

**AMENDMENT NO. 1 TO HAPPY ROOFS PROGRAM HOUSING ASSISTANCE GRANT  
AFFORDABILITY AGREEMENT BETWEEN SANTA FE COUNTY AND QUALIFYING  
GRANTEE**

**THIS AMENDMENT** is made and entered into as of this 22 day of August, 2012, by and between **Santa Fe County**, a political subdivision of the State of New Mexico, hereinafter referred to as "the County", and Samuel and Marian Urban (hereinafter referred to as "Borrowers").

**WHEREAS**, the Borrowers executed this Happy Roofs Program Housing Assistance Grant Affordability Agreement Between Santa Fe County and Qualifying Grantee dated June 14, 2012.

**WHEREAS**, the amount of the grant referenced in the agreement needs to be changed based upon a new bid by the contractor that will perform the roofing improvements.

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

1. Section 1A and 2 are hereby amended by replacing the original language with the following:

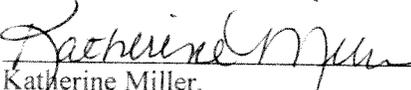
"1A. This Agreement is in consideration of the Grant from the County to the Qualifying Grantee in the amount of \$7,852.93. Qualifying Grantees understand and agree that the Grant shall not be repaid to the County, with the exception of paragraph (D) below.

2. HOUSING ASSISTANCE GRANT. The grant is in the amount of \$7,852.93. If applicable, repayment of the Grant shall be the principal amount not to exceed \$10,000.00 and bearing interest at the rate of 5% annual percentage rate (APR)."

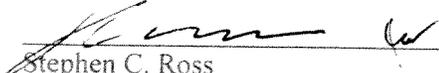
2. All other provisions of the Mortgage not amended, replaced, or superseded by this Amendment shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

**SANTA FE COUNTY**

  
Katherine Miller,  
Santa Fe County Manager

**APPROVED AS TO FORM:**

  
Stephen C. Ross  
Santa Fe County Attorney

8-7-12  
Date

**FINANCE DEPARTMENT APPROVAL:**

Teresa C. Martinez

Teresa C. Martinez  
Santa Fe County Finance Director

8/15/12

Date

**SAMUEL AND MARIAN URBAN (Borrowers)**

By: Sammy Urban  
Signature

8-9-12  
Date

Sammy Urban  
Printed Name

[Signature]  
Signature

8-9-12  
Date

MARIAN URBAN  
Printed Name

8/9/12

**ACKNOWLEDGEMENTS**

STATE OF NEW MEXICO

ss:

COUNTY OF SANTA FE

The foregoing instrument was hereby acknowledged before me this 6<sup>th</sup> day of August, 2012 by Katherine Miller, County Manager.

\_\_\_\_\_  
Notary Public

My commission expires:

March 2, 2013

**ACKNOWLEDGEMENTS**

STATE OF NEW MEXICO

Ss:

COUNTY OF SANA FE

The foregoing instrument was hereby acknowledged before me this 6<sup>th</sup> day of August, 2012 by Samuel Urban and Marian Urban.

Rosemary R. Bailey  
Notary Public

My commission expires:

March 2013

## MORTGAGE

THIS MORTGAGE, made this \_\_\_\_ day of \_\_\_\_, 2012, by and between the undersigned, Samuel Urban and Marian Urban (Joint Tenants) "Borrowers, of 28 A La Jova Road, Glorieta, New Mexico 87535 ("the Property")(described more particularly on Exhibit A hereto) and the Board of County Commissioners of Santa Fe County ("Mortgagee" or "Lender"), in the principal sum of **Seven Thousand Eight Hundred Fifty Two Dollars and Ninety Three Cents (\$7852.93)**. (hereinafter call "the "Principal").

Borrowers owe Lender the principal sum of **Seven Thousand Eight Hundred Fifty Two Dollars and Ninety Three Cents (\$7852.93)**. Borrowers debt is evidenced by Borrowers Promissory Note in the amount of **Seven Thousand Eight Hundred Fifty Two Dollars and Ninety Three Cents (\$7852.93)**, dated the same date as this Mortgage, which provides repayment of the Note in full unless Borrowers retain ownership of the property and reside on the property for a period of five (5) years following execution of the Note, and cancellation of the Note if the property is transferred (by sale or otherwise) to a person of low or moderate income as established by operation of Ordinance No.2011-3 and the regulations authorized thereunder, and the transferee agrees to execute a mortgage and Note containing the same or similar terms.

