



**AGENDA**  
**January 25, 2011**  
**Regular Meeting**  
**Town Council Chambers - 120 Civic Plaza Drive**  
**1:30 PM**

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**1. CALL TO ORDER BY THE HONORABLE MAYOR DARREN M. CORDOVA**

**2. ROLL CALL**

**3. PLEDGE OF ALLEGIANCE**

**4. APPROVAL OF AGENDA**

**5. AWARDS AND RECOGNITIONS**

**A. Brian Greer, Youth and Family Center Director**

Recognition of Brenden Miera and Feliz Espinoza for placing first in the Local and Sectional Competition for the NFL Pepsi, Punt, Pass and Kick Competition. With their outstanding performance in the Sectional Competition they qualified to participate in the 2010 Arizona Cardinals NFL Punt, Pass and Kick Team Championship on December 5, 2010 in Glendale, Arizona where Brenden placed third and Feliz placed fourth amongst exceptional talent from Arizona and New Mexico.

**6. CITIZENS FORUM**

**7. MATTERS FROM STAFF**

**A. Marietta Fambro, Finance Director**

Approval of Resolution 11-07; Budget Adjustment Request: 1) Facilities Improvements Fund (50) - Decrease operating expense and increase interfund transfer out to Fund 51 to cover the architectural services for the Medina building needs assessment, programming and concept development in the amount of \$4,104; 2) Capital Projects Fund (51) - Increase interfund transfer in from Fund 50 and capital outlay - Design of the Medina building in the amount of \$4,104 to cover the architectural services for the Medina building needs assessment, programming and

concept development.

## 8. MATTERS FROM THE TOWN ATTORNEY

### A. Allen Ferguson, Town Attorney

Discussion of proposed Ordinance 11-03, Amending Ordinance 05-03, the umbrella Affordable Housing ordinance which establishes an Affordable Housing Program pursuant to the Affordable Housing Act; defining terms; establishing application requirements and review criteria; and establishing procedures to administer an Affordable Housing Program. The New Mexico Mortgage Finance Authority approved these proposed amendments to the Affordable Housing Ordinance in November, 2010. Judith Tamm, Executive Director of Taos Housing Corporation, who worked on the ordinance changes with Allen Ferguson and Matthew Spriggs, will be present to discuss the changes from the original ordinance and the reasons for the changes.

## 9. MATTERS FROM THE MAYOR AND COUNCIL/YOUTH COUNCILMEMBER

### A. Resolution 11-03

Consideration and approval of Resolution 11-03; A Resolution that supports halting any and all work on the proposed Chemistry Metallurgy Research Replacement Nuclear Facility (CMRR-NF) at Los Alamos National Laboratory until a new and full Environmental Impact Statement, with scoping, is completed by the Department of Energy.

## 10. ADJOURNMENT

**APPROVED:**

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**Darren M. Cordova, Mayor**

**ATTEST:**

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**Renee Lucero, Town Clerk**

- *To request details on an agenda item please contact the Town Clerk at 400 Camino de la Placita, Taos New Mexico, 87571 (575) 751-2005.*
- *If you are an individual with a disability who is in need of aid or service to attend and/or participate in a meeting of the Town of Taos Council, please contact the office of the*

*Town Clerk at 400 Camino de la Placita, Taos New Mexico, 87571 (575) 751-2005 at least 24 hours in advance.*

- *For copies of this agenda please pick-up at Town Hall.*



**January 25, 2011**

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**Title:**

Brian Greer, Youth and Family Center Director

**Summary:**

Recognition of Brenden Miera and Feliz Espinoza for placing first in the Local and Sectional Competition for the NFL Pepsi, Punt, Pass and Kick Competition. With their outstanding performance in the Sectional Competition they qualified to participate in the 2010 Arizona Cardinals NFL Punt, Pass and Kick Team Championship on December 5, 2010 in Glendale, Arizona where Brenden placed third and Feliz placed fourth amongst exceptional talent from Arizona and New Mexico.

**Background:**

On Saturday, October 2, 2010 Brenden Miera and Feliz Espinoza placed first amongst other Taos youth in the local competition held at the Taos Middle School Field. Brenden Miera in the 14-15 year old category with a total score of 340' and Feliz Espinoza in the 12-13 year old category with a total score of 205'5". Since they placed first during the local competition they were able to advance to the sectional competition held in Albuquerque, NM on Sunday, November 7, 2010.

At the sectional competition Brenden Miera placed first with a total score of 332'9" and Feliz Espinoza also placed first with a total score of 225'5". With their outstanding performances Brenden and Feliz qualified to compete in the 2010 Arizona Cardinal NFL Punt, Pass & Kick team Championship. The competition was held on Sunday, December 5, 2010 before the Arizona Cardinal vs. the St. Louis Rams game at the University of Phoenix Stadium in Glendale, Arizona. Brenden placed third with a total score of 312'8" and Feliz placed fourth with a total score of 163'9". Our Taos competitors did exceptionally well amongst talent from Arizona and New Mexico.

**Attachments:**

**Click to download**

No Attachments Available

**APPROVALS:**

Date/Time:	Approval:	Department:
1/14/2011 2:39 PM	Approved	Town Manager
1/14/2011 2:39 PM	Approved	Town Clerk



**January 25, 2011**

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**Title:**

Marietta Fambro, Finance Director

**Summary:**

Approval of Resolution 11-07; Budget Adjustment Request: 1) Facilities Improvements Fund (50) - Decrease operating expense and increase interfund transfer out to Fund 51 to cover the architectural services for the Medina building needs assessment, programming and concept development in the amount of \$4,104; 2) Capital Projects Fund (51) - Increase interfund transfer in from Fund 50 and capital outlay - Design of the Medina building in the amount of \$4,104 to cover the architectural services for the Medina building needs assessment, programming and concept development.

**Background:**

Town of Taos Policy requires Council approval on all budget transfers that transfer funds between cost categories, (ie. Personnel, Operating Expenses and Capital Outlay), interfund transfers, budget increases, projects to projects and new projects.

**Attachments:**

Click to download

📎 [Resolution No. 11-07](#)

📎 [back-up](#)

**APPROVALS:**

Date/Time:

Approval:

Department:

1/14/2011 3:45 PM

Approved

Town Clerk



**TOWN OF TAOS, NEW MEXICO  
RESOLUTION 11-07**

**WHEREAS** the Town of Taos has adopted its operating budget for the fiscal year ending June 30, 2011, and

**WHEREAS** the governing body of the Town of Taos, meeting in Regular Session this 11<sup>th</sup> day of January, 2011 wishes to adjust its operating budget for the fiscal year ending June 30, 2011.

**NOW, THEREFORE** be it resolved that the governing body of the Town of Taos, meeting in Regular Session this 25<sup>th</sup> day of January, 2011, adopts this budget adjustment and respectfully requests approval from the Local Government Division of the Department of Finance and Administration to effect this budget adjustment.

**Facilities Improvements Fund (50)**

**Expenditures and other Financing Uses:**

Operating Expense – <b>Building Maintenance (50-87)</b>	\$( 4,104.00)
Interfund Transfer Out	4,104.00

(To adjust the Facilities Grants Fund, this budget adjustment will decrease operating expense and increase interfund transfer out to cover the total amount needed to cover the architectural contract for the Medina building needs assessment, programming and concept development.)

**Capital Projects Fund (51)**

**Revenues and Other Sources:**

Interfund Transfer In	\$ 4,104.00
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**Expenditures and other Financing Uses:**

Capital Outlay – <b>Design Medina Building (51-05)</b>	\$ 4,104.00
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(To adjust the Capital Projects Fund, this budget adjustment will decrease operating expense and

increase interfund transfer out to cover the total amount needed to cover the architectural contract for the Medina building needs assessment, programming and concept development.)

**PASSED, APPROVED, AND ADOPTED THIS 25<sup>th</sup> DAY OF JANUARY 2011.**

Mayor Pro Tem Rudy C. Abeyta                    \_\_\_\_\_  
Councilmember A. Eugene Sanchez                    \_\_\_\_\_  
Councilmember Amy J. Quintana                    \_\_\_\_\_  
Councilmember Michael A. Silva                    \_\_\_\_\_

**TOWN OF TAOS**

\_\_\_\_\_  
**Darren M. Cordova, Mayor**

**ATTEST:**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**Renee Lucero, Town Clerk**

\_\_\_\_\_  
**Allen Ferguson, Jr., Town Attorney**

**APPROVED:**

\_\_\_\_\_  
**Department of Finance and Administration**

**Date:** \_\_\_\_\_



Department Name:	Buildings & Grounds
Date Prepared:	01/14/2011
Funds Affected:	Facilities Improvement Fund (50) Capital Projects Fund (51)

FROM (Budget to be Decreased)		TO (Budget to be increased)	
Line Item Detail	AMOUNT	Line Item Detail	AMOUNT
50-87-42005	\$ 4,104.00	50-00-47101	\$ 4,104.00
Building Maintenance		Interfund Transfer Out	
51-00-39001(Increase)	\$ 4,104.00	51-05-45002	\$ 4,104.00
Interfund Transfer In		Buildings & Structures	
<b>TOTAL</b>	<b>\$ 8,208.00</b>	<b>TOTAL</b>	<b>\$ 8,208.00</b>

☐ Disapproved ☒ Approved

☐ Disapproved ☒ Approved

☐ Disapproved ☒ Approved

Maricela J. Siml 1/14/2011

RECTOR SIGNATURE DATE

DEPARTMENT HEAD SIGNATURE	DATE	TOWN MANAGER AND/OR ASSISTANT TOWN MANAGER SIGNATURE	DATE	FINANCE DIRECTOR SIGNATURE	DATE

Council Approval Required.	
<input checked="checked" type="checkbox"/> Yes	Resolution # 11-07
<input type="checkbox"/> No	
Date Approved 01/14/2011	

BUDGET LINE ITEMS	PROJECT	ORIGINAL BUDGET	SPENT TO DATE THIS FY	UNENCUMBERED BALANCE
51-05-45002	Design Medina Building	\$ 25,146.00	\$ -	\$ 25,146.00

	<b>Rhode May Keller McNamara</b>		\$ 25,146.00
<b>AWARD AMOUNT</b>	<b>Architect</b>	<b>Town</b>	
Total contract amount	\$ 25,000.00	\$ 25,146.00	
NMGRT @ 7.000%	\$ 1,750.00		
TOTAL CONSTRUCTION AMOUNT	\$ 26,750.00	\$ 25,146.00	
<b>Unencumbered Amount 51-05</b>	<b>\$ 25,146.00</b>		
	<b>\$ -</b>		
Amount needed to Award Contract	\$ 1,604.00		
Reimbursables	\$ 2,500.00		
<b>Amount needed for project</b>	<b>\$ 4,104.00</b>		
Transfer in from Fund 50(Res#11-07)	\$ 4,104.00		
Balance to cover project	\$ -		

1-18-2011 02:09 PM

## T O W N O F T A O S

## FINANCIAL STATEMENT

PAGE: 7

FOR THE MONTH ENDING: JANUARY 31ST, 2011

51 -CAPITAL PROJECT FUND  
EXPENSES  
05-DESIGN MEDINA BLDG

ACCOUNT	ANNUAL BUDGET	CURRENT PERIOD	Y-T-D ACTUAL	PERC. BUDGET	BUDGET BALANCE	Y-T-D ENCUMBERED	ENCUMBERED BALANCE
<u>CAPITAL OUTLAY</u>							
05-45002 BUILDING & STRUCTURES	<u>25,146.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>25,146.00</u>	<u>0.00</u>	<u>25,146.00</u>
CATEGORY TOTAL	<u>25,146.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>25,146.00</u>	<u>0.00</u>	<u>25,146.00</u>
DEPARTMENT TOTALS	25,146.00	0.00	0.00	0.00	25,146.00	0.00	25,146.00

1-18-2011 02:09 PM

## T O W N O F T A O S

## FINANCIAL STATEMENT

PAGE: 70

FOR THE MONTH ENDING: JANUARY 31ST, 2011

50 -FACILITIES IMPROVEMENTS  
EXPENSES

## 87-BUILDING MAINTENANCE

ACCOUNT	ANNUAL BUDGET	CURRENT PERIOD	Y-T-D ACTUAL	PERC. BUDGET	BUDGET BALANCE	Y-T-D ENCUMBERED	ENCUMBERED BALANCE
<u>OPERATING EXPENSES</u>							
87-42005 BLDG/UPIS SUPPLIES & MAINT	55,000.00	0.00	0.00	0.00	55,000.00	1,817.55	53,182.45
CATEGORY TOTAL	55,000.00	0.00	0.00	0.00	55,000.00	1,817.55	53,182.45
DEPARTMENT TOTALS	55,000.00	0.00	0.00	0.00	55,000.00	1,817.55	53,182.45



**January 25, 2011**

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**Title:**

Allen Ferguson, Town Attorney

**Summary:**

Discussion of proposed Ordinance 11-03, Amending Ordinance 05-03, the umbrella Affordable Housing ordinance which establishes an Affordable Housing Program pursuant to the Affordable Housing Act; defining terms; establishing application requirements and review criteria; and establishing procedures to administer an Affordable Housing Program. The New Mexico Mortgage Finance Authority approved these proposed amendments to the Affordable Housing Ordinance in November, 2010. Judith Tamm, Executive Director of Taos Housing Corporation, who worked on the ordinance changes with Allen Ferguson and Matthew Spriggs, will be present to discuss the changes from the original ordinance and the reasons for the changes.

