

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2011-6

AN ORDINANCE AMENDING SECTION TWO, SECTION THREE, SECTION FOUR, SECTION FIVE, SECTION SIX, SECTION SEVEN, SECTION EIGHT, SECTION NINE, SECTION ELEVEN, SECTION TWELVE AND SECTION THIRTEEN OF ORDINANCE 2009-14 [AS AMENDED BY 2010-3] TO DEFINE THE SCOPE AND PURPOSE OF THE ORDINANCE; TO EXPAND AND ALIGN DEFINITIONS, ELIGIBILITY, PROTECTION OF COUNTY FUNDS AND LONG-TERM AFFORDABILITY WITH THE AFFORDABLE HOUSING ACT AND MORTGAGE FINANCE AUTHORITY RULES

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY that:

Section One. Ordinance 2009-14 is hereby amended to delete the current Section Two (Statutory Authority) and substitute the following:

“Section Two. Statutory Authority. This Ordinance is enacted under the authority of Subsection E and F of Section 14 of Article IX of the New Mexico Constitution, the New Mexico Affordable Housing Act, Section 6-27-1 NMSA 1978 *et seq.*, the New Mexico Mortgage Finance Authority Affordable Housing Act Rules and is consistent with Goals, Policies and Quantifiable Objectives included in the Santa Fe County Affordable Housing Plan and the Santa Fe County Sustainable Growth Management Plan (SGMP) to compliment and assist other social, environmental and land use strategies in providing affordable housing for the low to moderate income workforce within Santa Fe County.”

Section Two. Ordinance 2009-14 is hereby amended to delete the current Section Three (Scope.) and substitute the following:

“Section Three. Scope and Purpose.

A. This Ordinance shall apply within the unincorporated areas of central and northern Santa Fe County shown on Attachment A to Ordinance No. 2006-02, [as amended] except that this Ordinance may, upon approval of the Board of County Commissioners, apply to affordable housing projects engaged in by Santa Fe County anywhere within the County.

B. The purpose of this Ordinance is to:

- (1) Enable Santa Fe County to provide or pay for all or a portion of the costs of acquisition, development, construction, financing and operating associated with affordable housing initiatives;
- (2) Allow for the donation of land for construction of affordable housing, building conversion or renovation into affordable housing or pay for the costs of infrastructure necessary to support affordable housing projects;

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(3) Establish procedures to ensure that Housing Assistance Grants are limited to projects that will provide affordable housing to low and moderate income households in areas of need as established by the County;

(4) Establish procedures to ensure that Housing Assistance Grantees are qualifying grantees who meet the requirements of the Act, the rules promulgated pursuant to the Act and this Ordinance both at the time of the award and throughout the term of any grant or loan awarded under this Ordinance;

(5) Establish an application and evaluation process to authorize the County to select Qualifying Grantees;

(6) Require long-term affordability of the County's affordable housing program so that a project cannot be sold shortly after completion and taken out of the affordable housing market to ensure a quick profit for the qualifying grantee;

(7) Require that the Qualifying Grantee enter into a contract with the County consistent with the Act, which contract shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee;

(8) Require that a Housing Assistance Grant for a project impose contractual obligation on the Qualifying Grantee that the Affordable Housing Units in any project be occupied by persons of low or moderate income;

(9) Provide for adequate security against loss of public funds or property in the event that the Qualifying Grantee abandons or otherwise fails to complete the project;

(10) Require review and approval of a Housing Assistance Grant project budget by the County before any expenditure of grant funds or transfer of granted property; and

(11) Provide definitions of "low income" and "moderate income" and setting out requirements for verification of income levels.

Section Three. Ordinance 2009-14 is hereby amended to delete the current Section Four (Definitions.) and substitute the following:

"Section Four. Definitions.

A. "Administrator" means the Affordable Housing Administrator.

B. "Affordable Housing" and "Affordable Housing Unit" means residential housing primarily for Persons and Households of Low or Moderate Income.

C. "Affordable Housing Agreement" means the agreement required by Sections 4(D), 4(F) and 6(B)(2) of Ordinance No. 2006-02, as amended, and the Regulations promulgated pursuant thereto.

D. "Affordable Housing Fund" means the fund established in Ordinance 2006-02, as amended, whose sole purpose is to support Affordable Housing within Santa Fe County.

