

**A RESOLUTION OF THE  
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO  
TO ACCEPT THE AFFORDABLE HOUSING ACTION PLAN  
PREPARED BY REES CONSULTING AND DATED JUNE 22, 2009**

**WHEREAS**, Ouray County, Colorado, acting by and through the Board of County Commissioners of Ouray County, Colorado (“Board”) is a statutory County, organized under and by virtue of the laws of the State of Colorado; and

**WHEREAS**, the Board is empowered under C.R.S. §30-11-107(e) to represent the County and to provide for the management of the business and concerns of Ouray County; and

**WHEREAS**, on October 22, 2007, the Board adopted an “Intergovernmental Agreement Between the City of Ouray, Colorado, the Town of Ridgway, Colorado, and the Board of County Commissioners of Ouray County Establishing a Multijurisdictional Housing Authority” (“IGA”) to be known as the Ouray County Housing Authority (“Authority”); and

**WHEREAS**, in conjunction with the efforts of the Authority, the Board entered into a contract with Rees Consulting to perform certain work to prepare an Affordable Housing Action Plan; and

**WHEREAS**, Rees Consulting and the Authority have worked together to complete the Affordable Housing Action Plan and such plan was completed and submitted to the Board on or about June 22, 2009; and

**WHEREAS**, at a Special Meeting on October 19, 2009, the Board discussed the Affordable Housing Action Plan (“Plan”) and determined that the Plan embodies a philosophy and direction on affordable housing in Ouray County that the Board accepts and believes is a solid strategy for the Authority to carry out; and

**WHEREAS**, the Board tasks the Ouray County representative to the Authority to consider, with the other Authority Board members, the recommendations and directives contained in the Plan for coordinating affordable housing objectives and to more fully develop the policies and objectives contained in the Plan; and

**WHEREAS**, the Board anticipates that the Ouray County representative to the Authority will ultimately make recommendations to the Board on possible actions to be taken by Ouray County in order to implement and further the goals contained in the Plan;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:**

1. The Affordable Housing Action Plan prepared by Rees Consulting dated June 22, 2009 and attached as Exhibit A to this document, is accepted and the Ouray County representative is authorized to participate with the Authority and develop recommendations to the Board as described herein.

APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

Attest:

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Heidi M. Albritton, Chair

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K. Keith Meinert, Vice-Chair

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Michelle Nauer, Clerk and Recorder  
By: Linda Munson-Haley, Deputy Clerk of the Board

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Lynn M. Padgett, Commissioner

## Introduction

### *Purpose*

This Affordable Housing Action Plan is intended to guide the multi-Jurisdictional work of the newly-formed Ouray County Housing Authority and the cooperative, coordinated efforts of the City of Ouray, Town of Ridgway and Ouray County. It calls for the responsibility for affordable housing to be broadly shared through a comprehensive combination of strategies scheduled for implementation by 2015.

This Plan represents the next step in a process that started with the inclusion of objectives in the Master Plans of all three jurisdictions calling for efforts to provide affordable housing. In 2002, both municipalities signed intergovernmental agreements with Ouray County specifying that these homes and other residential development should be located in established urban areas. In 2008, the three jurisdictions collaboratively formed a county-wide housing authority to address housing needs, and obtained grant funding for a comprehensive assessment of those needs, which was published later that year. A more detailed chronology of the path leading to this Action Plan is included in the appendix.

### *Organization of the Plan*

This document consists of five sections:

- I. Update of Housing Needs
- II. Policies and Guiding Principles
- III. Goals and Objectives
- IV. Priority Strategies
- V. Implementation and Administration

The appendix includes various materials that supported the development of this Action Plan, such as a review of the legal authority for Colorado municipalities and counties to enact housing programs, and key figures from the Housing Needs Assessment.

### *Acknowledgements*

This Plan was funded by a grant from the Colorado Department of Local Affairs with matching support from the City of Ouray, Town of Ridgway and Ouray County. The planning process was coordinated and shaped by the Ouray County Housing Authority (OCHA) Board with Jen Coates, Planner for the Town of Ridgway. A Task Force consisting of elected and appointed officials and staff considered needs, options, resources and reality when developing the direction embodied in this plan. Appreciation for their work is extended to:

Don Batchelder, Ouray County, OCHA Board  
Mark Castrodale, County Planner  
Rani Guram, Ridgway Planning Commission  
Betty Wolfe, City of Ouray, OCHA Board

Mike Fedel, Ouray Planner, OCHA Board  
Will Clapsadl, Ouray Planning Commission  
Lynn Padgett, Ouray County  
Paul Hebert, Ridgway Town Council, OCHA Board

## I. Housing Needs Updated

The November 2008 Ouray County Housing Needs Assessment concluded that 149 additional units were needed to address existing or “catch-up” demand for affordable housing. This conclusion was based on surveys conducted the previous year. Of the 149 units needed, 39 were the result of unfilled jobs and 110 were generated by in commuters who want to move into Ouray County where their jobs are located.

Since the publication of the study, economic conditions have dramatically changed. Construction activity has largely come to a halt. The unemployment rate has risen a full percentage point and no longer signals that Ouray County is a labor shortage area. Help wanted notices in the newspaper have sharply declined. Homes that have not sold are being offered for rent, greatly increasing rental availability. Residents are having difficulty obtaining enough work locally and are finding it increasingly necessary to commute to Telluride for jobs. Most construction workers are unemployed, or underemployed. Though hard data are not available, the decline in jobs has also led to a decline in in-commuting. Casual observations suggest that jobs are no longer unfilled. Because of these recent factors influencing housing demand, fewer units are now needed to address existing demand, i.e.: “catch up”. Housing needs should be revisited upon publication of 2010 Census data to adjust estimates of existing demand.

The Housing Needs Assessment projected that job growth by the year 2015 would generate demand for 881 additional housing units. It estimated that the private market would affordably address all but 20% to 30% of this workforce-related housing demand leaving between 174 and 264 units that would need to be developed through public efforts to keep-up with demand.

Ouray County along with the rest of the country and much of the world is currently in a recessionary period, making these job projections high. Trending has shown, however, that Ouray County’s economy has historically rebounded from recessions faster than the rest of the nation and the state as a whole. While job growth will likely be flat for a year or two, by 2015, new jobs should generate demand for approximately 470 units, which equates to about 53% of the Needs Assessment estimate of 881.

Housing prices have not significantly declined despite the steep drop in the number of sales. The median price of single-family homes sold in 2008 was about 6% lower than the median in 2007. The number sold dropped from 131 to 57. Sales of lower-priced units increased, however. The number of condominiums and townhomes sold grew from 15 in 2007 to 26 in 2008, and the number of mobile homes sold increased from two to seven in the same time period.

Home prices remain beyond the reach of many local residents. As of mid January, the median price for the 195 homes listed for sale (single family, condos/townhomes and mobile homes) was \$495,000, with an average of over \$690,000. Of these listings, only 11 or 5.6% were at

prices affordable for households with incomes at or above 120% AMI. Prices may drop further but it appears that the private market will address only about 40% of the demand, not 70% to 80% as projected by the Housing Needs Assessment. It now appears that the Housing Authority and cooperating jurisdictions will face a “keep-up” demand not served by the private market for approximately 270 units by 2015.

## **II. Policies and Guiding Principles**

### **Sustainability**

Sustainability is a critical premise of this Action Plan. Sustainability in housing is to be achieved by:

- “Green” designs with energy-efficient appliances, alternative energy sources, non-toxic building materials, solar orientation, and high R-value insulation and windows, which improve long-term affordability and provide a healthier living environment.
- Compact developments, which reduce the amount of land converted into residential use, minimize resources consumed in infrastructure construction and maintenance, lower water consumption, enhance sense of neighborhood and preserve land for agriculture – Ouray is a right-to-farm county.
- Location of housing in population centers in proximity to jobs where infrastructure and services are available.

### **Primary/Second Home Relationship**

The use of residential units in Ouray County has been shifting with an increase in the percentage of homes used as second/vacation properties. Continuation of this shift is not desirable as it would drive housing prices even further above levels affordable for local wage earners and lead to undesirable conditions including loss of the sense of community and neighborhood vitality with homes that sit empty much of the year. An interim report funded by the Telluride Foundation on a collaborative research effort of the Harvard Graduate School of Design and MIT projected second home growth in Ouray County will average 7.2% per year over the next 20 years. This would be more than double the rate of growth anticipated for primary homes, and would outpace second home development in San Miguel County (4.4% per year). The economic benefits of residential construction and part-time residents are recognized yet further shift in the relationship between primary and second homes should be minimized.

## Jobs/Housing Relationship

The growth in housing for employees should at least match the rate of growth in employment-generating uses, including residential construction, commercial establishments and public facilities. While the absolute number of in-commuters may increase under this policy, the percentage of the workforce housed in Ouray County should remain constant at about 80%, with 20% of the workforce commuting from outside the County. With the anticipated increase in seniors as “baby boomers” reach retirement age and exit the workforce, it will take proportionately more affordable housing units to maintain this relationship. The overall rate of growth in housing will need to exceed the rate of growth in job-generating uses for the relationship between workforce housing and jobs to be maintained. The current rate of 1 occupied home per 1.4 employees will shift, approaching closer to a 1:1 relationship. In other words, the transition to fewer employees per household will require an increased number of workforce housing units to keep up with an increased demand for employment.

## Priorities and Targeting

- *Workforce Housing* -- Affordable housing efforts should focus initially on providing units designed for the workforce but with recognition that the retiree population will grow at a disproportionately high rate for at least the next 15 years, and that housing specifically designed for seniors could be a key component of a comprehensive approach. The top priority is the development of homes designed and priced for essential employees including teachers, health care providers and emergency responders.
- *Family Housing* -- Ouray County and its communities are family oriented. This characteristic should be maintained into the future as growth occurs. To preserve this demographic trait, about 70% of new units intended for occupancy as primary residences should accommodate families and about 30% should be designed for singles, with the recognition that it is more affordable and desirable for units developed for single homeowners to have two bedrooms.
- *Income Mix* - The diversity of the county’s population should be preserved with an income distribution that reflects the desire for growth in housing opportunities for moderate- and middle-income households, which includes most essential employees, relative to other income groups. The desired mix is roughly one-third for low-income households ( $\leq 80\%$  AMI), one-third moderate/middle income (81% to 120% AMI) and one-third upper income (121% AMI and greater). The Housing Authority’s efforts will focus on households with incomes equal to or less than 120% AMI, based on current housing prices and the assumption that the private market will address the housing needs of households with higher incomes. It is likely that households with incomes between 120% and 150% AMI will need housing assistance in the not too distant future as market prices resume their upward movement. Income targets and goals should be revisited as prices change, and will likely need to be increased over time.

- *Owner/Renter Mix* – Both homeownership and rental opportunities are needed. To maintain the existing relationship into the future, about 75% of homes built for occupancy by residents should be for sale and about 25% should be for rent.

## **Location**

In accordance with a long-standing policy for residential development embodied in intergovernmental agreements in 2002, and reiterated in the 2009 county-wide RPI/Theobald Study Group recommendations, higher density growth is to be directed toward the incorporated communities and their Urban Growth Boundaries where urban services and infrastructure are available. Production of affordable housing should occur primarily in the towns where it is sustainable, preserving the rural character of the county. Income segregation with only the rich being able to enjoy the county's rural lifestyle and the poor concentrated in town is not desired, however.

Despite policies, development is occurring in the unincorporated area of the county at a faster rate than in the towns -- 59% of residential building permits issued from 2000 through 2007 were for homes in unincorporated Ouray County. This development activity generates demand for workforce housing both in the initial construction and in the ongoing operation and maintenance of the homes. Opportunities to include sustainable workforce housing in ways that would not negatively impact the county's rural character, should be considered.

Given Colona's distance to Ouray and proximity to Montrose, its lack of water and wastewater systems, and the lack of a public transit system connecting Colona with employment centers, it is not a desirable location for the development of housing to serve Ouray County's workforce at this time. If the necessary infrastructure is provided in the future, the development it enables should include affordable housing so that the resulting housing demand does not impact housing needs in the rest of Ouray County. If high-density development on private lands in Colona or elsewhere in unincorporated Ouray County is proposed, a substantial affordable housing component should be included.

