SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS

RESOLUTION NO. 2026 -159

A RESOLUTION ADOPTING UPDATED DOWN PAYMENT ASSISTANCE REGULATIONS; REPEALING ALL PRIOR REGULATIONS; AND AUTHORIZING IMPLEMENTATION AND ADMINISTRATION OF THE DOWN PAYMENT ASSISTANCE PROGRAM

WHEREAS, Santa Fe County ("County") is authorized to provide affordable housing assistance pursuant to the Affordable Housing Act, NMSA 1978, § 6-27-1 et seq. ("Act"), and Chapter 151 of the Santa Fe County Code (Ordinance No. 2023-05) ("Ordinance"); and

WHEREAS, the Act authorizes the County to make housing assistance grants and loans to qualifying grantees and eligible borrowers for the purpose of providing affordable housing to persons of low and moderate income; and

WHEREAS, the County has administered a Down Payment Assistance program to provide loans to income-eligible first-time homebuyers to assist with the purchase of a primary residence in the unincorporated areas of Santa Fe County; and

WHEREAS, the New Mexico Mortgage Finance Authority, also known as Housing New Mexico ("MFA"), has updated its guidance for direct homebuyer assistance programs, including raising the moderate-income ceiling to 150% of Area Median Income for programs in high-cost areas such as Santa Fe County; and

WHEREAS, the County has determined that updated Down Payment Assistance Regulations are necessary to align the program with current MFA guidance, applicable HUD regulations, and the Affordable Housing Act; to increase the maximum assistance amount and processing fee to reflect current homeownership costs; to add provisions addressing administrative discretion, reconsideration, recapture, compliance verification, subordination, and program administration; to establish an optional pre-qualification process and clarify application requirements; to secure long-term affordability; and to improve the accessibility and clarity of the program for applicants, lenders, and staff; and

WHEREAS, the Community Development Department and Office of Affordable Housing have prepared updated Down Payment Assistance Regulations ("Regulations"), a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the Board of County Commissioners has reviewed the updated Regulations and finds that they are consistent with the Act, the Ordinance, and the County's 2023 Affordable Housing Plan, and that adoption of the updated Regulations is in the best interest of the residents of Santa Fe County.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of Santa Fe County hereby:

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1. Adopts the updated Santa Fe County Down Payment Assistance Regulations, attached hereto as Exhibit A, effective upon filing with the Santa Fe County Clerk.
2. Repeals all prior Down Payment Assistance regulations, policies, and procedures adopted by Santa Fe County. Loans closed under prior regulations shall remain subject to the terms in effect at the time of closing.
3. Authorizes the Community Development Department and the Affordable Housing Administrator to implement the Down Payment Assistance program in accordance with the updated Regulations, including developing and updating program forms, executing program documents, and taking all other actions necessary to administer the program.
4. Authorizes the Affordable Housing Administrator to suspend acceptance of new applications upon funding exhaustion and to take such other administrative actions as are authorized by the updated Regulations.

PASSED, APPROVED AND ADOPTED ON THIS 10th DAY OF NOVEMBER, 2026.

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____
Justin S. Greene, Chair

ATTEST:

_____
Katharine E. Clark
Santa Fe County Clerk

COUNTY CLERK SANTA FE COUNTY NEW MEXICO KATHARINE E. CLARK

Date: 11/12/2026

Approved as to form:

Michael Nunez for
_____
Walker Boyd
Santa Fe County Attorney

OUNTY OF SANTA FE)
TATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 14

Hereby Certify That This Instrument Was Filed for
ecord On The 12TH Day Of November, 2026 at 01:53:49 PM
nd Was Duly Recorded as Instrument # 2095690
f The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
eputy _____ County Clerk, Santa Fe, NM

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EXHIBIT A

SANTA FE COUNTY

DOWN PAYMENT ASSISTANCE REGULATIONS

ARTICLE I

Short Title, Authority, Effective Date, and Purpose

1.1 Short Title.

These Regulations shall be known as the "Santa Fe County Down Payment Assistance Regulations."

