



Agenda

RHA Board of Directors
November 4, 2021 – 2:00- 4:00 p.m.

Bayfield Town Hall
1199 Bayfield Pkwy, Bayfield, CO 81122

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- A. Call Meeting to Order**
 - B. Introductions and Roll Call**
 - C. Public Comment**
 - D. Approval of Agenda**
 - E. Consent Agenda**
 - 1. Approve the Consent Agenda
 - a) October 7, 2021 Minutes
 - b) September 2021 Financial Statements
 - F. Decision Items**
 - 1. Sixth Amended and Reinstated IGA
 - 2. SWCCOG - RHA MOU
 - 3. Request for Qualifications and Plan for Distribution Update
 - G. Discussion/Updates**
 - 1. 2022 Budget Direction
 - 2. Future of Funding for the RHA
 - 3. Updated/Refined Housing Unit Goal Numbers
 - 4. Board Action Plan Updates
 - 5. Pending or upcoming legislation update
 - H. Presentations and Engagement with Non-RHA Entities**
 - I. Member Updates**
 - 1. Town of Bayfield
 - 2. City of Durango
 - 3. Town of Ignacio
 - 4. La Plata County
 - J. Adjournment**

Section A – Call Meeting to Order

Section B – Roll Call

Section C – Public Comment

The Board welcomes public participation in the Board meetings. Individuals wishing to address the Board under Public Comment are asked to please notify either the Chair of the Board or the Clerk to the Board upon their arrival at the meeting. Public Comment will be taken as time permits. Comments shall be limited so that everyone may be heard. This item is limited to matters under the jurisdiction of the Board, which are not on the posted agenda and items which have not already been considered by the Board. The Board limits testimony on matters not on the agenda to 3 minutes per person and not more than 20 minutes total unless the Board approves an extended time as part of the agenda. No formal action may be taken at the meeting on matters addressed at Public Comment. Comments on matters on the current agenda will be taken following discussion of each item by the Board.

Section D – Approval of Agenda

Section E – Consent Agenda

Minutes

Board of Directors Meeting ~ October 7, 2021
Santa Rita Water Reclamation Facility Administration Building
105 S. Camino Del Rio, Durango, CO 81301

A. Call Meeting to Order

B. Introductions and Roll Call

Board members present: Kim Baxter, City of Durango
Kevin Hall, City of Durango
Kelly Polites, Town of Bayfield
Marsha Porter-Norton, La Plata County
Mike Segrest, La Plata County
Stella Cox, Town of Ignacio
Katie Sickles, Town of Bayfield
Mark Garcia, Town of Ignacio (Remote)

Staff/Other Attendees: Jessica Laitsch, Southwest Colorado Council of Governments (Remote)
Miriam Gillow-Wiles, Southwest Colorado Council of Governments
Bryce Bierman, Southwest Colorado Council of Governments
Lisa Bloomquist Palmer, HomesFund
Tom Sluis– City of Durango
Jenn Lopez – Project Moxie

The meeting began at 2:05 p.m.

C. Public Comment

No public comment.

D. Approval of Agenda

Marsha Porter-Norton motioned to approve the agenda, Kelly Polites seconded. Unanimously approved.

E. Consent Agenda

1. Approve the Consent Agenda
 - a) September 14, 2021 Minutes
 - b) Financial Statements as prepared by Jessica Laitsch

Kelly Polites motioned to approve the consent agenda, Marsha Porter-Norton seconded. Unanimously approved.

F. Decision Items

1. 2022 Draft Budget Presentation – Jessica Laitsch

Jessica summarized the proposed budget, she explained that funding is included for an audit in case the Board wants to perform an audit with the organization coming out of dormancy. Mike asked if the RHA can spend funds across the budgetary line items in case the priorities of the Board change. Jessica replied this would likely involve a budget change process. Mark mentioned he had reviewed the new draft budget with Jessica and Miriam since the last meeting. He added that the major point of discussion would be whether the board would like to appropriate a large sum.

Mark Garcia motioned to accept the draft budget with consideration for future adoption in December, Kelly Polites seconded. Unanimously approved.

2. SWCCOG – RHA MOU – Miriam presented.

Mark suggested the Board retain the SWCCOG in the service capacity they have provided in the past. Mark also asked if the funding in the MOU includes 40-hours of grant writing work. Miriam replied it would not. Miriam explained that the SWCCOG is requesting an increase in funding due to the increase in administrative time required to organize 12 meetings per year, rather than the 2 meetings per year as represented in the previous MOU. Kim asked if the RFQ process administrative work is included in the MOU for 2021 or 2022. Miriam replied that the discussion for the RFQ process would be the next agenda item and is not currently included in the MOU. Kevin asked if flexibility could be added to the MOU to contract with SWCCOG on a time and materials basis if additional work is found to be needed in the future. There was discussion about adding language to allow for that flexibility. Marsha asked if 90 days for termination is appropriate. There was discussion about the time required for notice of termination and the intent to have a consultant focus on high-level work rather than administrative tasks. Miriam will update the MOU and bring it back to the Board for consideration.

3. Request for Proposals Draft – Mark Garcia

Mark and Kim summarized the RFQ draft. They explained that it was intentionally written to be open-ended to give the future consultant room to run with the program as they see fit. Proposals will run through Bidnet service to track the RFQ process. Lisa asked why the RHA has decided not to hire a full-time employee for the RHA. Kim thought that might restrict the field of potential people or organizations who could fill the role of administering the RHA's housing vision. Kim mentioned it was intentional to draft an RFQ rather than RFP to allow for more flexibility for responders. Mike mentioned an RFQ is usually used after an RFP process has narrowed down the field of candidates, so it may be confusing to potential partners. He suggested a two-step process of using an RFP first, and then an RFQ once the selection has been narrowed down. Mike asked that a requirement be added to the draft RFQ that asks the potential partners to provide their usual agreement with other their other partners; this will show the Board the working relationship the entity normally operates on. Mike mentioned that the RFQ should be clear that housing built will be the tangible unit for the measurement of success for the relationship between the Board and the consulting entity. There was discussion about timing for the RFQ. Kim suggested that she and Mark try to have a draft out to the Board around October 13 and posted on Bidnet around October 19.

4. Member Contributions

The group discussed the difficulty of asking their jurisdiction's Boards for funding for the RHA without any concrete plans in place. There was discussion that funding is not identified in the IGA, and therefore the funding agreement could change year-to-year at the discretion of the Board. Marsha mentioned the joint sales tax, the County's resiliency grant, or ARPA funds could possibly be used for RHA funding.

The conversation regarding member contributions was tabled.

5. Sixth Amended and Reinstated IGA

Miriam will send clean copies of the IGA to each of the Board members for review. Mike asked about the referenced resolution. Kevin suggested having a final review by each of the jurisdiction's attorneys prior to final approval. Mike suggested proceeding with approval for submittal to the respective jurisdictions with a resolution to follow.

Marsha Porter-Norton motioned to accept this version of the IGA, and to refer it to the attorneys and governing boards of each of the four entities for approval contingent on our final resolution. Katie Sickles seconded. Unanimously approved.

G. Discussion/Updates

1. Board Action Plan Updates

Mark and Kim are currently creating the RFQ for a consulting partner. Each of the Board members will present the current version of the MOU to their respective attorneys for review and approval. Miriam mentioned the action plan from the retreat highlights public outreach and engagement as a prioritized task for October and November. Marsha asked if the SWCCOG is missing out on any grant opportunities due to lack of staffing. Miriam responded that the SWCCOG staff can keep up with current grant opportunities. Miriam will share a recent survey with the Board regarding the formation of a statewide, affordable housing taskforce related to HB-1329.

2. Pending or upcoming legislation update

Marsha mentioned that Larimer County has requested CCI's assistance with the removal of barriers to the development of tiny home villages. She mentioned a bill is in the works that would allow La Plata County to increase their lodger's tax which could make more funds available for the RHA.