This Mortgage secures to the Mortgagee: (a) the repayment of the debt evidenced by the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced pursuant to this Mortgage, including without limitation sums advanced by Mortgagee in the exercise of remedies provided herein; (c) the performance of Borrower's covenants and agreements herein and in this Note, all subject to the statutory mortgage condition for the breach of which it is subject to foreclosure as provided by law, and with mortgage covenants.

Borrowers and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; and Default Interest.** Borrowers shall promptly pay, when due, the principal balance of the Note and default interest due under the Note, if any.

2. **Application of Payments.** Unless otherwise required by applicable by law, all payments received by Lender shall be applied first, to accrued interest due, costs incurred by Lender to enforce the Note and this Security Instrument, and then to principal due.

3. **Charges; Liens.** Borrowers shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which may attain priority over this Security Instrument. Borrowers shall pay these charges on time directly to the person owed payment. Borrowers shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrowers makes these payments directly, Borrowers shall promptly furnish to Lender receipts evidencing the payments. Borrowers shall promptly discharge any lien which has priority over this Security Instrument except the Purchase Mortgage or any Refinance Mortgage, as defined in paragraph 13 below.

4. **Hazard or Property Insurance.** Borrowers shall keep all improvements on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrowers subject to Lender's approval, which shall not be unreasonably withheld. If Borrowers fail to maintain coverage described above, Lender may, at Lender's option and Borrower's expense, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 6.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause, adding Lender as the additional insured, and shall provide notice to Lender of cancellation or termination of such policy at least thirty (30) days prior to the effective date of termination or cancellation. If Lender requires, Borrowers shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrowers shall give prompt notice to the insurance carrier and Lender. Lender may provide proof of loss if not made promptly by Borrowers. Unless Lender and Borrowers otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not reduced. If the restoration or repair is not economically feasible or Lender's security would be reduced, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrowers. If Borrowers abandon the Property, or does not answer within ten (10) days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due.

Notwithstanding the foregoing, all rights of Lender hereunder are and shall remain subordinate and subject to the rights of the holder of the Purchase Mortgage or any Refinance Mortgage.

5. **Preservation, Maintenance, and Protection of the Property.** Borrowers shall not destroy, damage, or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrowers shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that, in Lender's good-faith judgment,

could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest.

**6. Protection of Lender's Rights in the Property.** If Borrowers fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees, and entering on the Property to make repairs. Although Lender may take action under this paragraph 6, Lender is under no obligation to do so.

Any amounts disbursed by Lender under this paragraph 6 shall become additional debt of Borrowers secured by this Security Instrument. These amounts shall bear interest from the date of disbursement at the rate set forth of twelve percent (12%) per annum, until repaid, and shall be payable, with interest, upon notice from Lender to Borrowers requesting payment.

**7. Successor and Assigns Bound; Joint and Several Liability.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrowers.

**8. Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected, or to be collected, in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrowers which exceeded permitted limits will be refunded to Borrowers. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrowers. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

**9. Hazardous Substances.** Borrowers shall not cause or permit the presence, use, disposal, storage, or release of any hazardous substances on or in the Property. Borrowers shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any environmental law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of hazardous substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

**10. Legislation Affecting Lender's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require

immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 11.

**11. Default; Remedies.** If (1) Borrowers shall fail to pay the sums due under the Note as and when due; or (2) Borrowers shall fault on the terms of the Purchase Mortgage or any Refinance Mortgage and Borrowers shall fail to cure such default within the deadline set forth in such Purchase Mortgage or Refinance Mortgage, as such may be extended by the holder thereof; or (3) or if a subordinate lien or encumbrance is placed on the Property without Lender's prior written consent; or (4) Borrowers shall breach of any covenant or agreement in this Security Instrument, Lender at its option, may require immediate payment in full of all sums secured by this Security Instrument and may, after notice to Borrowers and the passage of fifteen (15) days, foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph numbered 11, including, but not limited to, reasonable attorneys' fees and costs

**12. Lender in Possession.** Upon acceleration under paragraph 11 or abandonment of the Property, Lender (in person, by agent, or by judicially appointed receiver) shall be entitled to enter upon, take possession of, and manage the Property, and to collect the rents of the Property, including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds, and reasonable attorneys' fees, and then to the sums secured by this Security Instrument. Notwithstanding the foregoing, Lender's rights hereunder shall be subordinate and subject to the rights of the holder of the Purchase Mortgage or any Refinance Mortgage.