E. "Affordability Period" means the duration of the Affordability Period, which shall comply with the long-term affordability restriction requirements of the New Mexico Mortgage Finance Authority Affordable Housing Act Rules.

F. "Applicant" means an individual who applies for assistance to pay for all or a portion of the costs of acquisition, development, construction, financing and operating associated with affordable housing initiatives or requests the donation of land for construction of affordable housing, building conversion or renovation into affordable housing or requests assistance for the costs of infrastructure necessary to support affordable housing projects.

G. "Area Median Income" (AMI) means the median income for the Santa Fe Metropolitan Statistical Area as adjusted for various household sizes and published and revised periodically by the U.S. Department of Housing and Urban Development (HUD).

H. "Assistance" is a Housing Assistance Grant issued under authority of this Ordinance.

I. "Building" means a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land donated for use in connection with an affordable housing project.

J. "Eligible Buyer" shall mean the purchaser of an Eligible Housing Unit whose annual adjusted gross income is no more than eighty percent (80%) of the Area Median Income, adjusted for household size.

K. "Eligible Housing Unit" shall have the meaning assigned in Ordinance No. 2006-02, as amended.

L. "Entry Market Buyer" shall have the meaning assigned in Ordinance No. 2006-02, as amended, adjusted for household size.

M. "Housing Assistance Grant" means the donation, provision or payment by the County pursuant to this Ordinance and Section 6-27-1 NMSA 1978 et seq. of: (i) land for the construction on the land of affordable housing; (ii) the costs of converting or renovating an existing building into affordable housing; (iii) the costs of financing of infrastructure necessary to support affordable housing projects; or (iv) the costs of acquisition, development, construction, financing, operating or owning affordable housing.

N. "Infrastructure" means Infrastructure Improvement and Infrastructure Purpose.

O. "Infrastructure Improvement" includes, but is not limited to:

- (1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;
- (2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;
- (3) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;
- (4) areas for motor vehicle use for road access, ingress, egress and parking;

- (5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for road access, ingress, egress and parking;
- (6) parks, recreational facilities and open space areas for the use of residents for entertainment, assembly and recreation;
- (7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;
- (8) electrical transmission and distribution facilities;
- (9) natural gas distribution facilities;
- (10) lighting systems;
- (11) cable or other telecommunications lines and related equipment;
- (12) traffic control systems and devices, including signals, controls, markings and signs;
- (13) inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and
- (14) heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property.

P. "Infrastructure Purpose" means:

- (1) planning, design, engineering, construction, acquisition or installation of infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the infrastructure;
- (2) acquiring, converting, renovating or improving existing facilities for infrastructure, including facilities owned, leased or installed by the owner;
- (3) acquiring interests in real property or water rights for infrastructure, including interests of the owner; and
- (4) incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection.

Q. "Low Income Person or Household" means a person or household whose income does not exceed 80% of the Area Median Income, adjusted for household size.

R. "MFA" and "MFA Rules" means the New Mexico Mortgage Finance Authority and the Mortgage Finance Authority Affordable Housing Act Rules adopted by the New Mexico Mortgage Finance Authority's Board of Directors.

S. "Moderate Income Person or Household" means a person or household whose income does not exceed 120% of the Area Median Income, adjusted for household size.

T. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or any legal or commercial entity.

U. "Qualifying Grantee" means:

- (1) a person of low or moderate income who is qualified to receive assistance pursuant to the Act, MFA Rules, this Ordinance and is approved by the Administrator to receive assistance; or
- (2) a governmental housing agency, regional housing authority, tribal housing agency, corporation, limited liability company, partnership, joint venture, syndicate, association or a non-profit organization that:

- (a) is organized under State or local laws and can provide proof of such organization;
- (b) if a non-profit organization the primary mission must be to provide housing or housing-related services to Persons of Low or Moderate Income, must have received a 501(c)(3) designation prior to applying and has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;
- (c) if a non-individual applicant the organization must have a functioning accounting system that is operating in accordance with generally accepted accounting principles or has designated an entity that will maintain such accounting system, have among its purposes significant activities related to providing housing or services to Persons or Households of Low or Moderate Income; and evidence or certification that the applicant has no significant outstanding or unresolved monitoring findings from the County, the MFA, or its most recent independent financial audit, or if it has any such findings, it has a certified letter from the County, the MFA, or auditor stating that the findings are in the process of being resolved; and
- (d) is approved by the Administrator.