H. Presentations and Engagement with Non-RHA Entities (10 minutes each)

1. HomesFund Presentation - Lisa Bloomquist Palmer

Lisa presented summaries of advice for developing housing at different price points as well as information regarding deed restrictions. Lisa mentioned that since she has given a similar presentation to most of the Board members and because there is limited time available that she would give a summary presentation.

Kim mentioned she would like to see mixed deed restricted developments combined into market rate development to contribute to the diversity of the community. Lisa mentioned this approach is most successful in moderately priced neighborhoods/developments and can be complicated in the higher priced neighborhoods. Lisa recommended that the RHA provide a lot of options for different deed restrictions. Lisa suggested that in the interest of time and to allow for a more complete discussion, she return another time for the full presentation. There was discussion about having a more robust discussion on this topic after the RHA has a consulting firm in place.

2. RHA Success Discussion with Jenn Lopez –

Jenn Lopez summarized the history of the RHA and recommendations for the direction of the organization as it comes out of dormancy.

Mike mentioned he has experience working with an organization like the RHA with Snowmass Village. He said the regional approach is important, as other things like transit will have to be considered.

Kim mentioned a 3-year Plan would be helpful for creation of the funding model for the organization.

Lisa mentioned the lack of flexibility in the fair share program paralyzes the process for government departments, which is why it may be better administered by an outside firm.

I. Member Updates

No updates this month.

J. Adjournment – 4:04 pm

RHA Financials 1/1/2021-9/30/2021

To: Regional Housing Alliance of La Plata County

From: Jessica Laitsch

Date: 4 November, 2021

Comments: A Balance Sheet and Profit and Loss Report for the period January 1 to September 30, 2021 is attached.

Regional Housing Alliance of La Plata County
Balance Sheet
As of September 30, 2021

	Sep 30, 21
ASSETS	
Current Assets	
Checking/Savings	
Operating Funds (Unrestricted)	
1000 · Operating Account	19,933.22
Total Operating Funds (Unrestricted)	19,933.22
Loan Funds (Restricted)	
1006 · LPC MA Revolving Loan Fund	
LPC MA Revolving LF Interest In	1,869.74
LPC MA Revolving LF - EIAF	248,997.71
1006 · LPC MA Revolving Loan Fund - Other	42.61
Total 1006 · LPC MA Revolving Loan Fund	250,910.06
Total Loan Funds (Restricted)	250,910.06
Total Checking/Savings	270,843.28
Other Current Assets	
1400 · Prepaid Expenses	
1400.1 · Prepaid Liability	630.83
Total 1400 · Prepaid Expenses	630.83
Total Other Current Assets	630.83
Total Current Assets	271,474.11
TOTAL ASSETS	271,474.11
LIABILITIES & EQUITY	
Equity	
2052 · Restricted Net Assets	250,739.08
2053 · Unrestricted Net Assets	13,970.56
2054 · Reserved for Emergencies	22,500.00
Net Income	(15,735.53)
Total Equity	271,474.11
TOTAL LIABILITIES & EQUITY	271,474.11

Regional Housing Alliance of La Plata County
Profit & Loss Budget vs. Actual
January through September 2021

	Jan - Sep 21	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
3215 · EIAF Released from Restricted	0.00	250,701.00	(250,701.00)	0.0%
3000 · Unrestricted Revenues				
3121 · Interest Income - Bank Accounts	187.59	600.00	(412.41)	31.3%
Total 3000 · Unrestricted Revenues	<u>187.59</u>	<u>600.00</u>	<u>(412.41)</u>	<u>31.3%</u>
Total Income	<u>187.59</u>	<u>251,301.00</u>	<u>(251,113.41)</u>	<u>0.1%</u>
Expense				
4080 · Liability Insurance	1,135.44	1,514.00	(378.56)	75.0%
4315 · Professional Services				
4398 · Prof'l Services - Admin Fee	10,000.00	10,000.00	0.00	100.0%
4322 · Prof'l Services- Legal Fees	90.00	11,000.00	(10,910.00)	0.8%
4315 · Professional Services - Other	4,950.00	50,000.00	(45,050.00)	9.9%
Total 4315 · Professional Services	<u>15,040.00</u>	<u>71,000.00</u>	<u>(55,960.00)</u>	<u>21.2%</u>
6240 · Miscellaneous	0.00	1,000.00	(1,000.00)	0.0%
Total Expense	<u>16,175.44</u>	<u>73,514.00</u>	<u>(57,338.56)</u>	<u>22.0%</u>
Net Ordinary Income	<u>(15,987.85)</u>	<u>177,787.00</u>	<u>(193,774.85)</u>	<u>(9.0)%</u>
Net Income	<u>(15,987.85)</u>	<u>177,787.00</u>	<u>(193,774.85)</u>	<u>(9.0)%</u>

Section F – Decision Items

Resolution 2021-106 – Sixth Amended and Reinstated IGA

To: Regional Housing Alliance Board

From: Miriam Gillow-Wiles

Date: 28 October 2021

Attached is the Resolution and the Sixth Amended and Restated Intergovernmental Agreement. As I emailed the Board the previously, there are some substantial changes to the IGA made by the legal team from the various jurisdictions. Below are the sections that were updated by the various legal departments.

- Recitals, Page 1
 - o Changed RHA to Authority
 - o Added Resolution number and date of approval

- Article I, Page 2 and 3
 - o Updated to create clarity that the RHA is still in existence since the Fifth Amended and Reinstated IGA had stated that the organization would not continue past the four years of dormancy.

- Article II, Page 3 and 4
 - o No substantial changes

- Article III, Page 5, sections 3.1a, 3.1b, and 3.1c
 - o Board Size and Membership: Language used from the 4th Reinstated and Amended IGA, which included 9 members. The various attorneys were concerned about an even number board.
 - Each jurisdiction will appoint two members
 - The IGA states that the RHA Board may appoint “one additional board member at large with expertise in areas related to the services provided such as real estate, banking, finance, legal or social services.”
 - The appointed board member will have a term of 3 years, while the jurisdictional board members terms will be dictated by each jurisdiction.

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- Article IV, Page 8, Section 4.6
 - o Clarifying language about dues and funding as there was some confusion about contributions by the membership for 2022 by various lawyers

Legal Review: RHA, Bayfield, Durango, and La Plata County's legal reviewed and provided the suggested changes to the IGA

Financial Implications: None currently

Proposed Action: Approve Resolution 2021-06 and updated Sixth Amended and Restated IGA.



RESOLUTION NO. 2021-06

A RESOLUTION OF THE REGIONAL HOUSING ALLIANCE OF LA PLATA COUNTY RECOMMENDING APPROVAL OF THE SIXTH AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT REGARDING THE REGIONAL HOUSING ALLIANCE OF LA PLATA COUNTY

WHEREAS, the Regional Housing Alliance of La Plata County (“RHA”), a multi-jurisdiction housing authority, was formed as a political subdivision of the State of Colorado pursuant to C.R.S. § 29-1-204.5 and an Intergovernmental Agreement (“IGA”) dated August 5, 2004 by and between La Plata County, the City of Durango, and the Town of Ignacio, and as amended by the Second Amendment to the IGA to add the Town of Bayfield.

WHEREAS, the provisions of Section 18 of Article XIV of the Colorado Constitution and C.R.S. 29-1-203 allow Colorado governments to cooperate with one another to provide any function, service or facility lawfully authorized to each local government.

WHEREAS, the provisions of C.R.S. 29-1-204.5 allow Colorado local governments to contract with each other to establish a separate governmental entity to be known as a multi-jurisdictional housing authority.

WHEREAS, La Plata County, Durango, and Ignacio previously entered an Intergovernmental Agreement (hereafter the IGA) effective August 8, 2004 to create a multijurisdictional housing authority entitled the La Plata County Regional Housing Authority (the “Authority”). The IGA has been amended by the following: First Amendment (dated - Oct. 23, 2007), Second Amendment (dated - Nov. 7, 2008), Third Amendment (dated - March 7, 2011), Fourth Amendment (dated - January 14, 2014) and Fifth Amendment (dated April 5, 2017). The name change from “Authority” to “Alliance” was in the First Amendment. The Town of Bayfield was added as a party in the Second Amendment. The Third Amendment and The Fourth Amendment revised the Number and Qualifications of Directors and Term of Office. The Fifth Amendment anticipated that the Authority would wind down its operation and go dormant for a period of four years. The the Authority was not terminated or rescinded and continues to exist until terminated or rescinded as per section 6.1 of the IGA.