## **Unit Types and Density**

Single-family homes and duplexes are the most compatible with the existing character of development within the county and towns. Greater diversity in unit types and sizes is needed, however, to achieve affordable price levels. Relatively high density is also needed to make housing affordable. New subdivisions within the towns should allow for mixed density including opportunities for development of multi-family units at densities of 12 - 18 units per acre. Increased density will enable clustering of homes within new development, a recommendation called for in 2009 by the RPI/ Theobald Study Group.

Mixed-use developments with multi-family units located above or behind retail and office space are desirable as a way to provide high-density housing without significantly impacting the amount of land available and suitable for commercial uses. Accessory dwelling units that can be developed on existing lots and in new subdivisions are also desired.

High density is not available in the unincorporated areas of Ouray County where development is mostly limited to one unit per six acres or one per 35 acres, nor is it desired. Accessory or similar dwellings that provide housing in proportion to the demand generated in the nearby vicinity are desirable. Appropriate standards and guidelines should be established for these accessory units to insure affordability and maximize rental opportunities in the county. Opportunities to produce single-family homes affordable for middle-income residents through minor up zoning in new rural subdivisions may also be desired in the appropriate application.

### **Responsibility**

Responsibility for housing should be broadly shared in the community with a mechanism for the general public to provide financial support. New residential development should pay its own way and should be held responsible for providing affordable housing to sustain the county's communities and its economy. Because of the high property taxes paid by commercial properties, and because commercial uses are so vital to the towns and county, commercial developers will be required to provide or fund housing for only a small portion of the housing demand generated by development. Neither of the towns nor the county is in a position to significantly subsidize housing efforts through general fund revenues in the immediate future but will continue to provide administrative support and sponsor grants as available. Development of public/institutional uses which generate employment and the resulting need for affordable housing, like schools, churches and government agencies, should also address a portion of the housing demand generated.

## **III. Goals and Objectives**

This Plan herein establishes distinct goals for affordable housing units to address both existing needs (catch-up) and needs that will arise in the future as growth occurs (keep-up).

- By 2015, up to 50 affordable housing units should be developed or preserved to address catch-up needs. It is recognized that this goal is less than the actual catch-up need, but it takes into account the uncertainty of current demand given the change in the economy since the 2008 Needs Assessment and resource availability. It is approximate and should be revisited mid way through the period, or in 2011 after release of 2010 Census data.

- Also by 2015, strategies focused on new development should provide 160 affordable housing units that would keep up with approximately 60% of the new demand that is unlikely to be addressed by the free market. Real estate prices and job growth for this period are uncertain, so this goal is less than 100% of the currently identified need to keep-up with the future workforce housing demand and, as such, this goal should also be revisited as conditions change.

Applying the policies in the previous section of this document on income targeting and location translates into a total goal for the development or preservation of 210 affordable housing units by 2015 as shown on the following table.

#### Goals by Type, Income and Area

Income	Low	Moderate/Middle	Upper
<b>AMI</b>	0 – 80% AMI	81% - 120% AMI	121%+AMI
<b>Desired Mix</b>	1/3	1/3	1/3
<b>Catch-Up Goal</b>			
50 units by 2012	25	25	Market
<b>Keep-Up Goal</b>			
160 units by 2015	80	80	Market
<b>Total</b>	105	105	Market
<b>Ridgway – 55%</b>	58	58	
<b>Ouray – 28%</b>	29	29	
<b>Ouray County – 17%</b>	18	18	

Based on a combination of factors including opportunity and demand, approximately 55% of affordable housing should be developed in Ridgway, 28% in Ouray and 17% in Ouray County. These percentages do not represent a share of the burden to create affordable housing as the responsibility is proposed here to be reasonably distributed. Rather, these percentages represent factors such as the availability of land, opportunity for new development and mutually desired locations for growth. Given the level of residential development that has been occurring with unincorporated areas, the County should be able to generate funds from this development to provide support for construction of affordable housing within the towns. In other words, while the goal is for only 17% of the affordable housing units to be located within unincorporated areas, the County should be responsible for subsidizing a larger share to support development within the incorporated areas.

## IV. Priority Strategies

To address existing and future housing needs throughout Ouray County, a comprehensive plan has been developed that calls for the implementation of 12 different types of strategies by 2015. These strategies are aimed at simultaneously addressing both catch-up and keep-up needs while broadly sharing the responsibility for affordable housing.

Given the uncertain economic times and the changes that have occurred since the 2008 Housing Needs Assessment as stated previously, quantitative objectives for the development of additional units to meet existing or catch-up needs have not been set. This Action Plan does not ignore existing housing needs but rather outlines a pragmatic approach that focuses immediately on improvements to the existing housing inventory and postpones plans for unit development until market indicators suggest that new construction would be prudent and feasible.

The current lull in development activity provides the time for staff and stakeholders to develop, and elected officials to consider and adopt, regulations aimed at keeping up with housing needs as growth occurs. In accordance with the policy that development pay its own way, this Action Plan calls for the adoption of measures now that will insure that affordable housing demand generated by new development is at least partially provided by that development. Since no new units would be built through these methods until such time as growth occurs, waiting for market conditions to stabilize before enacting the requirements is not necessary or appropriate.

The following pages contain a summary of each strategy recommended for implementation by 2015. The appendix includes a print out of an excel-based model used to estimate the number of affordable units that would be produced/ preserved if the recommendations contained herein are enacted. The assumptions used to develop the model on the amount of commercial and residential development likely to occur by 2015 were generated by the planners from each jurisdiction using historic levels adjusted downward due to the recession. These assumptions can be changed as the future unfolds, with the model instantly adjusting the number of affordable housing units likely to be produced.

### Rehabilitation and Weatherization - 2009

Providing assistance for weatherization and rehabilitation of units is an immediate priority to address high utility costs, unsafe surroundings, the potential for overcrowding and dissatisfaction due to disrepair and substandard or less than desirable living conditions. Assistance for this work in the form of energy audits, grants and low-interest loans is now available through five different agencies stretching from Durango to Grand Junction. None of the agencies have offices in Ouray County, however, making it potentially confusing and complicated for residents to take advantage of the assistance available. To remedy this situation and make weatherization and rehabilitation funding more accessible to the County's residents, the following steps are recommended:

- Provide staff support for coordination and administration of program services;
- Identify, confirm and develop a relationship with all existing support services, providers and key stakeholders currently involved in providing these services for Ouray County
- Develop a specific operations plan outlining the scope, initiation, implementation and monitoring of weatherization and rehabilitation programs;
- Identify financial partners for grant and loan administration, including local lending institutions, the Governor's Energy Office, local utility providers and others;
- Identify or develop specific standards for home inspection, insulation, construction/rehabilitation and other services necessary for successful program implementation and solicit qualified providers for these services;
- Initially target efforts to households qualified for assistance from the State of Colorado given funding limitations but expand to serve households earning up to 120/150% AMI as opportunities are identified;
- Rehab and/or weatherize at least 21 units in total by 2015 with roughly seven in each jurisdiction.

### Annexation Policy -- 2009

Through policies and practices that the municipalities of Ouray and Ridgway can apply to the annexation of land, new development can be required to address not only the impacts that it directly generates but can be used to improve conditions that currently exist in the communities, including a shortage in the availability of affordably priced housing. Communities often hold development proposed on property that must be annexed to higher standards than projects proposed for land already within municipal limits. Drafting and adoption of a policy for future annexations should be pursued immediately while neither town has an application before them for consideration. To do so, the following actions are recommended:

- The desire to halt the shift from primary to second homes should be taken into consideration when setting the policy with potentially a Resident Occupied (RO – no income or price caps) deed restriction for a portion of the units.
- The ability to use annexations as a means for addressing existing or catch-up needs should be considered and the number of affordable units required should be higher than if imposed under IZ and linkage requirements for in-town parcels, including provisions for housing low income households that require the most significant subsidy.

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### Homeownership Counseling and Mortgage Assistance – 2009/2010

As units are built or become available for sale to moderate- and middle-income employee households, potential buyers will need assistance in order to qualify to purchase the homes. Homebuyer education classes along will not be sufficient. Personalized credit counseling and down payment or other forms of financial assistance like a shared equity injection are needed.

- In 2009 the OCHA should hold an educational session on housing resources and contact information for Ouray County. This session may include information from lenders, opportunities with the Colorado Housing and Finance Authority and the OCHA on resources available to homeowners and renters in Ouray County. This will primarily be a community outreach effort by the OCHA with the support and cooperation of the three jurisdictions to check in with the community on services available and desired.
- OCHA should hire or contract with someone experienced at moving moderate income households into homeownership. The San Miguel Regional Housing Authority may be a good resource to initiate homebuyer education services in Ouray County. As the demand increases, the OCHA may wish to retain a certified HUD educator and/or counselor to provide these services.
- A system for Ouray County residents to access down payment assistance through the Delta Housing Authority should be established.
- A grant application should be submitted to the Colorado Housing Division for a down payment assistance allocation.
- A pipeline should be established for accessing CHFA down payment assistance.
- Local mortgage lenders should be involved in the OCHA-initiated effort.

### Inclusionary Zoning (IZ) – 2010

Inclusionary zoning is the imposition of a requirement on new subdivisions or PUD's that a portion of all new units be affordable for a targeted group, typically moderate- and middle-income households in the communities in Colorado that have adopted IZ. Research on IZ programs in urban areas across the country has shown that the higher the income level served, the more units produced. The most effective IZ programs have been complemented by development incentives. Recommendations for adoption of IZ requirements are as follows:

- All three jurisdictions should impose the same requirement of 20% though terms and applicability could vary. A coordinated policy development effort facilitated by the

Housing Authority will streamline this process for multi-jurisdictional cohesion and can provide for divergent applications as appropriate.

- Methods for satisfying the requirements should be flexible although building units on site is generally preferred, and could vary by jurisdiction.
- Placement of a permanent voluntary transfer assessment (RETA) on subsequent sales of free market units should be allowed in exchange for a partial reduction in the percentage of affordable units required (in Eagle County, their 35% IZ requirement is reduced to 30% in exchange for a 1% RETA).
- IZ should be used to primarily provide homeownership opportunities for moderate and middle income households (81% - 120% AMI).
- IZ should be enacted in 2010 before additional subdivision applications are received.

Through these steps, IZ applied to new subdivisions between now and 2015 would result in the eventual construction of about 105 affordable homes. Applying a resident-occupied (RO) deed restriction to some percentage of units in new subdivisions, above the 20% requirement for moderate/middle income households, should be considered as a means for slowing the shift in Ouray County from primary to second homes.

#### Development Incentives – 2010

Incentives are an important strategy for use with IZ and linkage requirements. They are the “carrots” that can make development of affordable housing a win/win experience. Given variations in code requirements, lot sizes, densities and development opportunities, incentives should vary among the jurisdictions in Ouray County. For all three:

- Incentives should be put into place simultaneously with IZ and linkage requirements;
- Stakeholders including developers and property owners should be involved in their structure; and
- Increased density with high utilization should be allowed for affordable housing, as a means to reduce development costs and promote sustainable land use.

In Ridgway, incentives should include:

- Deferral, reduction or waiver of building permit and plan review fees;
- Deferral, reduction or waiver of excise taxes (Excise tax calls for payment of \$1500 per new residential units created, enacted at subdivision - n/a to new building permits but due at subdivision);

- Density bonuses;
- Expedited development and building permit review;
- Flexible Development and Design Standards (lot size and coverage, street frontage, etc.)

In Ouray, requirements are likely to be similar to Ridgway based on incentives previously offered.

In Ouray County, a minor density bonus should be considered for single-family subdivisions on small acreage, providing rural homeownership opportunities for moderate/middle income families. For example, where one unit per 6 acres is allowed, the ratio could be dropped to 1 per 5 acres if the additional unit(s) is deed restricted. To make this palatable and feasible, open space requirements shall be maintained at levels consistent with the land use code. This effort should be pursued after other affordable housing efforts have established a track record, possibly 2012, although IZ policy development coincident with Town and City efforts is recommended to insure propagation of mutually shared goals.