**Background:**

Attached and made part of the packet materials are (1) the original Ordinance 05-03, (2) a redlined version of the proposed new Ordinance 11-03; and (3) a clean version of the proposed new ordinance. Note that the attached redlined version does not show all changes from the ordinance, only the most recently made changes. Notice of Ordinance 11-03 is being published in this week's Taos News; to be voted on at the February 8 Town Council meeting. Note also that MFA has not yet approved our proposed changes to the Chamisa Verde specific ordinance, which will come before Council at a later date.

**Attachments:**

**Click to download**

- 📄 [05-03](#)
- 📄 [Existing Ordinance 05-03 Affordable Housing](#)
- 📄 [11-03 redlined](#)
- 📄 [Ordinance 11-03 Redlined](#)
- 📄 [11-03 clean](#)
- 📄 [Ordinance 11-01 Amending 05-03 CLEAN](#)

**APPROVALS:**

Date/Time:

Approval:

Department:

1/18/2011 10:17 AM

Approved

Town Clerk

# **Ordinance 05-03**

**TOWN OF TAOS, NEW MEXICO****ORDINANCE NO. 05-03**

1        **AN ORDINANCE ESTABLISHING AN AFFORDABLE HOUSING PROGRAM**  
2        **PURSUANT TO THE AFFORDABLE HOUSING ACT; DEFINING TERMS;**  
3        **ESTABLISHING APPLICATION REQUIREMENTS AND REVIEW CRITERIA; AND**  
4        **ESTABLISHING PROCEDURES TO ADMINISTER AN AFFORDABLE HOUSING**  
5        **PROGRAM.**

6        WHEREAS, the Town of Taos (the "Town") is a municipal corporation duly organized  
7        and existing under the laws of the State of New Mexico (the "State"); and

8        WHEREAS, under an exception to the "anti-donation" clause as set forth in Article IX,  
9        § 14 of the New Mexico Constitution, the Town is not prohibited from (i) donating land it owns  
10       for the construction on it of affordable housing; (ii) donating an existing building owned by the  
11       Town for conversion or renovation into affordable housing; or (iii) providing or paying the costs  
12       of infrastructure necessary to support affordable housing projects.

13       WHEREAS, the Affordable Housing Act, NMSA 1978 § 6-27-1 et seq. (the "Act")  
14       implements the provisions of Subsections E and F of Section 14 of Article 9 of the New Mexico  
15       Constitution;

16       WHEREAS, the Town Council ("Council"), the governing body of the Town, desires to  
17       implement an affordable housing program for the Town; and

18       WHEREAS, the MFA has reviewed and approved the form and terms of this Ordinance  
19       prior to final adoption hereof.

20       BE IT ORDAINED BY THE TOWN COUNCIL, THE GOVERNING BODY OF THE TOWN  
21       OF TAOS, NEW MEXICO:



**CONTINUATION PAGE 2**

1           **Section 1.     SHORT TITLE.** This article may be cited as the "Affordable Housing  
2 Ordinance."

3           **Section 2.     PURPOSE.** This ordinance is adopted to implement the Town's  
4 Affordable Housing Program. In accordance with N.M. Const. art. IX, § 14, the Affordable  
5 Housing Act, NMSA 1978, § 6-27-1 et seq. (the "Act"), Rules, the purpose of the Affordable  
6 Housing Ordinance is to:

7           A.     establish procedures to ensure that both State and local housing assistance  
8 grantees are Qualifying Grantees who meet the requirements of the Act and the Rules  
9 promulgated pursuant to the Act both at the time of the award and throughout the term of any  
10 grant or loan under the Program;

11          B.     establish an application and award timetable for State housing assistance grants or  
12 loans to permit the selection of the Qualifying Grantee(s) by the Town;

13          C.     create an evaluation process to determine:

- 14               (i)     the financial and management stability of the Applicant;
- 15               (ii)    the demonstrated commitment of the Applicant to the community;
- 16               (iii)   a cost-benefit analysis of the project proposed by the Applicant;
- 17               (iv)    the benefits to the community of a proposed project;
- 18               (v)     the type or amount of assistance to be provided;
- 19               (vi)    the scope of the Affordable Housing Project;
- 20               (vii)   any substantive or matching contribution by the Applicant to the proposed  
21 project;
- 22               (viii)  a performance schedule for the Qualifying Grantee with performance  
23 criteria; and

**CONTINUATION PAGE 3**

1           (ix)   any other rules or procedures which the Town believes is necessary for a  
2 full review and evaluation of the Applicant and the Application or which the MFA believes is  
3 necessary for a full review of the Town's evaluation of the Applicant;

4           D.    require long-term affordability of the Town's Affordable Housing Projects so that  
5 a project cannot be sold shortly after completion and taken out of the affordable housing market  
6 to ensure a quick profit for the Qualifying Grantee;

7           E.    require that the Town enter into a contract with the Qualifying Grantee consistent  
8 with the Act, which contract shall include remedies and default provisions in the event of the  
9 unsatisfactory performance by the Qualifying Grantee and which contract shall be subject to the  
10 review of the MFA in its discretion;

11          F.    require that a grant or loan for a Project must impose a contractual obligation on  
12 the Qualifying Grantee that the Affording Housing units in any Project be occupied by Persons  
13 of Low or Moderate Income;

14          G.    provide for adequate security against the loss of public funds or property in the  
15 event that the Qualifying Grantee abandons or otherwise fails to complete the Project;

16          H.    require review and approval of a housing grant project budget by the Town and/or  
17 the MFA before any expenditure of grant funds or transfer of granted property;

18          I.    require that a condition of grant or loan approval be proof of compliance with all  
19 applicable State and local laws, rules and ordinances;

20          L.    provide definitions for "low-income and moderate-income" and setting out  
21 requirements for verification of income levels; and

22          M.    provide the Town with a valid Affordable Housing Program.

**CONTINUATION PAGE 4**

1           **Section 3. GENERAL DEFINITIONS.** The following words and terms shall have the  
2 following meanings.

3           A.     "Act" shall mean the Affordable Housing Act, NMSA 1978, §6-27-1 et seq.

4           B.     "Affordable" shall mean consistent with minimum rent and/or income limitations  
5 set forth in the MFA Act, and in guidelines established by MFA.

6           C.     "Affordable Housing" means residential housing primarily for Persons of Low or  
7 Moderate Income.

8           D.     "Affordable Housing Funds" shall mean any or all funds awarded or to be  
9 awarded, loaned or otherwise distributed under the Act for payment of the costs of Infrastructure  
10 for Affordable Housing under an Affordable Housing Plan.

11          E.     "Affordable Housing Plan" or "Plan" shall mean a plan pursuant to an Affordable  
12 Housing Program that contemplates one or more Affordable Housing Projects, which may be  
13 developed in one or more phases.

14          F.     "Affordable Housing Program" or "Program" shall mean any programs the Town  
15 and/or the MFA establish pursuant to the Act.

16          G.     "Affordable Housing Project" or "Project" shall mean any work or undertaking,  
17 whether new construction, acquisition of existing Residential Housing, remodeling,  
18 improvement, Rehabilitation or conversion, which may be undertaken in one or more phases, as  
19 part of an Affordable Housing Plan, as approved by the Town and/or the MFA for the primary  
20 purposes as allowed by the Act.

21          H.     "Affordability Period" shall mean:

22                 (1)     if the fair market value of any Housing Assistance Grant or the total  
23 amount of Affordable Housing Funds that have been awarded, loaned, donated, or otherwise

**CONTINUATION PAGE 5**

1 conveyed to the Qualifying Grantee is from \$1 to \$14,999, then the Affordability Period shall be  
2 not less than five (5) years.

3 (2) if the fair market value of any Housing Assistance Grant or the total  
4 amount of Affordable Housing Funds is from \$15,000 up to and including \$40,000, then the  
5 Affordability Period shall be not less than ten (10) years.

6 (3) if the fair market value of any Housing Assistance Grant or the total  
7 amount of Affordable Housing Funds is from \$40,000 up to and including \$100,000, then the  
8 Affordability Period shall be not less than fifteen (15) years.

9 (4) if the fair market value of any Housing Assistance Grant or the total  
10 amount of Affordable Housing Funds is greater than \$100,000, then the Affordability Period  
11 shall be not less than twenty (20) years.

12 I. "Applicant" shall mean, subject to further qualifications in Section 4(B), an  
13 individual, a governmental housing agency, regional housing authority, a for-profit organization,  
14 including a corporation, limited liability company, partnership, joint venture, syndicate, or  
15 association or a nonprofit organization meeting the appropriate criteria of the Town and/or the  
16 MFA.

17 J. "Application" shall mean an application to participate in one or more Affordable  
18 Housing Programs or Affordable Housing Plans under the Act submitted by an Applicant to the  
19 Town and/or the MFA.

20 K. "Builder" shall mean an individual or entity licensed as a general contractor to  
21 construct Residential Housing in the State that satisfies the requirements of a Qualifying Grantee  
22 and has been approved by the Town and/or the MFA to participate in an Affordable Housing  
23 Program. The term "Builder" shall also include an individual or entity that satisfies the

**CONTINUATION PAGE 6**

requirements of a Qualifying Grantee and has been approved by the Town and/or the MFA to participate in an Affordable Housing Program, who is not licensed as a general contractor in the State, provided such individual or entity contracts with a general contractor licensed in the State to construct Residential Housing.

L. "Building" shall mean 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.

M. "Congregate Housing Facility" shall mean Residential Housing designed for occupancy by more than four Persons of Low or Moderate Income living independently of each other. The facility may contain group dining, recreational, health care or other communal living facilities and each unit in a Congregate Housing Facility shall contain at least its own living, sleeping, and bathing facilities.

N. "Federal Government" shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

O. "Household" shall mean one or more persons occupying a housing unit.

P. "Housing Assistance Grant" means the donation by the Town of:

(1) land for construction of a Project;

(2) an existing Building for conversion or renovation as Affordable Housing;

or

(3) the costs of Infrastructure necessary to support Affordable Housing.

Q. "HUD" shall mean the United States Department of Housing and Urban Development.

**CONTINUATION PAGE 7**

1           R.     "Infrastructure" shall mean Infrastructure Improvements and Infrastructure  
2 Purposes.

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

4               (1)    sanitary sewage systems, including collection, transport, storage,  
5 treatment, dispersal, effluent use and discharge;

6               (2)    drainage and flood control systems, including collection, transport,  
7 diversion, storage, detention, retention, dispersal, use and discharge;

8               (3)    water systems for domestic purposes, including production, collection,  
9 storage, treatment, transport, delivery, connection and dispersal;

10              (4)    areas for motor vehicle use for travel, ingress, egress and parking;

11              (5)    trails and areas for pedestrian, equestrian, bicycle or other non-motor  
12 vehicle use for travel, ingress, egress and parking;

13              (6)    parks, recreational facilities and open space areas for the use of residents  
14 for entertainment, assembly and recreation;

15              (7)    landscaping, including earthworks, structures, plants, trees and related  
16 water delivery systems;

17              (8)    electrical transmission and distribution facilities;

18              (9)    natural gas distribution facilities;

19              (10)   lighting systems;

20              (11)   cable or other telecommunications lines and related equipment;

21              (12)   traffic control systems and devices, including signals, controls, markings  
22 and signs;

**CONTINUATION PAGE 8**

(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.

T. "Infrastructure Purpose" shall mean:

(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, provided the Town may determine it appropriate to reduce or waive building permit fees, sewer and water hook-up fees and other fees with respect to an Affordable Housing Project for which Affordable Housing Funds and/or Housing Assistance Grants are awarded, loaned, donated or otherwise distributed under the Act;

(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.

