SANTA FE COUNTY

BOARD OF COUNTY COMMISSION RESOLUTION NO. 2012- 83

HOUSING AUTHORITY BOARD RESOLUTION NO. 2012- 21 *HB*

A JOINT RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS AND THE HOUSING AUTHORITY BOARD RESCINDING RESOLUTION NO. 2010-241 AND RESOLUTION NO. 2010-19HB AND ADOPTING A FORECLOSURE PREVENTION PROGRAM AND POLICY AND DELEGATING SIGNATURE AUTHORITY FOR TRANACTIONS VALUED AT TWO HUNDRED AND FIFTY THOUSAND DOLLARS ($250,000) AND BELOW TO THE COUNTY MANAGER FOR THE NEGOTIATION, PURCHASE, AND SALE OF HOMES UNDER THE PROGRAM

WHEREAS, on December 14, 2010, the Board of County Commissioners and the Housing Authority Board approved Resolution No. 2010-241 and Resolution No. 2010-19HB approving the Foreclosure Prevention Program and Policy; and

WHEREAS, the Program and Policy establish a process through which staff will review situations that threaten the ownership of affordable homes; and

WHEREAS, the Program and Policy stipulate the options available to families that are threatened by foreclosure which include 1) refinancing; 2) loan modification; 3) mortgage assistance; 4) voluntary sale; 5) and purchase; and

WHEREAS, Santa Fe County has purchased 3 homes under the Foreclosure Prevention Program and Policy and has found that the language in the Foreclosure Prevention Program and Policy obligates the Santa Fe County Housing Authority to comply with all requirements of the Affordable Housing Regulations as set forth in Resolution 2006-99 Resolution 2010-189 and the Affordable Housing Regulations for the Community College District, which was not the intent of the Program and Policy; and

WHEREAS, staff has revisited the Foreclosure Prevention Program and Policy and has determined that it needs to be amended to clarify and simplify language throughout the document; and

WHEREAS, the amendment will reduce the cash outlay made by the Housing Authority from purchase of units acquired under the Foreclosure Prevention Program and Policy, which will permit more affordable buyers to qualify for the subsequent purchase of those units.

SFC CLERK RECORDED 02/14/2012

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners and the Santa Fe County Housing Authority Board hereby repeals Resolutions 2010-241 and Housing Authority Resolution 2010-19 and adopt the Foreclosure Prevention Program and Policy attached hereto as Exhibit "A".

APPROVED, ADOPTED AND PASSED this 31st day of July, 2012.

BOARD OF COUNTY COMMISSIONERS

Liz Stefanics, Chairperson

ATTEST:

Valerie Espinoza, County Clerk

HOUSING RESOLUTION
COUNTY OF SANTA FE) PAGES: 8
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for Record On The 14TH Day Of August, 2012 at 12:06:10 PM And Was Duly Recorded as Instrument # 1678161 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy _____ County Clerk, Santa Fe, NM

APPROVED AS TO FORM:

Stephen C. Ross, County Attorney

SANTA FE COUNTY HOUSING AUTHORITY BOARD

Liz Stefanics, Chairperson

BCC RESOLUTIONS
COUNTY OF SANTA FE) PAGES: 8
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for Record On The 14TH Day Of August, 2012 at 12:01:28 PM And Was Duly Recorded as Instrument # 1678159 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy _____ County Clerk, Santa Fe, NM

SFC CLERK RECORDED 08/14/2012

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Exhibit A

Santa Fe County Long Term Affordability and Foreclosure Prevention Program and Policy

The Santa Fe County Housing Authority
-and-
The Santa Fe County Affordable Housing Program

1. Activity Description:

The goals advanced by this joint policy document of the Santa Fe County Housing Authority and the Santa Fe County Affordable Housing program include; (i) ensuring long term affordability of homes created through the Santa Fe County Affordable Housing Program, (ii) ensuring that persons who purchase homes through the affordable housing programs of the County are able to keep those homes, (iii) preventing foreclosure of affordable units, (iv) directly assisting program participants when unforeseen problems threaten home ownership, and, (v) providing a means to purchase affordable homes and make them available to eligible buyers when default or foreclosure becomes inevitable.

This policy establishes an equitable process through which staff will review situations that threaten the possession of affordable homes, make decisions concerning the issues threatening the transaction, and, when necessary, purchase homes that will be lost. The policy also establishes the County's discretion to make such decisions, which is delegated to the County Manager.

All words and phrases used herein shall have the meanings assigned to those terms and phrases by Ordinance No. 2006-02, Ordinance No. 2000-12, and the Santa Fe County Affordable Housing Regulations, including the Affordable Housing Regulations for the Community College District. If not assigned a meaning by those documents, words and phrases shall be interpreted according to their usual and customary meaning.