#### Residential Linkage - 2010

Residential linkage is a requirement that the construction of new homes contributes to the provision of affordable housing based on the demand that new residential development and the resulting permanent on-site jobs generate for housing. Since most jobs involved in home maintenance and operations are low wage, these requirements are typically designed to provide housing for low-income employees. The requirement can be formula driven where affordable units are required (typically a fraction for single-family homes but more for condominium projects) with a fee in lieu, or as an impact fee as was done and upheld in Gunnison County. Recommendations for residential linkage are as follows:

- A survey of homeowners should be conducted in the summer of 2009 or 2010 to provide the necessary job generation rates for the housing impact formulas that are the basis for a linkage requirement (i.e.: linkage fee study);
- All three jurisdictions in Ouray County should adopt an identical residential linkage requirement, in 2010 while construction activity is minimal;
- The mitigation rate should start out low for small units (5% or about \$ .05 per square foot) and escalate with unit size (45% or \$4.00 per square foot), stepping up significantly for the large homes being built in unincorporated areas;
- Options should be offered for ways to meet the requirement including payment of a fee, construction of units on or off site, and placement of a permanent voluntary transfer assessment (RETA) on subsequent sales of the free market units;

- The program should address the housing needs of low-income households ( $\leq$  80% AMI) to partially keep-up with housing demand generated by future residential growth;
- The program should primarily be used to produce affordable rental housing. Possible uses for the funds include subsidizing the development of tax credit apartments to achieve the quality and design desired, and the cost of ADU incentives;
- A housing support study should be prepared that includes a sample of homeowner surveys to establish residential job generation rates and a reasonable link between residential development and the requirements.

Based upon a series of assumptions about future residential development, a linkage program as proposed would generate total revenue of approximately \$1 million by 2015 providing subsidy for the development of seven units. While subject to refinement, examples of the approximate fee for specific free-market units are provided in the following table.

#### Residential Linkage Examples

Size	800	1200	1700	2000	2500	5000	7500
Jobs per unit	0.1	0.14	0.14	0.19	0.19	0.46	0.85
Housing demand	0.059	0.082	0.082	0.112	0.112	0.271	0.500
<b>Mitigation rate</b>	<b>5%</b>	<b>10%</b>	<b>13%</b>	<b>15%</b>	<b>20%</b>	<b>35%</b>	<b>45%</b>
Units required	0.003	0.008	0.011	0.017	0.022	0.095	0.225
Fee required	\$399	\$1,118	\$1,453	\$2,275	\$3,034	\$12,853	\$30,536
Fee per Sq Ft	\$0.50	\$0.93	\$0.85	\$1.14	\$1.21	\$2.57	\$4.07

#### Commercial Linkage – 2010

Commercial linkage is a requirement similar to residential linkage for addressing keep-up needs – it is based on the jobs created by new development and the resulting demand generated for affordable housing. It requires developers of new commercial space (does not apply to existing businesses or existing space) to provide or fund a portion of the affordable housing for which need is generated, usually by building it on site in mixed-use projects. Structuring the requirement as an impact fee also appears to be allowable based on the Gunnison County decision. Recommendations for commercial linkage are as follows:

- Ridgway and Ouray should adopt similar commercial linkage requirements; commercial development in the unincorporated county should be re-evaluated at a later date such that the requirements for commercial development in the unincorporated county may need to be more stringent to encourage job growth within the municipalities;

- The requirement should be based on only 5% of the estimated housing demand or impact generated by development in recognition of the importance of commercial uses to sustainability and the existing tax burden on commercial property under the Gallagher Amendment;
- The program should encourage on-site development of units but allow fees in lieu and off site development of affordable housing as options for compliance, based on community benefits, opportunities to utilize and leverage revenue, location and site attributes;
- Affordable housing provided on site should primarily be for moderate/middle income households (average of 100% AMI) such that the subsidy required is less than it would otherwise be to target households earning less than 80% of the AMI;
- A housing support study should establish the link between commercial development and the requirements imposed.

A commercial linkage program as proposed would generate 3.4 units, preferably on site above or behind commercial space. If fees in lieu are allowed, they would equate to \$340,000 in total by 2015, or roughly \$7.00 per square foot on the construction of new commercial/industrial space. While it is recognized that this fee for commercial development falls far short of the housing demand created by the development, the desire is to broadly share the workforce housing among all sectors while supporting development activity.

#### Commercial Linkage Examples

<b>Size - square feet</b>	<b>500</b>	<b>2000</b>
Jobs per 1,000 sq ft	4	4
Total jobs	2	8
Housing demand	0.98	3.92
<b>Mitigation rate</b>	<b>5%</b>	<b>5%</b>
Units Required	0.049	0.196
Fee Required (at 100% AMI)	\$3,474	\$13,896
Fee per Sq Ft	\$6.95	\$6.95

### Updating Needs/Revisiting Goals – 2011

Next year, the economy and housing market conditions may be sufficiently stabilized to determine the housing needs that still exist and to set quantitative objectives for addressing these catch-up needs. Information should be obtained from multiple sources and compared to the 2008 Needs Assessment to calculate changes and gaps. The specific information that should be obtained and considered includes:

- Unemployment rates and job numbers from the Colorado Department of Labor and Employment;
- Regional study with San Miguel County;
- Data from the Census Bureau on housing and commuting;
- MLS listings for home prices and availability;
- County Assessor data for sales in the prior year to determine if prices are stable or declining.

Depending upon conditions, some other goals or objectives of this plan may have shifted as well. This should be considered when revisiting the housing needs.

### ADU Incentives – 2010/11

Offering incentives for the development of accessory dwelling units (ADU's) could address both catch-up needs and keep-up needs. In Ouray and Ridgway, possible incentives include:

- Deferral of waivers of tap fees; evaluation of programs in Ridgway and Ouray with possible modification and replication in the County;
- Using linkage fees and IZ fees in lieu to subsidize construction costs with permanent covenants on long-term rental occupancy.

The County does not have tap fees to waive/defer but could allow the construction of accessory units as a means for meeting IZ requirements to offer. Other opportunities for the County include:

- Increase maximum size of ADUs to 1000 sf;
- Eliminate requirement for proximity to primary residential unit;
- Close the employee housing loop hole in the land use code;

- Waive building permit fee for ADU if permitted simultaneously with primary residence.

### Low Income Housing Tax Credit Apartments - 2012

Tax credits are available on a competitive basis from the Colorado Housing and Finance Authority (CHFA) for apartment projects that target households with incomes no greater than 60% AMI. Housing authorities, non-profit organizations (like Mercy Housing and the Denver Archdiocese) and private developers can all utilize the credits. Credits are often used to finance development of rental units by public/private partnerships. While development of an apartment complex would not be appropriate in rural Ouray County, opportunities exist in both Ouray and Ridgway. Recommendations include:

- The City of Ouray should set aside town-owned land suitable for the development of at least 10 apartment units and partner with a developer for design and eventual construction.
- Ouray County should consider the feasibility of using some or all of a County-owned parcel in within the City of Ouray for future apartment development.
- The Town of Ridgway should explore opportunities for partnering with a private or non-profit developer for construction of a small apartment project (up to 20 units) perhaps through dedication of future linkage fees to subsidize the development.
- Partnerships should be preferred over strictly private tax credit developments because the additional public subsidies could improve the quality of construction, reduce the number of units needed to be feasible, and influence their location and density. Opportunities may also exist to “package” a site in Ridgway and Ouray so that a single developer could construct both and enjoy some economy of scale. Early on in the process, a Request for Qualifications should be issued to evaluate a number of firms and identify an appropriate partner for the development that will maximize the funds available for this community asset and consider the character, lifestyle, desires, etc. of the community.
- It is recommended that the OCHA work with all jurisdictions to identify grant, low-interest loan and tax-exempt bond opportunities that will subsidize the LIHTC development. The OCHA should also create a specific public education and evaluation process for the development.
- Green building or energy-efficiency objectives should be incorporated into the LIHTC development (as well as all affordable housing units); OCHA should research resources whereby energy efficiency improvements are incorporated into the design and construction of buildings and financed over time.

- Construction should not be pursued immediately, however, since numerous rentals are now available. While most of these units are homes listed for sale with rents above levels that are affordable for low-income employees, the glut might result in a lowering of rents if allowed to prolong. Also, given economic conditions, new apartments might not be marketable at this time. Partnerships should be formed by 2011 when the timeline for construction dependent upon economic conditions at that time.

### Use Tax - 2015

A tax on construction materials purchased outside of Ouray County (usually Montrose) could be used for affordable housing, if approved by voters. The tax could be levied by either or all of the jurisdictions, or by the OCHA. If the housing authority also assesses a sales tax along with the use tax, it could then charge an impact fee of \$2.00 per square foot on all new construction. Summit County is the only jurisdiction to approve this tax/fee combination allowed by CRS 29-1-204.5. Reasons to consider a use tax for affordable housing include:

- A tax could provide an income stream for the housing authority that could be used for a variety of purposes including construction, land acquisition/banking, acquisition and buy down of existing units and administration.
- A use tax could pave the way for an impact fee, if a sales tax is also levied.
- Without a use tax, local businesses that sell construction materials are at a disadvantage since Montrose stores are not required to charge a sales tax on materials shipped into Ouray County; it is assumed that a use tax will eventually be passed to address this disparity and housing would be an appropriate beneficiary of the proceeds.

### Board Development – 2009 – 2015

Board members need education in and exposure to affordable housing efforts elsewhere. In order to help guide the policies and operations of the housing authority, especially in light of limited resources to devote to staff, they must be knowledgeable about the powers of housing authorities, residential design and development, market conditions, housing needs and financing. Ways to develop the Board's expertise include:

- Memberships in the Colorado Housing and the National Association of Housing and Rehabilitation Officials (NAHRO);
- Attendance at the annual Housing Colorado NOW conference;

- Presentations to the Board by representatives of the Colorado Division of Housing and the Colorado Housing and Finance Authority (CHFA).
- Participation in bi-annual Regional Housing Authority Meetings currently facilitated by the San Miguel Regional Housing Authority

### Priority Strategies Summarized

With the implementation of the recommendations made by this Action Plan, at least 163 affordable housing units should be produced or preserved by 2015. This estimate does not include a figure for ADU's or for units produced only through the provision of development incentives. It is also conservative in that it estimates only 7 units will result from residential linkage. In practice, fees in lieu of just over \$1 million will be paid which, if leveraged by the OCHA, could potentially produce a higher number.

<b>Strategy</b>	<b>Income Target</b>	<b>Total Units</b>	<b>Ridgway</b>	<b>Ouray</b>	<b>Ouray Co.</b>
Rehab/Weatherization	Low-Mid	21	7	7	7
Residential Linkage	Low	7	3	1	3
Commercial Linkage	Mod/Mid	3	3	1	0
Inclusionary Zoning	Mod/Mid	104	72	8	24
Tax Credit Apartments	Low	27	18	9	0
<b>Total</b>		<b>163</b>	<b>103</b>	<b>26</b>	<b>34</b>

The assumptions used in these projections should be reconsidered when housing needs are updated in 2011.

## **V. Administration**

Multi-disciplined expertise and extensive time will be needed to implement the strategies called for in this Action Plan. The most efficient and cost effective method for providing this expertise is through the centralization and coordination of housing programs county wide by the housing authority. Through the Authority, an incremental approach to development of administrative capacity is recommended to:

- Minimize start-up costs with increases in administrative expenditures as funds become available through fees and program income associated with inclusionary zoning, rehab and weatherization grants and loans;

- Reach a goal of financial independence from the municipalities and county through revenue generation and cost containment while continuing to offer fee-for-service program administration;
- Leverage local funds to pursue state and federal funding opportunities;
- Develop in-county capacity to administer programs; extensive reliance on regional agencies for program funding and service delivery is not desired long term.

This Plan recommends that all three jurisdictions allocate \$26,375 in 2010 to the OCHA to put administrative systems into place and launch revenue-producing strategies. Furthermore, each jurisdiction should provide 51 hours of staff assistance to the effort in 2009 and 2010 on code drafting, supporting the establishment of a coordinated housing rehab and weatherization program, grant writing and general organizational development. A detailed budget is included in the appendix.

A three-phase incremental approach to administration is recommended with a 2-year start-up period followed by a 5-year growth period reaching sustaining levels by 2015. Each task associated with these phases has been identified. In most cases, tasks will carry forward – they are not one-time jobs. As planned, the Housing Authority will be accountable for the entire list of tasks by 2015, and will be responsible for them on an ongoing basis thereafter.