V. "The Act" means the New Mexico Affordable Housing Act, Section 6-27-1 NMSA 1978, *et seq.*

W. "Third Party Assistance" means funding provided by the State of New Mexico, the United States (or an instrumentality of the United States), or a federal home loan bank, so long as the assistance is approved by the Affordable Housing Administrator.

X. "Regulations" means the regulations adopted and amended by the Board of County Commissioners of Santa Fe County to carry out the provisions of the Affordable Housing Assistance Ordinance.

Y. "Relation by blood or marriage within the third degree" includes spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, and great-grandparent."

Section Four. Ordinance 2009-14 is hereby amended to delete the current Section Five (Grants of Property, an Existing Building, or Infrastructure.) and substitute the following:

"Section Five. Grants of Property, an Existing Building, or Infrastructure.

A. A person that provides Affordable Housing as required by Santa Fe County Ordinance No. 2006-02 may apply to the Administrator to receive a Housing Assistance Grant consisting of a donation of land for the construction on the land of affordable housing, for the costs of converting or renovating an existing building into affordable housing, or the costs or infrastructure necessary to support affordable housing projects.

B. To be eligible to receive a Housing Assistance Grant as specified in paragraph A of this Section, the Qualifying Grantee, as defined under Section Four Definitions, must meet all the requirements established by the County pursuant to the

Affordable Housing Act, Section 6-27-1 NMSA 1978, et seq., the MFA Rules and this Ordinance .

C. Applicant Eligibility and Qualifying Grantee Requirements.

(1) To be eligible to receive a Housing Assistance Grant as specified in paragraph A of this Section, a Qualifying Grantee who is not an individual must:

(a) have a functioning accounting system that is operating in accordance with generally accepted accounting principles or has designated an entity that will maintain such accounting system consistent with generally accepted accounting principles;

(b) have among its purposes significant activities related to providing housing or services to low- or moderate-income persons or households; and

(c) if it has significant outstanding or unresolved monitoring findings from either the MFA or its most recent independent financial audit, have a certified letter from the MFA or auditor stating that the findings are in the process of being resolved;

(2) If the Qualifying Grantee is a corporation, the corporation must be in good standing with the Public Regulation Commission, Corporations Bureau or, if a foreign corporation, the corporation must be registered with the Public Regulation Commission, Corporations Bureau, to do business in the State of New Mexico; and

(3) if a not-for profit corporation:

(a) the primary mission must be to provide housing or housing-related services to Persons of Low or Moderate Income;

(b) must have received a 501(c)(3) designation from the Internal Revenue Service prior to applying; and

(c) no part of net earnings inure to the benefit of any member, founder, contributor, or individual;

D. Affordable Housing Funds and Housing Assistance Grants pursuant to this Section shall be limited to the amount set forth in Sec. 5(F) of this Ordinance, or the fair market value of property or infrastructure as established by an appraisal, whichever is less.

E. Affordable Housing Funds and Housing Assistance Grants pursuant to this Section for the costs of infrastructure necessary to support affordable housing projects shall be tendered only after completion of the infrastructure that is the subject of the Affordable Housing Fund or Housing Assistance Grant, and only after construction of Affordable Housing Units served by the infrastructure commences.

F. The maximum Affordable Housing Funds and Housing Assistance Grants authorized under this Section shall be limited to Ten Thousand Dollars (\$10,000.00) for each Affordable Housing Unit provided.

G. Affordable Housing Funds and Housing Assistance Grants authorized pursuant to this Section shall be in addition to any incentive set forth in Ordinance No. 2006-02.