U. "MFA" shall mean the New Mexico Mortgage Finance Authority.

V. "MFA Act" shall mean the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being Sections 58-18-1 through 58-18-27, inclusive, N.M.S.A. (1978), as amended).

**CONTINUATION PAGE 9**

1           W.     "Mortgage" shall mean a mortgage, mortgage deed, deed of trust or other  
2 instrument creating a lien, subject only to title exceptions as may be acceptable to the Town  
3 and/or the MFA, on a fee interest in real property located within the State or on a leasehold  
4 interest that has a remaining term at the time of computation that exceeds or is renewable at the  
5 option of the lessee until after the maturity day of the Mortgage Loan.

6           X.     "Mortgage Lender" shall mean any bank or trust company, mortgage company,  
7 mortgage banker, national banking association, savings bank, savings and loan association, credit  
8 union, building and loan association and any other lending institution; provided that the  
9 mortgage lender maintains an office in the State, is authorized to make mortgage loans in the  
10 State and is approved by the Town and/or the MFA and either the Federal Housing Authority,  
11 Veterans' Affairs, Federal National Mortgage Association (now known as Fannie Mae), or  
12 Federal Home Loan Mortgage Corporation.

13          Y.     "Mortgage Loan" shall mean a financial obligation secured by a Mortgage,  
14 including a Mortgage Loan for a Project.

15          Z.     "Multiple Family Housing Project" shall mean Residential Housing that is  
16 designed for occupancy by more than four persons or families living independently of each other  
17 or living in a Congregate Housing Facility, at least sixty percent (60%) of whom are Persons of  
18 Low or Moderate Income, including without limitation Persons of Low or Moderate Income who  
19 are elderly and handicapped as determined by the Town and/or the MFA, provided that the  
20 percentage of low-income persons and families shall be at least the minimum, if any, required by  
21 federal tax law.

22          AA.    "Multi-Family Housing Program" shall mean a program involving a Congregate  
23 Housing Facility, a Multiple Family Housing Project or a Transitional Housing Facility.



**CONTINUATION PAGE 10**

1           BB.    "Persons of Low or Moderate Income" shall mean persons and families within the  
2   State who are determined by the MFA to lack sufficient income to pay enough to cause private  
3   enterprise to build an adequate supply of decent, safe and sanitary residential housing in their  
4   locality or in an area reasonably accessible to their locality and whose incomes are below the  
5   income levels established by the MFA to be in need of the assistance made available by the Act,  
6   taking into consideration, without limitation, such factors as defined under the Act. For purposes  
7   of this definition, the word "families" shall mean a group of persons consisting of, but not limited  
8   to, the head of a household; his or her spouse, if any; and children, if any, who are allowable as  
9   personal exemptions for Federal income tax purposes.

10          CC.    "Ordinance" shall mean this Ordinance (No. \_\_\_\_\_).

11          DD.    "Policies and Procedures" shall mean Policies and Procedures of the MFA,  
12   including but not limited to, Mortgage Loan purchasing, selling, servicing and reservation  
13   procedures, which the MFA may update and revise from time to time as the MFA deems  
14   appropriate.

15          EE.    "Public Service Agencies" shall include, but are not limited to, any entities that  
16   support Affordable Housing and which believe that the program or project proposed by the  
17   Applicant is worthy and advisable, but which are not involved, either directly or indirectly, in the  
18   Affordable Housing Program or Project for which the Applicant is applying.

19          II.     "Qualifying Grantee" means:

20                (1)     an individual who is qualified to receive assistance pursuant to the Act and  
21   is approved by the Town; and

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1                   (2)     a governmental housing agency, regional housing authority, corporation, a  
2     limited liability company, partnership, joint venture, syndicate, association or a nonprofit  
3     organization that:

4                   (a)     is organized under State or local laws and can provide proof of  
5     such organization;

6                   (b)     if a non-profit organization, has no part of its net earnings inuring  
7     to the benefit of any member, founder, contributor, or individual; and

8                   (c)     is approved by the Town.

9           FF.     "Recertification" shall mean the recertification of Applicants and/or Qualifying  
10    Grantees participating in any Affordable Housing Programs or in any programs under the Act as  
11    determined necessary from time to time by the Town and/or the MFA.

12           GG.    "Rehabilitation" shall mean the substantial renovation or reconstruction of an  
13    existing single-family residence or a Multi-Family Housing Project, which complies with  
14    requirements established by the MFA. Rehabilitation shall not include routine or ordinary  
15    repairs, improvements or maintenance, such as interior decorating, remodeling or exterior  
16    painting, except in conjunction with other substantial renovation or reconstruction.

17           HH.    "Residential Housing" shall mean any Building, structure or portion thereof that is  
18    primarily occupied, or designed or intended primarily for occupancy, as a residence by one or  
19    more Households and any real property that is offered for sale or lease for the construction or  
20    location thereon of such a building, structure or portion thereof. "Residential Housing" includes  
21    congregate housing, manufactured homes and housing intended to provide or providing  
22    transitional or temporary housing for homeless persons.

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1           II.     "Residential Use" shall mean that the structure or the portion of the structure to  
2 benefit from the Affordable Housing Funds or Housing Assistance Grant, is designed primarily  
3 for use as the principal residence of the occupant or occupants and shall exclude vacation or  
4 recreational homes.

5           JJ.     "RFP" shall mean any request for proposal made by the Town.

6           KK.     "Rules" shall mean the New Mexico Finance Authority Affordable  
7 Housing Rules adopted pursuant to Section 6-27-8(B) NMSA 1978.

8           LL.     "State" shall mean the State of New Mexico.

9           MM.     "Town" shall mean the Town of Taos, New Mexico, a New Mexico municipal  
10 corporation.

11          NN.     "Transitional Housing Facility" shall mean residential housing that is designed for  
12 temporary or transitional occupancy by Persons of Low or Moderate Income or special needs.

13          **Section 4.     GENERAL REQUIREMENTS.**     With the exception of Housing  
14 Assistance Grants involving funding from the State which shall be governed by Section 4(L)  
15 below, the following requirements shall apply to all Housing Assistance Grants and/or  
16 Affordable Housing Funds awarded, loaned or otherwise distributed by the Town under the Act  
17 to a Qualifying Grantee.

18          A.     Request for Proposals.     The Town, in its discretion, may issue one or more RFPs  
19 to solicit applications from Applicants or shall otherwise identify a Qualifying Grantee for the  
20 use of any Affordable Housing Funds or Housing Assistance Grants to be awarded, loaned,  
21 donated or otherwise distributed under the Act.

**CONTINUATION PAGE 13**

1           B.   Applicant Eligibility. The following Applicants are eligible under the Act to  
2   apply for Affordable Housing Funds or a Housing Assistance Grant to provide housing or related  
3   services to Persons of Low or Moderate Income in their community:

4                   (1)   all individuals who are qualified to receive assistance pursuant to the Act,  
5   the Rules, and this Ordinance that are approved by the Town;

6                   (2)   all regional housing authorities and any governmental housing agencies;

7                   (3)   all for-profit organizations, including any corporation, limited liability  
8   company, partnership, joint venture, syndicate or association;

9                   (4)   all non-profit organizations meeting the following requirements:

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

12                   (b)   the non-profit organization must have received its 501(c)(3)  
13   designation prior to submitting an Application;

14                   (c)   have no part of its net earnings inuring to the benefit of any  
15   member, founder, contributor, or individual;

16                   (5)   all non-individual Applicants must

17                   (a)   be organized under State or local laws and can provide proof of  
18   such organization and be approved by the Town;

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

22                   (c)   have among its purposes significant activities related to providing  
23   housing or services to Persons or Households of Low or Moderate Income; and

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(d) have no significant outstanding or unresolved monitoring findings from the Town, the MFA, or its most recent independent financial audit, or if it has any such findings, it has a certified letter from the Town, the MFA, or auditor stating that the findings are in the process of being resolved.

C. Applications.

(1) Process for Applying. Applicants wishing to apply for a Housing Assistance Grant, including the use of any Affordable Housing Funds, or to participate in any Affordable Housing Program are required to submit to the Town the following (as applicable):

(a) one original Application, together with all required schedules, documents, or such other information which may be required by the Town or in any RFP which may have been issued by the Town, must be included in the completed Application;

(b) a proposal describing the nature and scope of the Affordable Housing Project proposed by the Applicant and for which the Applicant is applying for funds or a grant under the Act, and which describes the type and/or amount of assistance which the Applicant proposes to provide to Persons of Low or Moderate Income;

(c) executive summary and project narrative(s) that address the evaluation criteria set forth in any RFP issued by the Town for the Affordable Housing Funds or the Housing Assistance Grant for which the Applicant is applying;

(d) a proposed budget for the Affordable Housing Project for which the Applicant is applying for Affordable Housing Funds or for a Housing Assistance Grant;

(e) current independent financial audit;

(f) if the Applicant is a non-profit organization:

(i) proof of 501(c)(3) tax status;

**CONTINUATION PAGE 15**

(ii) documentation that confirms that no part of its net earnings inures to the benefit of any member, founder, contributor or individual;

(g) if an Applicant is a legal entity, including a non-profit organization:

(i) a current annual budget for the Applicant, including all sources and uses of funds not just those related to relevant programs and/or a current annual budget only for the program for which the Applicant is applying for a Housing Assistance Grant, or as otherwise may be required by the Town and/or the MFA in its discretion;

(ii) an approved mission statement that the Applicant has among its purposes significant activities related to providing housing or housing-related services to Persons or Households of Low or Moderate Income;

(iii) a list of members of the Applicant's current board of directors or other governing body, including designated homeless participation, where required by the Town;

(iv) evidence (or a certification as may be allowed by the Town) that the Applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principals, or has a designated entity that will maintain such an accounting system consistent with generally accepted accounting principals;

(v) evidence that the Applicant has no significant outstanding or unresolved monitoring findings from the Town, the MFA, or its most recent independent financial audit; or if it has any significant outstanding or unresolved monitoring findings from the Town, the MFA, or its most recent independent financial audit, it has a

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1 certified letter from the Town, the MFA, or the auditor stating that the findings are in the process  
2 of being resolved;

3 (vi) an organizational chart, including job titles and  
4 qualifications for the Applicant's employees or as otherwise may be required by the Town and/or  
5 the MFA in its discretion. Job descriptions may be submitted as appropriate;

6 (vii) documentation that the Applicant is duly organized  
7 under State or local law and certification that the Applicant is in good standing with any State  
8 authorities, including the Public Regulation Commission and the Secretary of State;

9 (h) information as may be required by the Town in order for it to  
10 determine the financial and management stability of the Applicant;

11 (i) information as may be required by the Town in order for it to  
12 determine the demonstrated commitment of the Applicant to the community;

13 (j) a completed cost-benefit analysis of the Affordable Housing  
14 Project proposed by the Applicant. Any cost-benefit analysis must include documentation that  
15 clearly evidences that there is or will be a direct benefit from the project proposed by the  
16 Applicant to the community and/or to the purported beneficiaries of the project, consistent with  
17 the provisions of the Act;

18 (k) information to the Town supporting the benefits to the community  
19 of the Affordable Housing Project proposed by the Applicant;

20 (l) proof of substantive or matching funds or contributions and/or in-  
21 kind donations to the proposed Affordable Housing Project in connection with the Application  
22 for funds under the Act. Nothing contained herein shall prevent or preclude an Applicant from

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1 matching or using local, private, or federal funds in connection with a specific Housing  
2 Assistance Grant or a grant of Affordable Housing Funds under the Act;

3 (m) any certifications or other proof which it may require in order for  
4 the Town to confirm that the Applicant is in compliance with all applicable federal, State and  
5 local laws, rules and ordinances;

6 (n) a verification signed by the Applicant before a notary public that  
7 the information provided, upon penalty of perjury, is true and correct to the best of the  
8 Applicant's information, knowledge, and belief;

9 (o) certifications as may be required by the Town and signed by chief  
10 executive officer, board president, mayor or other authorized official of the Applicant, provided  
11 that the Town at its discretion may waive any of the foregoing requirements if not deemed  
12 applicable;

13 (2) Additional Requirements for Multi-Family Housing Projects. Applicants  
14 who are submitting Applications in connection with a Multi-Family Housing Program, the  
15 Applicant must also submit to the Town following additional information:

16 (a) a verified certificate that, among other things:

17 (i) identifies every Multi-Family Housing Program, including  
18 every assisted or insured project of HUD, RHS, FHA and any other state or local government  
19 housing finance agency in which such Applicant has been or is a principal;

20 (ii) except as shown on such certificate, states that:

21 (A) no mortgage on a project listed on such certificate  
22 has ever been in default, assigned to the Federal Government or foreclosed, nor has any  
23 mortgage relief by the mortgagee been given;



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1 (B) there has not been a suspension or termination of  
2 payments under any HUD assistance contract in which the Applicant has had a legal or  
3 beneficial interest;

4 (C) such Applicant has not been suspended, debarred or  
5 otherwise restricted by any department or agency of the Federal Government or any state  
6 government from doing business with such department or agency because of misconduct or  
7 alleged misconduct; and

8 (D) the Applicant has not defaulted on an obligation  
9 covered by a surety or performance bond.