### **Start-Up Phase (2009 – 2010)**

#### Organizational Development Tasks

- Obtain insurance, possibly in the short-term through the Town of Ridgway's CIRSA policy with the objective of carrying an insurance policy specific to the Authority by 2010
- Amend Multi-jurisdictional IGA to provide for an independent Authority not subject solely to fee-for-service parameters as is currently defined but rather to create a sustaining, stand-alone entity; obtain Bond Attorney review for TABOR constraints, amending as applicable
- Develop and execute IGA's/agency agreements with regional organizations through which financial assistance and services are to be obtained
- Put a financial management/accounting system into place with separate accounts for each fee-generating program
- Establish fee collection system
- Support Board meetings – packets, public notices, minutes
- Create and take lead on public relations
- Set up and maintain a web site
- Develop 2010 budget requests for each jurisdiction

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### Program Implementation

- Coordinate with the three jurisdictions on final design and drafting of code language for IZ, linkage requirements and incentives
- Draft deed restrictions and restrictive covenants including mechanism for keeping rents affordable and for controlling occupancy of accessory dwellings.
- Write and administer grant applications
- Write guidelines for developers and administrative procedures for the sale and rental of affordable units.
- Establish unit tracking system – address, date approved, CO date, # bdrms, sq ft, initial sales price, resale prices, AMI target, # occupants
- Support rehab/weatherization with coordination among funding agencies, public outreach and home inspections
- Provide counseling to residents in need of housing assistance; serve as a clearinghouse for all housing services
- Annually update incomes, prices and fee in lieu amounts

### **Growth Phase -- Additional Responsibilities (2011 – 2015)**

- Review development applications to determine compliance with IZ and linkage requirements
- Negotiate compliance alternatives – on site, off site, fees in lieu, land in lieu
- Qualify applicants
- Conduct lotteries if needed
- Administer deed restrictions; calculate resale prices
- Manage revenues, report to funding agencies
- Form partnerships for tax credit apartment projects on public land
- Periodically update Action Plan; prioritize allocation of funds

### **Sustainable Operations – Long Term**

- Develop senior housing
- Monitor IZ/linkage/incentive effectiveness; make modifications as needed
- Comply with quarterly and annual reporting requirements from various funding agencies – HUD, Colorado Div. of Housing, CHFA
- Monitor key community/housing metrics on regular basis; update housing needs assessment as appropriate
- Manage/maintain properties
- Negotiate for the purchase of land as opportunities become available

## Timeline Summarized

	<b>Strategy Implementation</b>	<b>Administrative Tasks</b>
2009	Rehabilitation & Weatherization Annexation Policies Homeownership Counseling and Mortgage Assistance	IGA's; Insurance Grant applications Financial management system Fee collection system Public relations; web site Set up rehab program
2010	Inclusionary Zoning Development Incentives Commercial Linkage Residential Linkage	Code drafting – IZ & linkage Deed restrictions Development of guidelines Unit tracking system Update incomes, prices, fees in lieu
2010/11	ADU Incentives Needs Updating	Clearinghouse for housing assistance Development review/negotiation Applicant qualification/selection
2012	Tax Credit Apartments	Partnership development
2015+	Use Tax	Senior housing development Program monitoring Compliance reporting Negotiate land acquisition

## **Appendix**

- A. Path to Housing
- B. Update to Key Housing Needs Assessment Figures
- C. Strategic Plan Model
- D. Authority of Local Governments to Impose Requirements on Development to Address  
the Needs for Affordable Housing
- E. Intergovernmental Agreement between OCHA and Ouray County
- F. 2009 Income Median Incomes and Affordable Purchase Prices
- G. Proposed 2010 OCHA Budget

## Appendix A

### PATH LEADING TO AFFORDABLE HOUSING IN OURAY COUNTY

#### Ouray County Master Plan

- Acknowledges attainable housing is more scarce with growth and recognizes the need for a “diverse and varied population” to achieve social and economic balance in the County
- Stated goal “to assure the continuing availability of diverse housing to meet the needs of the County's growing population” and considers land use code changes to address housing needs

#### 2000 Town of Ridgway Master Plan Update

- Arising from survey data and public input Goal IX of the Master Plan states “Encourage the availability of attainable housing within the town”
- In the Master Plan the Town states the objective to work with Ouray County toward establishing attainable housing

#### City of Ouray Master Plan

- Preserve the existing housing stock to ensure quality residential areas
- Develop regulations to create affordable housing opportunities

#### 2002 Ridgway/ Ouray County and Ouray/ Ouray County IGAs

- Focus growth within established municipal areas to preserve character of the County

#### 2006 Blue Ribbon Panel on Housing

- Statewide study on housing affordability establishes format and criteria for housing assessments and funding for assessment becomes available through DOLA

#### 2007 Ouray County Multi-Jurisdictional Housing Authority Established

- Ouray County, City of Ouray and Town of Ridgway enter into an intergovernmental agreement to actively address county-wide housing needs

#### 2008 Housing Needs Assessment Completed

- 33% of Employees in Ouray commute from outside Ouray
- 75% Ridgway Employees commute from outside Ridgway
- The median sale price for ownership housing has increased 11.6 percent annually since 2003 from \$255,000 to \$395,000
- In Ouray County Real Wages up only 2.1% (2000–2006)
- New Residents Pay ~\$1600 - 1800/ mo for housing
- No/ Little permanent affordability in Ouray County
- “Catch Up” (149 units); “Keep Up” (176 - 264 units by 2015)
- 73% survey respondents indicate housing options as insufficient
- 85% survey respondents say lack of affordable housing is a problem

#### 2008 Town of Ridgway Housing Task Force Established

#### 2008 Ouray County LIHTC Feasibility Assessment

### Social and Environmental Costs

- As a result of households commuting across counties to get to work the region surrounding and including Ouray County has completed a Transit Survey and is now looking at Regional Transportation Objectives
- Emergency Service providers are responding from their homes outside of Ouray County, increasing the response time for emergencies
- Etc., etc., etc.

## Appendix B

### OURAY COUNTY UPDATE TO KEY HOUSING NEEDS ASSESSMENT FIGURES

#### Population, Household and Housing Unit Estimates

Year	Area	Total Population	Average HH Size	Total Housing Units	Occupied Housing Units	Vacant Housing Units	Vacancy Rate
2009	<b>Ouray County</b>	<b>4,738</b>	<b>2.37</b>	<b>3,196</b>	<b>1,987</b>	<b>1,209</b>	<b>38%</b>
	Ouray	891	2.14	755	412	343	45%
	Ridgway	1,147	2.50	613	459	154	25%
	Unincorporated	2,701	2.41	1,829	1,117	711	39%
2015	<b>Ouray County</b>	<b>5,648</b>	<b>2.38</b>	<b>4,701</b>	<b>2,362</b>	<b>2,339</b>	<b>50%</b>
	Ouray	960	2.14	951	444	507	53%
	Ridgway	1,581	2.50	1,157	633	524	45%
	Unincorporated	3,106	2.41	2,594	1,286	1,308	50%
2015	<b>EPS – Ouray County</b>	<b>5,846</b>			<b>2,703</b>		

#### Job/Employment Estimates and Projections

Job Type	2000	2009 est.	2015 est.	EPS 2015 Estimate
Proprietors*	648	1,089	1,539	2,617
Wage and Salary Jobs**	1,338	1,909	2,419	1,168
<b>Total Jobs</b>	<b>1,986</b>	<b>2,998</b>	<b>3,959</b>	<b>3,785</b>

Projections based on rate of growth as between 2000 and 2006/07.  
Difference w/ EPS – rate of growth in proprietors 2005 and 2006.

\*\*\*EPS estimated 3,785 jobs by 2015. One main difference in our higher number is the jump in proprietors between 2005 and 2006, with a total of 127 new in one year (averaged an increase of 28 per year between 2000 and 2005).

**Employment by Industry**

	<b>2006</b>	<b>2007</b>	<b>% Change 2006 to 2007</b>
Accommodation and Food Services	29.6%	28.7%	-0.9%
Construction	16.5%	17.8%	1.3%
Retail Trade	11.1%	11.4%	0.3%
Public Administration	9.0%	9.4%	0.4%
Educational Services	8.1%	8.4%	0.3%
Professional and Technical Services	2.7%	3.9%	1.2%
Finance and Insurance	2.9%	3.1%	0.2%
Agriculture, Forestry, Fishing & Hunting	2.8%	3.0%	0.2%
Health Care and Social Assistance	2.7%	2.6%	-0.1%
Information	2.3%	2.0%	-0.3%
Utilities	1.7%	1.7%	0.0%
Manufacturing	2.2%	1.7%	-0.5%
Administrative and Waste Services	1.6%	1.7%	0.1%
Real Estate and Rental and Leasing	1.8%	1.6%	-0.2%
Other Services, Ex. Public Admin	1.4%	1.6%	0.2%
Arts, Entertainment, and Recreation	1.8%	1.4%	-0.4%
Transportation and Warehousing	0.9%	0.9%	0.0%
Wholesale Trade	0.7%	0.7%	0.0%
Mining	0.2%	0.1%	-0.1%
Management of Companies and Enterprises	0.1%	0.1%	0.0%
	100.0%	100.0%	

Source: QCEW

## 2008 Ouray County Employment &amp; Unemployment

<b>Period</b>	<b>Civilian Labor Force</b>	<b>Employment</b>	<b>Unemployment</b>	<b>Unemployment Rate (%)</b>
January	2,925	2,824	101	3.5
February	2,833	2,724	109	3.8
March	2,866	2,759	107	3.7
April	2,847	2,739	108	3.8
May	3,105	2,987	118	3.8
June	3,575	3,454	121	3.4
July	3,611	3,495	116	3.2
August	3,555	3,442	113	3.2
September	3,320	3,210	110	3.3
October	3,201	3,074	127	4.0
November	3,098	2,958	140	4.5

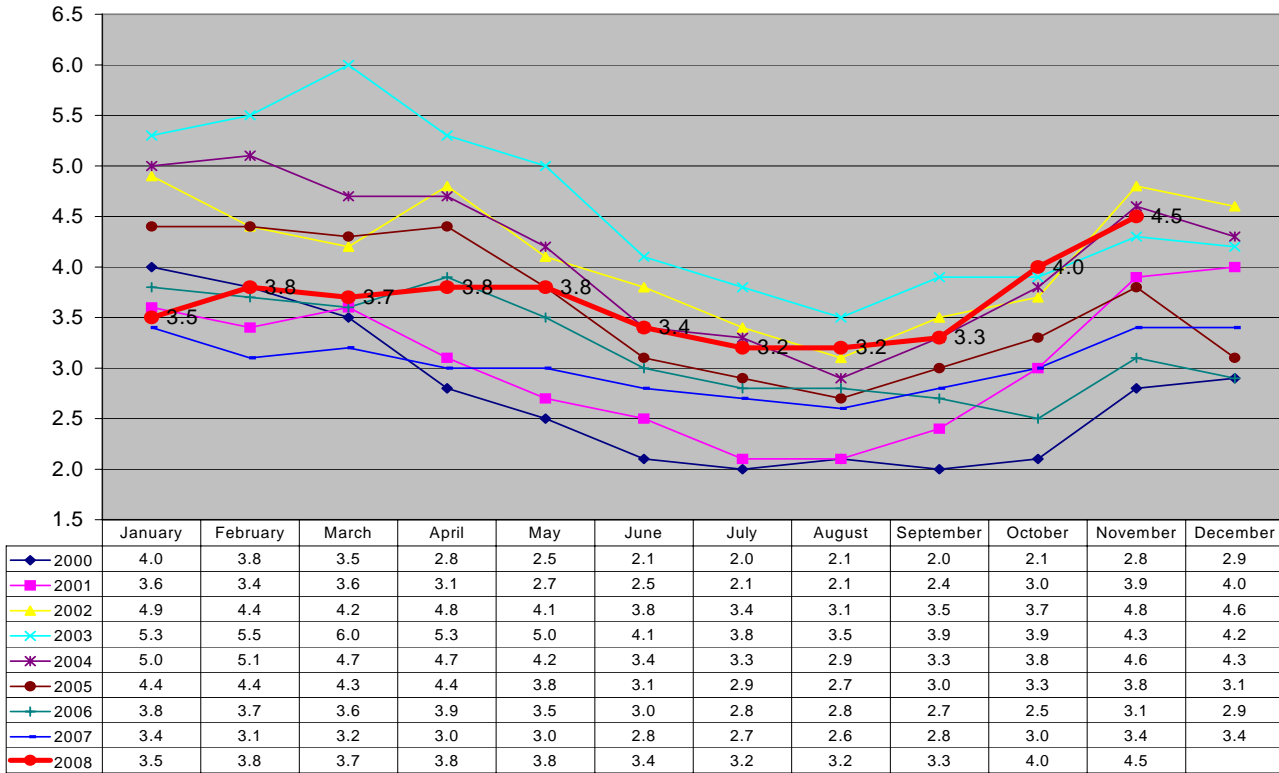
Source: LAUS

## Workers Commuting into Ouray County

<b>1990 – 2000 Trend Projected to 2009</b>	<b># commute</b>	<b>% commute</b>
1990	221	22.2%
2000	325	20.2%
2008	442	18.7%
2009	460	18.6%
<b>EPS Employer Survey - 2006</b>	310	17.9%
<b>LEHD* - 2006</b>	517	Not specified