2. Options.

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To advance the goals described in the previous section, upon learning of impending default or proposed foreclosure of an affordable unit, the County will take the following actions, in the following order, as appropriate:

A. Refinancing. Immediately upon learning that an impending default or foreclosure threatens ownership of an affordable home, County staff will meet with the owner and discuss the situation. Staff, with permission of the owner, may evaluate the owner's existing income and credit to determine if the mortgage may be refinanced to lower the monthly mortgage payment. Staff will facilitate discussions on this topic between the owner and the lender.

B. Loan Modification. If it is not possible to refinance the transaction to lower the monthly payment, Staff shall facilitate additional discussions with the owner and a lender to obtain loan modification to allow the owner to remain in the affordable home.

C. Mortgage Assistance. If it is not possible to refinance or to obtain loan modification, Staff may grant emergency mortgage assistance to remedy a hardship such as a loss of income or medical emergency. Before granting emergency mortgage assistance, staff shall consider whether the underlying problem resulted from a temporary loss of income, loss of employment, medical emergency or other unusual financial circumstance. If the financial circumstance appears to be of a temporary nature not to exceed four months, staff may grant emergency mortgage assistance to the owner to bring the mortgage current and may assist making monthly payments as needed to ensure that the owner retains the home, the default is remedied, and the foreclosure cancelled. In no event, shall mortgage assistance exceed a period of 24 months or $ 5,000.00.

D. Voluntary Sale. In the event that none of the previous options are successful, staff may work with the owner to seek a voluntary sale of the affordable home, as appropriate, to another affordable buyer within the same, or lower income range as applied to the owner when the unit was originally purchased, prior to foreclosure. Staff shall work with the lender, the owner and the prospective affordable buyer to ensure that the transaction is successful, and staff shall have discretion to take reasonable actions consistent with this paragraph including, but not limited to, partial or full forgiveness of the County Affordability Mortgage or Lien that had been imposed on the property. The maximum amount that the County Affordability Mortgage or Lien can be forgiven shall be determined by subtracting the current appraised value from the sum of the owner's first mortgage principal balance including any related unpaid fees or charges, the amount due on other superior liens, the County Affordability Mortgage or Lien, and the amount due on other inferior liens which must be removed to secure clear

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title. Furthermore, the County Affordability Mortgage or Lien may be further reduced as necessary to account for reasonable closing costs payable by the owner, in the sole discretion of the County.

E. Purchase. In the event that none of the previous options are successful, staff may consider purchasing an affordable unit either by exercising its right of first refusal, directly from the owner through a negotiated sale, or through a foreclosure sale. Funds to purchase a unit may come from funds provided by home sales proceeds of the Santa Fe County Housing Authority, in which case homes would be resold only to low income households not exceeding 80% of the area median income (AMI). For a Housing Authority purchase, the maximum purchase price shall be the lesser of the appraised value of the property, or the sum of the owner's first mortgage principal balance including any related unpaid fees or charges, the amount due on other superior liens, the principal balance of the County Affordability Mortgage or Lien, plus a $1,000 contingency. The Housing Authority shall pay the outstanding balance on other inferior liens which must be removed to secure clear title, plus all closing costs and settlement charges. There shall be no brokerage fees. The County Manager shall make the final decision concerning the purchase.

3. Restrictions.

The program is intended to be as flexible as possible to account for differing circumstances. However, certain restrictions apply to the County's administration of the program.

A. Eligible Properties. The County may acquire any property that was originally sold as an affordable home through the County's affordable housing program. The County may acquire homes if the owner is presently delinquent on one or more payments, prior to foreclosure through a negotiated sale, through foreclosure, or following foreclosure in a negotiated sale from the lender. All property acquired pursuant to this policy must meet U.S. Department of Housing and Urban Development Housing Quality Standards (HQS). Any property acquired through this program must have a current appraisal not more than 120 days old, and the County shall not pay more than the appraised price for any home.

B. Eligibility for Purchase of Homes Acquired Through the Program.

i. Affordable Buyer. All affordable homes acquired by the County through this program shall be sold only to an affordable buyer, as that phrase is defined in

Ordinance No. 2006-02, Ordinance No. 2000-12 and the Santa Fe County Affordable Housing Regulations, including the Affordable Housing Regulations for the Community College District. An affordable home that is acquired with funds provided by the Housing Authority shall be sold only to an affordable buyer whose income does not exceed 80% of the area median income (AMI); an affordable home that is acquired with other funds may be resold to an affordable buyer.

ii. Maximum Target Home Price. Homes shall be sold at or below the current maximum target housing price for the Income Range under which the homeowner originally qualified to purchase the home, as established in the Santa Fe County Affordable Housing Regulations, including the Affordable Housing Regulations for the Community College District. This restriction shall not apply to the Santa Fe County Housing Authority.

iii. Annual Income. The total annual family income for any person or persons purchasing an affordable home may not exceed the current income limits established by household size for the Income Range under which the owner originally qualified to purchase the home. Income is to be determined in accordance with Santa Fe County's standard program definition of "Annual Family Income" as described in the Affordable Housing Regulations, including the Affordable Housing Regulations for the Community College District. This restriction shall not apply to the Santa Fe County Housing Authority, with the provision that they shall only sell to affordable buyers not exceeding eighty percent (80%) of area median income (AMI).

