said agreements shall be on a case-by-case basis and shall include provisions for scope of services to be provided, reimbursement schedules, management responsibilities, and appropriate indemnification and insurance. The parties hereto agree that the City shall not be required to provide construction management services at any time that the City, in its sole discretion, determines that it does not have the personnel or resources to provide such services.

***D. Long-Range Planning.***

Housing Strategic Plan: The City and the County, individually or jointly, may periodically adopt a Housing Strategic Plan to assist City, County and Authority in the development of priorities, policies, and implementing actions that maximize affordable housing development. Financial support shall be designated to the City or County based on who is directly benefiting from the effort. The Housing Strategic Plan may include the following:

- Identification of existing community housing needs by type.
- Determination of the potential development of affordable sites located within the jurisdiction of the City or County.
- Evaluation of the economic performance of the City's or County's affordable housing sites and prototype projects and comparisons of their relative costs and benefits.

- Specifications for an affordable housing program and phasing schedule that best meets program objectives consistent with available funding sources and levels.
- Recommendations for strategies and actions that implement the housing development program
- It is agreed that when this document uses the phrase "Housing Strategic Plan" it is referring to either the County Strategic Plan's Housing subsection, or the Housing section of the City's "Aspen Area Community Plan ".

**IV. BONDS, NOTES AND OTHER OBLIGATIONS:**

- A.** The bonds, notes, and other obligations of the Authority shall not be the debts, liabilities, or obligations of the City or the County unless expressly assumed by the City or the County.
- B.** The City and the County may provide for payment to the Authority of funds from proprietary revenues for services rendered or facilities provided by the Authority, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth herein, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the Authority.
- C.** To carry out the purposes for which the Authority was established, the Authority is authorized to issue bonds, notes, or other obligations payable solely from the revenues derived or to be derived from the function, service, or facilities of the Authority or from any other available funds of the Authority. The terms, conditions, and details of said bonds, notes, and other obligations, the procedures related thereto, and the refunding thereof shall be set forth in the resolution authorizing said bonds, notes, or other obligations and shall, as nearly as may be practicable, be substantially the same as those provided by law for any of the contracting parties to this Intergovernmental Agreement; except that bonds, notes, or other obligations so issued shall not constitute an indebtedness of the Authority, the City or the County within the meaning of any constitutional, home rule charter or statutory limitation or other provision unless expressly assumed by the City or the County. Each bond, note, or other obligation issued under this subsection shall recite in substance that said bond, note, or other obligation, including the interest thereon, is payable solely from the revenues and other available funds of the Authority pledged for the payment thereof unless expressly assumed by the City or the County and that said bond, note, or other obligation does not constitute a debt of the Authority, the City or the County or within the meaning of any constitutional, home rule charter or statutory limitations or provisions unless expressly assumed by the City or the County. Notwithstanding anything in this Section IV to the contrary, such bonds, notes, and other obligations may be issued to mature at such times not beyond forty (40) years from their respective issue dates, shall bear interest at such rates, and shall be sold at such prices at, above or below the principal amount thereof, as shall be determined by the Board.
- D.** The resolution, trust indenture, or other security agreement under which any bonds, notes, or other obligations are issued shall constitute a contract with the holders thereof, and it may contain such provisions as shall be determined by the Board to be appropriate and necessary in connection with the issuance thereof and to provide security for the payment thereof, including, without limitation, any mortgage or other security interest in any revenues, funds, rights, or properties of the Authority. The bonds, notes and other obligations of the Authority and the income therefrom are exempt from taxation, except inheritance, estate, and transfer taxes pursuant to the Colorado Revised Statutes.

**V. LEGAL ASSISTANCE:**

Legal assistance for the Authority shall be provided both by the City and County Attorney's Office for specific problems related to Authority programs; subject, however, to the availability of staff time of the respective attorney offices. The Executive Director may retain independent counsel whenever the City or County Attorney's Offices are unable or unwilling to provide legal representation to the Authority. In addition, the Executive Director may retain independent legal counsel, as needed, for day-to-day consultation and legal advice. The City Attorney shall review all contract documents that purport to legally obligate the City in any fashion. The County Attorney shall review all contract documents that purport to legally obligate the County in any fashion.