10 If such Applicant cannot certify to each of the above, such Applicant shall submit a  
11 signed statement to explain the facts and circumstances that such Applicant believes will explain  
12 the lack of certification. The Town may then determine if such Applicant is or is not qualified.

13 (b) the experience of the Applicant in developing, financing and  
14 managing Multiple-Family Housing Projects; and

15 (c) whether the Applicant has been found by the United States Equal  
16 Employment Opportunity Commission or the New Mexico Human Rights Commission to be in  
17 noncompliance with any applicable civil rights laws.

18 (3) Additional Requirements for Mortgage Lenders. If the Applicant is a  
19 Mortgage Lender, the Town shall consider, among other things:

20 (a) the financial condition of the Applicant;

21 (b) the terms and conditions of any loans to be made;

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1                   (c)     the aggregate principal balances of any loans to be made to each  
2 Applicant compared with the aggregate principal balances of the loans to be made to all other  
3 Applicants;

4                   (d)     The Town's assessment of the ability of the Applicant or its  
5 designated servicer to act as originator and servicer of Mortgage Loans for any Multi-Family  
6 Housing Programs or other programs to be financed; and

7                   (e)     previous participation by the Applicant in the MFA's programs and  
8 HUD, Federal Housing Authority, or Rural Housing Service programs.

9                   (4)     Submission Procedure.

10                  (a)     Time, Place and Method of Submission Delivery.

11                   (i)     If the Town has issued an RFP, all Applications must be  
12 received by the Town no later than the deadline set forth in the RFP; otherwise, all Applications  
13 must be received by the Town by the deadline the Town has established in connection with the  
14 respective award or grant. So that any Qualifying Grantees may be selected prior to January of  
15 the year in which any Housing Assistance Grant would be made, the Town shall issue any RFP's,  
16 solicit any Applications, or otherwise identify any Qualifying Grantees no later than October 15  
17 of any year in order to allow sufficient time for prospective applicants to respond to any such  
18 RFP, solicitation, or otherwise, and further to allow the MFA not less than forty-five (45) days in  
19 which to review any such Applications or otherwise determine or confirm that an Applicant is a  
20 Qualifying Grantee under the Act and consistent with the Rules.

21                   (ii)    Applications shall be submitted by Applicants to the Town  
22 in the form required by the Town and shall contain all information which is required by this  
23 Ordinance and any RFP which may have been issued.

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1 (b) Additional Factors. The Application procedures shall take into  
2 consideration:

3 (i) timely completion and submission to the Town of an  
4 Application or other appropriate response to any solicitation by the Town;

5 (ii) timely submission of all other information and  
6 documentation related to the program required by the Town as set forth in this Ordinance or as  
7 set forth in the Rules;

8 (iii) timely payment of any fees required to be paid to the Town  
9 at the time of submission of the Application; and

10 (iv) compliance with program eligibility requirements as set  
11 forth in the Act, the Rules and this Ordinance.

12 (c) Submission Format.

13 (i) Town forms or MFA forms (if available) must be used  
14 when provided and no substitutions will be accepted; however attachments may be provided as  
15 necessary.

16 (ii) An Applicant's failure to provide or complete any element  
17 of an Application, including all requirements of the Town or as may be listed on any RFP, may  
18 result in the rejection of the Application prior to review.

19 (iii) Illegible information, information inconsistent with other  
20 information provided in the application, and/or incomplete forms will be treated as missing  
21 information and evaluated accordingly.

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(iv) The Town and the MFA reserve the right to request further information from any Applicant so long as the request is done fairly and does not provide any Applicant an undue advantage over another Applicant.

(v) The Town in its discretion may cancel any RFP or reject any or all proposals in whole or part submitted by any Applicant.

(vi) Neither the Town nor the MFA shall be responsible for any expenses incurred by an Applicant in preparing and submitting an Application. However, the Town or the MFA, as applicable, may establish and collect fees from Applicants who file Applications. Notice that fees will be charged and the amount of any such fees shall be included by the Town or the MFA, as applicable, in any RFP or otherwise shall be advertised as part of the Application solicitation process.

(5) Review by the Town. On receipt of an Application, the Town shall:

(a) determine whether the Application submitted by the Applicant is complete and responsive;

(b) determine whether the Applicant is a Qualifying Grantee as defined herein and in the Act;

(c) review and analyze whether the Applicant has shown a demonstrated need for activities to promote and provide affordable housing and related services to Persons of Low or Moderate Income;

(d) determine whether the Applicant has demonstrated experience related to providing housing or services to Persons of Low or Moderate Income, as well as experience and/or the capacity to administer the Affordable Housing Program or Project for which the Applicant has applied;

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1                   (e)     determine whether the Applicant's proposal provides a plan for  
2     coordinating with other service providers in the community; whether the Applicant's plan  
3     addresses how Persons of Low Income or Moderate Income in need of housing and/or housing  
4     related supportive services can receive supportive services and referrals to federal, State and  
5     local resources; and, whether the Applicant's plan addresses outreach efforts to reach the  
6     population to be served as identified by the Town in any RFP or otherwise;

7                   (f)     determine whether the Applicant has support from Public Service  
8     Agencies, or such other support as may be required by the Town and/or the MFA in its  
9     discretion, for its proposed services in the community;

10                  (g)     ascertain the amount of any matching funds or in-kind services  
11     specific to the program that may be utilized by the Applicant in connection with the program;

12                  (h)     ascertain whether any local, private, or federal funds will be used  
13     by the Applicant in connection with the specific grant for which the Applicant is applying;

14                  (i)     ascertain whether the Applicant has and can demonstrate the  
15     capability to manage the implementation of the Program for which the Applicant is applying;

16                  (j)     if Applicant is a prior recipient of either a Housing Assistance  
17     Grant, Affordable Housing Funds and/or other Program funds, confirm that the Applicant had no  
18     outstanding findings or matters of non-compliance with program requirements from the Town or  
19     the MFA, as applicable or if it has any such findings, it has a certified letter from the Town, the  
20     MFA, or auditor stating that the findings are in the process of being resolved;

21                  (k)     if Applicant is a prior recipient of either a Housing Assistance  
22     Grant, Affordable Housing Funds and/or other Program funds, confirm that the Applicant  
23     reasonably committed and expended the funds under the prior Program and/or met anticipated

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1 production levels as set forth in any contract with the Town or the MFA, as applicable, for those  
2 prior Program funds;

3 (l) evaluate the Applicant's proposal in part based upon the  
4 Applicant's current financial audit;

5 (m) evaluate the Applicant's proposed budget for the Project for which  
6 the Applicant is applying for Affordable Housing Funds or a Housing Assistance Grant which  
7 proposed budget must be approved by the Town before Applicant can be approved as a  
8 Qualifying Grantee and any expenditure of grant funds under the Act or granted property is  
9 transferred to the Applicant;

10 (n) on receipt of an Application from a Builder, the Town will analyze  
11 the Builder's ability to construct and sell sufficient Residential Housing units to Persons of Low  
12 or Moderate Income within the time or times as may be required by the Town.

13 (o) consider other factors it deems appropriate to ensure a reasonable  
14 geographic allocation for all Affordable Housing Programs.

15 (6) Certification by the Town to the MFA. The Town shall certify an  
16 Application to the MFA in writing upon:

17 (a) completion of its review of the Application;

18 (b) determination that the Application is complete;

19 (c) determination that the requirements of the Act, the Rules and this  
20 Ordinance have been satisfied; and

21 (d) determination that the Applicant is a Qualifying Grantee.

22 (7) Review by the MFA. The MFA upon its receipt of the certification from  
23 the Town may, in its discretion, review the Application and any of the materials submitted by the

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1 Applicant to the Town. The MFA may also request any additional information from the  
2 Applicant, which it may require in order to determine whether the Applicant is a Qualifying  
3 Grantee under the Act and the Application is complete. The MFA will then notify the Town of  
4 its determination of whether or not the Application is complete and that the requirements of the  
5 Act and the Rules have been satisfied and the Applicant is a Qualifying Grantee. Unless the  
6 period is extended for good cause shown, the MFA shall act on an Application within  
7 forty-five (45) days of its receipt of any Application, which the MFA deems to be complete, and,  
8 if not acted upon, the Application shall be deemed to be approved.

9 (8) Notification of Acceptance. The Town, upon completion of its review of  
10 the Application and an evaluation of the criteria for approval of the Application as set forth in the  
11 this Ordinance and in any RFP issued by the Town and upon its determination that the Applicant  
12 is a Qualifying Grantee, and upon its receipt of notification from the MFA that it agrees that the  
13 Application is complete and that the Act and Rules have been satisfied and the Applicant is a  
14 Qualifying Grantee, by written notice shall notify each Applicant which has submitted an  
15 Application of the approval or disapproval of its Application. Upon approval of its Application,  
16 the Applicant shall be considered approved to participate in the Affordable Housing Program.  
17 The Town's and the MFA's determination of any Application shall be conclusive.

18 D. Additional Requirements. Upon acceptance, the following additional  
19 requirements shall apply to any Applicant, who is a Qualifying Grantee:

20 (1) Contractual Requirements. The Qualifying Grantee shall enter into one or  
21 more contracts with the Town, which contract(s) shall be consistent with the Act and subject to  
22 the review of the MFA, in its discretion, and which contract(s) shall include remedies and default  
23 provisions in the event of the unsatisfactory performance by the Qualifying Grantee.

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1                   (2)     Security Provisions; Collateral Requirements. In accordance with the Act,  
2 the Rules and this Ordinance, the Town shall require the Qualifying Grantee to execute  
3 documents, which will provide adequate security against the loss of public funds or property in  
4 the event the Qualifying Grantee abandons or fails to complete the Affordable Housing Project,  
5 and which shall further provide, as may be permitted by law, for the recovery of any attorneys'  
6 fees and costs which the Town and/or the MFA may incur in enforcing the provisions of this  
7 Ordinance, the Rules, the Act and/or any agreement entered into by the Town and the Qualifying  
8 Grantee, and which documents may include, but are not limited to the following: note, Mortgage,  
9 loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other  
10 agreement which the Town may require in order to allow for any funds which the Qualifying  
11 Grantee may receive under a Housing Assistance Grant or Affordable Housing Funds to be  
12 adequately secured and to allow the Town and the MFA to ensure that such funds shall be  
13 utilized by the Qualifying Grantee in accordance with the Act, the Rules and this Ordinance.

14                   (3)     Performance Schedule and Criteria. The Qualifying Grantee shall be  
15 required to abide by a reasonable performance schedule and performance criteria that the Town,  
16 in its discretion, may establish.

17                   (4)     Examination of Books and Records. The Qualifying Grantee shall submit  
18 to and the Town shall cause to be made such examinations of the books and records of each  
19 Qualifying Grantee as the Town and/or the MFA deems necessary or appropriate to determine  
20 the Qualifying Grantee's compliance with the terms of the Act, the Rules, this Ordinance and any  
21 contracts between the Qualifying Grantee and the Town. The Town and/or the MFA may  
22 require each Qualifying Grantee to pay the costs of any such examination.

23                   (5)     Infrastructure Cost Reimbursement Contracts.



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1 (a) Cost Reimbursements. Payment to a Qualifying Grantee under  
2 cost reimbursable contract provisions shall be made upon the Town's receipt from the Qualifying  
3 Grantee of certified and documented invoices for actual expenditures allowable under the terms  
4 of any agreement between the Qualifying Grantee and the Town.

5 (b) Cost Reimbursements For Units of Service. Payment under any  
6 unit cost contract provisions shall be made upon the Town's receipt from the Qualifying Grantee  
7 of a certified and documented invoice showing the number of units of service provided during  
8 the billing period.