**13. Subordination to Purchase Mortgage and Refinance Mortgage.** Lender and Borrowers acknowledge and agree that this Security Instrument is subordinate in all respect to the liens, terms, covenants and conditions of the Purchase Mortgage including all sums advanced for the purpose of (a) protecting or further securing the lien of the Purchase Mortgage, or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property. Additionally, in the event Borrowers shall elect, from time to time, to re-finance the Purchase Mortgage, Lender agrees to execute any documentation reasonably required by Borrower's lender to subordinate this Security Instrument to mortgage granted by Borrowers to secure such debt refinance ("Refinance Mortgage"). In connection with obtaining the Refinance Mortgage, Borrowers shall be entitled to increase the amount of debt which was initially secured by the Purchase Mortgage by an amount equal to Borrower's equity in the Property as determined by an appraisal obtained in connection with the refinance. Lender shall have no obligation to subordinate this Security Instrument to a Refinance Mortgage to the extent that the amount of the loan secured by the Refinance Mortgage exceeds the Purchase Mortgage plus Borrower's equity.

The terms and provisions of the Purchase Mortgage or a Refinance Mortgage, as the case may be, are paramount and controlling and they supersede any other term and

provisions hereof in conflict therewith. In the event of a foreclosure or deed in lieu of foreclosure of the Purchase Mortgage or a Refinance Mortgage, any provisions herein or any provisions in any other collateral agreement or document restricting the use of the Property to low or moderate income households or otherwise restricting the Borrower's ability to sell the Property shall have no effect on subsequent owners or purchasers of the Property. Any person, including his successor (other than the Borrowers or a related entity of the Borrowers), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the Purchase Mortgage or a Refinance Mortgage shall receive title to the Property free and clear from such restrictions. Further, if the holder of the Purchase Mortgage or a Refinance Mortgage acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Security Instrument shall automatically terminate upon the holder of the Purchase Mortgage or Refinance Mortgage holder's acquisition of title provided that (1) the Lender has been given written notice of a default under the Purchase Mortgage or Refinance Mortgage and (2) Lender shall not have cured the default under the Purchase Mortgage or Refinance Mortgage within the time period permitted for a cure by the Borrowers. Nothing herein shall release the Borrowers from personal liability for amounts due under the Note or hereunder in the event title is transferred pursuant to a deed in lieu of foreclosure.

In the event of a default of this Security Instrument, Lender shall provide to the holder of a Purchase Mortgage or Refinance Mortgage, a copy of the written default notice and any notice of acceleration sent by Lender to Borrowers.

**14. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument, without charge, to Borrowers. Borrowers shall pay any recording costs. Following release of this Security Instrument, any provisions herein or any provisions in any other collateral agreement or document restricting the use of the Property to low or moderate income households or otherwise restricting the Borrower's ability to sell the Property shall have no effect on Borrowers or any subsequent owners or purchasers of the Property.

**15. Redemption Period.** If this Security Instrument is foreclosed, the redemption period after the date that the judicial sale is confirmed shall be one (1) month.

**16. Notices.** Any notice to Borrowers provided for in this Security Instrument shall be given by delivering it or by mailing it by certified mail, return receipt requested, or by hand-delivery, unless applicable law requires use of another method. The notice shall be directed to [address] or any other address Borrowers designates by written notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrowers. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrowers or Lender when given, as provided in this paragraph.