**VI. DISPOSITION OF ASSETS UPON TERMINATION:**

In the event of the termination of this Intergovernmental Agreement which termination may only occur in accordance with the requirements and limitations of Section VII hereof, and the resulting dissolution of the Authority, the assets of the Authority shall be distributed as follows:

- A.* All assets acquired from contributions from the City or the County shall be returned to the contributing party if said assets are still in existence.
- B.* If assets contributed to the Authority are not in existence, the contributing party shall have the option of receiving the fair market value of the asset at the time of disposal by the Authority in either cash or assets of the Authority.
- C.* All remaining assets acquired by the Authority after the date of this Intergovernmental Agreement from funds provided by the parties shall be distributed to the parties on the basis of the appraised value of said assets at the time of termination and in the same proportion as the respective contributions of funds by the parties for acquisition of the asset.
- D.* The City and the County may agree to dispose of any assets of the Authority in any other acceptable manner.
- E.* If the City and the County cannot agree on the disposition of any assets of the Authority within sixty (60) days after termination, said assets shall be subject to an independent appraisal and shall be sold at public auction as soon as practicable with the proceeds allocated to the City and the County in the same proportion as the total contribution of funds by the respective parties for acquisition of the asset.

**VII. ANNUAL RENEWAL AND TERMINATION:**

The term of this Intergovernmental Agreement shall be from the effective date hereof through December 31, 2013, and shall automatically be renewed for successive one-year periods thereafter. Either party hereto may terminate this Intergovernmental Agreement for any reason upon ninety (90) days' written notice, provided, however, that this Intergovernmental Agreement may not be terminated or rescinded so long as the Authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations; provided, however, that if full payment has been provided by escrow, such termination or rescission shall not occur unless nationally recognized bond counsel has delivered an opinion to the effect that such termination or rescission,

in and of itself, will not adversely affect the tax status of the interest on such escrowed obligations. Furthermore, this Intergovernmental Agreement may not be terminated if the Authority has obligations to the U.S. Department of Housing and Urban Development under any Low Rent Public Housing Program, or other similar program, unless those obligations are assumed by the City or the County.

**VIII. MODIFICATION OF THIS AGREEMENT:**

This Agreement may be modified by written amendment approved by the City Council and Board of County Commissioners, acting separate.

**IX. NOTICES:**

Any formal notice, demand or request provided for in this Intergovernmental Agreement shall be in writing and shall be deemed properly given if deposited in the United States Mail, postage prepaid to:

City of Aspen, Colorado  
c/o City Manager  
130 South Galena Street  
Aspen, Colorado 81611

Board of County Commissioners  
c/o County Manager  
530 East Main Street, 3<sup>rd</sup> Floor  
Aspen, Colorado 81611

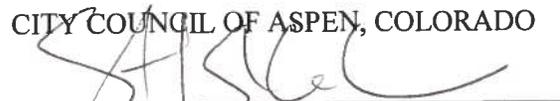
Aspen/Pitkin County Housing Authority  
c/o Executive Director  
530 East Main Street, Lower Level  
Aspen, CO 81611

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

ATTEST:

  
Kathryn S. Koch, Clerk

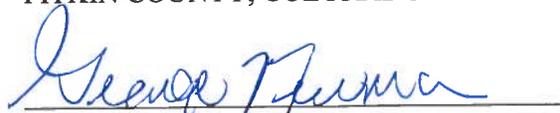
CITY COUNCIL OF ASPEN, COLORADO

  
Steven Skadron, Mayor

APPROVED AS TO FORM:

  
James True, City Attorney

BOARD OF COUNTY COMMISSIONERS OF  
PITKIN COUNTY, COLORADO

  
George Newman, Chairperson

ATTEST:

  
Jeanette Jones, Clerk and Recorder

APPROVED AS TO FORM:

  
John Ely, County Attorney