9 (c) Rate at which Costs Incurred. Under unit cost or cost reimbursable  
10 contracts, it is anticipated that costs will be incurred by the Qualifying Grantee at an approximate  
11 level rate during the term of any agreement between the Qualifying Grantee and the Town. If the  
12 Town determines that the Qualifying Grantee is underspending or overspending, then the Town  
13 may reduce the budget and/or exercise such other budgetary fiscal controls it deems appropriate.

14 (d) Invoices. Qualifying Grantees shall not submit invoices more than  
15 once a month, unless written approval is obtained in advance from the Town. Failure to submit  
16 invoices within twenty (20) days of the close of the month for which payment is sought may  
17 result in the non-availability of funds for reimbursement.

18 (e) No Dual Application of Costs. The Qualifying Grantee shall  
19 certify that any direct or indirect costs claimed by the Qualifying Grantee will not be allocable to  
20 or included as a cost of any other program, project, contract, or activity operated by the  
21 Qualifying Grantee and which has not been approved by the Town in advance, in writing.

22 (f) Prohibition of Substitution of Funds. Any Affordable Housing  
23 Funds or other amounts received by Qualifying Grantee may not be used by Qualifying Grantee

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1 to replace other amounts made available or designated by the State or local governments through  
2 appropriations for use for the purposes of the Act.

3 (g) Cost Allocation. The Qualifying Grantee shall clearly identify and  
4 distribute all costs incurred pertaining to the Affordable Housing Project by a methodology and  
5 cost allocation plan at times and in a manner prescribed by, or acceptable to the Town.

6 (9) Additional Information. Qualifying Grantees shall provide the Town with  
7 any and all information which the Town reasonably may require in order for it to confirm that  
8 the Qualifying Grantees continue to satisfy the requirements of the Act, the Rules and this  
9 Ordinance throughout the term of any contract and/or any Affordability Period or otherwise as  
10 may be required by the Town or the MFA in its discretion. At a minimum, on an annual basis,  
11 the Town shall certify to the MFA in writing that to the best of its knowledge the Qualifying  
12 Grantee is in compliance with applicable provisions of the Act, the Rules and this Ordinance.

13 E. Affordable Housing Requirements. All Affordable Housing Funds or Housing  
14 Assistance Grants awarded under the Act are to be used by Qualifying Grantees for the benefit of  
15 Persons of Low or Moderate Income subject to the provisions of the Act and with particular  
16 regard to their housing related needs.

17 (1) Single Family Property. Qualifying Grantees shall agree that they shall  
18 maintain any single-family property which has been acquired, rehabilitated, weatherized,  
19 converted, leased, repaired, constructed, or which property has otherwise benefited from  
20 Affordable Housing Funds, including but not limited to any loans which have been repaid with  
21 Affordable Housing Funds and which loans previously were secured by such properties, as  
22 Affordable Housing for so long as any or all of the Affordable Housing Funds which have been

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1 awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or  
2 the Affordability Period, which ever is longer.

3 (2) Multi-Family Property.

4 (a) Single Apartment within a Multi-Family Property. Qualifying  
5 Grantees shall agree that, if any single apartments are to be rehabilitated, weatherized, converted,  
6 leased, repaired, constructed, or otherwise are to benefit from Affordable Housing Funds, those  
7 apartments shall be leased to Persons of Low or Moderate Income at the time of any such award.  
8 Qualifying Grantees, who are the landlords and/or owners of such properties, shall further agree  
9 to contribute at least sixty percent (60%) of the cost of the rehabilitation, weatherization,  
10 conversion, lease, repair, and/or construction. Qualifying Grantees also shall agree that the  
11 Persons of Low or Moderate Income, who are tenants of those apartments, shall be allowed to  
12 remain tenants for so long as there are no uncured defaults by those tenants under their respective  
13 leases and provided that there is no just cause for the landlord to terminate any lease agreement  
14 with those tenants.

15 (b) Multiple Apartments. Qualifying Grantees shall agree that, if  
16 multiple apartments or an entire multi-family property are to be acquired, rehabilitated,  
17 weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable  
18 Housing Funds, including but not limited to any loans which have been repaid with Affordable  
19 Housing Funds and which loans previously were secured by such properties, they shall maintain  
20 not less than sixty percent (60%) of the housing units as Affordable Housing for so long as any  
21 or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed  
22 to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, which ever is  
23 longer.

**CONTINUATION PAGE 29**

1           (3)     Non-Residential Property. Qualifying Grantees shall agree that they shall  
2 maintain any non-residential property which has been acquired, rehabilitated, weatherized,  
3 converted, leased, repaired, constructed, or which property has otherwise benefited from  
4 Affordable Housing Funds, including but not limited to any loans which have been repaid with  
5 Affordable Housing Funds and which loans previously were secured by such properties, as a  
6 facility which provides housing related-services to Persons of Low or Moderate Income for so  
7 long as any or all of the Affordable Housing Funds which have been awarded, loaned, or  
8 otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability  
9 Period, which ever is longer.

10           (4)     Housing Assistance Grant Affordability Requirements. Qualifying  
11 Grantees shall agree that they shall maintain any land or buildings received as a Housing  
12 Assistance Grant either as either single-family or multi-family Affordable Housing in accordance  
13 with Sections 4(E)(1) and (2) or as a facility which provides housing related-services to Persons  
14 of Low or Moderate Income in accordance with Section 4(E)(3) (as applicable) for the duration  
15 of the Affordability Period. Qualifying Grantees shall agree that they shall maintain any land or  
16 buildings for which they have received the costs of Infrastructure as a Housing Assistance Grant  
17 either as either single-family or multi-family Affordable Housing or as a facility which provides  
18 housing related-services to Persons of Low or Moderate Income (as applicable) for the duration  
19 of the Affordability Period. In calculating the Affordability Period for Housing Assistance  
20 Grants of either land or buildings, the fair market value of the land or buildings or the costs of  
21 Infrastructure at the time of the donation by the State or Town shall apply.

22           (5)     Affordability Period. The Town, in its discretion, may increase the  
23 Affordability Period in any contract, note, Mortgage, loan agreement, land use restriction

**CONTINUATION PAGE 30**

1 agreement, restrictive covenant agreements and/or any other agreement which the Town may  
2 enter into with any Qualifying Grantee or beneficiary of the Affordable Housing Funds or of the  
3 Housing Assistance Grant. See definition of Affordability Period in Section 3H. of this  
4 Ordinance. Notwithstanding the foregoing, in the discretion of the MFA, weatherization funds  
5 conveyed from the State to the MFA and/or any other similar conveyances where an  
6 Affordability Period is not practical, shall not be subject to the Affordability Period requirements  
7 of this Section 4(E); but nevertheless, any such conveyances may be subject to recapture on  
8 some pro-rated basis as determined by the Town and/or the MFA.

9 F. Consent to Jurisdiction. Each Qualifying Grantee shall consent to the jurisdiction  
10 of the courts of the State over any proceeding to enforce compliance with the terms of the Act,  
11 the Rules and this ordinance and any agreement between the Qualifying Grantee and the Town  
12 and/or the MFA.

13 G. Recertification Procedures.

14 (1) The Qualifying Grantee must meet the requirements of the Act, the Rules  
15 and this Ordinance both at the time of any award and throughout the term of any grant and  
16 contract related thereto.

17 (2) The Town may establish procedures for recertifying Qualifying Grantees  
18 from time to time.

19 (3) Qualifying Grantees that fail to satisfy the requirements for Recertification  
20 shall cease to be eligible and shall be denied further participation in Affordable Housing  
21 programs until the requirements of the Town and the MFA are satisfied.

22 H. Compliance with the Law. Qualifying Grantee shall provide the Town with any  
23 certifications or other proof that it may require in order for the Town and the MFA to confirm

**CONTINUATION PAGE 31**

1 that the Qualifying Grantee and the Qualifying Grantee's proposed Project are in compliance  
2 with all applicable federal, State and local laws, rules and ordinances.

3 I. Extension of Affordable Housing Programs. The MFA shall have the power to  
4 create variations or extensions of Affordable Housing Programs, or additional Programs that  
5 comply with the Act and the Rules.

6 J. Town Grant Requirements.

7 (1) The Town is authorized to make Housing Assistance Grants under the Act.  
8 Upon determination that the Town will make a Housing Assistance Grant, including the use of  
9 any Affordable Housing Funds, the Town shall provide the MFA with the following:

10 (a) documentation that confirms that the Town has an existing valid  
11 Affordable Housing Plan;

12 (b) a copy of the proposed ordinance which provides for the  
13 authorization of the Housing Assistance Grant, including the use of any Affordable Housing  
14 Funds, together with a written certification that the proposed grantee is in compliance with Act  
15 and the Rules so that the MFA may confirm both that the ordinance is in compliance with the  
16 Act, that the Application is complete, and that the proposed grantee is a Qualifying Grantee  
17 under the Act and the Rules.

18 (2) Prior to the submission of the ordinance to the Council, the Council must  
19 approve the budget submitted by the Applicant.

20 (3) An ordinance authorizing the Town to make a Housing Assistance Grant  
21 and/or distribute Affordable Housing Funds:

22 (i) must authorize the grant, including use of Affordable Housing  
23 Funds, if any;

**CONTINUATION PAGE 32**

- 1                   (ii)     must state the requirements and purpose of the grant; and
- 2                   (iii)    must authorize the transfer or disbursement to the Qualifying
- 3     Grantee only after a budget is submitted to and approved by the Council;
- 4                   (iv)     must comply with the Rules, as amended.
- 5                   (v)     may provide for matching or using local, private or federal funds
- 6     either through direct participation with a federal agency pursuant to federal law or through
- 7     indirect participation through the MFA.

8                   (4)     The MFA shall act to approve the proposed Housing Assistance Grant

9     authorized by the Town within forty-five (45) days of its receipt of the documentation required

10    above in this Section 4.J. (1), (2) and (3).

11                  (5)     The Town, in its discretion, may also hold any award of Affordable

12    Housing Funds or any Housing Assistance Grant made by the Town in suspense pending the

13    issuance by the Town of any RFP or pending the award of the Affordable Housing Funds or of

14    the Housing Assistance Grant by the Town to the Qualifying Grantee without the issuance of an

15    RFP by the Town. Any award of Affordable Housing Funds or a Housing Assistance Grant by

16    the Town shall subject the Qualifying Grantee of the award or grant to the oversight of the Town

17    and the MFA under this Ordinance and the Rules.

18                  K.     School District and Post-Secondary Educational Institution Grant Requirements.

19    If a school district or a post-secondary education institution intends to make a Housing

20    Assistance Grant, then it shall provide the MFA with written certification that the proposed

21    grantee is in compliance with the Act, the Rules and this Ordinance so that the MFA may

22    confirm that the Application is complete and that the proposed grantee is a Qualifying Grantee

23    under the Act, Rules and this Ordinance. Any transfer of land by a school district to the Town to

**CONTINUATION PAGE 33**

1 be further granted as part or all of an Affordable Housing grant shall be subject to the additional  
2 limitations contained in the Act that the school district and the Council enter into a contract that  
3 provides the school district with a negotiated number of affordable housing units that will be  
4 reserved for employees of the school district. Any transfer of land by a post-secondary  
5 educational institution shall be subject to the additional limitations contained in the Act that (i)  
6 the property transferred shall be granted by the Town as part of all of an Affordable Housing  
7 grant; and (ii) the governing board of the post-secondary educational institution and the Council  
8 enter into a contract that provides the post-secondary educational institution with Affordable  
9 Housing units. As used in this section, "post-secondary educational institution" means a state  
10 university or a public community college. The Town, in its discretion, may also hold any  
11 Housing Assistance Grant made by any school district or post-secondary educational institution  
12 in suspense pending the issuance by the Town of any RFP or pending the award of the Housing  
13 Assistance Grant by the Town to the Qualifying Grantee without the issuance of an RFP by the  
14 Town. Any award of a Housing Assistance Grant by a school district or a post-secondary  
15 educational institution shall subject the Qualifying Grantee of the grant to the oversight of the  
16 Town and the MFA under these Rules.

17 L. All Housing Assistance Grants from the State pursuant to the Act shall be  
18 appropriated to the Department of Finance and Administration for disbursement by the MFA to a  
19 Qualifying Grantee consistent with the rules adopted by the MFA for whatever program to which  
20 the grant is applicable and consistent with the Act. In the event that the MFA does not currently  
21 have a program in place which is consistent with the terms of any grant being made by the State,  
22 then the MFA, in its discretion may create a program to fulfill the terms of the grant and shall  
23 adopt rules consistent with the Act. Such rules may include provisions for matching or using



**CONTINUATION PAGE 34**

1 local, private, or federal funds in connection with a specific grant, but matching or using federal  
2 funds shall not be prohibited.