1.2 Authority.

These Regulations are adopted by resolution of the Board of County Commissioners pursuant to Ordinance No. 2023-05 (the Ordinance) and the Affordable Housing Act, NMSA 1978, § 6-27-1 et seq. The Down Payment Assistance program was previously administered under the Housing Assistance Regulations attached to Resolution No. 2010-190, adopted under Ordinance No. 2009-14. Ordinance No. 2009-14 was repealed by the Ordinance. Down Payment Assistance loans closed under Resolution No. 2010-190 shall remain subject to the terms in effect at the time of closing.

1.3 Effective Date.

These Regulations take effect immediately upon filing with the Santa Fe County Clerk.

1.4 Purpose.

These Regulations are adopted for the following purposes:

1.4.1 To provide increased housing opportunities within the unincorporated areas of Santa Fe County.

1.4.2 To provide requirements, procedures, forms, and guidance that the Ordinance requires to be promulgated with these Regulations.

1.4.3 To establish procedures that ensure the program is administered responsibly and that public funds are protected.

1.5 Definitions.

The following terms are used throughout these Regulations. Where a term is not defined here, the definition in the Ordinance shall apply.

Act. The Affordable Housing Act, NMSA 1978, § 6-27-1 et seq.

Adult Household Member. A member of the Household who is 18 years of age or older, including the Applicant.

Affordability Period. The minimum period during which the Eligible Borrower must comply with the affordability requirements of these Regulations, as provided in Sections 3.2.1 and 3.2.3. The length of the Affordability Period is established in Section 3.2.1.

SFC CLERK RECORDED 11/12/2026

Affordable Housing Administrator. The individual designated by Santa Fe County to administer the Down Payment Assistance program and any other affordable housing programs of the County, or such individual's designee.

Annual Gross Income. The annual anticipated income from assets, regular cash or noncash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR § 5.609.

Applicant. An individual meeting the appropriate criteria set by the County who applies for Down Payment Assistance under these Regulations.

Application. An application to participate in the Down Payment Assistance program submitted by an Applicant to the County or its designated agent.

Area Median Income or AMI. The median family income for the Santa Fe, New Mexico HUD Metro FMR Area, as approved and published annually by the U.S. Department of Housing and Urban Development and adopted by MFA, adjusted for family size.

Board of County Commissioners. The Board of County Commissioners of Santa Fe County.

Community Development Department Director. The Director of the Santa Fe County Community Development Department, or such individual's designee.

County. Santa Fe County, New Mexico, a unit of local government under the Constitution and laws of the State of New Mexico.

Down Payment Assistance or DPA. A loan of Affordable Housing Funds, as defined in Section 3.4 of the Rules, provided by the County to an Eligible Borrower under these Regulations to assist with the purchase of an Eligible Property.

Eligible Borrower. An individual who is qualified to receive Down Payment Assistance pursuant to the Act, the Rules, and these Regulations, and is approved by the County and MFA, as applicable. An Eligible Borrower is a Qualifying Grantee as defined in Section 3.35(A) of the Rules.

Eligible Property. A residential unit located within the unincorporated areas of Santa Fe County, including Pueblo or tribal land within the County's boundaries, that is purchased by an Eligible Borrower together with fee simple title to the land on which it sits, or a leasehold interest in that land with a remaining term that exceeds, or is renewable at the option of the lessee until after, the maturity date of the first mortgage loan, and that is occupied as the Eligible Borrower's principal residence, consistent with the definition of Residential Use in Section 3.39 of the Rules. Eligible Property includes a manufactured home that is permanently affixed to a foundation and taxed as real property. Eligible Property does not include a vacation or recreational home.

First-Time Homebuyer. An individual who has not owned a principal residence at any time during the three-year period ending on the date of application, consistent with the definition used by HUD and MFA for homebuyer assistance programs.