H. Affordable Housing Funds and Housing Assistance Grants awarded pursuant to this Section shall be in accordance with the Act, MFA Rules and this Ordinance as follows:

(1) The Qualifying Grantee shall enter into one or more contracts with the County, which contract(s) shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee;

(2) The Qualifying Grantee shall execute documents, which will provide adequate security against the loss of public funds or property in the event the qualifying grantee abandons or fails to complete the affordable housing project, and which shall further provide, as may be permitted by law, for the recovery of any attorney fees and costs which the County may incur in enforcing the provisions of the Act, MFA Rules, this Ordinance and/or any agreement entered into by the County and the Qualifying Grantee, and which documents may include, but are not limited to, the following: note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other agreement which the County shall require in order to allow for any funds which the Qualifying Grantee may receive under the Affordable Housing Funds or Housing Assistance Grant to be adequately secured and to allow the County to ensure that such funds shall be utilized by the Qualifying Grantee in accordance with the Act, MFA Rules and this Ordinance as follows;

(3) The Qualifying Grantee shall be required to abide by a reasonable performance schedule and performance criteria that the County, in its discretion, may establish;

(4) Qualifying grantees shall agree that they shall maintain any land or buildings received as a housing assistance grant as either single-family or multi-family affordable housing in accordance with the Act, the MFA Rules and this Ordinance or as a facility which provides housing related services to persons of low or moderate income in accordance with the Act, the MFA Rules and this Ordinance (as applicable) for the duration of the affordability period, as defined in Section Nine, paragraph F; and

(5) In calculating the affordability period for Housing Assistance Funds or Housing Assistance Grants of either land or buildings, the fair market value of the land or buildings or the costs of infrastructure at the time of the donation by the County shall apply.

I. The note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreement and/or any other agreements shall be in the form prescribed by the county attorney, shall require the agreement to be governed by the laws of the State of New Mexico, that the exclusive forum for any litigation arising out of or related to the agreement shall be in the First Judicial District Court of New Mexico, located in Santa Fe County, New Mexico and shall be duly executed and recorded in the office of the Santa Fe County Clerk prior to the commencement of any work contemplated under this Ordinance.

J. Qualifying Grantee shall submit to, and the County shall cause to be made, such examinations of the books and records of each Qualifying Grantee as the County deems necessary or appropriate to determine the Qualifying Grantee's compliance with the terms of the Act, the MFA Rules, this Ordinance and any contracts between the Qualifying Grantee and the County. The County may require each Qualifying Grantee to pay the costs of any such examination.”

Section Five. Ordinance 2010-3 amending Ordinance 2009-14 is hereby repealed.

Section Six. Ordinance 2009-14 is hereby amended to delete the current Section Six (Grants of All of a Portion of the Costs of Acquisition, Development, Construction, Financing, Operation or Owning Affordable Housing.) and substitute the following:

“Section Six. Grants of All or a Portion of the Costs of Acquisition, Development, Construction, Financing, Operation or Owning Affordable Housing.

A. Each Qualifying Grantee who purchases an Affordable Housing Unit may receive a Housing Assistance Grant of down payment assistance to help pay the costs of acquisition, development, construction, financing, operating or owning affordable housing. Down payment assistance shall be available only upon the closing of permanent financing of the Affordable Housing Unit, and shall not be available upon the closing of temporary or construction financing.

B. Each Housing Assistance Grant issued pursuant to paragraph A of this Section shall be made at the closing of a purchase of an Affordable Housing Unit shall not exceed the sum of Twenty Thousand Dollars (\$20,000) and shall be in compliance with the Affordable Housing Act, the MFA Rules and this Ordinance.

C. Applicant Eligibility and Qualifying Grantee Requirements.

(1) Only one Housing Assistance Grant issued pursuant to this Section may be issued to a Qualifying Grantee.

(2) To be eligible to receive a Housing Assistance Grant as specified in paragraph A of this Section, a Qualifying Grantee must:

- (a) submit a complete application to the administrator;
- (b) qualify as a Low or Moderate Income Person or Household;
- (c) meet the requirements specified in the Affordable Housing Regulations; and
- (d) be approved by the Administrator and, when applicable, the Board of County Commissioners.

D. In accordance with the Act, MFA Rules and this Ordinance:

(1) Each Housing Assistance Grant issued pursuant to paragraph A of this Section shall be secured by a note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreement and/or any other agreement(s) which the County may require in the amount of the Housing Assistance Grant for the duration of the Affordability Period.