WHEREAS, per section 7.2 of the IGA: This Agreement may be amended or supplemented only by an instrument in writing executed by all parties to the Agreement.

WHEREAS, the Authority has decided to re-examine its focus in addressing the needs for middle income/workforce housing (MIWH). As part of this process, the Authority wishes to amend its governance structure and increase the number of board members in Section 3.1 of this Sixth Amended and Restated Intergovernmental Agreement. It is also anticipated that the Authority will develop a strategic plan that focuses (not

exclusively) on the preservation of existing and development of new MIWH product for workers in the 80 to 120 AMI. The Authority anticipate that the efforts will include land acquisition, public private partnerships for development projects and active pursuit of projects consistent with the strategic plan. An annual funding agreement shall be entered into each year as part of the annual budgeting process of each party to provide funds for the basic administrative and other costs of the Authority.

NOW THEREFORE, the Board of Directors of the Regional Housing Alliance of La Plata County recommends the attached Sixth Amended and Restated Intergovernmental Agreement Regarding the Regional Housing Alliance of La Plata County to its member entities for adoption.

ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO this 4th day of November, 2021.

Kim Baxter
Board President

**SIXTH AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT
REGIONAL HOUSING ALLIANCE OF LA PLATA COUNTY**

THIS SIXTH AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT is entered into as of the Effective Date defined below by and among the BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO, whose address is 1101 E. Second Avenue, Durango, CO 81301 ("La Plata County"); the CITY OF DURANGO, whose address is 949 E. 2nd Avenue, Durango, CO 81301 ("Durango"); the TOWN OF IGNACIO, whose address is 540 Goddard Avenue, Ignacio, CO ("Ignacio"); and the Town of Bayfield, Colorado, whose address is 1199 Bayfield Parkway, Bayfield, Colorado ("Bayfield") (collectively, the "Parties").

RECITALS

A. The provisions of Section 18 of Article XIV of the Colorado Constitution and C.R.S. § 29-1-203, allow Colorado local governments to cooperate or contract with one another to provide any function, service or facility lawfully authorized to each local government.

B. The provisions of C.R.S. § 29-1-204.5 allow Colorado local governments to contract with each other to establish a separate governmental entity to be known as a multijurisdictional housing authority.

C. La Plata County, Durango, and Ignacio previously entered an Intergovernmental Agreement (hereafter the IGA) effective August 8, 2004 to create a multijurisdictional housing authority entitled the La Plata County Regional Housing Authority (the "Authority"). The IGA has been amended by the following: First Amendment (dated - Oct. 23, 2007), Second Amendment (dated - Nov. 7, 2008), Third Amendment (dated - March 7, 2011), Fourth Amendment (dated - January 14, 2014) and Fifth Amendment (dated 2017). The name change from "Authority" to "Alliance" was in the First Amendment. The Town of Bayfield was added as a party in the Second Amendment. The Third Amendment and The Fourth Amendment revised the Number and Qualifications of Directors and Term of Office. The Fifth Amendment anticipated that the Authority would wind down its operation and go dormant for a period of four years. The parties affirm the Authority was not terminated or rescinded and continues to exist until terminated or rescinded as per section 6.1 of the IGA.

D. Per section 7.2 of the IGA: This Agreement may be amended or supplemented only by an instrument in writing executed by all parties to the agreement.

E. The Authority has decided to re-examine its focus in addressing the needs for middle income/workforce housing (MIWH). As part of this process, the Authority wishes to amend its governance structure and increase the number of board members in Section 3.1 of this Agreement.

F. It is anticipated that the Authority will develop a strategic plan that focuses (not exclusively) on the preservation of existing and development of new MIWH product for workers in the 80 to 120 AMI. The Parties anticipate that the efforts of the Authority will include land acquisition, public private partnerships for development projects and active pursuit of projects consistent with the strategic plan. An annual funding agreement shall be entered into each year as part of the annual budgeting process of each party to provide funds for the basic administrative and other costs of the Authority.

G. This Sixth and restated Agreement has been approved by Resolution of the Authority Board of Directors (Resolution 2021-06, adopted November 4, 2021).

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and obligations herein set forth, the parties hereby mutually agree as follows:

ARTICLE I ESTABLISHMENT OF AUTHORITY

Section 1.1 Affirmation of the Authority. The parties hereby reaffirm the legal existence of a multijurisdictional housing authority known as the "Regional Housing Alliance of La Plata County".

Section 1.2 Purpose. The purpose of the Authority shall be to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs in La Plata County, including the incorporated jurisdictions, to provide: (a) dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income; (b) MIWH housing projects or programs for employees of employers located within the jurisdiction of the Authority; and (c) mixed income or mixed use properties that facilitate either of the purposes set forth in Section 1.2(a) or (b) herein, but subject to the restrictions set forth in Section 2.1(c).

Section 1.3 Functions or Services. The functions and services of the Authority may include but are not necessarily limited to the following:

- a. Advise local governments of the practical applications of local housing policy and infrastructure needs;
- b. Ensure compliance with the Authority's policies and procedures by the Authority's project participants;
- c. Review development proposals that may require Authority participation;
- d. Facilitate partnerships to create housing;
- e. Allocate funds for eligible housing projects;
- f. Facilitate the establishment of a housing land trust;
- g. Identify and facilitate the acquisition of vacant land that may be developed for MIWH housing and/or low or moderate income housing;
- h. Identify financing opportunities;
- i. Propose ballot initiatives;
- j. Acquire existing housing or property to assure retention of or conversion to MIWH housing stock and/or low or moderate income housing;
- k. Acquire land and obtain development approvals;
- l. Issue requests for proposals for private sector and non-profit entities to build MIWH housing and/or low or moderate income housing;
- m. Rehabilitate existing housing.

Section 1.4 Boundaries. The boundaries of the Authority are coterminous with the boundaries of the separate governmental entities that comprise the Authority, and shall remain so unless said boundaries are modified by the Authority.

Section 1.5 Separate Entity. The Authority is a political subdivision of the state, a governmental authority separate and apart from the parties, was validly created and is an existing political subdivision and public corporation of

the state, irrespective of whether a party to this Agreement terminates its participation (whether voluntarily, by operation of law, or otherwise) in the Authority subsequent hereto under circumstances not resulting in the rescission or termination of this Agreement establishing the Authority. It has the duties and the privileges, immunities, rights, liability and disabilities of a public body politic and corporate. The Authority may deposit and invest its moneys in the manner provided in this Agreement and in the manner provided in C.R.S. § 43-4-616. The bonds, notes and other obligations of the Authority are not and shall not be the debts, liabilities or obligations of the parties.

Section 1.6 Term. The term of the Authority is continuous until terminated or rescinded in the manner set forth in Section 6.1.