**17. Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the State of New Mexico. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict



My commission expires:

\_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss:

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was hereby acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

Notary Public

My commission expires:

\_\_\_\_\_

EXHIBIT A to Affordable Mortgage  
Legal Description

**EXHIBIT "A"**

A certain tract of Land, lying and being situate within Section 2, Township 15 North, Range 11 East, N.M.P.M., County of Santa Fe, State of New Mexico, being more particularly described as follows, to-wit:

Beginning at a point which is the most easterly corner of the tract herein described, from which point the Two (2) mile corner on the west boundary of the Pecos Pueblo Grant bears S 66° 22' E, a distance of 401.79 feet; thence from said point and place of beginning:

N 50° 56.5 'W,	217.49 feet;
Along a county road;	
S 65° 52' W	91.67 feet;
S 35° 47' W	45.12 feet;
S 84° 01' W	233.35 feet;
S 15° 35' E	149.74 feet;
S 47° 50.6' E	163.11 feet;
N 57° 25' E	130.27 feet;
N 57° 38' E	126.13 feet;
N 58° 19' E	145.33 feet;

to the point and place of beginning.

All as shown on a Plat of Survey Bernardita G. Urban by Robert L. Wheeler, dated April 30, 1978. Being and intended to be the same land conveyed in a Warranty Deed recorded in Book 112, page 325.

## PROMISSORY NOTE

\$ 7852.93

Date \_\_\_\_\_

For Value Received, the undersigned, Samuel Urban and Marian Urban (Joint Tenants) "Borrowers", of 28 A La Joya Road, Glorieta, New Mexico 87535 ("the Property")(described more particularly as set forth on Exhibit A hereto) promise to pay to the order of **the Board of County Commissioners of Santa Fe County** ("Lender"), the principal sum of **Seven Thousand Eight Hundred Fifty Two Dollars and Ninety Three Cents (\$7852.93)**.

(hereinafter call "the "Principal"), without interest accrued on the unpaid principal balance, pursuant to that certain Mortgage of even date between the parties.

If Borrowers retain ownership of the property and resides on the property for a period of five (5) years following execution of this Note, this Note shall be cancelled upon request of the Borrowers. This Note may also be cancelled on request of the Borrowers if the property is transferred (by sale or otherwise) to a person of low or moderate income as established by operation of Ordinance No. 2011-3 and the regulations authorized there under, and the transferee agrees to execute a mortgage and Note containing the same or similar terms.

In addition to the protections of the Lender described in this Note, this Note is secured by a Mortgage of even date. The Mortgage describes how and under what conditions Borrowers may be required to make immediate payments in full of all amounts Borrowers owe under the terms of this Note. Any failure by the Borrowers to observe or perform, as the case may be, any of the covenants or agreements contained in the Mortgage shall be deemed a default in the terms of this Note.

Failure to perform any obligation or covenant in this Note or within the Mortgage, or if Borrowers have made any false statement or representation in the Note or Mortgage, if a receiver or a general assignment for the creditors is made by the Borrower, or if bankruptcy or insolvency proceedings the instituted by the Borrowers, or the Borrowers permits the impairment of the Property by loss, theft, damage, levy and execution, or destruction, unless it is promptly replaced with Property of like kind and of equal or greater value or restored to its former condition, shall be events of default under this Note.

Presentment, notice of dishonor, and protest are hereby waived by Borrowers. "Presentment" means the right to require the Lender to demand payment of amounts due. "Notice of dishonor" means the right to require the Lender to give notice to other persons that amounts due have not been paid.

This Note shall be binding upon the Borrowers and its' successors and assigns.

Borrowers shall be jointly and severally liable under this Note.

Any notice to Borrowers provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to Borrower at **28 A La Jova Road, Glorieta, New Mexico 87535** or to such other address as Borrowers may designate by written notice to the Lender. Any notice to the Lender shall be sent by registered or certified mail and shall be deemed to have been given and received seventy-two (72) hours after the same is so addressed and mailed postage prepaid, to the Lender at **102 Grant Avenue, Santa Fe, New Mexico 87504** or at such other address as may have been designated by subsequent written notice of Borrower.

**Borrowers:**

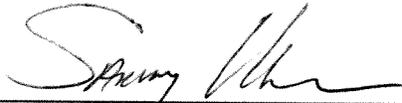
  
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EXHIBIT A to Promissory Note  
Legal Description

**EXHIBIT "A"**

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N 50° 56.5 'W,	217.49 feet;
Along a county road;	
S 65° 52' W	91.67 feet;
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to the point and place of beginning.

All as shown on a Plat of Survey Bernardita G. Urban by Robert L. Wheeler, dated April 30, 1978. Being and intended to be the same land conveyed in a Warranty Deed recorded in Book 112, page 325.