Household. One or more persons occupying a housing unit.

HUD. The United States Department of Housing and Urban Development.

SFC CLERK RECORDED 11/12/2026

Loan Committee. The committee of County staff designated by the Community Development Department Director to review and approve Down Payment Assistance applications.

MFA. The New Mexico Mortgage Finance Authority.

Mortgage Lender. Any bank or trust company, mortgage company, mortgage banker, national banking association, savings bank, savings and loan association, credit union, building and loan association, or other lending institution that maintains an office in the State of New Mexico, is authorized to make mortgage loans in the State, and is approved by the County and by the Federal Housing Administration, the U.S. Department of Veterans Affairs, Fannie Mae, or Freddie Mac.

Ordinance. Ordinance No. 2023-05, adopted July 25, 2023, as amended.

Persons of Low or Moderate Income. Low Income persons or households are those whose Annual Gross Income is at or below 80% of the Area Median Income. Moderate Income persons or households are those whose Annual Gross Income is above 80% and at or below 150% of the Area Median Income, adjusted for family size. Moderate Income limits may be adjusted for high-cost areas to accommodate qualification for the purchase of a median-priced home in Santa Fe County.

Rate-and-Term Refinance. A refinancing of the first mortgage in which the new loan pays off the existing first mortgage balance without the borrower receiving cash proceeds. The purpose of a rate-and-term refinance is to obtain a lower interest rate, different loan term, or both, without increasing the total debt secured by the property other than by customary closing costs and prepaid items financed into the new loan.

Restrictive Covenant Agreement. The agreement between the County and the Eligible Borrower, recorded against the Eligible Property, that serves as the Security Instrument under Section 3.1, together with any mortgage.

Rules. The New Mexico Mortgage Finance Authority Affordable Housing Rules adopted pursuant to § 6-27-8(B) NMSA 1978.

Security Instrument. The Restrictive Covenant Agreement and any mortgage recorded against the Eligible Property to secure the Down Payment Assistance loan, as provided in Section 3.1.

ARTICLE II

Down Payment Assistance

2.1 How the Program Works.

The County provides Down Payment Assistance loans to eligible households to help with the purchase of a home. Assistance is provided as follows:

2.1.1 To apply, an Applicant must submit a completed application and supporting materials on a form approved by the Affordable Housing Administrator.

2.1.2 The maximum Down Payment Assistance available under this program is $40,000.00 per eligible household. Households must meet all qualification criteria to be considered.

SFC CLERK RECORDED 11/12/2026

2.1.3 Each Applicant must agree in writing to maintain the property in good repair and to keep current any mortgages or notes on the property for as long as the Eligible Borrower owns the property.

2.1.4 A complete application from an Applicant who meets the requirements established by the New Mexico Mortgage Finance Authority pursuant to the Affordable Housing Act, NMSA 1978, Section 6-27-1 et seq., may be approved.

2.1.5 Following approval, the Applicant must execute the Security Instrument and any other loan documents required as a condition of receiving assistance.

2.1.6 Program Forms. The Affordable Housing Administrator is authorized to develop, approve, and update all forms, templates, and other program documents necessary to administer these Regulations. Program forms shall be consistent with the requirements of these Regulations but are not incorporated herein and may be updated administratively without amendment to these Regulations. Current forms shall be maintained by the Office of Affordable Housing and made available to applicants upon request.

2.2 Eligibility.

2.2.1 Income Eligibility. To qualify, the Annual Gross Income of the Applicant's Household must not exceed the Moderate-Income limit for Persons of Low or Moderate Income as defined in Section 1.5, including any high-cost area adjustment.

2.2.2 An Eligible Borrower must own and occupy the home purchased with Down Payment Assistance.

2.2.3 The home being purchased must be an Eligible Property as defined in Section 1.5.

2.2.4 Down Payment Assistance, up to the maximum provided in Section 2.1.2, may be used for any combination of the following eligible costs:

(a) The down payment amount;

(b) Closing costs;

(c) Discount points to reduce the interest rate on the first mortgage;

(d) Reduction of the principal balance of the first mortgage.