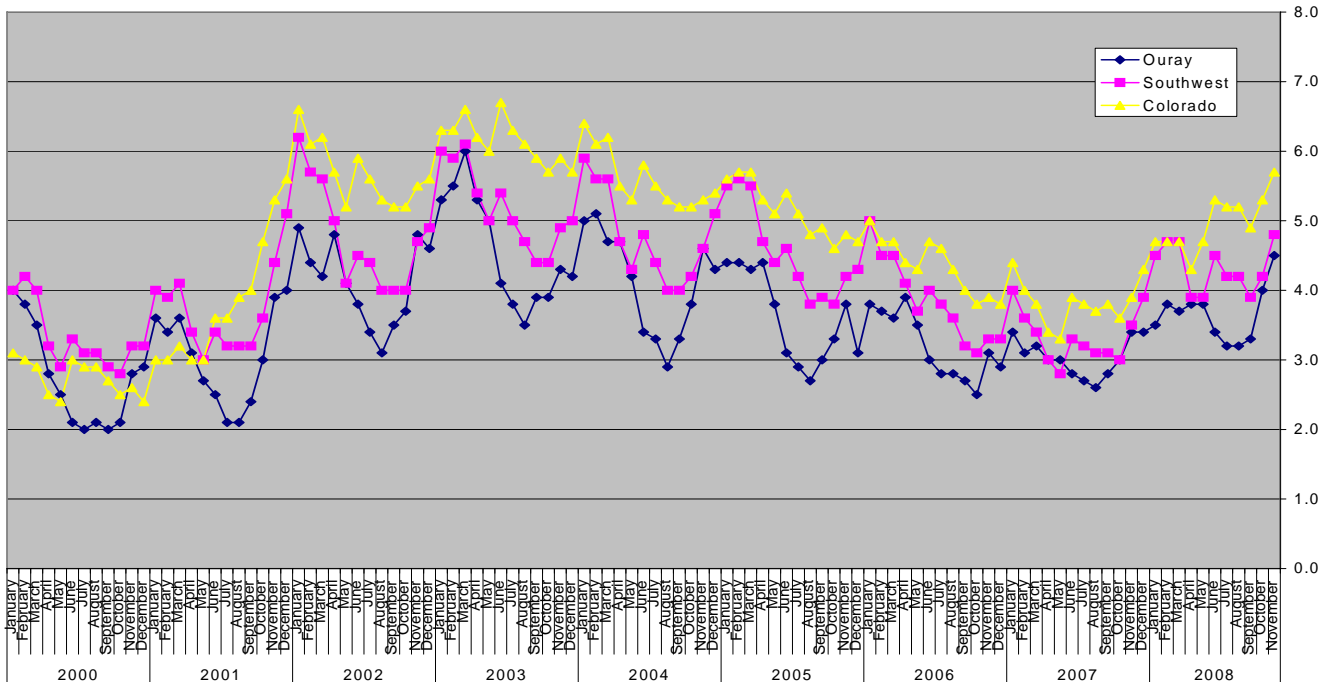
\*Longitudinal Employer Household Dynamics, Census Bureau

### Unemployment



Source: LAUS

### Unemployment



### Ouray County Sales

	2007	2008
<b>Single-Family</b>		
Average	\$569,375	\$500,724
Median	\$397,000	\$374,000
N	131	57
<b>Condo/Townhome</b>		
Average	\$329,767	\$312,040
Median	\$330,000	\$295,000
N	15	26
<b>Mobile*</b>		
Average	\$50,000	\$50,457
Median	\$50,000	\$50,000
N	2	7
<b>Overall</b>		
Average	\$538,072	\$411,195
Median	\$379,450	\$310,000
N	148	90

Source: County Assessor website

#### Current Listings – Ouray County 1.16.09

Average	\$690,326
Median	\$495,000
High	\$7,200,000
Low	\$139,000
N	195

Source: MLS

**Current Listings by Price Range– Ouray County 1.16.09**

Current Listings	#	%
\$100,000-\$199,999	11	5.6%
\$200,000-\$299,999	28	14.4%
\$300,000-\$399,999	36	18.5%
\$400,000-\$499,999	35	17.9%
\$500,000-\$599,999	17	8.7%
\$600,000-\$699,999	17	8.7%
\$700,000-\$799,999	11	5.6%
\$800,000-\$899,999	7	3.6%
\$900,000-\$999,999	8	4.1%
\$1,000,000-\$1,499,999	10	5.1%
\$1,500,000-\$1,999,999	8	4.1%
\$2,000,000 or more	7	3.6%
	195	100.0%

**Adjustments to Need Estimates**

Catch Up Need	EPS Estimate - 2006	Adjustments
From unfilled jobs	55 FTE = 39 units	1 pt increase in unemployment = ? change in unfilled jobs
Commuting	310 commuters = 220 households X 50%** = 110 units	460 commuters = 225 households* X 50%** = 113 units
Total Catch Up Need	149 units	
<b>Keep Up Need</b>		
From new jobs	1,233 more jobs = 881 units	961 more jobs = 471 units*
Not served by market	20% – 30% =176 – 264 units	58% = 273 units
From Retirement	N/A	?

\*Based on 1.2 jobs per employee and 1.7 employees per unit – general rule in mountain towns. \*\* No basis for assumption

**APPENDIX C**  
**STRATEGIC PLAN MODEL SUMMARY**

<b>Model Summary</b>	<b>Income</b>	<b>Total Units</b>	<b>Ridgway</b>	<b>Ouray</b>	<b>Ouray County</b>
<u>Catch-Up Goal</u>		50	28	14	9
Rehab/Weatherization	Low/Mid	21	7	7	7
Tax Credit Apts	Low	27	18	9	0
Catch Up		48	25	16	7

<u>Keep-Up Goal</u>		160	88	45	27
Residential Linkage	Low	7	3	1	3
Commercial Linkage	either/both	3	60	7	20
Inclusionary Zoning	Mod/Mid	104	72	8	24
<b>Total</b>		<b>115</b>	<b>135</b>	<b>16</b>	<b>47</b>

## Appendix D

### AUTHORITY OF LOCAL GOVERNMENTS TO IMPOSE REQUIREMENTS ON DEVELOPMENT TO ADDRESS THE NEED FOR AFFORDABLE HOUSING

Prepared for: Ouray County Multi-Jurisdictional Housing Authority

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March 4, 2009

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## AUTHORITY OF LOCAL GOVERNMENTS TO IMPOSE REQUIREMENTS ON DEVELOPMENT FOR AFFORDABLE HOUSING

### I. **Introduction.**

Several communities in Colorado have developed affordable housing programs that include inclusionary zoning and fee requirements. Inclusionary zoning is a requirement imposed on new residential development that mandates that a certain portion of the units constructed be “affordable” to some segment of the local population. Some communities give the developer the option to satisfy this obligation by dedicating land to the local government for the construction of affordable housing or by paying fees in lieu of constructing new units. Fees often consist of a charge that is levied per square foot of new construction and are referred to as linkage fees. Under Colorado law, there is no express statutory authority to implement a program which imposes requirements that are designed to address the need for affordable housing caused by new construction. Nor are there any Colorado cases that directly address the authority of local governments to implement such programs. Such authority, however, arguably falls within the scope of local government land use and zoning powers. In addition, some linkage fees may be authorized under the Impact Fee Statute. Each member of the Ouray County Multi-Jurisdictional Housing Authority should consult with its attorney prior to enacting any affordable housing requirements.

### II. **Authority Derived from General Land Use Authority**

#### A. **Inclusionary Zoning.**

No Colorado statute directly confers express authority on local governments to impose requirements on new development to address the need for affordable housing. Arguably, however, that authority is implied by the General Assembly’s grant of authority to regulate the use and development of land. Under this point of view, inclusionary zoning, and fees assessed in lieu of inclusionary zoning, are efforts to reverse the impact of exclusionary land use policies that have diminished the supply of affordable housing and created an imbalance between jobs and housing availability. (These policies have come to be called “exclusionary zoning” because they have effectively excluded affordable housing, exacerbating patterns of racial and economic segregation.) Inclusionary zoning and the fees assessed in lieu of such zoning thus are an exercise of zoning and land use power in furtherance of the general welfare.

Although Colorado courts have never considered whether local government authority extends to programs designed to mitigate the impact of new development on the need for affordable housing, such programs have been upheld in other jurisdictions as a proper exercise of land use authority. For example, a court found that a requirement that developers pay into an affordable housing fund was authorized by the same land use authority that allows local

governments to enact “inclusionary” zoning ordinances.<sup>1</sup> The United States Supreme Court has taken an expansive view of zoning and land use power so long as it serves the general welfare.<sup>2</sup> And housing needs are related to the general welfare under zoning laws.<sup>3</sup>

## B. Local Government Planning and Zoning Powers

The General Assembly has delegated broad land use and zoning authority to local governments. The County Planning and Building Codes empower counties to plan and zone all or any part of the unincorporated territory within its jurisdiction to provide for its physical development.<sup>4</sup> Similarly, the governing body of each municipality is empowered to regulate and restrict the use of land.<sup>5</sup> Local governments also have broad authority to address growth-related impacts. For example, the General Assembly enacted the Land Use Enabling Act in recognition that “rapid growth and uncontrolled development may destroy Colorado’s great resource of natural scenic and recreational wealth.”<sup>6</sup> Further, “the policy of this state is to clarify and provide broad authority to local governments to plan for and regulate the use of land within their respective jurisdictions.”<sup>7</sup> Colorado’s Land Use Act contains a finding and declaration that “the rapid growth and development of the state and the resulting demands on its land resources make new and innovative measures necessary to encourage planned and orderly land use development” and “to provide for the needs of . . . residential communities.”<sup>8</sup> Finally, the legislature also promotes the policy of having development help pay its own way.<sup>9</sup>

The provision of affordable housing is clearly among the areas of concern delegated to local governments. For example, counties may plan for the “general character, location, and extent of community centers, townsites, housing developments, whether public or private, the existing, proposed, or projected location of residential neighborhoods and sufficient land for future housing development for the existing and projected economic and other needs of all current and anticipated residents of the county or region. . . .”<sup>10</sup> Statutes also require that a municipality’s land use plan address the “harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including . . . affordable housing.”<sup>11</sup> Given the broad scope of land use authority granted to local governments, it is reasonable to assume that local governments have

<sup>1</sup> See *Holmdel Builders 11 Association v. Township of Holmdel*, 121 N.J. 550 (N.J. 1990) (development fees for housing are the “functional equivalent of mandatory set-asides” for affordable housing under zoning authority).

<sup>2</sup> See *Village of Belle Terre v. Boraas*, 416 U.S. 1, 39 L.Ed. 2d 797 (1974).

<sup>3</sup> *Berman v. Parker*, 348 U.S. 26, 33, 75 S.Ct. 98,102, 99 L.Ed. 27, 28 (1954).

<sup>4</sup> C.R.S. § 30--28--101 to ---209

<sup>5</sup> C.R.S. § 31--23--301 et seq.

<sup>6</sup> *Theobald v. Bd. of County Comm’rs*, 644 P.2d 942, 947 (Colo.1982).

<sup>7</sup> C.R.S. § 29--20—102.

<sup>8</sup> C.R.S. § 24-65-102.

<sup>9</sup> See *Board of County Comm’rs v. Bainbridge, Inc.*, 929 P.2d 691, 698 (Colo.1996); *Bennett Bear Creek Farm Water & Sanitation Dist. v. City & County of Denver*, 928 P.2d 1254, 1268 (Colo.1996).

<sup>10</sup> C.R.S. § 30-28-106(3)(a)(VII)..

<sup>11</sup> C.R.S. § 31-23-207.

the power to use their zoning authority to enact inclusionary zoning requirements and linkage fees to provide affordable housing necessitated by development.<sup>12</sup>

### C. Methodology

#### 1. Reasonable relationship to a legitimate governmental purpose.

Assuming that an affordable housing requirement is legislatively-adopted as an exercise of local government zoning and land use authority, the requirement should be upheld if it is reasonably related to a legitimate governmental purpose. Even where the reasonableness of a land use ordinance is fairly debatable, it will be upheld by the court.<sup>13</sup> The general purpose of a valid housing requirement would be to protect the general welfare by providing for affordable housing.