ARTICLE II POWERS

Section 2.1 Powers of Authority. The Authority shall continue to have the following general powers:

- a. To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate housing projects and programs pursuant to a multijurisdictional plan within the means of families of low or moderate income;
- b. To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate MIWH housing projects or programs for employees of employers located within the boundaries of the Authority;
- c. To plan, finance, acquire, construct, reconstruct or repair, maintain or manage multi-use and mixed use projects provided such projects have a predominant affordable housing component and, in the event that a project contains a component or components that are commercial in nature, that such components are incidental to the scope of the entire project. Notwithstanding the foregoing, the Authority shall not directly or indirectly operate any business or commercial activity in any multiuse or mixed use project except to act as a landlord or property manager for the property and in the event the Authority acts in such capacity, the properties let or managed shall be offered by the Authority on terms not more or less favorable than those afforded by property owners within the surrounding vicinity for similarly situated properties;
- d. To make and enter into contracts with any person, including, without limitation, contracts with state or federal agencies, private enterprises, and nonprofit organizations also involved in providing such housing projects or programs or the financing for such housing projects or programs, irrespective of whether such agencies are parties to this Agreement;
- e. To employ agents and employees;
- f. To cooperate with state and federal governments in all respects concerning the financing of such housing projects and programs;
- g. To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any real or personal property, commodity, or service;
- h. To condemn property for public use, if such property is not owned by any governmental entity or any public utility and devoted to public use pursuant to state authority; provided, that the Authority has obtained the prior written consent of the party or parties having jurisdiction over the property to be

condemned;

i. To levy, in all of the area within the boundaries of the Authority, a sales or use tax, or both, upon every transaction or other incident with respect to which a sales or use tax is levied by the state, as more fully described in Section 4.3 of this Agreement;

j. To levy, in all of the area within the boundaries of the Authority, an ad valorem tax, as more fully described in Section 4.4 of this Agreement;

k. To establish, and from time to time increase or decrease, a development impact fee and collect such fee from persons who own property located within the boundaries of the Authority who apply for approval for new residential, commercial, or industrial construction in accordance with applicable ordinances, resolutions, or regulations of any county or municipality, as more fully described in Section 4.5 of this Agreement;

l. To incur debts, liabilities, or obligations;

m. To sue and be sued in its own name;

n. To have and use a corporate seal;

o. To fix, maintain, and revise fees, rents, security deposits, and charges for functions, services, or facilities provided by the Authority;

p. To adopt, by resolution, bylaws or regulations respecting the exercise of its powers and the carrying out of its purposes;

q. To exercise any other powers that are essential to the provision of functions, services, or facilities by the Authority and that are specified in this Agreement;

r. To do and perform any acts and things authorized by C.R.S. § 29-1-204.5, as it may be amended from time to time, and by any other applicable law, under, through, or by means of an agent or by contracts with any person, firm, or corporation;

s. To establish enterprises for the ownership, planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, or operation, or any combination of the foregoing, of housing projects or programs authorized by C.R.S. § 29-1-204.5, as it may be amended from time to time, and by any other applicable law, on the same terms as and subject to the same conditions provided in C.R.S. § 43-4-605, as it may be amended from time to time; and

t. To propose a referred measure to the electorate providing that the Authority is authorized to collect and spend or reserve all revenues of the Authority from existing property and sales or use taxes, non-federal grants and other revenue sources in any given year or in perpetuity to fulfill any of the prescribed purposes of the Authority, notwithstanding any limitation set forth in Article X, Section 20 of the Colorado Constitution.

ARTICLE III
ADMINISTRATIVE PROVISIONS

Section 3.1 Board of Directors. The Authority is currently governed by a Board of Directors, in which all legislative power of the Authority are vested.

a. *Number and Qualifications of Directors*. After the Effective Date of this Agreement, the Board of Directors shall be comprised of nine board members. Each of the entity parties shall appoint two members to the Board of Directors. It is the intent of the parties that the appointments from each entity either be a high-level administrative staff member of that entity or elected official, if possible. If an elected official or administrative staff member cannot serve on behalf of any entity, then that entity may appoint any person with an interest in MIWH housing to serve as a member of the Board of Directors on behalf of that entity. In addition, the Board of Directors of the Authority by majority vote of the other party appointed members shall select one additional board member at large who has experience or expertise in areas related to the services provided by the Authority, such as real estate, banking, finance, legal or social services. All members of the board must be residents of, or employed in, La Plata County and be at least 18 years old at the time of their appointment.

b. *Appointments*. It is recognized that an entity may have difficulty in appointing a board member, so any member entity may relinquish its right to appoint a board member when there is a vacancy in a board seat to be appointed by that entity. If an entity fails to appoint a board member within sixty days of the date when the vacancy began, then the appointing entity shall be deemed to have relinquished the right to appoint that board member's seat for the applicable term of the seat. Any relinquished seat shall be filled by the majority vote of the Authority's Board of Directors. The entity that relinquished its right to appoint a board member shall again have the right to appoint a member when there is a vacancy in that seat for any reason, including the end of the term or a resignation.

c. *Term of Office*. The current directors of each entity shall continue to serve until such time as the appointing entity makes the appointments referenced in Section 3.1(a). Each party shall establish the term of office of the board members appointed by that party, and the term of office for each board member shall be communicated to the Authority. The term for the appointed at-large member shall be three (3) years but such board member shall serve until his/her successor is appointed by the other members of the Board of Directors. The parties may strive to make appointments in a fashion that will maintain a reasonable stagger to the terms of Directors to avoid having more than three new directors in any year. A Board member may be reappointed by any party for successive terms.

d. *Resignation or Removal*. Any board member may resign at any time, effective upon receipt by the Secretary or the President of written notice signed by the person who is resigning. Each member of the Board serves at the pleasure of his or her appointing entity. The appointing entities may terminate the appointment of its appointee, at will at any time without cause. Furthermore, unless excused by the Board, if a director fails to attend three consecutive meetings of the Board, or otherwise fails to perform any of the duties devolving upon them as a director, they may be removed by the Board and the appointing entity shall fill such vacancy within sixty (60) days after such removal. Consideration of removal of a director by the Board shall be at a regular or special

meeting of the Board, reasonable notice of which shall be given to the director to be removed, and to the entity which appointed them.

e. *Compensation of Directors.* Directors shall receive no compensation for services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

f. *Action by Board.* Each member of the Board shall have one vote on matters brought before the Board. A majority of the directors shall constitute a quorum and a majority of the quorum shall be necessary for any action taken by the Board. Notwithstanding the foregoing, or any other provision herein to the contrary, the following actions shall require the approval of seventy-five percent (75%) of the full board of directors: (i) condemnation of property for public use; (ii) proposal of ballot initiatives; (iii) the removal of a director under Section 3.1(d) herein; and (iv) termination of the Authority. Meetings of the Board of Directors shall be open to the public and conducted in accordance with the C.R.S. 24-72-201 *et seq.*

g. *Duties of Board.* The directors shall govern the business and affairs of the Authority. The directors shall also comply with all provisions of parts 1, 5, and 6 of article I of title 29 of the Colorado Revised Statutes, which provisions relate to the obligations of local governments with respect to budgets, accounting, and audits, as such provisions may be amended from time to time.

Section 3.2 Officers. The officers of the Authority shall be a President, a Vice President, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary. The Secretary and Treasurer need not be a director of the Authority.

a. *Election and Term of Office.* The officers of the Authority shall be elected annually by the Board at the January meeting or first meeting of the calendar year. Each officer shall hold office until his/her successor shall have been duly elected and shall have been qualified or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided.

b. *Resignation or Removal.* Any officer may resign at any time, effective upon receipt by the Secretary or the President of written notice signed by the person who is resigning. Any officer or agent may be removed by the Board whenever in its judgment the best interests of the Authority will be served thereby

c. *Vacancies.* A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board for the unexpired portion of the term.

d. *Duties.*

(i) *President:* The President shall be the principal executive officer of the Authority and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of

the Authority; shall, when present, preside at all meetings of the Board of Directors; may sign, with the Secretary or any other proper officer of the Authority deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Authority, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

(ii) *Vice President.* In the absence of the President or in the event of his or her death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-President shall perform such other duties as 'from time to time may be assigned to him by the President or by the Board of Directors.

(iii) *Secretary.* The Secretary shall: (a) keep the minutes of the proceedings of the Board of Directors; (b) see that all notices are duly given in accordance with the provisions of the C.R.S. 24-72-201 *et seq* and this Agreement or as otherwise provided by law; (c) sign with the President; (d) and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the President or by the Board of Directors.

(iv) *Treasurer.* The Treasurer shall be the financial officer for the Authority and shall: (a) coordinate with the department of revenue regarding the collection of sales and use tax authorized pursuant to paragraph (f.1) of subsection (3) of C.R.S. § 29-1-204.5; (b) have charge and custody of and be responsible for all funds of the Authority; (c) receive and give receipts for moneys due and payable to the Authority from any source whatsoever, and deposit all such moneys in the name of the Authority in such banks, trust companies or other depositories as designated by the Board of Directors; (d) and in general perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the President or by the Board of Directors. All checks written from an Authority bank account over \$10,000 shall require the signature of the Treasurer and a single member of the Board of Directors or the signature of two members of the Board of Directors.