2.2.5 Determination of Loan Amount. The amount of Down Payment Assistance shall be determined by the County or its designated agent based on the Eligible Borrower's use of funds under Section 2.2.4. All requested uses must be supported by documentation from the lender or settlement agent, including the purchase agreement, loan estimate, or closing disclosure as applicable.

2.3 Eligible Financing.

2.3.1 The Eligible Borrower must finance the purchase with a first mortgage loan from a Mortgage Lender. Eligible first mortgage loan types include USDA Rural Development guaranteed and direct loans, FHA loans, VA loans, and conventional loans, including affordable lending products such as Fannie Mae HomeReady and Freddie Mac Home Possible.

2.4 First-Time Homebuyer Requirement.

SFC CLERK RECORDED 11/12/2026

2.4.1 The Eligible Borrower and all adults who will reside in the home must be First-Time Homebuyers. This means none of them has owned a principal residence at any time during the three-year period ending on the date of application.

2.5 Application Process.

2.5.1 The Applicant must follow the process set out in this Article to apply for Down Payment Assistance.

2.5.2 The County may designate an agent to receive, process, or decide on applications. If a designee is used, applications shall be submitted to that designee. Any such designation is subject to auditing and periodic reporting as specified in the delegation.

2.5.3 Application Materials. The table below lists the documents required for pre-qualification under Section 2.5.4 and for an Application under Section 2.5.5. County forms must be used when provided, and attachments may be provided as necessary. The County may request any other relevant information.

	Document	**Pre-Qualification**	**Application**
(a)	Verification of income for all Adult Household Members, including pay stubs, verification of employment signed by the employer, Social Security award letters, child support award letters, and any other proof of earnings and income	Yes	Yes*
(b)	Complete copies of the two most recent federal and state income tax returns and W-2s for all Adult Household Members	Yes	Yes*
(c)	The most recent monthly statement for all financial accounts in which any Adult Household Member has an ownership interest, including checking, savings, certificates of deposit, money market, stock and bond, brokerage, IRA, deferred compensation, 401(k), and other retirement accounts	Yes	Yes*
(d)	A financial statement listing all assets and liabilities of all Adult Household Members	Yes	Yes*
(e)	A credit report for all Adult Household Members, issued by TransUnion, Experian, Equifax within thirty (30) days of submission of the pre-qualification request or Application	Yes	Yes
(f)	A first-time homebuyer education course certification	Yes	Yes*
(g)	Sworn statements signed before a notary public by all Adult Household	Yes	Yes*

SFC CLERK RECORDED 11/12/2026

	Members, verifying under penalty of perjury that the information provided is true, correct, and complete and that the home will be used as the Applicant's primary residence, and listing the names and birth dates of all expected occupants		
(h)	A pre-approval letter from a Mortgage Lender for a first mortgage loan	Yes	No
(i)	The purchase agreement for the home	No	Yes
(j)	The mortgage loan application (Form 1003)	No	Yes
(k)	A loan summary or first mortgage loan approval	No	Yes
(l)	An appraisal of the home that meets the requirements of Section 4.4	No	Yes
(m)	A sworn statement signed before a notary public by the Applicant, verifying under penalty of perjury that there has been no material change in the information submitted for pre-qualification, or describing any change	No	If pre-qualified

* An Applicant with a valid Pre-Qualification Letter need not resubmit this document unless the County requests an updated version.

2.5.4 Pre-Qualification. Before submitting an Application, an Applicant may request pre-qualification by submitting the documents marked for Pre-Qualification in Section 2.5.3. The County or its designated agent will make reasonable efforts to determine whether the Applicant meets the eligibility requirements of this Article within fifteen (15) business days of receiving a complete request. If so, the County will issue a Pre-Qualification Letter to the Applicant and the Mortgage Lender stating the maximum amount of Down Payment Assistance for which the Applicant may qualify. A Pre-Qualification Letter is valid for six (6) months and does not commit or reserve funds. The Applicant must promptly notify the County of any change in income, assets, or household.