#### 2. Methodology

a. The Rough Proportionality Test does not apply to a legislatively adopted housing fee. The so-called “rough proportionality test” is a reference to a test first established by the United States Supreme Court in *Nollan v. California Coastal Commission*<sup>14</sup> and *Dolan v. City of Tigard*<sup>15</sup> to address development exactions. Exactions are conditions of approval on land use permits that require the dedication of land to the public. Such “development exactions will be deemed takings requiring just compensation unless they satisfy a two part test: there must be an ‘essential nexus’ between the legitimate government interest and the exaction demanded; and there must be ‘rough proportionality’ between the governmental interest and the required dedication.”<sup>16</sup>

In 1999, the General Assembly enacted the Takings Act which addresses regulatory takings associated with exactions as described in *Nollan* and *Dolan*. The Act requires a local government when imposing “conditions upon the granting of land-use approvals” that require the dedication of real property or payment of money “in an amount that is determined on an individual and discretionary basis” to demonstrate that “there is an essential nexus between the dedication or payment and a legitimate local government interest, and the dedication or payment is roughly proportional both in nature and extent to the impact of the proposed use or development of such property.”<sup>17</sup> The Act does not apply “to any legislatively formulated assessment, fee, or

<sup>12</sup> See e.g. *Droste v. Board of County Commissioners*, 159 P.3d 601 (Colo. 2007)(General Assembly’s grant of land use authority necessarily implies authority to impose moratorium).

<sup>13</sup> See *Nopro Co. v. Town of Cherry Hills Village*, 180 Colo. 217, 504 P.2d 344 (1972).

<sup>14</sup> 483 U.S. 825 (1987).

<sup>15</sup> 512 U.S. 374 (1994).

<sup>16</sup> See *Krupp v. Breckenridge Sanitation Dist.*, 19 P.3d 687, 695 (Colo. 2001); *Wolf Ranch, LLC v. City of Colorado Springs*, \_\_\_ P.3d\_\_\_ (Case No. 07CA2184).

<sup>17</sup> § 29-20-203(1), C.R.S. 2008.

charge that is imposed on a broad class of property owners by a local government.”<sup>18</sup> Colorado courts are clear that legislatively-adopted fee is not the kind of land use decision that would obligate the local government to perform the type of individualized impact assessment imposed by the rough proportionality test.<sup>19</sup>

b. The Housing Fee should be reasonable. There are no cases in Colorado that dictate how the amount of inclusionary requirements or linkage fees should be determined. For charges that are intended to defray the cost of providing services, the court has held that “the amount of the fee must be reasonably related to the overall cost of the service.”<sup>20</sup> and “[m]athematical exactitude is not required, however, and the particular mode adopted by the governmental entity in assessing the fee is generally a matter of legislative discretion.”<sup>21</sup> This type of test probably would apply to any affordable housing requirement.

## II. The Impact Fee Statute

In addition to being authorized by general land use and zoning authority, certain linkage fees may be authorized under the Colorado Impact Fee Statute.<sup>22</sup> ( Currently, Gunnison County’s workforce housing fee is being challenged under this statute. The issues in that case is whether Gunnison County’s fee was properly calculated and whether the fee is an unlawful tax.) The Impact Fee Statute authorizes local governments to adopt impact fees to defray impacts on capital facilities. A capital facility is defined as any improvement or facility that (a) is directly related to any service that a local government is authorized to provide; (b) has an estimated useful life of five years or longer; and (c) is required by the charter or general policy of a local government pursuant to a resolution or ordinance.<sup>23</sup>

### A. Summary of the Impact Fee Statute

The Impact Fee Statute sets forth the requirements for a valid fee:

- (1) The impact fees must be “[l]egislatively adopted” C.R.S. § 29-20-104.5(1)(a);
- (2) They must be “[g]enerally applicable to a broad class of property” C.R.S. § 29-20-104.5(1)(b);
- (3) They must be “[i]ntended to defray the projected impacts on capital facilities caused by proposed development” C.R.S. § 29-20-104.5(1)(c);

<sup>18</sup> Id.

<sup>19</sup> See *Krupp and Wolf Ranches*, supra, at note 16.

<sup>20</sup> *Krupp* at 693-694.

<sup>21</sup> Id.

<sup>22</sup> C.R.S. 29-20-104.5

<sup>23</sup> C.R.S. § 29-20-104.5(4)

- (4) ) The “reasonable impacts of the proposed development on existing capital facilities” must be quantified and established “at a level no greater than necessary to defray such impacts directly related to proposed development” and not imposed fee “to remedy any deficiency in capital facilities that exists without regard to the proposed development.” C.R.S. § 29-20-104.5(2) and
- (5) The impact fees must “include provisions to ensure that no individual landowner is required to provide any site specific dedication or improvement to meet the same need for capital facilities for which the impact fee or other similar development charge is imposed.” C.R.S. § 29-20-104.5(3).

## **B. Supporting Rationale for a Housing Fee under the Impact Fee Statute**

Where a local government relies on the Impact Fee Statute to authorize a linkage fee, the amount of the legislatively-adopted fee should be supported by a study that quantifies the projected impacts of development on the need for affordable housing. The study must ensure that the local government sets the fee “at a level no greater than necessary to defray such impacts [on the availability of affordable housing] directly related to proposed development.”<sup>24</sup>

### **1. No individualized determination required.**

The Impact Fee Statute does not require the local government to perform an individualized determination of the impacts of any particular development proposal, it simply requires quantification of the impacts of development in general. An individualized determination would be required only when the amount of the fee is “determined on an individual and discretionary basis. . .”<sup>25</sup> In other words, the local government would not be required to analyze the impacts of a particular development on the availability of affordable housing unless the fee were being imposed on an *ad hoc* basis to a particular development rather than through a legislatively formulated assessment that is imposed on a broad class of property owners by a local government.<sup>26</sup> The reasonableness of the costs to be recovered through the housing fee should be evaluated in relation to the impacts of all development on the availability of affordable housing.<sup>27</sup>

### **2. Methodology.**

The Impact Fee Statute does not dictate a particular methodology which the local government must apply in support of any impact fee. However, in the case of a linkage fee, a reasonable approach would be to determine the number of workers that would be generated by new development, calculate the demand for affordable housing units associated with those

<sup>24</sup> Id at -104.5(2)

<sup>25</sup> C.R.S. § 29-20-203 (1)

<sup>26</sup> See *Wolf Ranch, LLC v. City of Colorado Springs*, \_\_\_ P.3d \_\_\_, (Colo. App. 2008) (imposition of legislatively-adopted fees not the type of land use decision that would trigger an individualized impact assessment).

<sup>27</sup> Carolynne White, *A Municipal Perspective on Senate Bill 15: Impact Fees*, 31 Colo. Law. 93 (May 2002).

workers, and then set the fee on the basis of the cost to provide those units. The local government must be careful that the fee is not used to address the need for affordable housing that already may exist in the community without regard to proposed development. Thus, the local government should set the amount of the fee to meet some portion of the need for housing generated by new development so that there is no argument that it is using the fee to make up for existing deficiencies in the supply of affordable housing.

### III. **Conclusion**

Although there is no express statutory authority for a local government to impose requirements on new development that are designed to address the need for affordable housing, such authority arguably can be found within the zoning and land use powers that have been granted to local governments. Under this analysis, the inclusionary requirement would be a simple exercise of zoning power and the linkage fee would be characterized as a fee in lieu of inclusionary zoning. This approach has been upheld in other jurisdictions. The Impact Fee Statute may also provide authority to impose a linkage fee. As an exercise of zoning authority, a housing requirement should be reasonable and bear a reasonable relationship to the cost of providing affordable housing caused by new development. Under the Impact Fee Statute, the local government must quantify the reasonable impacts of proposed development and the linkage fee can be no greater than the amount necessary to defray the impacts of proposed development on the availability of affordable housing.

The County and each municipality enacting an affordable housing requirement should be sure to cite to all of the various authorities in state statute when it adopts the resolution or ordinance enacting the housing program. In addition, a study that draws the link between new development and the need for affordable housing should be conducted. At a minimum, the study should satisfy the requirements of the Impact Fee Statute if there will be a linkage fee. To be conservative, the study should be designed to satisfy the “rough proportionality” test even though that test applies only to exactions and the payment of money demanded on an *ad hoc* basis. By satisfying this more stringent test, the housing requirements should withstand judicial scrutiny. We will be preparing this type of study for the Ouray County Multi-Jurisdictional Housing Authority.

## Appendix E

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF OURAY, COLORADO  
THE TOWN OF RIDGWAY, COLORADO, AND  
THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY  
ESTABLISHING A MULTIJURISDICTIONAL HOUSING AUTHORITY**

**THIS INTERGOVERNMENTAL AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between the **CITY OF OURAY, COLORADO** (hereinafter "Ouray"), a Colorado municipal corporation, the **TOWN OF RIDGWAY, COLORADO** (hereinafter "Ridgway"), a Colorado home rule municipality, and **THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO** (hereinafter "Ouray County"), a Colorado county, collectively referred to in this Intergovernmental Agreement ("IGA") as the "Parties."

### RECITALS

**WHEREAS**, the Parties wish to encourage and support a coordinated effort to provide housing that is affordable to residents of their respective jurisdictions in a manner that will preserve the regional community; and

**WHEREAS**, the Parties have determined that formation of a multijurisdictional housing authority is an appropriate and effective method for pursuing the affordable housing objectives stated above; and

**WHEREAS**, the Parties are each authorized by Article XIV, Section 18 of the Colorado Constitution and the Multijurisdictional Housing Authority Act, Section 29-1-204.5, C.R.S. (hereinafter the "Act") to contract with each other to establish a separate governmental entity known as a multijurisdictional housing authority; and

**WHEREAS**, the Parties desire to establish a multijurisdictional housing authority by and subject to the provisions of this IGA.

**NOW THEREFORE**, in consideration of their mutual covenants and the benefits to be received by each of them, the Parties hereby agree as follows:

### TERMS

#### **1. CREATION, NAME, BOUNDARIES, PURPOSE, STATUS**

1.1 **Creation; Name.** The Parties hereby establish a multijurisdictional housing authority named the "Ouray County Housing Authority" (the "Authority").

1.2 Boundaries. The boundaries of the Authority shall be coterminous with the boundaries of Ouray County, Colorado.

1.3 Purposes. The Authority is established for the purposes of effecting the planning, financing, acquisition, construction, reconstruction, repair, maintenance, management and operation of existing and new affordable housing together with any other purposes deemed appropriate by the Authority as are now or subsequently permitted or authorized for multijurisdictional housing authorities by applicable law.

1.4 Type of Entity. The Authority shall be a political subdivision and public corporation of the State of Colorado and separate from the City of Ouray, the Town of Ridgway, and Ouray 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, political and corporate. The Authority may deposit and invest its moneys in the manner provided in Section 43-4-616, C.R.S. The provisions of Articles 10.5 and 47 of Title 11, Colorado Revised Statutes, shall apply to moneys of the Authority. The Authority shall be an Enterprise as that term is defined in the Taxpayer's Bill of Rights, Article 10, Section 20 of the Constitution of Colorado. In order to retain its Enterprise status under Colorado law, the Authority shall not receive more than 10% of its annual revenues in grants from all Colorado state and local governments combined.

1.5 Functions-General. The Authority shall have any and all powers, duties, rights and obligations as such are set forth in the Act except as specifically provided herein. The Authority shall also have those duties and powers stated below, and any others delegated to the Authority by the Parties to this IGA. The power of the Authority to levy, within the boundaries of the Authority, a sales tax, a use tax, and/or ad valorem tax and/or development impact fee for affordable housing is subject to specific provisions to be negotiated between the Parties in the form of a future Intergovernmental Agreement and any applicable statutory requirements. No action by the Authority to establish or increase any tax or development impact fee shall take effect 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.

1.6 No Waiver of Governmental Powers. Nothing contained in this Agreement shall constitute a waiver by the City of Ouray, the Town of Ridgway or Ouray County of any of their respective or joint planning, zoning, land use or other governmental authority or powers. All projects of the Authority shall be subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which a project is situated.