(2) The agreement(s) which the County may require shall:

- (a) require the Qualifying Grantee to occupy the Affordable Housing Unit as a primary residence for the duration of the Affordability period;
- (b) provide adequate security against the loss of public funds or property in the event the Qualifying Grantee fails occupy the Affordable Housing Unit as a primary residence;
- (c) provide for the recovery of any attorney fees and costs which the County may incur in enforcing the provisions of the Act, the MFA Rules, this Ordinance and/or any agreement entered into by the County and the Qualifying Grantee, as may be permitted by law;
- (d) require the agreement to be governed by the laws of the State of New Mexico, that the exclusive forum for any litigation arising out of or related to the agreement shall be in the First Judicial District Court of New Mexico, located in Santa Fe

County, New Mexico and shall be duly executed and recorded in the office of the Santa Fe County Clerk as a condition precedent to receiving the Housing Assistance Grant; and

(e) any other provision that the County determines is necessary to ensure that such funds shall be utilized by the Qualifying Grantee in accordance with the Act, the MFA Rules and this Ordinance.

(3) During the Affordability Period the Qualifying Grantee may only sell or transfer the Affordable Housing Unit to an Eligible Buyer or an Entry Market Buyer.

E. Persons desiring to receive a Housing Assistance Grant pursuant to paragraph A of this Section may pre-qualify for such assistance by filing an application with the Administrator. If the applicant appears to qualify for a grant at the time of application, the Administrator may certify the person as a potential Qualifying Grantee. A copy of such certificate may be provided to the MFA, upon its request. The certification shall be valid for one year except that after six months a person shall be required to update the application. Upon making an application pursuant to this Ordinance, the potential Qualifying Grantee shall certify, in writing, that there have been no material changes in any of the information or documentation provided or representations made. The Administrator, in his or her discretion, may request that additional information be provided notwithstanding the previous certification as a potential Qualifying Grantee. Certification as a potential Qualified Grantee does not guarantee that the potential Qualifying Grantee shall be approved by the County as a Qualifying Grantee or that any application submitted by the potential Qualifying Grantee is complete or otherwise in compliance with the Affordable Housing Act, MFA Rules, this Ordinance and Regulations pursuant to the Ordinance or that the potential Qualifying Grantee shall be awarded any Affordable Housing Funds or a Housing Assistance Grant.”

Section Seven. Ordinance 2009-14 is hereby amended to delete the current Section Seven (Application Process.) and substitute the following:

“Section Seven. Application Process.

A. Housing Assistance Grants for Property, Existing Buildings, or Infrastructure.

(1) To obtain a Housing Assistance Grant pursuant to Sec. 5 of this Ordinance, the applicant must submit an application and a detailed budget that describes the uses of proposed grant, including the items required to be submitted pursuant to this subsection. The application shall be made on a form provided by the Administrator. The County in its discretion may issue one or more RFP’s to solicit applications from applicants or shall otherwise identify a qualifying grantee for the use of Affordable Housing Funds or Housing Assistance Grants to be awarded, loaned, donated or otherwise provided under the Act, the MFA Rules and this Ordinance. An RFP shall require, but not be limited to, the information required in subsection (2) below.

(2) The application shall include all information required by the Regulations established pursuant to Sec. 8, herein, including, but not limited to, the following information:

(a) A narrative that describes the nature, scope and the need, as identified in the Santa Fe County Affordable Housing Plan, of the Affordable Housing Project envisioned by the applicant, and that describes the type and amount of assistance requested;

(b) An executive summary and project narrative including, but not limited to, the following:

- (i) the financial and management stability of the applicant;
- (ii) the demonstrated commitment of the applicant to the community;
- (iii) the cost-benefit analysis of the project proposed by the applicant;
- (iv) the benefits to the community of a proposed project;
- (v) the type or amount of assistance to be provided;
- (vi) the scope of the affordable housing project;
- (vii) the substantive or matching contribution by the applicant to the proposed project; and
- (viii) a performance schedule with performance criteria.

(c) Relevant information concerning the applicant (organization structure, status, goals and objectives of the organization, accounting system, and other requirements set forth in Section 5 of this Ordinance, together with supporting documentation);

(d) A detailed budget for the proposed project that includes sources and uses of funds;

(e) A recent financial statement and audit, as applicable;

(f) A list, as applicable, of current board members, principals, key executive staff and an organizational chart;

(g) A copy of the Affordable Housing Agreement and Donation Agreement, as appropriate;

(h) A statement of the experience of the applicant developing, financing or managing Affordable Housing projects;

(i) A verification signed by the applicant that the information provided, under penalty for perjury, is true and correct to the best of the applicant's knowledge and belief;

(j) All information required by this Ordinance and the Affordable Housing Regulations;

(k) Other information required by the Administrator which shall clearly evidence the need for the subsidy, that the value of the housing assistance grant reduces the housing costs to persons of low or moderate income, and that there is or will be a direct benefit from the project proposed by the Applicant to the community and/or purported beneficiaries of the project, consistent with the provisions of the Act.