2.5.5 Application. After entering into a purchase agreement for an Eligible Property, the Applicant must submit an Application that includes the documents marked for Application in Section 2.5.3.

2.5.6 Review and Notice. Complete Applications will be reviewed in the order received. The County or its designated agent will make reasonable efforts to confirm the Applicant's eligibility and determine the amount of Down Payment Assistance under Section 2.2.5 within ten (10) business days of receiving a complete Application from an Applicant with a valid Pre-Qualification Letter, or within twenty (20) business days for all other Applicants. The Application will then be submitted to the Loan Committee for approval. The Applicant will be notified in writing of each decision under Sections 2.5.4 and 2.5.6. If additional information is needed, a determination will be made within fifteen (15) business days of receiving that information.

SFC CLERK RECORDED 11/12/2026

2.5.7 Commitment Letter. If the Application is approved, a commitment letter will be issued to the Applicant and the Mortgage Lender. The commitment letter is valid through the closing date in the purchase agreement and may be extended in writing by the Affordable Housing Administrator if closing is delayed. Following issuance of the commitment letter and receipt of the notice of closing under Section 4.2, the approved package will be forwarded to Accounts Payable for funding at closing. The County may request additional information at any time for verification or audit purposes, including additional credit reports or financial and employment documentation.

2.5.8 An Applicant will be denied Down Payment Assistance and permanently barred from reapplying if:

2.5.8.1 The Applicant transfers assets to a third party or fails to disclose assets in order to qualify; or

2.5.8.2 The Applicant engages in fraudulent, dishonest, or misleading conduct.

2.5.9 Reconsideration. An Applicant may request reconsideration of a denial by submitting a written request to the Community Development Department Director within thirty (30) days of the date of the written denial. The Director shall issue a written decision within thirty (30) days of receiving the request.

2.6 Administrative Discretion.

2.6.1 Each application for a discretionary exception or approval under these Regulations shall be evaluated on its own individual facts and circumstances.

2.6.2 All discretionary decisions made by the Affordable Housing Administrator must be documented in writing and must include a statement of the facts considered and the rationale for the decision.

2.6.3 Director Countersignature. The following discretionary decisions require the countersignature of the Community Development Department Director before taking effect:

2.6.3.1 Approval of an assumption under Section 3.6.4;

2.6.3.2 Initial approval of a lease under Section 3.4.2, or approval of a loss of owner occupancy under Section 3.6.1.2; and

2.6.3.3 Approval of an additional lien under Section 3.6.1.5.

No decision listed in this Section is effective until the Director has reviewed and countersigned the written decision. The Director may not delegate this countersignature authority to the Affordable Housing Administrator. All other discretionary decisions take effect upon the Affordable Housing Administrator's written decision under Section 2.6.2.

ARTICLE III

Long-Term Affordability and Rental Prohibition

3.1 Security Provisions.

3.1.1 In accordance with the Act, the Rules, and the Ordinance, the County shall require the Eligible Borrower to execute documents that provide adequate security against the loss of public funds. These documents shall include (a) a Restrictive Covenant Agreement and, at the County's option, a mortgage, and (b) a note or loan agreement.

SFC CLERK RECORDED 11/12/2026

3.1.2 The security documents shall provide that the County may, as permitted by law, recover any attorneys' fees and costs the County incurs in enforcing these Regulations or any agreement between the County and the Eligible Borrower.

3.1.3 The security documents shall ensure that Down Payment Assistance funds are used by the Eligible Borrower in accordance with these Regulations and the Ordinance.