Section 3.3 Committees. The Board of Directors may create such committees as it deems necessary or appropriate in order to carry out the affairs of the Authority.

Section 3.4 Conflicts of Interest. No member of the Board nor any immediate member of the family of any such member shall acquire or have any interest, direct or indirect, in any property or project acquired, held, leased or sold by the Authority; or any entity with whom the Authority has contracted with to plan, finance, construct, reconstruct, repair, maintain, manage or operate any property, project or program related to the Authority. Any Board member having such an interest, whether direct or indirect, shall immediately disclose the same in writing to the Board of Directors, and such disclosure shall be entered upon the minutes of the Board. Upon such disclosure, such Board member shall not participate in any action by the Board affecting the project, property, or contract unless the Board determines that, in light of such personal interest, the participation of such member in any such act would not be contrary to the public interest.

Section 3.5 Insurance. The Authority shall purchase and maintain at all times an adequate policy of public entity

liability insurance, which insurance shall at the minimum provide the amount of coverage described in C.R.S. § 24-10-115(1), including errors and omissions coverage. The Authority may purchase such additional insurance as the Board deems prudent. The Authority's employees acting within the scope of their employment shall be indemnified pursuant to C.R.S. § 24-10-110.

ARTICLE IV SOURCES OF REVENUE

Section 4.1 Sources of Revenue. The expected sources of revenue for the Authority may include, but are not limited to the following:

- a. federal, state, local and private grants or donations;
- b. property management fees;
- c. rents or other lease income;
- d. interest on interest-bearing accounts;
- e. proprietary revenue of the parties in accordance with this Agreement;
- f. sales and/or use taxes levied in accordance with this Agreement and other applicable law;
- g. ad valorem taxes levied in accordance with this Agreement and other applicable law;
- h. development impact fees imposed in accordance with this Agreement and other applicable law; and
- i. other revenue or general obligation bonds issued in accordance with applicable law.

Section 4.2 Prerequisites for All Tax Levies and Impact Fees. The Authority shall not establish or increase any tax or development impact fee unless first submitted to a vote of the registered electors of the Authority in which the tax or development impact fee is proposed to be collected. Moreover, prior to levying any tax or imposing any development fees on any property within the boundaries of the Authority, the Board of Directors shall:

- a. Adopt a resolution determining that the levying of such taxes or fees will fairly distribute the costs of the Authority's activities among the persons and businesses benefited thereby and will not impose an undue burden on any particular group of persons or businesses; and
- b. Obtain the prior written consent of the governing party or parties having jurisdiction over the property on which the taxes or fees are proposed to be levied or imposed.

Section 4.3 Sales and Use Taxes. Any sales or use tax imposed or levied by the Authority on any transactions within the boundaries of the Authority shall not exceed the rate of one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state, excluding the sale or use of cigarettes. Prior to levying any sales or use tax, the Authority shall designate a financial officer who shall coordinate with the Colorado Department of Revenue regarding the collection, administration, and enforcement of any sales and use tax to be levied in the manner established by C.R.S. § 29-1-204.5, as it may be amended from time to time, and by other applicable law. The Authority shall apply the proceeds of all sales or use taxes solely towards the purposes, functions, or services authorized by this Agreement.

Section 4.4 Ad Valorem Taxes. The Authority may levy an ad valorem tax on all properties within the Authority's boundaries of the Authority at a rate not to exceed five mills on each dollar of valuation for assessment of the taxable property within such boundaries. To levy an ad valorem tax, the Board shall certify to the La Plata County Board of County Commissioners the levy of ad valorem property taxes in accordance with the schedule prescribed

by C.R.S. § 39-5-128, as it may be amended from time to time. Thereafter, La Plata County shall levy and collect the ad valorem taxes in the manner prescribed by law. All taxes levied under this Section 4.4, together with interest thereon and penalties for default in payment thereof, and all costs of collecting them shall constitute, until paid, a perpetual lien on and against the property taxed, and such lien shall be on a parity with the tax lien of other general taxes.

Section 4.5 Development Impact Fees. The Authority shall not impose a development impact fee unless it also imposes a sales or use tax pursuant to Section 4.3, or an ad valorem tax pursuant to Section 4.4, or both. No development impact fee imposed by the Authority shall be imposed on the development, construction or permitting of low or moderate income housing or MIWH employee housing. Any development impact fee imposed by the Authority shall not exceed the rate of two dollars per square foot of gross floor living area of any building constructed thereon

Section 4.6 Other Sources of Revenue. The parties may make monetary and in-kind contributions to the Authority. If the parties make monetary contributions to the Authority, they shall enter into a funding agreement describing the same. The parties acknowledge that such funding may not be adequate to completely fund the Authority. Funding from each party shall be subject to annual availability and appropriation by the governing body of each jurisdiction. In addition to the foregoing, the parties may, from time to time, pay the Authority with proprietary revenues or other public funds for services rendered or facilities provided by the Authority, as contributions to defray the cost of any purpose set forth in this Agreement, and/or as advances for any purpose which may be subject to repayment by the Authority.

ARTICLE V AUTHORITY PROPERTY

In the event of termination or dissolution of the Authority, all right, title and interest of the Authority in General Assets (as hereinafter defined) shall be conveyed to the jurisdictions that are parties to this Agreement at the time of termination, as tenants-in-common subject to any outstanding liens, mortgages, or other pledges of such General Assets. The interest in the General Assets of the Authority conveyed to each party shall be that proportion which the total dollar amount paid or contributed by such jurisdiction to the Authority for all purposes during the life of the Authority bears to the total dollar amount of all such payments and contributions made to the Authority by all such jurisdictions during the life of the Authority. The term "General Assets" as used herein shall include all legal and equitable interests in real or personal property, tangible or intangible, of the Authority.

ARTICLE VI TERMINATION OR ADDITIONAL MEMBERS

Section 6.1 Termination of Authority. This Agreement may be terminated by the approval of seventy-five percent (75%) of the full Board of Directors or when fewer than two parties are willing to remain as parties to this Agreement. Upon termination, each party hereto shall be released from all further liability and obligations hereunder. Notwithstanding the foregoing, the right of the Board or the parties to terminate this Agreement shall be abrogated if the Authority has bonds, notes or other obligations outstanding at the time of the proposed termination unless provision for full payment of the same has been made by escrow or otherwise.

Section 6.2 Termination of Participation. Any party may terminate its participation in this Agreement as of the end of any calendar year by giving at least 90 days' written notice to the other parties provided that such withdrawing party shall pay all of its obligations hereunder or any effective funding agreement to the effective

date of the termination of its participation.

Section 6.3 Amendment to Provide for Additional Members. This Agreement may be amended to add one or more additional parties upon: (a) resolution of the Board of Directors providing for such amendment; and (b) approval of such amendment by the governing body of the prospective additional party and each then-existing party.

ARTICLE VII GENERAL PROVISIONS

Section 7.1 Effective Date. The Effective Date of this Agreement shall be the date of the last party to sign.

Section 7.2 Entire Agreement. This Agreement embodies the entire agreement about its subject matter among the parties and supersedes all prior agreements and understandings, if any, and may be amended or supplemented only by an instrument in writing executed by all parties to this Agreement.

Section 7.3 No Third Party Beneficiaries. The parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the parties to this Agreement, shall have any right, legal or equitable, to enforce any provision of this Agreement.

Section 7.4 Signatory Authority. Each person signing this Agreement in a representative capacity, expressly represents the signatory has the subject party's authority to so sign and that the subject party will be bound by the signatory's execution of this Agreement. Each party expressly represents that except as to the approval specifically required by this Agreement, such party does not require any third party's consent to enter into this Agreement.

Section 7.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one original Agreement.