3 **Section 5. DISCRIMINATION PROHIBITED.** The development, construction,  
4 occupancy and operation of an Affordable Housing Program or an Affordable Housing Project  
5 financed or assisted under the Act shall be undertaken in a manner consistent with principles of  
6 non-discrimination and equal opportunity, and the Town shall require compliance by all  
7 Qualifying Grantees with all applicable federal and State laws and regulations relating to  
8 affirmative action, non-discrimination and equal opportunity.

9 **Section 6. ADMINISTRATION.** The Town and the MFA shall administer any  
10 Affordable Housing programs in accordance with provisions of the Act, the Rules, this  
11 Ordinance, any applicable state and federal laws and regulations as each of which may be  
12 amended or supplemented from time to time. The Town and the MFA, in establishing, funding  
13 and administering the Affordable Housing Programs and by making, executing, delivering and  
14 performing any award, contract, grant or any other activity or transaction contemplated by the  
15 Act, shall not violate any provision of law, rule or regulation or any decree, writ, order,  
16 injunction, judgment, determination or award and will not contravene the provisions of or  
17 otherwise cause a default under any of its agreements, indentures, or other instruments to which  
18 it may be bound.

19 **Section 7. TERMINATION.** The Council may repeal this Ordinance and terminate  
20 the Town's Affordable Housing Program and any or all contracts undertaken in its authority.  
21 Termination shall be by ordinance at a public hearing or in accordance with the terms of the  
22 contract. If an ordinance or a contract is repealed or terminated, all contract provisions of the  
23 contract regarding termination shall be satisfied.

**CONTINUATION PAGE 35**

**Section 8. REPEALER.** All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the extent of that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or ordinance, or part thereof, previously repealed.

**Section 9. SEVERABILITY.** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 10. RECORDING; AUTHENTICATION; PUBLICATION; EFFECTIVE DATE.** This Ordinance, immediately upon its final passage and approval, shall be recorded in the ordinance book of the Town, kept for that purpose, and shall be there authenticated by the signature of the Mayor or Mayor Pro Tem and attested to by the Town Manager or Town Clerk. This Ordinance shall be in full force and effect five (5) days after publication in accordance with Section 3-17-5 NMSA, 1978.

Passed, Approved, Signed and adopted this \_\_\_\_ day of \_\_\_\_\_ 2005.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
TOWN CLERK  
[SEAL]

# **Ordinance 11-03**

**REDLINED  
Version**

## CONTINUATION PAGE 1

## TOWN OF TAOS, NEW MEXICO

## ORDINANCE NO. \_\_\_\_

**AN ORDINANCE AMENDING ORDINANCE NO. 05-03 OF THE TOWN OF TAOS AND ESTABLISHING AN AFFORDABLE HOUSING PROGRAM PURSUANT TO THE AFFORDABLE HOUSING ACT; DEFINING TERMS; ESTABLISHING APPLICATION REQUIREMENTS AND REVIEW CRITERIA; AND ESTABLISHING PROCEDURES TO ADMINISTER AN AFFORDABLE HOUSING PROGRAM.**

WHEREAS, the Town of Taos (the "Town") is a municipal corporation duly organized and existing under the laws of the State of New Mexico (the "State"); and

WHEREAS, under an exception to the "anti-donation" clause as set forth in Article IX, § 14, Sections E and F, of the New Mexico Constitution, the Town is not prohibited if certain conditions and safeguards are met from (i) donating land it owns for the construction on it of affordable housing; (ii) donating an existing building owned by the Town for conversion or renovation into affordable housing; (iii) providing or paying the costs of infrastructure necessary to support affordable housing projects; or (iv) providing financing, including the making of loans to Qualifying Grantees for affordable housing; and

WHEREAS, the Affordable Housing Act, NMSA 1978 § 6-27-1 et seq. (the "Act") implements the provisions of Subsections E and F of Section 14 of Article 9 of the New Mexico Constitution; and

WHEREAS, the Town Council ("Council"), the governing body of the Town, desires to continue and augment an affordable housing program for the Town; and

**CONTINUATION PAGE 2**

WHEREAS, the New Mexico Mortgage Finance Authority ("MFA") has reviewed and approved the form and terms of Town of Taos Ordinance No. 05-03 prior to final adoption thereof, and has approved the amendments to that ordinance reflected in this Ordinance No. 10-  
[REDACTED].

BE IT ORDAINED BY THE TOWN COUNCIL, THE GOVERNING BODY OF THE TOWN OF TAOS, NEW MEXICO:

**SECTION 1. SHORT TITLE.** This article may be cited as the "Affordable Housing Ordinance."

**SECTION 2. PURPOSE.** This ordinance is adopted to implement the Town's Affordable Housing Program. In accordance with N.M. Const. art. IX, § 14, the Affordable Housing Act, NMSA 1978, § 6-27-1 et seq. (the "Act"), and the MFA Affordable Housing Act Rules, the purpose of the Affordable Housing Ordinance is to:

A. establish procedures to ensure that local housing assistance grantees are Qualifying Grantees who meet the requirements of the Act and the MFA Rules promulgated pursuant to the Act both at the time of the award and throughout the term of any grant or loan under the Program;

B. permit the establishment of an application and award timetable for housing assistance grants or loans to permit the selection of Qualifying Grantees by the Town;

C. create an evaluation process for non-Household Qualifying Grantees to determine:

- (1) the financial and management stability of the Applicant;
- (2) the demonstrated commitment of the Applicant to the community;
- (3) a cost-benefit analysis of the project proposed by the Applicant;

**CONTINUATION PAGE 3**

- 1                   (4)     the benefits to the community of a proposed project;
- 2                   (5)     the type or amount of assistance to be provided;
- 3                   (6)     the scope of the Affordable Housing Project;
- 4                   (7)     any substantive or matching contribution by the Applicant to the proposed
- 5 project;
- 6                   (8)     a performance schedule for the Qualifying Grantee with performance
- 7 criteria; and
- 8                   (9)     any other rules or procedures which the Town believes is necessary for a
- 9 full review and evaluation of the Applicant and the Application or which the MFA believes is
- 10 necessary for a full review of the Town's evaluation of the Applicant;
- 11           D.     create an evaluation process for Household Qualifying Grantees to determine
- 12 income and other eligibility;
- 13           E.     require long-term affordability of the Town's Affordable Housing Projects so that
- 14 a project cannot be sold shortly after completion and taken out of the affordable housing market
- 15 to ensure a quick profit for the Qualifying Grantee;
- 16           F.     require that the Town enter into a contract with the Qualifying Grantee consistent
- 17 with the Act, which contract shall include remedies and default provisions in the event of the
- 18 unsatisfactory performance by the Qualifying Grantee and which contract shall be subject to the
- 19 review of the MFA in its discretion;
- 20           G.     require that a grant or loan for a Project must impose a contractual obligation on
- 21 the Qualifying Grantee that the Affording Housing units in any Project be occupied by Persons
- 22 of Low or Moderate Income;
- 23           H.     provide for adequate security against the loss of public funds or property in the

**CONTINUATION PAGE 4**

event that the Qualifying Grantee abandons or otherwise fails to complete the Project;

I. require review and approval of a housing grant project budget by the Town and/or the MFA before any expenditure of grant funds or transfer of granted property;

J. require that a condition of grant or loan approval be proof of compliance with all applicable state and local laws, rules and ordinances;

K. provide definitions for "low-income and moderate-income" and setting out requirements for verification of income levels; and

L. provide the Town with a valid Affordable Housing Program.

**SECTION 3. GENERAL DEFINITIONS.** The following words and terms shall have the following meanings.

A. "Act" shall mean the Affordable Housing Act, NMSA 1978, §6-27-1 et seq.

B. "Affordable" shall mean consistent with minimum rent and/or income limitations set forth in the MFA Act, and in guidelines established by MFA.

C. "Affordable Housing" means primary residential housing for Persons of Low or Moderate Income.

D. "Affordable Housing Funds" shall mean any or all funds awarded or to be awarded, loaned or otherwise distributed under this Ordinance or the Act

E. "Affordable Housing Plan" or "Plan" shall mean a plan pursuant to an Affordable Housing Program that contemplates one or more Affordable Housing Projects, which may be developed in one or more phases.

F. "Affordable Housing Program" or "Program" shall mean any programs the Town and/or the MFA establish pursuant to the Act.

G. "Affordable Housing Project" or "Project" shall mean any work or undertaking,

**CONTINUATION PAGE 5**

whether new construction, acquisition of existing Residential Housing, remodeling, improvement, Rehabilitation or conversion, which may be undertaken in one or more phases, as approved by the Town and/or the MFA for the primary purposes as allowed by the Act.

H. "Affordability Period" shall mean:

(1) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds that have been awarded, loaned, donated, or otherwise provided or conveyed to a Qualifying Grantee is from \$1 to \$14,999, then the Affordability Period shall be not less than five (5) years.

(2) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds provided or conveyed to a Qualifying Grantee is from \$15,000 up to and including \$40,000, then the Affordability Period shall be not less than ten (10) years.

(3) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds provided or conveyed to a Qualifying Grantee is from \$40,000 up to and including \$100,000, then the Affordability Period shall be not less than fifteen (15) years.

(4) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds provided or conveyed to a Qualifying Grantee is greater than \$100,000, then the Affordability Period shall be not less than twenty (20) years.

I. "Applicant" shall mean, subject to further qualifications in Section 4(B), an individual, a governmental housing agency, regional housing authority, a for-profit organization, including a corporation, limited liability company, partnership, joint venture, syndicate, or



## CONTINUATION PAGE 6

1 association or a nonprofit organization that has submitted an Application meeting the appropriate  
 2 criteria of the Town and/or the MFA.

3 J. "Application" shall mean an application to participate in one or more Affordable  
 4 Housing Programs or Affordable Housing Plans under the Act submitted by an Applicant to the  
 5 Town and/or the MFA.

6 K. "Builder" shall mean an individual or entity licensed as a general contractor to  
 7 construct Residential Housing in the state and which has been approved by the Town and/or the  
 8 MFA to participate in an Affordable Housing Program. L. "Building" shall mean a structure  
 9 capable of being renovated or converted into Affordable Housing or a structure that is to be  
 10 demolished and is located on land donated for use in connection with an Affordable Housing  
 11 Project.

12 L. "Contribution" shall mean any provision of assistance for affordable housing,  
 13 including an Affordable Housing Grant or Affordable Housing Funds, made by the Town.

14 M. "Congregate Housing Facility" shall mean Residential Housing designed for  
 15 occupancy by more than four Households of Low or Moderate Income living independently of  
 16 each other. The facility may contain group dining, recreational, health care or other communal  
 17 living facilities and each unit in a Congregate Housing Facility shall contain at least its own  
 18 living, sleeping, and bathing facilities.

19 N. "Federal Government" shall mean the United States of America and any agency  
 20 or instrumentality, corporate or otherwise, of the United States of America.

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21 O. "Household" shall mean one or more persons occupying a housing unit.

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22 P. "Housing Assistance Grant" means the donation, provision, or payment by the  
 23 Town of:

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## CONTINUATION PAGE 7

(1) land upon which affordable housing will be constructed;

(2) an existing Building that will be renovated, converted, or demolished and reconstructed as Affordable Housing;

(3) the costs of acquisition, design, pre-development; development,

construction, financing, and operating or owning affordable housing; or

(4) The costs of financing or infrastructure necessary to support Affordable Housing.

(5) reduction or waiver of building permit fees, sewer and water hook-up fees and other fees with respect to an Affordable Housing Project.

Q "HUD" shall mean the United States Department of Housing and Urban Development.

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R "Household Qualifying Grantee" or "Household Applicant" shall mean all members of a single household.

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S "Infrastructure" shall mean Infrastructure Improvements and Infrastructure Purposes.

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T "Infrastructure Improvement" includes, but is not limited to:

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(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 travel, ingress, egress and parking;

## CONTINUATION PAGE 8

(5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, 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.

U "Infrastructure Purpose" shall mean:

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(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;

## CONTINUATION PAGE 9

(3) acquiring interests in real property or water rights for Infrastructure, including interests of the owner; and

(4) incurring expenses incidental to and reasonably necessary to carry out the purposes specified in this subsection.

V "MFA" shall mean the New Mexico Mortgage Finance Authority.