3.2 Security Instrument.

When Down Payment Assistance is used to purchase a home, the Security Instrument is recorded in accordance with Section 4.6. Any sale or transfer of the property prior to full repayment of the loan is a triggering event under Section 3.6. Any refinancing of the first mortgage prior to full repayment of the loan is subject to Sections 3.6.1.3 and 3.8.

3.2.1 Affordability Period. The Affordability Period begins on the date the Down Payment Assistance loan closes. The Affordability Period applicable to a Down Payment Assistance loan is determined by the amount of Affordable Housing Funds provided, as set forth in the definition of Affordability Period in Section 151.03 of the Ordinance, and shall be not less than five (5) years for assistance of $1.00 up to $14,999.99, and not less than ten (10) years for assistance of $15,000.00 up to and including $40,000.00.

3.2.2 Release. The County shall release the Security Instrument as follows:

3.2.2.1 Mortgage. Within thirty (30) days after the Down Payment Assistance loan is repaid in full, the County shall execute and record a release of any mortgage securing the loan.

3.2.2.2 Restrictive Covenant Agreement. The County shall execute and record a release of the Restrictive Covenant Agreement within thirty (30) days after the loan has been repaid in full and either of the following has occurred:

(a) The Affordability Period has ended; or

(b) The Eligible Property has been sold or transferred in a bona fide sale or transfer of title.

3.2.2.3 Bona Fide Sale or Transfer. A bona fide sale or transfer of title is a genuine transfer of ownership of the Eligible Property. A transfer made to avoid the requirements of these Regulations, including a transfer for little or no payment after which the Eligible Borrower continues to live in or control the Eligible Property, is not a bona fide sale or transfer.

3.2.3 Obligations After Repayment. This Section applies if the Down Payment Assistance loan is repaid in full before the end of the Affordability Period. For the remainder of the Affordability Period, the Eligible Borrower shall occupy the Eligible Property as a principal residence and shall not lease or rent it, unless a lease has been approved under Section 3.4. These obligations are set out in the Restrictive Covenant Agreement and apply only while the Eligible Borrower owns the Eligible Property. If the Eligible Borrower violates these obligations, the County may pursue the remedies provided in the Restrictive Covenant Agreement and applicable law. A bona fide sale or transfer of title of the Eligible Property ends these obligations. The County shall then release the Restrictive Covenant Agreement as provided in Section 3.2.2.2.

3.3 Loan Repayment.

SFC CLERK RECORDED 11/12/2026

3.3.1 Down Payment Assistance is a loan, not a grant, and must be repaid in full. No portion of the loan shall be forgiven.

3.3.2 The Down Payment Assistance loan is a non-amortizing loan with 0% interest and no monthly payments. The outstanding balance is due and payable upon any triggering event identified in Section 3.6.

3.4 Rental Prohibition.

An Eligible Borrower receiving Down Payment Assistance pursuant to these Regulations shall not lease or rent the home unless:

3.4.1 The Eligible Borrower is under duress by reason of employment, family medical emergency, inability to sell the home for an amount sufficient to pay off all liens, or other unique hardship circumstances; and

3.4.2 The proposed lease is approved in advance by the Affordable Housing Administrator; and

3.4.3 Any approved lease shall require that the monthly rent charged does not exceed the applicable Fair Market Rent for Santa Fe County as published annually by the U.S. Department of Housing and Urban Development.

3.5 Length of Lease Approval.

The Affordable Housing Administrator has sole discretion to determine the length of any lease approval. No initial approval may be valid for more than one year.

3.6 Recapture.

3.6.1 Triggering Events. The outstanding balance of the Down Payment Assistance loan shall become due and payable upon the occurrence of any of the following events:

3.6.1.1 Sale or transfer of title to the Eligible Property.

3.6.1.2 Loss of owner-occupancy without prior written approval of the Affordable Housing Administrator.

3.6.1.3 A cash-out refinance of the first mortgage.

3.6.1.4 Death of the Eligible Borrower, unless an eligible transferee assumes the loan pursuant to Section 3.6.4.

3.6.1.5 Recording of any additional lien against the Eligible Property, including a second mortgage or home equity line of credit, without prior written approval of the Affordable Housing Administrator.