(3) If the application is made in the context of a request for proposals issued by the County, then the applicant shall be submitted and processed according to the instructions set forth in the request for proposals. Otherwise, the Administrator shall review a pending application and make a finding whether the application conforms to this Ordinance and Ordinance No. 2006-02, and whether the application is complete and approvable.

(4) If the Administrator makes a finding that the application is complete and approvable, the Administrator shall prepare a staff analysis of the application and shall make a recommendation concerning the application to the Board of County Commissioners.

(5) The application shall be presented to the Board of County Commissioners for final action. The Board may approve the application, approve the application with conditions or modifications, or may deny the application, in its absolute discretion.

(6) In making its decision, the Board of County Commissioners shall consider whether the application conforms to the Act, Ordinance No. 2006-02, this Ordinance, the Affordable Housing Regulations, and any applicable directive of the Administrator, whether the proposed project will provide Affordable Housing to Low- or Moderate-Income Persons or Households, whether the applicant is likely to be able to complete the project described in the application, and whether the proposed grant will assist in the creation of Affordable Housing and will benefit the community and the purported beneficiaries.

(7) The Administrator shall provide a copy of the decision and relevant documents to the applicant and to the MFA.

(8) Following approval of the application, the applicant shall execute a Donation Agreement concerning the proposed project, or, alternatively, enter into an amendment containing the same material to an existing Affordable Housing Agreement. The agreement shall require the applicant to obtain adequate security against loss of public funds or property in the project is not completed, shall provide a construction schedule, shall provide for auditing and inspection of books and records pertaining to the project, and will only authorize payment on a reimbursement basis.

B. Grants of All or a Portion of the Costs of Acquisition, Development, Construction, Financing, Operating or Owning Affordable Housing.

(1) To obtain a Housing Assistance Grant pursuant to Sec. 6 of this Ordinance, the applicant must submit an application and supporting material which shall clearly evidence the need for the subsidy, that the value of the housing assistance grant reduces the housing costs to person(s) of low or moderate income, and that there is or will be a direct benefit to the community and/or purported beneficiaries, consistent with the provisions of the Act. The application shall be made on a form approved by the Administrator. Supporting material required by this Ordinance, the Affordable Housing Regulations, and the Administrator, shall be attached.

(2) Each applicant for a Housing Assistance Grant shall agree, in a written agreement, to maintain the property in good repair and to keep current any mortgages or notes on the property for so long as the applicant owns the property or the duration of the Affordability Period, whichever is shorter.

(3) If the Administrator makes a finding that the application is complete and the proposed grantee is a Qualifying Grantee and complies with the requirements established by the Affordable Housing Act, Section 6-27-1 NMSA 1978 et seq., the MFA Rules and this Ordinance the Administrator may approve the grant.

(4) The Administrator shall provide a copy of the decision and relevant documents to the applicant and to the MFA.

(5) Following approval of the application, the applicant shall execute liens, mortgages or other documents required by this Ordinance and Ordinance No. 2006-02, as a condition precedent to receiving the Housing Assistance Grant.”

Section Eight. Ordinance 2009-14 is hereby amended to delete the current Section Eight (Rules and Regulations.) and substitute the following:

“Section Eight. Affordable Housing Regulations.

A. The Administrator shall recommend and present to the Board of County Commissioners proposed amendments to the Affordable Housing Regulations to implement the provisions of this Ordinance.