## **2. DUTIES OF THE AUTHORITY**

The Authority shall undertake any and all duties and or responsibilities as may from time to time be assigned to it and funded by one, two or all of the Parties.

### **3. POWERS OF THE AUTHORITY**

In addition to any other powers provided by applicable law, the Authority shall have the following powers:

3.1 To plan, finance, acquire, construct, reconstruct or repair, maintain, manage and operate housing projects and programs pursuant to a multi-jurisdictional plan within the means of families of low or moderate income.

3.2 To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, and operate affordable housing project or programs for employees of employers located within the jurisdiction of the Authority.

3.3 To identify the need for affordable housing for the population segments identified by the Authority residing, or needing to reside in Ouray County.

3.4 The power, but not the duty or obligation, to develop creative financing and construction methods, as well as incentives, in order to encourage the public or private sector to provide affordable housing for families and individuals in Ouray County.

3.5 To plan, finance, acquire, construct, reconstruct or repair, maintain, manage, own, operate, rent and/or sell housing projects to provide affordable residential facilities and dwelling accommodations intended for use as the sole place of residence by the owners or intended occupants, subject to the applicable governmental requirements (such as zoning, review and approval processes) of the jurisdiction in which the particular property is located.

3.6 To make and enter into agreements, including, without limitation, contracts with local, state or federal agencies, private enterprises, and nonprofit organizations, also involved in providing such housing or the financing for such housing.

3.7 To employ agents and employees.

3.8 To cooperate with state and federal governments in all respects concerning the financing of such housing projects.

3.9 To purchase, acquire, obtain options for, hold, lease (as lessor or lessee), sell or otherwise dispose of any real or personal property, commodity, or service from firms, corporations, the City of Ouray, the Town of Ridgway, Ouray County and other governmental entities or any other person or entities.

3.10 To condemn property for public use, provided such property is not owned by any governmental entity or any public utility and devoted to public use pursuant to state authority; and provided, further, both that the vote of the Board of Directors of the

Authority to condemn is unanimous and the Authority has received the prior written consent to the condemnation from the governing body or bodies of the local government or governments having jurisdiction over the property to be condemned.

3.11 To incur debts, liabilities, or obligations; to issue bonds or notes (as provided below); to borrow money, secure mortgages, obtain grants, gifts or otherwise obtain funds, all for the purpose of implementing, completing and operating housing projects. This does not constitute general authority to encumber or pledge any revenues or assets of any participating government without that entity's written consent.

3.12 To sue and be sued in its own name.

3.13 To have and use a corporate seal.

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

3.15 To adopt, by resolution, regulations respecting the exercise of the Authority's powers and the carrying out of its purposes.

3.16 To exercise any other powers essential to the provision of functions, services or facilities by the Authority.

3.17 To do and perform any acts and things authorized by this IGA under, through, or by means of any agent, or by contracts with any person, firm or corporation.

3.18 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 subject to the terms specified in the Act.

3.19 To exercise any additional general powers granted to multijurisdictional housing authorities by applicable law, except as specifically provided herein.

3.20 Subject to the specific provisions under Sections 29-1-204.5 (3) (f.1), (f.2) and (f.5), C.R.S., and to specific provisions to be negotiated among the Parties in the form of a future Intergovernmental Agreement, the power to levy a sales tax, a use tax and/or ad valorem tax and/or development impact fee for affordable housing; provided, however, that no action of the Authority to establish or increase any tax or development impact fee shall take effect 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.

#### **4. BOARD OF DIRECTORS**

#### 4.1 Number of Directors and Their Appointment

(a) Board of Directors. The governing body of the Authority shall be its Board of Directors (the "Board") consisting of five members. One member shall be appointed by Ouray; one member shall be appointed by Ridgway; one member shall be appointed by Ouray County; and two members ("Joint Members") shall be appointed by the members appointed by Ouray, Ridgway and Ouray County. The appointment of Joint Members shall be limited exclusively to persons nominated by Ouray, Ridgway or Ouray County after a request by the Authority to all three governments for nominations.

(b) Qualifications. Each Director shall be a resident of Ouray County.

(c) Term. With respect to the initial Board of Directors, two Directors shall be appointed for a one year term, and three for two year terms. Thereafter the terms for all Directors appointed shall be two years from the date of appointment or until the appointment of a successor. There shall be no terms limits for Directors.

(d) Quorum; Voting. A majority of Directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the Board of Directors.

(e) Duties. The general power and authority of the Authority shall be vested in the Board. The Board shall elect the officers of the corporation as specified below. The Board shall approve a budget for the continued operation of the Authority. As provided in Sections 29-1-204.5(2)(b)(IV), C.R.S., the Board shall comply with the provisions of parts 1, 5, and 6 of Article I, Title 29 of the Colorado Revised Statutes which, respectively, are known as the Local Government Budget Law of Colorado, the Colorado Local Government Uniform Accounting Law, and the Colorado Local Government Audit Law.

(f) Vacancies. Any vacancy on the Board shall be filled by the governmental entity that appointed the departing Director, or, in the case of a Joint Member, by vote of the remaining Board of Directors subject to selection procedures described in Section 4.1 (a). If the vacancy being filled is an unexpired term, the appointee shall serve the remainder of that term.

(g) Removal. Members of the Board shall serve at the pleasure of their appointing governments, or, in the case of Joint Members, at the pleasure of the Board.

(h) Compensation. Board members shall not be compensated for their services as Directors or officers; however, they may be reimbursed for their expenses and may receive a per diem travel allowance as determined by the Board.

4.2 Officers. The officers of the Authority shall consist of a President, a Vice President, and a Secretary/Treasurer. No person shall hold more than one office.

(a) Appointment. The officers shall be appointed by the Board and shall hold office for one year or until their successors are elected and qualified.

(b) President. The President shall preside at all meetings of the Authority. Except as otherwise authorized by resolution of the Authority, the President shall sign all contracts, deeds and other instruments made by the Authority. At each meeting the President shall submit such recommendations and information as he/she may consider proper concerning the business, affairs and policies of the Authority.

(c) Vice President. The Vice President shall perform the duties of the President in the absence of incapacity of the President; and, in case of vacancy in the office of

the President, the Vice President shall perform such duties as are imposed on the President until such time as the Board selects a new President.

(d) Secretary/Treasurer. The Secretary/Treasurer shall keep the records of the Authority; shall act as secretary to meetings of the Authority; shall have the custody of all funds of the Authority; shall keep regular books of accounts for the same; and shall otherwise perform all duties incident to the office. Any and all duties of the Secretary/Treasurer may be assigned to an Executive Director, if one.

4.3 Duties. The officers of the Authority shall perform the duties and functions of their respective offices, as prescribed in this Agreement; comply with the Local Government Budget Law of Colorado, the Colorado Local Government Uniform Accounting Law, and the Colorado Local Government Audit Law; and perform such other duties and functions as may from time to time be required by the provisions of this IGA, resolutions of the Directors, or by other rules and regulations as may be adopted by the Authority.

4.4 Appointment of an Executive Director. The Board may hire an Executive Director and shall establish the compensation, duties and responsibilities of such position, if created.

4.5 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: (a) any property or project acquired, held, leased or sold by the Authority; or (b) any entity with whom the Authority has contracted to plan, finance, construct, reconstruct, repair, maintain, manage or operate any property, project or program related to the Authority. If any Board member has such an interest, whether direct or indirect, he or she 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 discussion of or action by the Board affecting the project, property, or contract.

## **5. BONDS, NOTES AND OTHER OBLIGATIONS**

5.1 Not Obligations of Parties. The bonds, notes and other obligations of the Authority shall not be the debts, liabilities, or obligations of Ouray, Ridgway, or Ouray County or any other governmental entities that may become members of the Authority in the future.

5.2 Authority to Issue Bonds. 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 functions, services, or facilities of the Authority or from any other available funds of the Authority. The bonds, notes, or other obligations issued by the Authority shall, as nearly as may be practicable, be substantially the same as those provided by law for any of the contracting parties to this IGA; provided, however, that bonds, notes or other obligations so issued shall not constitute an indebtedness of Ouray, Ridgway, or Ouray County within the meaning of any constitution, home rule charter or statutory limitation or any other provision. Each bond, note or other

obligation issued under this subsection shall recite in substance that the bond, note or other obligation, including the interest on it, is payable solely from the revenues or other available funds of the Authority pledged for its payment, and that the bond, note or other obligation does not constitute a debt of Ouray, Ridgway, or Ouray County within the meaning of any constitution, home rule charter, statutory limitations or provisions. Notwithstanding anything in this Section 5 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 their principal amount, as shall be determined by the Board.

5.3 Indenture. 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 their issuance and to provide security for their payment, 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 there from shall be exempt from taxation (except inheritance, estate, and transfer taxes) pursuant to Section 29-1-204.5 (7.3), C.R.S.

## **6. REVENUES**

Subject to the limitations herein contained, the Parties may make payments to the Authority from their funds for services rendered or facilities provided by the Authority, or as contributions to defray the cost of any purposes set forth herein.

## **7. BUDGET**

The Authority shall annually prepare a budget pursuant to the terms and provisions of the Local Government Budget Law of Colorado. In expending the budget, the Board (or Executive Director, as the case may be) shall, insofar as practical, devote the time and moneys among the Ouray, Ridgway and Ouray County functions as shown on said budget. All work allocation among Authority personnel shall be the responsibility of the Board, or Executive Director, as the case may be. The Authority shall be required to annually obtain the approval of the budget (as well as any substantial amendments thereto) by the City Council of the City of Ouray, Town Council of the Town of Ridgway, and the Board of County Commissioners of Ouray County.

## **8. ACCOUNTING**

With respect to accounting, reporting, auditing and operational procedures, the Authority shall follow the provisions and guidelines of the Colorado Local Government Uniform Accounting Law and the Colorado Local Government Audit law.

## **9. LEGAL ASSISTANCE**

Legal assistance shall be provided for Ouray programs, Ridgway programs and Ouray County programs by the City Attorney of Ouray, the Town Attorney of Ridgway, and the Ouray County Attorney, respectively. In addition, the Authority may retain counsel for the provision of necessary legal services for the operation of the Authority.

#### **10. INSURANCE.**

The Authority shall purchase and maintain at all times an adequate policy of public entity liability insurance, which insurance shall at a minimum provide the amount of coverage described in Section 24-10-115(1), C.R.S., including errors and omissions coverage. The Authority may purchase such additional insurance as the Board shall determine. The Authority's employees acting within the scope of their employment shall be indemnified pursuant to Section 24-10-110, C.R.S.

#### **11. MODIFICATION OF THIS IGA.**

This Intergovernmental Agreement may be modified by written amendment approved by the governing bodies of all the contracting parties, acting separately.

#### **12. TERM AND TERMINATION**

12.1 Term. The term of this IGA shall be from the date first written above through December 31, 2007, and shall automatically renew for successive one-year periods thereafter upon the annual appropriation of funds by Ouray, Ridgway and Ouray County. However, any of the contracting Parties may withdraw from this IGA and membership on the Board of Directors, for any reason, upon thirty (30) days written notice.

12.2 Termination. The withdrawal of any two (2) contracting Parties shall terminate this IGA. Subject to the limitations in Section 12.3, this Agreement may be terminated at any time by written agreement of all of the contracting Parties.

12.3 Limitations. This Agreement may not be terminated or rescinded: (a) as long as the Authority has bonds, notes, or other obligations outstanding unless provisions for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations; and (b) until the completion of the disposition of assets of the Authority as provided for in Section 13.

#### **13. DISPOSITION OF AUTHORITY ASSETS UPON TERMINATION.**

In the event of termination of this IGA, which termination may only occur in accordance with the requirements and limitations of Paragraph 12 above, and the resulting dissolution of the Authority, the assets of the Authority shall be distributed as follows:

(a) All assets which can be identified which were acquired by contributions from Ouray, Ridgway or Ouray County shall be returned to the contributing Party if said assets are still in existence.

(b) If identifiable assets contributed to the Authority are not in existence, the contributing party shall have the option of receiving the fair market value of each asset at the time of disposal by the Authority in either cash or assets of the Authority.

(c) All assets acquired by the Authority after the date of this IGA 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 each asset.

(d) The Parties may agree in writing to dispose of any assets of the Authority in any other acceptable manner.

(e) If the Parties cannot agree on the disposition of any assets of the Authority within sixty (60) days, said assets shall be subject to an independent appraisal and shall be sold at public auction with the deed restriction (if any) intact as soon as practicable with the proceeds allocated to Ouray, Ridgway and Ouray County in the same proportion as the total contribution of funds by the respective Parties for acquisition of the asset.