3.6.2 Notice. The Eligible Borrower must provide written notice to the Affordable Housing Administrator at least thirty (30) days before any anticipated triggering event. For events that cannot be anticipated, notice must be provided as soon as practicable.

3.6.3 Payment. For sales and title transfers, the outstanding balance is due and payable at closing. For all other triggering events, the outstanding balance is due and payable within thirty (30) days of the triggering event. The County will coordinate with the title company or the Eligible Borrower, as applicable, to collect payment.

3.6.4 Assumption. The Affordable Housing Administrator may, in his or her discretion, approve assumption of the Down Payment Assistance loan by an eligible transferee in lieu of recapture

SFC CLERK RECORDED 11/12/2026

under this Section. This includes, but is not limited to, assumption arising from the death of the Eligible Borrower, divorce, legal separation, or other transfer of title.

3.6.4.1 Requalification Requirements. Approval of an assumption under this Section requires that the eligible transferee:

(a) Requalifies under all eligibility criteria applicable to an original Applicant under these Regulations at the time of assumption, including the income, First-Time Homebuyer, and other eligibility requirements set forth in Article II;

(b) Demonstrates that the home will be owner-occupied as the eligible transferee's primary residence; and

(c) Satisfies the discretionary decision requirements of Section 2.6.

3.6.4.2 Effect on Affordability Period. Assumption does not restart, extend, or waive the Affordability Period established under Section 3.2.1. The eligible transferee assumes all obligations of the Eligible Borrower under these Regulations and the loan documents, including the triggering events under Section 3.6 and the obligations under Section 3.2.3.

3.6.5 Survival of Co-Borrower. If the Down Payment Assistance loan was made to two or more Eligible Borrowers and one borrower dies, no triggering event occurs provided that the surviving co-borrower or co-borrowers continue to owner-occupy the Eligible Property as their primary residence and remain current on all obligations under the loan. The County may request documentation of continued owner-occupancy at any time. If all co-borrowers die, Section 3.6.1.4 applies and an eligible transferee may assume the loan pursuant to Section 3.6.4.

3.6.6 Default and Enforcement. If the Eligible Borrower fails to provide required notice, fails to make required payment, or otherwise violates the terms of the Security Instrument, the County may pursue all available remedies under the Security Instrument and applicable law.

3.7 Compliance Verification.

3.7.1 Verification Triggers. An Eligible Borrower shall be required to submit a written owner-occupancy certification to the Affordable Housing Administrator upon the occurrence of any of the following:

3.7.1.1 Santa Fe County Assessor records reflect a change suggesting the property is no longer owner-occupied as the primary residence of the Eligible Borrower.

3.7.1.2 The Eligible Borrower submits a refinance or subordination request.

3.7.1.3 The County receives a complaint or report alleging non-compliance with owner-occupancy requirements.

3.7.2 County Verification. The County may conduct periodic verification checks on all active loans in the portfolio using publicly available records and information, including but not limited to Santa Fe County Assessor records, utility records, postal records, and other sources reasonably available to the County.

3.7.3 Cure Period. If a verification trigger arises or a County verification check raises a compliance concern, the County shall provide written notice to the Eligible Borrower. The Eligible Borrower shall have sixty (60) days from the date of that notice to submit the required certification or otherwise demonstrate compliance. Failure to cure within the sixty (60) day period shall be treated as a triggering event under Section 3.6.

SFC CLERK RECORDED 11/12/2026

3.8 Subordination.

3.8.1 A rate-and-term refinance of the first mortgage does not constitute a triggering event under Section 3.6. The Eligible Borrower must submit a written subordination request to the Affordable Housing Administrator prior to closing on any rate-and-term refinance.