Section 7.6 Severability. If any term or provision of this Agreement shall be adjudicated to be invalid, illegal or unenforceable, this Agreement shall be deemed amended to delete therefrom the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Agreement shall not be affected thereby

Section 7.7 Notices. Except as otherwise provided in this Agreement, all notices or other communications by the Authority or any party hereto, any Board member or officer shall be in writing; shall be sufficiently given and shall be deemed given when actually received.

Section 7.8 Interpretation. Subject only to the express limitations set forth herein, this Agreement shall be liberally construed (a) to permit the Authority and the parties to exercise all powers that may be exercised by a multijurisdictional housing authority pursuant to Colorado law; (b) permit the parties hereto to exercise all powers that may be exercised by them with respect to the subject matter of this Agreement and applicable law; and (c) to permit the Board of Directors to exercise all powers that may be exercised by the board of directors of a multijurisdictional housing authority pursuant to Colorado law and by the governing body of a separate legal entity created by contract among the parties pursuant to C.R.S. § 29-1-203.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year set forth below.

Dated this _____ day of _____, 2021

BOARD OF COUNTY COMMISSIONERS
OF LA PLATA COUNTY, COLORADO

Attest:

County Clerk

Marsha Porter-Norton, Chair

ADDITIONAL SIGNATURES ON THE FOLLOWING PAGES

Dated this _____ day of _____, 2021 TOWN OF BAYFIELD, COLORADO

Attest:

Town Clerk

Ashleigh Tarkington, Mayor

SWCCOG-RHA MOU Fiscal Year 2022 - UPDATED

To: Regional Housing Alliance Board

From: Miriam Gillow-Wiles

Date: 4 November 2021

As you will remember the SWCCOG presented an updated MOU for administrative services in September. The MOU in September also included additional funding for the increased administrative work between July 1 and December 31 2022. This included funding for FY2021 and FY2022. In September the RHA Board Approved the FY2021 increase. The SWCCOG then brought back the MOU for just FY2022 to the October Board Meeting. At that meeting Mayor Baxtor asked if the SWCCOG could add in an hourly rate for work above and beyond the scope of work if needed. The MOU has been updated with an hourly rate at the end of the Scope of Work.

Due to the SWCCOG Board Meeting schedule (every other month) the SWCCOG Board approved the attached MOU at the October 14th meeting. If the RHA has additional changes, the SWCCOG Board will reapprove the contract at the December 9th meeting.

SWCCOG Staff utilized a contract template developed by SWCCOG Legal. SWCCOG contract legal is also the RHA contracted legal as an FYI.

Attached is the updated contract with an hourly rate listed in the scope of work.

Legal Review: Contract has not been reviewed by Legal, utilizes a template developed by SWCCOG legal.

Financial Implications: Is included in FY 2022 Budget

Proposed Actions: Approve the 2022 contract with the SWCCOG for Management and Administration for \$22,800.

**AGREEMENT BETWEEN
SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS
AND
THE REGIONAL HOUSING ALLIANCE OF LA PLATA COUNTY**

THIS AGREEMENT (the “Agreement”) is entered into this ___ day of _____ 2021, by and between the SOUTHWEST COLORADO COUNCIL OF GOVERNMENTS, (hereinafter referred to as the “SWCCOG” or “Contractor”) whose address is 295 Girard St, Ste B, Durango, CO 81303, and the Regional Housing Authority of La Plata County, a Colorado Housing Authority, whose address is 295 Girard St, Ste B, Durango, CO 81303 (hereinafter referred to as the “RHA”) (and collectively, the “Parties”).

RECITALS

WHEREAS, the RHA is in need of certain administrative support, meeting support, and book-keeping services as set forth in Exhibit A and whereas SWCCOG would provide those administrative, book-keeping, and meeting support services; and

WHEREAS, it is the mutual desire of the Parties to set forth their understanding and agreement, in writing, with respect to said obligations:

NOW, THEREFORE, the parties agree as follows:

1. *Retention of Contractor.* RHA hereby retains SWCCOG to provide certain Services on the terms herein provided.
2. *Term of Agreement.* Unless terminated earlier by either party hereto, the period during which Contractor shall provide services to RHA under this Agreement shall be from **1 January 2022** until **31 December 2022**. This Agreement shall not automatically renew. Both SWCCOG and RHA must agree to any renewal terms.
3. *Termination.* This Agreement may be terminated by either Party, with or without cause, by providing at least 90 days’ written notice to the other Party.

RHA may terminate this Agreement immediately without prior notice if any of the following occurs:

- a. Contractor commits a material breach of any provision of this Agreement and thirty days’ notice and an opportunity to cure, without curing lapses; or
- b. Contractor commits an act of fraud, dishonesty or any other act of gross negligent, reckless or willful misconduct in providing the services to the RHA violates any other provision of law; or
- c. Contractor fails to commence the work within the RHA calendar dates, Exhibit B, attached to the Contract or in the opinion of RHA the Contractor fails to perform the work with sufficient workers and equipment or with sufficient materials to assure the prompt completion of said work; or

- d. Contractor discontinues the work; or
- e. Contractor fails to resume work which has been discontinued within a reasonable time after notice to do so.

The SWCCOG may terminate this Agreement immediately without prior notice if any of the following occurs:

- a. RHA Board fails to communicate changes to Exhibit B; or
- b. RHA Board fails to provide direction, information, and other relevant information needed for the SWCCOG to provide services in Exhibit A; or
- c. RHA Board fails to notify SWCCOG on meetings or gatherings of Board Members outside of Exhibit B.

Upon termination, RHA shall issue SWCCOG any payments owed for the annual period, however pro-rated to the date of termination, and SWCCOG shall return to RHA all of RHA property, correspondence and records (including copies of RHA computer files), and the parties shall thereafter be relieved from further obligations under this Contract.

4. *Contractor's Duties.* Contractor shall furnish the Services to RHA as described in Exhibit A, Scope of Services. The RHA agrees that it will at any time, and from time to time, execute and deliver all documents and instruments, and take all actions as may reasonably be required by the SWCCOG in order for the SWCCOG to effectuate and fully carry out its obligations in accordance with the terms of this Agreement. SWCCOG is not responsible for incomplete Colorado Open Records Requests as a result of the RHA not having a centralized email system and prior lack of communication with SWCCOG on behalf of the RHA Members regarding RHA business.

5. *Compensation and Invoices.* The compensation paid to the Contractor is to be paid on a schedule and at rates as described in Exhibit A. SWCCOG's obligation to perform is condition on RHA payment.

6. *Agreement to Perform Services as an Independent Contractor.* It is understood through this contract that RHA is contracting with Contractor to provide specific services and this contract should in no way be interpreted that Contractor is an employee of RHA.

Contractor shall perform said services in its own way in the pursuit of its independent calling and not as an employee of RHA and shall be solely responsible for the means and methods and the proper performance of the services in compliance with the terms, requirements, and specifications of this Agreement. Contractor and any persons employed or retained by Contractor for the performance of services hereunder shall be independent contractors and not employees or agents of RHA. Contractor shall not be under the control of RHA or its employees as to the means or manner by which such result is to be accomplished.

Contractor shall have no claim against RHA hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Contractor shall be solely responsible for meeting all applicable withholding, tax, and insurance requirements.

7. *Notices.* Any notice this Agreement requires must be written and hand-delivered or sent by U.S. Certified mail, return receipt requested, to the parties at the address listed above and also via email, to the following e-mail addresses:

If to SWCCOG: director@swccog.org AND info@swccog.org

If to RHA: _____ (insert e-mail notice address)

8. *Assignment.* Neither party shall have the right to assign this Agreement except with the express written consent of the other.

9. *Enforceability.* If any term or provision of this Agreement shall be adjudicated to be invalid, illegal or unenforceable, this Agreement shall be deemed amended to delete the term or provision thus adjudicated to be invalid, illegal or unenforceable and the validity of the other terms and provisions of this Agreement shall not be affected thereby so long as the purposes of this contract can be met.