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W "MFA Act" shall mean the Mortgage Finance Authority Act, enacted as

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Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being Sections 58-18-1 through 58-18-27, inclusive, N.M.S.A. (1978), as amended).

X "Mortgage" shall mean a mortgage, mortgage deed, deed of trust or other

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instrument creating a lien, subject only to title exceptions as may be acceptable to the Town and/or the MFA, on a fee interest in real property located within the state or on a leasehold interest that has a remaining term at the time of computation that exceeds or is renewable at the option of the lessee until after the maturity day of the Mortgage Loan.

Y "Mortgage Lender" shall mean any bank or trust company, mortgage company,

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mortgage banker, national banking association, savings bank, savings and loan association, credit union, building and loan association and any other lending institution; and which is authorized to make mortgage loans in the state. AA. "Mortgage Loan" shall mean a financial obligation secured by a Mortgage, including a Mortgage Loan for a Project.

Z "Multiple Family Housing Project" shall mean Residential Housing that is

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designed for occupancy by more than four households living independently of each other or living in a Congregate Housing Facility, at least sixty percent (60%) of whom are Persons of Low or Moderate Income, including without limitation Persons of Low or Moderate Income who are elderly and handicapped.

## CONTINUATION PAGE 10

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1 AA. "Multi-Family Housing Program" shall mean a program involving a Congregate  
 2 Housing Facility, a Multiple Family Housing Project or a Transitional Housing Facility.

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3 BB. "Ordinance" shall mean this Ordinance

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4 CC. "Persons of Low Income" shall mean individuals or households whose incomes  
 5 are at or below 80% of Area Median Income, defined by the Income Limits for Taos County,  
 6 NM, as approved and published each year by MFA.

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7 DD. "Persons of Moderate Income" shall mean individuals or households whose  
 8 incomes are at or below 120% of Area Median Income, defined by the Income Limits set by  
 9 MFA.

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10 EE. "Public Service Agencies" shall include, but are not limited to, any entities that  
 11 support Affordable Housing and which believe that the program or project proposed by the  
 12 Applicant is worthy and advisable, but which are not involved, either directly or indirectly, in the  
 13 Affordable Housing Program or Project for which the Applicant is  
 14 Applying.

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15 FF. "Qualifying Developer" shall mean an individual or entity that satisfies the  
 16 requirements of Qualifying Grantee and has been approved by the Town and/or the MFA to  
 17 participate in an Affordable Housing Program, who need not be licensed as a general contractor  
 18 in the State, provided such individual or entity contracts with a general contractor licensed in the  
 19 state to construct Residential Housing.

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20 GG. "Qualifying Grantee" means:  
 21 (1) a household consisting of persons of low income or moderate income as  
 22 defined in Section 3 BB and 3CC that is qualified to receive assistance pursuant to the Act and is  
 23 approved by the Town; and

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## CONTINUATION PAGE 11

(2) a governmental housing agency, regional housing authority, tribal housing agency, corporation, a limited liability company, partnership, joint venture, syndicate, association or a nonprofit organization that:

(a) is organized under state, tribal, or local laws and can provide proof of such organization;

(b) if a non-profit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

(c) is approved by the Town.

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HH "Recertification" shall mean the recertification of Applicants and/or Qualifying Grantees participating in any Affordable Housing Programs or in any programs under the Act as determined necessary from time to time by the Town and/or the MFA.

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II "Rehabilitation" shall mean the substantial renovation or reconstruction of an existing single-family residence or a Multi-Family Housing Project, which complies with requirements established by the MFA. Rehabilitation shall not include routine or ordinary repairs, improvements or maintenance, such as interior decorating, remodeling or exterior painting, except in conjunction with other substantial renovation or reconstruction.

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JJ "Residential Housing" shall mean any Building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more Households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential Housing" includes congregate housing, manufactured homes and housing intended to provide or providing transitional or temporary housing for homeless persons.

## CONTINUATION PAGE 12

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KK "Residential Use" shall mean that the structure or the portion of the structure to benefit from the Affordable Housing Funds or Housing Assistance Grant, is designed primarily for use as the principal residence of the occupant or occupants and shall exclude vacation or recreational homes.

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LL "State" shall mean the State of New Mexico.

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MM "Town" shall mean the Town of Taos, New Mexico, a New Mexico municipal corporation.

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NN "Transitional Housing Facility" shall mean residential housing that is designed for temporary or transitional occupancy by Persons of Low or Moderate Income or special needs.

#### SECTION 4. GENERAL REQUIREMENTS. The following requirements

shall apply to all Housing Assistance Grants and/or Affordable Housing Funds awarded, loaned or otherwise distributed by the Town under the Act to a Qualifying Grantee. Any Contribution, to be authorized, must be consistent with the Town's affordable housing plan.

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A. Request for Proposals (RFP). The Town, in its discretion or as required by law, may issue one or more RFPs to solicit applications from Applicants or shall otherwise identify a Qualifying Grantee for the use of any Affordable Housing Funds or Housing Assistance Grants to be awarded, loaned, donated or otherwise distributed under the Act.

B. Applicant Eligibility. The following Applicants are eligible under the Act to apply for Affordable Housing Funds or a Housing Assistance Grant to provide housing or related services to Persons of Low or Moderate Income in their community:

(1) households that are qualified to receive assistance pursuant to the Act, the Rules, and this Ordinance that are approved by the Town;

(2) regional housing authorities and any governmental housing agencies;

## CONTINUATION PAGE 13

- 1                   (3)    for-profit organizations, including corporations, limited liability  
2 companies, partnerships, joint ventures, syndicates or associations;
- 3                   (4)    non-profit organizations meeting the following requirements:
- 4                       (a)    a primary mission of the nonprofit organization must be to provide  
5 housing or housing-related services to Persons of Low or Moderate Income; and
- 6                       (b)    the non-profit organization must have received its 501(c)(3)  
7 designation prior to submitting an Application;
- 8                       (c)    have no part of its net earnings inuring to the benefit of any  
9 member, founder, contributor, or individual;
- 10                  (5)    all non-Household Applicants must
- 11                       (a)    be organized under state laws and can provide proof of such  
12 organization and be approved by the Town;
- 13                       (b)    have a functioning accounting system that is operated in  
14 accordance with generally accepted accounting principles or has designated an entity that will  
15 maintain such an accounting system consistent with generally accepted accounting principles;
- 16                       (c)    have among its purposes significant activities related to providing  
17 housing or services to Persons or Households of Low or Moderate Income; and
- 18                       (d)    have no significant outstanding or unresolved monitoring findings  
19 from the Town, the MFA, or its most recent independent financial audit, or if it has any such  
20 findings, it has a certified letter from the Town, the MFA, or auditor stating that the findings are  
21 in the process of being resolved.



## CONTINUATION PAGE 14

C. Renters of Multifamily Affordable Housing units and residents of transitional housing, who did not receive grants of Town Affordable Housing Funds, shall not be required to be Qualifying Grantees.

D. Applications.

Applicants wishing to apply for a Housing Assistance Grant, including the use of any Affordable Housing Funds, or to participate in any Affordable Housing Program are required to submit to the Town or its designated agent the following, as applicable:

(1) Household Applicants

(a) an application on the form provided by the Town or its designated agent, together with all applicable schedules and such other information as may be required by the Town under the Ordinance. The income of all household members who are 18 years or older shall be used to determine household income for Homebuyers regardless of whether this income is being used to qualify for financing to purchase the home. Income and asset determination and inclusion will follow HUD or other applicable federal or state guidelines.

(b) a verification signed by the Applicant before a notary public that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge, and belief.

(c) The Town may establish additional requirements for Household Applicants in ordinances that create specific Affordable Housing projects or programs.

(2) Non-Household Applicants

(a) one original Application, together with all required schedules, documents, or such other information which may be required by the Town or in any RFP which may have been issued by the Town, must be included in the completed Application;

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## CONTINUATION PAGE 15

(b) a proposal describing the nature and scope of the Affordable Housing Project proposed by the Applicant and for which the Applicant is applying for funds or a grant under the Act, and which describes the type and amount of assistance which the Applicant proposes to provide to Persons of Low or Moderate Income;

(c) executive summary and project narrative(s) that address the evaluation criteria set forth in any RFP issued by the Town for the Affordable Housing Funds or the Housing Assistance Grant for which the Applicant is applying;

(d) a proposed budget for the Affordable Housing Project for which the Applicant is applying for Affordable Housing Funds or for a Housing Assistance Grant;

(e) current independent financial audit;

(f) if the Applicant is a non-profit organization:

(i) proof of 501(c)(3) tax status;

(ii) documentation that confirms that no part of its net earnings inures to the benefit of any member, founder, contributor or individual;

(g) if an Applicant is a legal entity, including a non-profit organization:

(i) a current annual budget for the Applicant, including all sources and uses of funds not just those related to relevant programs and/or a current annual budget only for the program for which the Applicant is applying for a Housing Assistance Grant, or as otherwise may be required by the Town and/or the MFA in its discretion;

(ii) an approved mission statement that the Applicant has among its purposes significant activities related to providing housing or housing-related services to Persons or Households of Low or Moderate Income;

## CONTINUATION PAGE 16

- 1 (iii) a list of members of the Applicant's current board of  
2 directors or other governing body, including designated homeless participation, where required  
3 by the Town;
- 4 (iv) evidence (or a certification as may be allowed by the  
5 Town) that the Applicant has a functioning accounting system that is operated in accordance  
6 with generally accepted accounting principals, or has a designated entity that will maintain such  
7 an accounting system consistent with generally accepted accounting principals;
- 8 (v) evidence that the Applicant has no significant  
9 outstanding or unresolved monitoring findings from the Town, the MFA, or its most recent  
10 independent financial audit; or if it has any significant outstanding or unresolved monitoring  
11 findings from the Town, the MFA, or its most recent independent financial audit, it has a  
12 certified letter from the Town, the MFA, or the auditor stating that the findings are in the process  
13 of being resolved;
- 14 (vi) an organizational chart, including job titles and  
15 qualifications for the Applicant's employees who are, or will be, working on the proposed  
16 project. Job descriptions may be submitted as appropriate;
- 17 (vii) documentation that the Applicant is duly organized  
18 under state, tribal, or local law and certification that the Applicant is in good standing with any  
19 state authorities, including the Public Regulation Commission, the Attorney General, and/or the  
20 Secretary of State;
- 21 (h) information as may be required by the Town in order for it to  
22 determine the financial and management stability of the Applicant;

## CONTINUATION PAGE 17

1 (i) information as may be required by the Town in order for it to  
2 determine the demonstrated commitment of the Applicant to the community;

3 (j) adequate information describing the Affordable Housing project  
4 proposed by the Applicant. The information provided must clearly evidence the need for the  
5 subsidy, that the value of the housing assistance grant reduces the housing costs to persons of  
6 low or moderate income, and that there is or will be a direct benefit from the project proposed by  
7 the Applicant to the community and/or to the purported beneficiaries of the project, consistent  
8 with the provisions of the Act.

9 (k) information to the Town supporting the benefits to the community  
10 of the Affordable Housing Project proposed by the Applicant;

11 (l) proof, as the Town may require, of substantive or matching funds  
12 or contributions and/or in-kind donations to the proposed Affordable Housing Project in  
13 connection with the Application for funds under the Act. Nothing contained herein shall prevent  
14 or preclude an Applicant from matching or using local, private, or federal funds in connection  
15 with a specific Housing Assistance Grant or a grant of Affordable Housing Funds under the Act;

16 (m) any certifications or other proof which it may require in order for  
17 the Town to confirm that the Applicant is in compliance with all applicable federal, state and  
18 local laws, rules and ordinances;

19 (n) a verification signed by the Applicant before a notary public that  
20 the information provided, upon penalty of perjury, is true and correct to the best of the  
21 Applicant's information, knowledge, and belief;

22 (o) certifications as may be required by the Town and signed by chief  
23 executive officer, board president, or other authorized official of the Applicant;

## CONTINUATION PAGE 18

(p) the Town may set forth criteria for a waiver of the above application requirements in an ordinance defining and authorizing specific Affordable Housing projects, to the extent permitted by the Affordable Housing Act, the MFA Rules, and any other applicable law.