(f) In the event that a municipality or county shall have been a member of the Authority and contributed assets or funds during that membership but is not a member at the time of termination of the Authority, such municipality or county shall enjoy the same rights to distribution of assets afforded by this Section 13 to those governments participating at the time of termination.

#### **14. ADDITIONAL PARTIES.**

The Authority may be increased to include one or more additional municipalities and/or counties, if each additional municipality and/or county and Ouray, Ridgway and Ouray County agree to an amendment of this IGA authorizing the addition of the municipalities and/or counties and making required amendments to this IGA to provide for their inclusion, including, if agreed to, representation on the Board of Directors.

#### **15. NOTICES.**

Any formal notices, demand or request given under this IGA shall be in writing and shall be deemed properly given if deposited in the United States Mail, postage prepaid, and addressed as described below:

To the City of Ouray:

City Administrator  
City of Ouray  
Post Office Box 468  
Ouray, CO 81427

To the Town of Ridgway:

Town Manager  
Town of Ridgway

Post Office Box 10  
Ridgway, CO 81432

To Ouray County

County Administrator  
Ouray County  
Post Office Box C  
Ouray, CO 81427

**16. INTERPRETATION**

Subject to the express limitations contained herein, this Agreement shall be liberally construed to permit the Authority, the Parties hereto, and the Board to exercise all powers that may be exercised by a multijurisdictional housing authority pursuant to the Act, and other applicable law. In the event of any conflict between the Act or any other applicable law with respect to the exercise of any such power, the provision that permits the broadest exercise of the power consistent with the limitations set forth in this Agreement shall control.

**17. GOVERNING LAW.**

The laws of the State of Colorado shall govern the construction and enforcement of this Agreement.

**18. SEVERABILITY.**

If any term or provisions of this Agreement shall be adjudicated to be invalid, illegal or unenforceable, this Agreement shall be deemed amended to delete there from 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.

**IN WITNESS WHEREOF**, the Parties hereto have entered into this Agreement on the day and year above first noted.

THE CITY OF OURAY, COLORADO  
A Colorado Municipal Corporation

THE TOWN OF RIDGWAY, COLORADO  
A Colorado Home Rule Municipality

By \_\_\_\_\_

By \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Approved as to form:

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Town Attorney

THE BOARD OF COUNTY COMMISSIONERS  
OF OURAY COUNTY, COLORADO

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
County Attorney

## Appendix F

### 2009 AREA MEDIAN INCOMES FOR OURAY COUNTY

2009 HUD 1-person Household			
Target	Low	High	Average
<b>50% AMI</b>		<b>\$22,155</b>	
60-80% AMI	\$26,586	\$35,448	\$31,017
81-100% AMI	\$35,891	\$44,310	\$40,101
101-120% AMI	\$44,753	\$53,172	\$48,963
121-150% AMI	\$53,615	\$66,465	\$60,040

2009 HUD 2-person Household			
Target	Low	High	Average
<b>50% AMI</b>		<b>\$25,320</b>	
60-80% AMI	\$30,384	\$40,512	\$35,448
81-100% AMI	\$41,018	\$50,640	\$45,829
101-120% AMI	\$51,146	\$60,768	\$55,957
121-150% AMI	\$61,274	\$75,960	\$68,617

2009 HUD 2.5-person Household			
Target	Low	High	Average
<b>50% AMI</b>		<b>\$26,903</b>	
60-80% AMI	\$32,283	\$43,044	\$37,664
81-100% AMI	\$43,582	\$53,805	\$48,694
101-120% AMI	\$54,343	\$64,566	\$59,455
121-150% AMI	\$65,104	\$80,708	\$72,906

2009 HUD 3-person Household			
Target	Low	High	Average
<b>50% AMI</b>		<b>\$28,485</b>	
60-80% AMI	\$34,182	\$45,576	\$39,879
81-100% AMI	\$46,146	\$56,970	\$51,558
101-120% AMI	\$57,540	\$68,364	\$62,952
121-150% AMI	\$68,934	\$85,455	\$77,194

2009 HUD 4-person Household			
Target	Low	High	Average
<b>50% AMI</b>		<b>\$31,650</b>	
60-80% AMI	\$37,980	\$50,640	\$44,310
81-100% AMI	\$51,273	\$63,300	\$57,287
101-120% AMI	\$63,933	\$75,960	\$69,947
121-150% AMI	\$76,593	\$94,950	\$85,772

<b>2009 HUD 5-person Household</b>			
<b>Target</b>	<b>Low</b>	<b>High</b>	<b>Average</b>
<b>50% AMI</b>		<b>\$34,182</b>	
60-80% AMI	\$41,018	\$54,691	\$47,855
81-100% AMI	\$55,375	\$68,364	\$61,869
101-120% AMI	\$69,048	\$82,037	\$75,542
121-150% AMI	\$82,720	\$102,546	\$92,633

<b>2009 HUD 6-person Household</b>			
<b>Target</b>	<b>Low</b>	<b>High</b>	<b>Average</b>
<b>50% AMI</b>		<b>\$36,714</b>	
60-80% AMI	\$44,057	\$58,742	\$51,400
81-100% AMI	\$59,477	\$73,428	\$66,452
101-120% AMI	\$74,162	\$88,114	\$81,138
121-150% AMI	\$88,848	\$110,142	\$99,495

**Appendix G**  
**PROPOSED 2009-2010 OCHA BUDGET**  
**AND JURISDICTIONAL STAFF CONTRIBUTIONS**

Total Estimated Budget (OCHA Staff, Start Up, 2010 operations)		1/3 distributions by jurisdictions		
Payroll	Estimated Total	Ouray	Ridgway	Ouray County
Worker's Compensation	\$500	\$167	\$167	\$167
Medicare	\$800	\$266	\$266	\$266
Retirement Benefit				
Health Insurance (medical, dental, vision)				
State Unemployment Tax (SUTA)	\$300	\$100	\$100	\$100
<b>Total Payroll (less services)</b>	<b>\$1,600</b>	<b>\$533</b>	<b>\$533</b>	<b>\$533</b>

1st year Capital Investments (2010)	Estimated Total	Ouray	Ridgway	Ouray County
<b>Office Space and Supplies</b>				
Desk and Chair	\$500	\$167	\$167	\$167
Phone, Long Distance Services, Fax, Copier	\$1,000	\$333	\$333	\$333
Postage	\$300	\$100	\$100	\$100
Misc Office Supplies & Expenses	\$1,000	\$333	\$333	\$333
Purchase Checks	\$100	\$33	\$33	\$33
<b>Computer Related Investments</b>				
Computer Hard & Software, Installation & Setup	\$1,250	\$416	\$416	\$416
Internet Setup and Service (DSL) incl email	\$200	\$67	\$67	\$67
Website Development Services	\$1,000	\$333	\$333	\$333
Web Domain Name Purchase	\$40	\$13	\$13	\$13
Purchase Financial Mgmt System (Q-books)	\$350	\$117	\$117	\$117
<b>Misc Expenditures</b>				
IGA Amendments (change request, record fees)	\$480	\$160	\$160	\$160
<b>Total Capital Investments</b>	<b>\$6,220</b>	<b>\$2,071</b>	<b>\$2,071</b>	<b>\$2,071</b>

Annual Operating Expenses	Estimated Total	Ouray	Ridgway	Ouray County
Insurance ( <i>D&amp;O, General Liability</i> )	\$3,000	\$999	\$999	\$999
Equipment Maintenance & Repair	\$500	\$167	\$167	\$167
Software Support Services	\$1,000	\$333	\$333	\$333
Web Domain Annual Rental Fees	\$15	\$5	\$5	\$5
Website Hosting (\$300/yr) and Maintenance	\$1,500	\$500	\$500	\$500
Email Annual Rental Fees	\$60	\$20	\$20	\$20
Annual Internet Service Provider Fees	\$600	\$200	\$200	\$200
Financial Audit (annual)	\$6,000	\$1,998	\$1,998	\$1,998
Board Education & Training	\$1,000	\$333	\$333	\$333
Staff Education & Training	\$1,000	\$333	\$333	\$333

Office Space, Storage, Cleaning	\$6,000	\$1,998	\$1,998	\$1,998
PO Box Rental Fees	\$78	\$26	\$26	\$26
Legal Services	\$5,000	\$1,665	\$1,665	\$1,665
Dues and Memberships	\$500	\$167	\$167	\$167
<b>Total Operating Expenses</b>	<b>\$26,253</b>	<b>\$8,742</b>	<b>\$8,742</b>	<b>\$8,742</b>

<b>Service Fees/ Program Development</b>	<b>Estimated Total</b>	<b>Ouray</b>	<b>Ridgway</b>	<b>Ouray County</b>
Rehabilitation and Weatherization	\$5,700	\$1,898	\$1,898	\$1,898
Rehabilitation and Weatherization Grant Match	\$25,000	\$8,325	\$8,325	\$8,325
IZ, Linkage Fees and Incentives	\$10,620	\$3,536	\$3,536	\$3,536
Linkage Fee Study Grant Match	\$2,000	\$666	\$666	\$666
Homebuyer & Renter Education and Outreach	\$1,560	\$519	\$519	\$519
Promotional Materials and Handouts for Outreach	\$250	\$83	\$83	\$83
<b>Total Program Services</b>	<b>\$45,130</b>	<b>\$15,028</b>	<b>\$15,028</b>	<b>\$15,028</b>

<b>Estimated Budget Total (2010):</b>	<b>\$79,203</b>	<b>\$26,375</b>	<b>\$26,375</b>	<b>\$26,375</b>
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<b>Estimated Hours and Expenditures for OCHA Staff Services (2009 - 2010)</b>	<b>Hours/Year</b>	<b>Estimated Cost</b>
<b>Grants</b>		
Complete & Submit Grant/Loan Applications: Rehab	10	\$300
Administer Rehab Revolving Loan or Grant Fund	45	\$1,350
Complete & Submit Grant Applications: Linkage Study	10	\$300
Administer Linkage Fee Grant Funds	30	\$900
<b>Financial Management</b>		
Setup Financial Management System	8	\$480
Maintain Financial Management System	208	\$6,240
Establish Bank Acct & Fee Collection System	10	\$300
<b>Marketing and Outreach</b>		
Public Relations	36	\$1,080
Assist with Web Site development and updates	24	\$720
Annual Reporting	16	\$480
Amendments to IGA	16	\$480
Board Meeting Support Services	36	\$1,080
<b>Program Development: Rehab &amp; Weatherization</b>		
Set Up Program	80	\$2,400
Marketing, Outreach, Public Education	104	\$3,120
Develop Unit Tracking System	6	\$180
<b>Program Development: IZ, Linkage Fees, Incentives</b>		
Draft Code: Inclusionary Zoning	96	\$2,880
Facilitate Linkage Fees study w/contractor	16	\$960
Draft Code: Linkage Fees	32	\$960
Draft Code: Development Incentives	32	\$960
Develop Deed Restrictions/Administrative Guidelines	80	\$2,400
Develop Unit Tracking System	6	\$180
Annual Update of Income, Home Prices, Fees In Lieu	8	\$240
Development Review / Negotiation	48	\$1,440
Applicant Prequalification/ Qualification/ Selection	20	\$600
<b>Program Development: Homebuyer and Renter Education &amp; Outreach</b>		
Establish Resources for Housing Assistance	4	\$120
Update Resources for Housing Assistance	2	\$60
Identify Speakers, Set Agenda, Manage Event	40	\$1,200
Event Promotion (fliers, PR, etc.)	6	\$180
<b>Estimated Staff Totals 2009/ 2010:</b>		<b>1029</b>
		<b>\$31,590</b>

Assumed hourly wage staff person: \$30  
Assumed hourly wage for Contract Services: \$60

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<b>Estimated Jurisdictional Staff Administration Hours</b>	<b>Total Est. Hours</b>	<b>Ouray</b>	<b>Ridgway</b>	<b>Ouray County</b>
IZ Code Drafting (2009)	24	8	8	8
Linkage Fee Code Drafting (2010)	24	8	8	8
Housing Rehab & Weatherization Program Assistance	60	20	20	20
Grant Writing / Grant Assistance	15	5	5	5
General Organizational Development	30	10	10	10
<b>Total Staff Administration Hours (2009 - 2010)</b>	<b>153</b>	<b>51</b>	<b>51</b>	<b>51</b>