- B. The regulations shall include the following:
- (1) procedures to ensure that Qualifying Grantees meet the requirements of the Affordable Housing Act, the MFA Rules, and this Ordinance at the time of the award and complies with all agreements required by the County throughout the Affordability Period;
 - (2) an application and award timetable for Housing Assistance Grants to permit the selection of the potential Qualifying Grantees prior to January of the year in which the grants would be made;
 - (3) procedures to review and process the application, including an independent evaluation of the :
 - (a) financial and management stability of the applicant;
 - (b) demonstrated commitment of the applicant to the community;
 - (c) cost-benefit analysis of the project proposed by the applicant;
 - (d) benefits to the community of a proposed project;
 - (e) type or amount of assistance to be provided;
 - (f) scope of the affordable housing project;
 - (g) substantive or matching contribution by the applicant to the proposed project;
 - (h) a performance schedule for the Qualifying Grantee with performance criteria; and
 - (i) the requirements for verification of an applicant's or other intended beneficiaries income level;
 - (4) an acknowledgment that a Housing Assistance Grant imposes a contractual obligation on the Qualifying Grantee that the Affordable Housing provided pursuant to the Affordable Housing Act and Ordinance No. 2006-02 is to be occupied by low- or moderate-income households;
 - (5) provisions for adequate security against the loss of public funds or property in the event that a Qualifying Grantee abandons or otherwise fails to complete a project;
 - (6) a requirement for review and approval of a Housing Assistance Grant project budget before any expenditure of grant funds or transfer of granted property;
 - (7) a requirement that, unless the period is extended for good cause shown or the Administrator has authority to approve an application pursuant to Section 7(B), the County shall place the application on an agenda of the Board within forty-five (45) days of the date of receipt of an application that the County deems to be complete and, if not placed upon an agenda of the Board within forty-five (45) days, the application shall be deemed approved;
 - (8) a requirement that a condition of Housing Assistance Grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;
 - (9) provisions setting out requirements for verification of income levels of applicants; and
 - (10) a requirement that the Donation Agreement or Affordable Housing Agreement or other agreement with a Qualifying Grantee is consistent with the Affordable Housing Act, the MFA Rules, this Ordinance and includes remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee.”

Section Nine. Ordinance 2009-14 is hereby amended to delete the current Section Nine (Limitation.) and substitute the following:

“Section Nine. Limitation, Administration and Long-Term Affordability.

A. Affordable Housing Grants pursuant to this Ordinance shall be subject to the availability of funds budgeted by the Board of County Commissioners for the purpose of providing grants pursuant to this Ordinance.

B. The Administrator shall administer the Affordable Housing Assistance Ordinance.

C. Pursuant to Section 6-27-7 NMSA 1978 and the MFA Rules Section 4, this Ordinance and any amendments of this Ordinance, along with other required documentation, shall be submitted to the MFA for review no less than forty-five days prior to enactment to ensure compliance with the Act, the MFA Rules and the Santa Fe County Affordable Housing Plan 2009 and the Santa Fe County Sustainable Growth Management Plan (SGMP). Within fifteen days after enactment of this Ordinance, a certified true copy shall be submitted to the MFA.

D. Qualifying Grantees shall provide the County with any certifications or other proof that it may require in order for the County to confirm that the Qualifying Grantee’s proposed project is in compliance with all applicable federal, state and local laws, rules and ordinances.

E. The development, construction, occupancy and operation of an Affordable Housing program or an Affordable Housing project financed or assisted under the Act, the MFA Rule and this Ordinance shall be undertaken in a manner consistent with principles of nondiscrimination and equal opportunity, and the County shall require compliance by all Qualifying Grantees with all applicable federal and state laws and regulations relating to nondiscrimination and equal opportunity.

F. Pursuant to the MFA Rules, the long-term Affordability Period for Housing Assistance Grants awarded under this Ordinance shall be as follows:

- (1) \$1 to \$14,999 shall be for five (5) years;
- (2) \$15,000 to \$39,999 shall be for ten (10) years;
- (3) \$40,000 to \$100,000 shall be for fifteen (15) years; and
- (4) \$100,001 or greater shall be for twenty (20) years.

G. The County may hold any award of Affordable Housing Funds or any Housing Assistance Grant made by the County in suspense pending the award of the issuance by the County of any RFP, or pending the award of the Affordable Housing Funds or of the Housing Assistance Grant by the County to the Qualifying Grantee without the issuance of an RFP by the County.”

Section Ten. Ordinance 2009-14 is hereby amended to delete the current Section Eleven (Budget.) and substitute the following:

“Section Eleven. Budget.