3.8.2 The Eligible Borrower must be current on all obligations under the Down Payment Assistance loan and the first mortgage at the time of any subordination request.

3.8.3 The Affordable Housing Administrator shall review and process subordination requests in accordance with County procedures.

ARTICLE IV

Closing of Qualified Transactions

4.1 Closing.

All sales to Eligible Borrowers shall be closed in accordance with these procedures.

4.2 Notice of Closing.

The buyer must provide at least ten (10) days advance written notice of the scheduled closing date. The notice must include:

4.2.1 The names of the buyers, along with a copy of their commitment letter and/or certification of eligibility.

4.2.2 The date and time of the scheduled closing.

4.2.3 The name and location of the title company and the name and telephone number of the closing agent(s), along with a copy of the title commitment.

4.3 Processing Fee.

A processing fee of $800.00 will be invoiced to the title company upon loan closing.

4.4 Appraisal.

An appraisal of the home is required. The appraisal must: (i) be prepared by a properly licensed, MAI-certified real estate appraiser; (ii) be paid for as agreed by the seller and buyer and reflected in the purchase agreement; and (iii) have been completed within 120 days of closing.

4.5 Settlement Statement.

Within ten (10) days of closing, the buyer must cause the title company to provide the County with a copy of the Closing Disclosure or settlement statement, signed by the seller and buyer.

4.6 Recordation.

The title company shall record the Security Instrument in the real property records of Santa Fe County or, for property held in trust by the United States, with the appropriate federal or tribal recording office, no later than two (2) business days after the scheduled closing date. Before closing, the County will provide the title company with written instructions for returning the recorded Security Instrument to the County. All costs associated with recording and returning the Security Instrument shall be borne by the buyer, or as otherwise agreed by the buyer and seller.

SFC CLERK RECORDED 11/12/2026

ARTICLE V

Program Administration and Suspension

5.1 Program Status Notice.

The County shall maintain a publicly accessible program status notice indicating whether the Down Payment Assistance program is open, suspended, or closed due to funding exhaustion. The program status notice shall be updated promptly whenever program status changes and shall be accessible through County communication channels including the County website.

5.2 Funding Exhaustion.

5.2.1 When available Down Payment Assistance funds are exhausted, the Affordable Housing Administrator may immediately suspend acceptance of new applications without prior approval.

5.2.2 Applications that are pending at the time of suspension and for which funds have not been committed shall be denied. The County shall provide written notice to each affected Applicant explaining that funding is unavailable and inviting reapplication when the program reopens.

5.2.3 The program status notice shall be updated to reflect funding exhaustion immediately upon suspension.

5.3 Program Suspension.

5.3.1 The Affordable Housing Administrator may suspend acceptance of new applications immediately upon funding exhaustion as provided in Section 5.2.

5.3.2 Suspension of the program for any reason other than funding exhaustion requires the prior written approval of the Community Development Department Director.

5.4 Program Termination.

5.4.1 Permanent termination of the Down Payment Assistance program requires approval of the Board of County Commissioners.

5.4.2 Termination of the program does not affect loans already closed. All existing Security Instruments remain in full force and effect following termination.

5.5 Reinstatement.

When Down Payment Assistance funds become available following a suspension, the Affordable Housing Administrator shall update the program status notice to reflect that the program is open. No individual notification to prior Applicants is required. Applicants who were denied due to funding exhaustion must submit a new application upon the program's reopening.

5.6 Non-Discrimination.

The development, occupancy, and administration of the Down Payment Assistance program shall be undertaken in a manner consistent with principles of non-discrimination and equal opportunity. The County shall require compliance by all Applicants and Eligible Borrowers with all applicable federal and State laws and regulations relating to affirmative action, non-discrimination, and equal opportunity, including the Fair Housing Act, 42 U.S.C. § 3601 et seq., and the New Mexico Human Rights Act, NMSA 1978, § 28-1-1 et seq.

SFC CLERK RECORDED 11/12/2026