iv. Owner-occupancy. All homes resold to an affordable buyer must be occupied by the owner. As part of the closing documentation for the sale, a County Affordability Mortgage or Lien or a Note and Mortgage Loan Assumption Agreement shall be executed by the affordable buyer that requires the home to be occupied by the owner in default of which, to the extent permitted by law, the County may exercise its rights to foreclose and resell the home to another affordable buyer. The County Affordability Mortgage or Lien shall also grant the County a right of first refusal upon subsequent sale of the home by the affordable buyer. The Santa Fe County Housing Authority may be required to execute a Note and Mortgage Loan Assumption Agreement, which it would subsequently assign to a future affordable buyer.

v. Household Size. The household size of an affordable buyer desiring to purchase an affordable unit through this program must not be less than the following: (i) a one or two bedroom unit may be sold to a one person (or greater) household; a three bedroom unit may be sold to a two person (or greater) household; a four

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bedroom unit may be sold to a three person (or greater) household. This restriction shall not apply to the Santa Fe County Housing Authority.

C. Marketing of Homes for Resale. Santa Fe County staff will market each home to be sold pursuant to this policy; realtors shall not be employed and real estate commissions shall not be paid from revenue derived from home sales by the Housing Authority or from the Affordable Housing Fund, unless staff efforts to market the property without the use of realtors is unsuccessful, in which case a standard sales commission may be paid. Recognizing that time will often be of the essence during a foreclosure or default, staff shall pre-qualify affordable buyers eligible to purchase an affordable home through the program.

D. Credit Guidelines, Homebuyer Education. Recognizing that the success of a purchaser of an affordable home depends on the affordable buyer being qualified financially to purchase a home, FNMA mortgage loan credit standards shall be strictly applied to application to purchase an affordable home upon resale through this program. Any exceptions to the FNMA guidelines must be fully supported by staff. The affordable buyer shall secure a prime fixed rate mortgage with a term of from 15 to 30 years. Homebuyers will be required to participate in at least eight hours of homebuyer counseling prior to completing the purchase.

E. Documentation. All documents described in the Affordable Housing Regulations shall be submitted to support an application to purchase a home to be resold pursuant to this policy. Any application shall be denied if the Affordable Housing Administrator, or Executive Director of the Housing Authority (or designee), in the case of a County Housing Authority purchase, determines that an applicant has submitted a materially incomplete, inaccurate, misleading or fraudulent application, or otherwise engaged in fraudulent, dishonest, or misleading conduct.

F. Affordability Mortgage or Lien. Staff may partially or completely forgive a County Affordability Mortgage or Lien as necessary to acquire a home that is in default or foreclosure. The maximum amount that a County Affordability Mortgage or Lien may be forgiven shall be determined by subtracting the current appraised value from the sum of the owner's first mortgage principal balance including any related unpaid fees or charges, the amount due on other superior liens, the County Affordability Mortgage or Lien, and the amount due on other inferior liens which must be removed to secure clear title. Furthermore, the County Affordability Mortgage or Lien may be further reduced as necessary to account for reasonable closing costs paid by the owner, in the sole discretion of the County. Liens shall be placed upon the home upon resale to an affordable buyer as specified in Ordinance No. 2006-02, Ordinance 2000-12 and the

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Affordable Housing Regulations, including the Affordable Housing Regulations for the Community College District, with the exception that this provision shall not apply to a Housing Authority purchase, except as provided in this subsection.

In a County Housing Authority purchase, the County may allow the Housing Authority to assume the existing County Affordability Mortgage or Lien upon execution of a Note and Mortgage Loan Assumption Agreement, as an alternative to cash payment for that portion of the County Affordability Mortgage or Lien which is not forgiven and which would otherwise be paid in cash at closing. Upon subsequent resale by the Housing Authority to an affordable buyer, the existing County Affordability Mortgage or Lien shall be assigned by the Housing Authority to the affordable buyer, as set forth in the Note and Mortgage Loan Assumption Agreement.

G. Signatory Authority. The Santa Fe County Manager has authority to: (i) partially or completely forgive a County Affordability Mortgage or Lien to facilitate the voluntary sale to another affordable buyer of an affordable unit in default or foreclosure and the County purchase of an affordable unit in default or foreclosure; (ii) execute all closing documents necessary to complete the purchase of a home, and resell a home pursuant to this program; and (iii) determine, or delegate to appropriate County staff, the eligibility of an affordable buyer to participate in the program. The phrase "County staff" as used herein shall refer to those County employees assigned by the County Manager the task of administering this policy which, in most cases, will be the Affordable Housing Administrator and/or the Executive Director of the Housing Authority (or designee).

4. Budget.

Santa Fe County shall dedicate the sum of $ 1,000,000 to fund the activities described in this program. Annually, foreclosure data will be reviewed by County staff to determine whether funding needs to be adjusted based. Any unobligated SFCFPP funds will be eligible at any time for redistribution to other affordable housing initiatives and projects.

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