



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: KATIE KENT, COMMUNITY DEVELOPMENT DIRECTOR
RE: RESOLUTION 23-20. HOUSING HELPS – REVISION TO DEED RESTRICTION
DATE: AUGUST 8, 2023

Summary and Background: On August 27, 2019, the Town Council adopted Resolution 19-31 to establish Frisco's "Housing Helps" program. This program was based upon similar programs employed by Vail, Summit County, and the Town of Breckenridge. The Frisco Housing Helps program was initially set up to provide financial assistance in exchange for a live/work occupancy deed restriction, including income and appreciation caps.

In June of 2021, Town Council approved a modification to the Housing Helps program, deemed "Housing Helps 2.0", which modified the program to remove the income and appreciation caps from the program. Since its inception, the Housing Helps program has been used to purchase or acquire restrictions on ten properties. Six properties were purchased by the Town, two deed restrictions were purchased jointly with Summit County, and two were properties purchased by people employed within the Ten Mile Basin utilizing the down payment assistance option of the program. To date, the Town has spent approximately \$3.9M on the program. This number will be reduced when the Town sells three of the units in the upcoming months.

Recently, the Town had been approached by a retired homeowner wishing to sell a deed restriction to the Town on their home. The individual is no longer employed 30 hours per week within one mile of the Ten Mile Basin and therefore does not meet the conditions of the current standard Housing Helps deed restriction.

At the May 9, 2023, Town Council meeting, Staff and Council discussed the Housing Helps program with a potential scenario regarding the Town proceeding with placing a deed restricted covenant on a unit with an owner/occupant who is not currently employed but does live full time in the unit. Knowing that one of the goals of the program is to increase full time residency in Frisco, Council directed Staff and the Town's Attorney to move forward with an amendment to the Housing Helps covenant allowing a retiree who resides in a unit to qualify as an occupant under the covenant. When the retiree sells the unit, the unit will be sold with a Housing Helps deed restriction.

Before the Town Council on August 8th are three documents:

- Resolution 23-20 proposing such modifications.
- Residential Housing Restrictive Covenant and Notice of Lien which would be recorded on a property with a deed restriction purchased from a property owner regardless of their current working status, who has used the property as their principal residence for not less than seven years.

- Restrictive Covenant Purchase Agreement which would be entered into when the Town is purchasing a deed restriction on a property that has been used as the Owner's principal residence for not less than seven years.

Staff will review these documents with Council at the August 8th meeting and seek feedback specific to the language in the Resolution and changes to the Covenant.

Analysis:

Resolution 23-20

Resolution 23-20 includes the option for the Town to purchase a deed restriction from a current property owner who has resided in the property as a principal residence for at least the previous seven (7) years. This Option 6 specifically states that the current property owner does not need to meet work requirements; however, the subsequent owner will need to meet work requirements.

Staff is seeking Town Council input on proposed wording within Resolution 23-20 which states that the greater the time period that will likely pass before the restriction imposes working requirements, the lesser the amount that is anticipated to be paid for a deed restriction.

With Option 6, the deed restriction will be in substantially the form attached hereto. It is expected that the amount that will be paid for a deed restriction under option 6 will vary significantly from one owner to another based upon an estimate of the amount of time that will likely pass before the restriction will impose working requirements on the next subsequent owner. The greater the time period that will likely pass before the restriction imposes working requirements, the lesser the amount anticipated to be paid.

Restrictive Covenant

Through direction given by Town Council, the Town Attorney has drafted modifications to the Housing Helps covenant which will allow an owner/occupant to be retired within the unit. The proposed covenant change is also accompanied by a revised form of purchase agreement. With this form of agreement, the Town can enforce the requirement directed by Council that the owner selling the restriction (who needs not be a worker in the community) has used the property as his or her principal residence for at least seven (7) years prior to the sale of the restriction.

The existing covenant, and proposed covenant, will have the same definition of "Resident":

"Resident" means a person and his or her Dependents, if any, who (i) at the time of purchase of a Unit and all times during ownership or occupancy of the Property, earns his or her living from a business operating within one mile of the Ten Mile Basin in Summit County, by working at such business an average of at least 30 hours per week on an annual basis. A person shall remain a Resident regardless of his or her working status, so long as he or she has owned and occupied the Property, or other real property within Summit County that is deed restricted for affordability, for a time period of not less than seven (7) years. The term "business" as used in this Article I, Subsection L and Section 5.1.B. shall mean an enterprise or organization providing goods and/or services, whether or not for profit, and shall include, but not be limited to, educational, religious, governmental and other similar institutions.

Proposed modification to the covenant is in Article IV, Occupancy Restrictions which will allow the existing owner (Declarant) to avoid the work requirement and still be considered a “Resident” for purposes of the Restriction.

Other than use by the SCHA or the Town, and except as may be otherwise expressly set forth in this Restriction, the use and occupancy of the Property shall be limited exclusively to housing for natural persons who meet the definition of Resident and Household. Any part of the foregoing or any other provision of this Restriction notwithstanding, the Declarant, but not the Declarant’s successors or assigns in and to the Property, shall be considered a “Resident” hereunder regardless of whether he or she works, as described in subsection 1.1.L above, on or after the Effective Date hereof, and regardless of whether he or she has resided previously in property that was deed restricted for affordability.

Staff notes that there is also a proposed modification for Section 11.1 Equal Housing Opportunity. This modification, proposed by the Town Attorney, is to address legal issues concerning disabilities and housing discrimination. This is standard language that the Town will start incorporating into covenants as they are modified in the future.

Financial Impact: The 2023 Budget includes \$1.5M for the Housing Helps program. There is no proposed change to the current Housing Helps budget.

Alignment with Strategic Plan: The Frisco Housing Helps Program enhances the inclusive community priority through providing options for a variety of housing options for its residents. The proposed modifications are consistent with the Strategic Plan and the Town Council’s priorities.

Staff Recommendation: Staff recommends that the Town Council provide feedback on this Resolution 23-20, and associated documents, and their alignment with the goals of the Housing Helps deed restriction. Specifically:

- Does the Council support suggested language within the Resolution stating that it is expected that the amount that will be paid for a deed restriction under Option 6 will vary based upon an estimate of the amount of time that will likely pass before the restriction will impose working requirements on the next subsequent owner?
- Does the Council support the proposed language within the Housing Helps Restrictive Covenant, under Article IV, Occupancy Restrictions stating that a declarant shall be considered a “Resident” regardless of whether he or she works?

Reviews and Approvals: This report has been reviewed and approved by:

Diane McBride, Assistant Town Manager
Tom Fisher, Town Manager
Leslie Edwards, Finance Director

Attachments:

Attachment 1 – Resolution 2023-20
Attachment 2 – Housing Helps Covenant Amended (with modifications noted)
Attachment 3 – Purchase Agreement