A. Any and all Housing Assistance Grants made pursuant to this Ordinance shall become final only following approval by the Board of County Commissioners of a

budget that includes the proposed grant funds. From time to time and at least annually, the Administrator shall submit a budget to the Board of County Commissioners for consideration and approval.

B. Matching of Affordable Housing Grants may be made from local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through programs of the MFA.”

Section Eleven. Ordinance 2009-14 is hereby amended to delete the current Section Twelve (Review of the New Mexico Mortgage Finance Authority.) and substitute the following:

“Section Twelve. Affordable Housing Requirements.

A. All Affordable Housing funds and Housing Assistance Grants awarded under this Ordinance are to be used by the Qualifying Grantee for the benefit of persons of low or moderate income subject to the provisions of the Act, the MFA Rules and this Ordinance.

B. Single-Family Property: Qualifying grantees shall agree that they shall maintain any single-family property which has been acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or which property has otherwise benefited from Affordable Housing Funds or a Housing Assistance Grant, including, but not limited to, any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, as affordable housing for so long as any or all of the Affordable Housing Funds or Housing Assistance Grant which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the duration of the Affordability Period, whichever is longer.

C. Multi-Family Property:

(1) Single Apartment within a Multi-Family Property: Qualifying Grantee shall agree that, if any single apartment is to be rehabilitated, weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable Housing Funds or a Housing Assistance Grant, those apartments shall be leased to persons of Low or Moderate Income at the time of any such award. Qualifying Grantees, who are the landlords and/or owners of such properties, shall further agree to contribute at least sixty percent (60%) of the cost of the rehabilitation, weatherization, conversion, lease, repair, and/or construction. Qualifying Grantees also shall agree that the persons of Low or Moderate Income, who are tenants of those apartments, shall be allowed to remain tenants for so long as there are no uncured defaults by those tenants under their respective leases and provided that there is no just cause for the landlord to terminate any lease agreement with those tenants for so long as any or all of the Affordable Housing Funds or Housing Assistance Grant which have been awarded, loaned, or otherwise conveyed to the qualifying grantee are unpaid and outstanding or the duration of the Affordability Period, whichever is longer.

(2) Multiple Apartments: Qualifying Grantees shall agree that, if multiple apartments or an entire multi-family property are to be acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable Housing Funds or a Housing Assistance Grant, including, but not limited to, any loans which have been repaid with Affordable Housing Funds or Housing Assistance Grant and which loans previously were secured by such properties, they shall maintain

not less than sixty percent (60%) of the housing units as Affordable Housing for so long as any or all of the Affordable Housing Funds or Housing Assistance Grant which have been awarded, loaned, or otherwise conveyed to the qualifying grantee are unpaid and outstanding or the duration of the Affordability Period, whichever is longer.

(3) Nonresidential Property: Qualifying Grantees shall agree that they shall maintain any nonresidential property which has been acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or which property has otherwise benefited from Affordable Housing Funds or a Housing Assistance Grant, including, but not limited to, any loans which have been repaid with Affordable Housing Funds or a Housing Assistance Grant and which loans previously were secured by such properties, as a facility which provides housing related services to persons of Low or Moderate Income for so long as any or all of the Affordable Housing Funds or Housing Assistance Grant which have been awarded, loaned, or otherwise conveyed to the qualifying Grantee are unpaid and outstanding or the duration of the Affordability Period, whichever is longer.”

Section Twelve. Ordinance 2009-14 is hereby amended to delete the current Section Thirteen (Effective Date.) and substitute the following:

“**Section Thirteen. Effective Date.** This Ordinance shall become effective thirty days after recordation pursuant to Section 4-37-1 NMSA 1978 et seq.”

PASSED AND ENACTED THIS 27 DAY OF SEPT, 2011.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY.

By Virginia Vigil
Virginia Vigil, Chair

ATTEST:
Valerie Espinoza
Valerie Espinoza, Santa Fe County Clerk



APPROVED AS TO FORM:
Stephen C. Ross for
Stephen C. Ross, Santa Fe County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 15

I Hereby Certify That This Instrument Was Filed for Record On The 28TH Day Of September, 2011 at 03:08:06 PM And Was Duly Recorded as Instrument # 1646487 Of The Records Of Santa Fe County

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

SFC CLERK RECORDED 09/28/2011