10. *Governing Law and Enforcement.* The terms and conditions of this Agreement shall be construed, interpreted and enforced in accordance with the applicable laws of the State of Colorado. Any dispute concerning the performance or interpretation of the agreement which cannot be resolved by the designated points of contact or their immediate superiors shall be referred to the party's board of directors. If the matter is not resolved within 45 days after referral, either party may file legal action. If any legal action is necessary to enforce the terms and conditions of this Agreement, the parties agree that the jurisdiction and venue for bringing such action shall be in the appropriate court in La Plata County, Colorado.

11. *Entire Agreement.* The parties agree that this Agreement constitutes the entire Agreement between the parties and supersedes any and all prior oral representations, promises, covenants, understandings and other agreements, if any, between the parties and their agents, and this Agreement may not be modified in any manner except by an instrument in writing executed by both parties.

12. *Waiver.* No failure by either party to exercise any right it may have shall be deemed to be a waiver of that right or of the right to demand exact compliance with the terms of this Agreement.

13. *Construction.* This Agreement's final form resulted from review and negotiations among the parties and/or their attorneys and no part of this Agreement shall be construed against any party on the basis of authorship.

14. *Signatory's Authority.* Each person signing this Agreement in a representative capacity expressly represents that the signatory has the subject party's authority to so sign and that the subject party will be bound by the signatory's execution of this Agreement.

15. *Funding availability.* Financial obligations of the RHA and performance obligations of SWCCOG are contingent upon annual appropriation of funds by their organizations to pay for the scope of work defined in this agreement. The Parties understand and accept that RHA obligations to make any payments, and SWCCOG obligations to perform services are

contingent on annual appropriation of funds. The parties represent that funds have been appropriated for the initial term.

16. *Third Party Beneficiaries.* The parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the parties to this Agreement shall have any right, legal or equitable, to enforce any provision of this Agreement.

17. *Breach of Contract.* The prevailing party to any litigation arising out of this agreement shall be entitled to all costs of that action, including reasonable attorney's fees. Notwithstanding, neither party shall be liable for any damages for loss of profits, loss of revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing, replacement services, or any indirect, incidental, special, consequential, exemplary or punitive damages arising out of its performance or failure to perform under this agreement. Additionally, any damages against SWCCOG shall be capped at the amount of funds that SWCCOG has received from the RHA during the fiscal year in which such liability or damage accrued.

18. *Liability Insurance.* SWCCOG shall maintain its CIRSA insurance coverages in the amount presently held (at the time of execution of this Agreement) by the SWCCOG and RHA shall maintain its CIRSA insurance coverages during the term of this contract.

19. *Indemnification.* Each party, to the extent authorized by law, shall indemnify and hold the other harmless, their agents, employees, and Directors from and against any claim, damages, losses and expenses, including but not limited to attorney's fees and court costs, arising out of or related to that party's own failure to properly perform under this agreement, but only to the extent the failure to perform is caused in whole or in part by the negligent acts or omission of that party, or anyone directly or indirectly employed by that party, and so long as that party did not cause, in whole or in part, the other party not to properly perform. RHA to the extent authorized by law, shall indemnify and hold the SWCCOG harmless from any claims made against the SWCCOG arising from RHA's actions or inactions that are either negligent or a breach of their contract with others, including reasonable attorney's fees and court costs.

20. *Intent.* It is the intent of the Parties that all contractual and statutory obligations of the RHA remain those of the RHA and are not assigned to the SWCCOG and do not become the obligation of the SWCCOG. This Agreement does not create a joint venture or partnership or merger of the Parties. RHA is and shall remain a separate and distinct entity from the SWCCOG. The business operations of RHA shall in no way combine with the business operations of the SWCCOG. The role of the SWCCOG is merely to assist the RHA Board by supplying it with administrative support, meeting support, and book-keeping support, as set forth in this Agreement. The SWCCOG is not responsible for the RHA's actions or inactions.

21. *Immunity.* By executing this agreement, SWCCOG does not waive any immunity or limit liability contained in the Colorado Governmental Immunity Act, does not create a multi-year financial obligation, and does not create any other financial obligation not supported by a current appropriation.

22. *List of Exhibits*

Exhibit A – Scope of Services and Compensation

Exhibit B – RHA Meeting Schedule

Exhibit C – RHA Calendar

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

Regional Housing Alliance of La Plata County

Title, Date

Southwest Colorado Council of Governments

Title, Date

EXHIBIT A

SCOPE OF SERVICES & COMPENSATION

Administrative Services are limited to:

- Filing any necessary papers at RHA Board's direction to renew RHA's insurance policy(s) in the amount including errors and omissions coverage, to ensure no lapse in coverage, the costs of the same to be paid by RHA.
- Collecting and opening mail and email correspondence forwarded by RHA to SWCCOG and forwarding the correspondence to RHA's Board President and Executive Committee. The SWCCOG will reasonably assist RHA in transmitting RHA Board responses to correspondence.
- Supporting RHA Board Meetings set forth in Exhibit B, which shall include the following:
 - Per the direction of the RHA Board President, creating an agenda and supporting documentation.
 - Distributing the agenda to the Board.
 - Taking minutes and drafting minutes of the meeting which will be at the following regularly scheduled Board Meeting.
- Maintaining RHA board meeting minutes and financial records obtained during the time of this Agreement. SWCCOG does not know the status of the RHA's records prior to the original contract execution date hereof and is not responsible therefor.
- SWCCOG shall be the official Custodian of the RHA's records. SWCCOG will assist RHA in responding to any record requests made of the organization under applicable Colorado law. The cost of the same, including the payment of any necessary legal fees or court costs in complying with same or replying to record requests shall be promptly paid by RHA to SWCCOG in addition to the annual payments. Files provided by RHA to SWCCOG shall be kept in a locked and secure location.
- Update bank signatories
- Posting public notices of meetings, budget hearings, and other items required by Colorado Revised Statutes.
- Assisting RHA in meeting its deadlines as specified in Exhibit C: RHA Calendar.
- 40 hours of grant writing
- One RFP process on behalf of the RHA

Bookkeeping Services limited to:

- Providing bookkeeping services utilizing GAAP accounting processes
- Maintaining RHA books in QuickBooks from date of execution of this Agreement.

- Providing financial statements including Balance Sheet, Profit & Loss, and Budget to Annual statements to the RHA Board in the Board Packets
- Assist the RHA Board in scheduling the annual audit, as necessary, to be performed by an Audit Firm selected by RHA Board. Facilitate the audit by providing records in its possession as requested. Costs of audit and auditor contract to be the responsibility of the RHA Board.
- Assist RHA in complying with their audit and auditor's requests for information
- Assisting the RHA Board in preparing an annual budget for approval by the Board, when approved by the RHA Board file the budget and budget amendments with any additional agencies or persons as directed by RHA.
- File financial paperwork on behalf of the RHA with the State.
- Meet with RHA Treasurer to review financials as needed.

Administration and Bookkeeping Services provided in this scope of work shall include labor costs, rent, liability insurance, utilities, telephone, office supplies, and computer hardware and software. Other costs that the RHA may incur including, but not limited, to legal fees and costs, audit fees, PO Box costs, postage, mileage and travel (as authorized by the RHA Board), liability insurance renewal, payment of RHA Vendors and RHA invoices, are the responsibility of the RHA.

RHA shall pay SWCCOG \$22,800 for Fiscal Year 2022.

If additional work is requested above and beyond what is listed in this Scope of Work, the hourly rate shall be: \$51.00/hour, billed at 15-minute increments.

EXHIBIT B

Regular Meeting Schedule

At the July 27, 2021 Board Meeting, the Board approved a regular meeting schedule on the first Thursdays of the month from 2-4pm. The following are the dates for 2022.

January 6, 2022 – This may be cancelled or rescheduled due to proximity of a federal holiday

February 3, 2022

March 3, 2022

April 7, 2022

May 5, 2022

June 2, 2022

July 7, 2022 – This may be cancelled or rescheduled due to the proximity of a federal holiday

August 4, 2022

September 1, 2022 – This may be cancelled or rescheduled due to the proximity of a federal holiday

October 6, 2022

November 3, 2022

December 1, 2022

EXHIBIT C

RHA Calendar of Important Dates

- No later than January 31: Adopted Budget filed with Department of Local Affairs
- January/February: Set audit date with Auditors (when applicable)
- March/April: Conduct audit (when applicable)
- May/June: Audit presentation to Board and Accept Audit
 - o No later than June 30, audit must be complete
- No Later than July 31: audit must be filed with Office of the State Auditor
- August: CIRSA Insurance renewal application
 - o Sign and return by October 1
- No later than October 15: Proposed budget must be presented to RHA Board
 - o Notice of Budget must be published in advance of October Board Meeting
- No later than December 31: RHA Board adopt annual Budget
 - o Notice of Meeting must be published in advance of December Board Meeting

RHA Request for Qualifications/Proposals

To: Regional Housing Alliance Board

From: Miriam Gillow-Wiles

Date: 4 November 2021

Mark Garcia and Mayor Kim Baxter tasked themselves to develop an RFP or RFQ at the RHA Board Retreat in June. Mark and Mayor Baxter will update the Board on the status of the request for proposals/qualifications.

Legal Review: Pending Board decision for legal review

Financial Implications: High, will cause the RHA to expend funding. Is budgeted in the FY2022 Draft Budget

Proposed Action:

Section G – Discussion/Updates

2022 Proposed Budget

Date: 4 November 2021

From: Miriam Gillow-Wiles and Jessica Laitsch

The final 2022 budget for the RHA must be adopted by December 15, 2021. SWCCOG staff is requesting final direction on the proposed budget in preparation for final adoption at the December 2, 2021 meeting. Below are various items for discussion and direction with respect to the final 2022 budget.

- Restricted for affordable housing and professional services:

The RHA has approximately \$236,000 reserved for affordable housing, these are funds that were previously restricted as a condition of grant funding. Since these funds are no longer restricted, the Board has options how to manage these funds. Two of these options are:

1. Retain a significant portion of the reserved funds as reserved for affordable housing. In the event these funds are required for professional services, staffing, or other operating costs, a budget change can be processed to un-reserve and transfer the funds. The benefit of this option is that the RHA currently has a separate interest-bearing bank account for reserved funds; this option would maintain as high a balance as possible in this account to maximize interest earnings. Additionally, the Board would maintain a clear picture of the funds intended for organizational operations versus that available for projects specific to increasing housing stock.
 2. Release from reserve and appropriate the entirety of the previously reserved funds to a professional services budget line. These funds would be available to transfer to other specific professional services, staffing, or other operating lines as needed. In this scenario, any underspent budgeted amounts would become fund balance moving in to 2023. The benefit of this option is that the Board would have a clear picture of exactly the funds available to the organization.
- The RHA was de-Bruced by the electors of La Plata County in November 2005 and as such is not subject to the revenue limits imposed by TABOR. That being the case, maintaining a modest emergency reserve is prudent. SWCCOG staff recommends the Board identify a portion of the fund balance to be reserved for emergencies. A few options would be:
 1. Reserve approximately 1 month of operating expenses, an initial estimate would be \$3,600
 2. Reserve approximately 3 months of operating expenses, an initial estimate would be \$10,800
 3. Reserve 3% of the maximum potential expenditures, including any possible professional services, an initial estimate would be \$6,000

Discussion Item – Future Funding of the RHA

To: Regional Housing Alliance Board

From: Miriam Gillow-Wiles

Date: 1 November 2021

Discussion will include potential funding for the RHA for FY2022 and beyond. Will include ARPA funding uses. Commissioner Porter-Norton will lead this discussion.

Discussion Item – Updated/Refined Unit Goal Numbers

To: Regional Housing Alliance Board

From: Miriam Gillow-Wiles

Date: 1 November 2021

Attached are updated specific numbers as to how many units are needed in the next 3-5 years. This was initially discussed with the La Plata County Economic Development Alliance on 10/29/2021 regarding the Alliance's Housing Investment Strategy.

La Plata County Housing Cost Burden and Unmet Need Projections

SOURCE: 2019 5-year ACS and Root Policy Research.

Target Population	Current Households	Cost Burdened Households	Severely Cost Burdened Households	Overcrowded Households	New Worker Households	Known Supply	Unmet Need	Unmet Need with Small CB Reduction
Renters 0-60% AMI	3,277			98	232	40		
Renters 61%+ AMI	3,117				111			
All Renters	6,394	1,704	1,490	98	343	40	3,595	461
Owners 0-120% AMI	8,010				111			
Owners 120%+ AMI	7,391				0			
All Owners	15,401	2,387	1,152		111	0	3,650	111
Seasonal workers					45		45	45
Total	21,795	4,091	2,642	196	499	80	7,290	617

RHA 2021 Action Plan Update

To: Regional Housing Alliance Board

From: Miriam Gillow-Wiles

Date: 1 November 2021

Attached is the action plan updated through October. Please note there are a number of items that have not yet been started related to community engagement.

RHA 2021 Action Plan

Updated October 2021

	July	August	September	October	November	December
Leadership: Coordination & Collaboration	Renovate/amend IGA & send to RHA Board for review. Who Mike, Mark & Kevin Status Ongoing		Get political alignment from all entites & decision from all 4 to approve the amended IGA for buy-in. Who Board Status Ongoing		RHA exposure to elected officials first. Get out of hiding! Who Board Status Not Started	Outreach to stakeholders Who Board Status Not Started
	Meet monthly & involve partners in meetings (communicate) Who Board, SWCCOG Coordinate Status Ongoing			Quarterly updates & presentations for Electeds. Who Board Status Ongoing	Public outreach How: PSA's, News/Media, etc Who Board Status Not Started	 Who Status Not Started
	Add agenda item to board meetings to review pending legislation for advocacy needs: CML, CCI, CCAT Who Status Ongoing	Add agenda item to board meetings to review pending legislation for advocacy needs: CML, CCI, CCAT Who SWCCOG Add to Agenda Status Ongoing	Add agenda item to board meetings to review pending legislation for advocacy needs: CML, CCI, CCAT Who SWCCOG Add to Agenda Status Ongoing	Add agenda item to board meetings to review pending legislation for advocacy needs: CML, CCI, CCAT Who Status Ongoing	Add agenda item to board meetings to review pending legislation for advocacy needs: CML, CCI, CCAT Who Status Ongoing	Add agenda item to board meetings to review pending legislation for advocacy needs: CML, CCI, CCAT Who Status Ongoing
Staffing: Administration & Management	Dedicate funding for contractor/firm. \$50k is already in budget, less facilitation costs Who Board, SWCCOG Coordinate Status Complete			RHA board to approve the Scope of Work, RFP & Timeline for hiring consulting firm/ consultant Who Board Status Ongoing	Consultant to develop the structure of the RHA (priorities, staffing structure, etc) Who Status Not Started	Ideal future: Secure all administrative support needed for the RHA - Executive Director / support staff Who Status Not Started
			Allocate gap resources for SWCCOG scope of work to hire consultants. Who SWCCOG Add to Agenda Status Complete		In-between steps of releasing RFP, vetting proposals, interviews, negotiations, etc Who SWCCOG and Board Status Not Started	Hire Consulting Firm/ Contractor Who Board Status Not Started
				Develop Scope of Work, RFP & Timeline for consulting firm / contractor Who Board w/ SWCCOG Support Status Ongoing	 Who Status Not Started	 Who Status Not Started
Funding		Track & organize funding opportunities to ensure no funding is missed (ARPA, State, federal) Who Grantwriter/Consultant Status Not Started		2022 Draft Budget Who SWCCOG/Board Status Complete		Approve 2022 Budget Who SWCCOG/Board Status Ongoing
		DOLA-Housing. Local rep: Andrew Atchley presentation Who Katie/Miriam Status Complete				 Who Status
Development	Identify and list of potential immediate development opportunities & joint ARPA projects. Who Board, Mike S, Kevin Status Not Started					Coordinate effort to support and/or start 2 projects Who Consultant Status Not Started
	Create a checklist to be used for all development projects Who Marsha Status Ongoing					Outreach to developers Who Consultant Status Not Started

Section H – Presentation(s)

Section I – Member Updates