(3) Additional Requirements for Multi-Family Housing Projects. Applicants who are submitting Applications in connection with a Multi-Family Housing Program, the Applicant must also submit to the Town following additional information:

(a) a verification signed by the Applicant before a notary public that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge, and belief and that, among other things:

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(i) identifies every Multi-Family Housing Program, including every assisted or insured project of HUD, RHS, FHA and any other state or local government housing finance agency in which such Applicant has been or is a principal;

(ii) except as shown on such statement, states that:

(A) no mortgage on a project listed on such statement has ever been in default, assigned to the Federal Government or foreclosed, nor has any mortgage relief by the mortgagee been given;

(B) there has not been a suspension or termination of payments under any HUD assistance contract in which the Applicant has had a legal or beneficial interest;

(C) such Applicant has not been suspended, debarred or otherwise restricted by any department or agency of the Federal Government or any state

**CONTINUATION PAGE 19**

1 government from doing business with such department or agency because of misconduct or  
2 alleged misconduct; and

3 (D) the Applicant has not defaulted on an obligation  
4 covered by a surety or performance bond.

5 If such Applicant cannot certify to each of the above, such Applicant shall submit a  
6 signed statement to explain the facts and circumstances that such Applicant believes will explain  
7 the lack of certification. The Town may then determine if such Applicant is or is not qualified.

8 (b) the experience of the Applicant in developing, financing and  
9 managing Multiple-Family Housing Projects; and

10 (c) whether the Applicant has been found by the United States Equal  
11 Employment Opportunity Commission or the New Mexico Human Rights Commission to be in  
12 noncompliance with any applicable civil rights laws.

13 (4) Submission Procedure.

14 (a) Time, Place and Method of Submission Delivery.

15 (i) If the Town has issued an RFP, all Applications must be  
16 received by the Town no later than the deadline set forth in the RFP; otherwise, all Applications  
17 must be received by the Town by the deadline the Town has established in connection with the  
18 respective award or grant.

19 (ii) Applications shall be submitted by Applicants to the Town  
20 in the form required by the Town and shall contain all information which is required by this  
21 Ordinance, any specific project ordinance, and any RFP which may have been issued.

22 (b) Additional Factors. The Application procedures shall take into  
23 consideration:

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- 1 (i) timely completion and submission to the Town of an  
2 Application or other appropriate response to any solicitation by the Town;
- 3 (ii) timely submission of all other information and  
4 documentation related to the program required by the Town as set forth in this Ordinance or as  
5 set forth in the Rules;
- 6 (iii) timely payment of any fees required to be paid to the Town  
7 at the time of submission of the Application; and
- 8 (iv) compliance with program eligibility requirements as set  
9 forth in the Act, the Rules and this Ordinance.
- 10 (c) Submission Format.
- 11 (i) Town forms must be used when provided and no  
12 substitutions will be accepted; however attachments may be provided as necessary.
- 13 (ii) An Applicant's failure to provide or complete any element  
14 of an Application, including all requirements of the Town or as may be listed on any RFP, may  
15 result in the rejection of the Application prior to review.
- 16 (iii) Illegible information, information inconsistent with other  
17 information provided in the application, and/or incomplete forms will be treated as missing  
18 information and evaluated accordingly.
- 19 (iv) The Town and the MFA reserve the right to request further  
20 information from any Applicant so long as the request is done fairly and does not provide any  
21 Applicant an undue advantage over another Applicant.
- 22 (v) The Town in its discretion may cancel any RFP or reject  
23 any or all proposals in whole or part submitted by any Applicant.

## CONTINUATION PAGE 21

(vi) Neither the Town nor the MFA shall be responsible for any expenses incurred by an Applicant in preparing and submitting an Application. However, the Town or the MFA, as applicable, may establish and collect fees from Applicants who file Applications. Notice that fees will be charged and the amount of any such fees shall be included by the Town or the MFA, as applicable, in any RFP or otherwise shall be advertised as part of the Application solicitation process.

(5) Review by the Town. On receipt of an Application, the Town shall:

(a) determine whether the Application submitted by the Applicant is complete and responsive;

(b) determine whether the Applicant is a Qualifying Grantee as defined herein and in the Act;

(c) Non-Household Applicants:

(i) review and analyze whether the Applicant has shown a demonstrated need for activities to promote and provide affordable housing and related services to Persons of Low or Moderate Income;

(ii) determine whether the Applicant has demonstrated experience related to providing housing or services to Persons of Low or Moderate Income, as well as experience and/or the capacity to administer the Affordable Housing Program or Project for which the Applicant has applied;

(iii) determine whether the Applicant's proposal provides a plan for coordinating with other service providers in the community; whether the Applicant's plan addresses how Persons of Low Income or Moderate Income in need of housing and/or housing related supportive services can receive supportive services and referrals to



## CONTINUATION PAGE 22

1 federal, state and local resources; and, whether the Applicant's plan addresses outreach efforts to  
2 reach the population to be served as identified by the Town in any RFP or otherwise;

3 (iv) determine whether the Applicant has support from Public  
4 Service Agencies, or such other support as may be required by the Town and/or the MFA in its  
5 discretion, for its proposed services in the community;

6 (v) ascertain the amount of any matching funds or in-kind  
7 services specific to the program that may be utilized by the Applicant in connection with the  
8 program;

9 (vi) ascertain whether any local, private, or federal funds will  
10 be used by the Applicant in connection with the specific grant for which the Applicant is  
11 applying;

12 (vii) ascertain whether the Applicant has and can demonstrate  
13 the capability to manage the implementation of the Program for which the Applicant is applying;

14 (viii) if Applicant is a prior recipient of either a Housing  
15 Assistance Grant, Affordable Housing Funds and/or other Program funds, confirm that the  
16 Applicant had no outstanding findings or matters of non-compliance with program requirements  
17 from the Town or the MFA, as applicable or if it has any such findings, it has a certified letter  
18 from the Town, the MFA, or auditor stating that the findings are in the process of being resolved;

19 (ix) if Applicant is a prior recipient of either a Housing  
20 Assistance Grant, Affordable Housing Funds and/or other Program funds, confirm that the  
21 Applicant reasonably committed and expended the funds under the prior Program and/or met  
22 anticipated production levels as set forth in any contract with the Town or the MFA, as  
23 applicable, for those prior Program funds;

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1 (x) evaluate the Applicant's proposal in part based upon the  
2 Applicant's current financial audit;

3 (xi) evaluate the Applicant's proposed budget for the Project for  
4 which the Applicant is applying for Affordable Housing Funds or a Housing Assistance Grant,  
5 which proposed budget must be approved by the Town before Applicant can be approved as a  
6 Qualifying Grantee and any expenditure of grant funds under the Act or granted property is  
7 transferred to the Applicant;

8 (xii) on receipt of an Application from a Non-Household  
9 Applicant, the Town will analyze the Builder's ability to construct and sell sufficient Residential  
10 Housing units to Persons of Low or Moderate Income within the time or times as may be  
11 required by the Town.

12 (6) Certification by the Town to the MFA. The Town shall certify an  
13 Application to the MFA in writing upon:

- 14 (a) completion of its review of the Application;  
15 (b) determination that the Application is complete;  
16 (c) determination that the requirements of the Act, the Rules and this  
17 Ordinance have been satisfied; and  
18 (d) determination that the Applicant is a Qualifying Grantee.

19 (7) Review by the MFA. The MFA upon its receipt of the certification from  
20 the Town may, in its discretion, review the Application and any of the materials submitted by the  
21 Applicant to the Town. The MFA may also request any additional information from the  
22 Applicant, which it may require in order to determine whether the Applicant is a Qualifying  
23 Grantee under the Act and the Application is complete. The MFA will then notify the Town of

## CONTINUATION PAGE 24

its determination of whether or not the Application is complete and that the requirements of the Act and the Rules have been satisfied and the Applicant is a Qualifying Grantee. Unless the period is extended for good cause shown, the MFA shall act on an Application within forty-five (45) days of its receipt of any Application, which the MFA deems to be complete, and, if not acted upon, the Application shall be deemed to be approved.

(8) Notification of Acceptance. The Town, upon completion of its review of the Application, shall notify each Applicant in writing of the approval or disapproval of its Application. Upon approval of its Application, the Applicant shall be considered approved to participate in the Affordable Housing Program. The Town's determination of any Application shall be conclusive.

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E. Additional Requirements. Upon acceptance, the following additional requirements shall apply to any Applicant who is a Qualifying Grantee:

(1) Contractual Requirements. The Qualifying Grantee shall enter into one or more contracts with the Town, which contract(s) shall be consistent with the Act and subject to the review of the MFA, in its discretion, and which contract(s) shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee.

(2) Security Provisions; Collateral Requirements. In accordance with the Act, the Rules and this Ordinance, the Town shall require the Qualifying Grantee to 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 attorneys' fees and costs which the Town and/or the MFA may incur in enforcing the provisions of this Ordinance, the Rules, the Act and/or any agreement entered into by the Town and the Qualifying

## CONTINUATION PAGE 25

1 Grantee, and which documents may include, but are not limited to the following: note, Mortgage,  
 2 loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other  
 3 agreement which the Town may require in order to allow for any funds which the Qualifying  
 4 Grantee may receive under a Housing Assistance Grant or Affordable Housing Funds to be  
 5 adequately secured and to allow the Town and the MFA to ensure that such funds shall be  
 6 utilized by the Qualifying Grantee in accordance with the Act, the Rules and this Ordinance.

7 (3) Qualifying grantees shall provide the Town with any and all information  
 8 which the Town reasonably may require in order for it to confirm that the qualifying grantees  
 9 continue to satisfy the requirements of the act, the rules and this chapter throughout the term of  
 10 any contract and/or any affordability period or otherwise as may be required by the Town or the  
 11 MFA in its discretion. At a minimum, on an annual basis, the Town shall certify to the MFA in  
 12 writing that to the best of its knowledge the qualifying grantee is in compliance with applicable  
 13 provisions of the act, the rules and this chapter.

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14  
 15 (4) Performance Schedule and Criteria. The Non-Household Qualifying  
 16 Grantee shall be required to abide by a reasonable performance schedule and performance  
 17 criteria that the Town, in its discretion, may establish.

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18 (5) Examination of Books and Records. Each Non-Household Qualifying  
 19 Grantee shall submit to and the Town shall cause to be made such examinations of the books and  
 20 records of each Qualifying Grantee as the Town and/or the MFA deems necessary or appropriate  
 21 to determine the Qualifying Grantee's compliance with the terms of the Act, the Rules, this  
 22 Ordinance and any contracts between the Qualifying Grantee and the Town. The Town and/or  
 23 the MFA may require each Qualifying Grantee to pay the costs of any such examination.

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(6) Cost Reimbursement Contracts with Non-Household Qualifying Grantees.

(a) Cost Reimbursements. Payment to a Qualifying Grantee under cost reimbursable contract provisions shall be made upon the Town's receipt from the Qualifying Grantee and approval of certified and documented invoices for actual expenditures allowable under the terms of any agreement between the Qualifying Grantee and the Town.

(b) Cost Reimbursements For Units of Service. Payment under any unit cost contract provisions shall be made upon the Town's receipt from the Qualifying Grantee and approval of a certified and documented invoice showing the number of units of service provided during the billing period.

(c) Every contract shall contain a provision that the Town's obligations under the contract are subject to appropriations and availability of funds.

(d) Invoices. Qualifying Grantees shall not submit invoices more than once a month, unless written approval is obtained in advance from the Town.

(e) No Dual Application of Costs. The Qualifying Grantee shall certify that any direct or indirect costs claimed by the Qualifying Grantee will not be allocable to or included as a cost of any other program, project, contract, or activity operated by the Qualifying Grantee and which has not been approved by the Town in advance, in writing.

(f) Prohibition of Substitution of Funds. Any Affordable Housing Funds or other amounts received by Qualifying Grantee may not be used by Qualifying Grantee to replace other amounts made available or designated by the state or local governments through appropriations for use for the purposes of the Act.

## CONTINUATION PAGE 27

(g) Cost Allocation. The Qualifying Grantee shall clearly identify and distribute all costs incurred pertaining to the Affordable Housing Project by a methodology and cost allocation plan at times and in a manner prescribed by, or acceptable to the Town.

F. Affordable Housing Requirements. All Affordable Housing Funds or Housing Assistance Grants awarded under the Act are to be used by Qualifying Grantees for the benefit of Persons of Low or Moderate Income subject to the provisions of the Act and with particular regard to their housing related needs.

(1) 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, 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 which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, which ever is longer.

(2) Multi-Family Property. Any Qualifying Grantees providing Multi-Family Affordable Housing units shall enter into a contractual agreement with the Town of Taos that the housing units in an Affordable Housing Project be occupied by low- or moderate-income households.

(a) Single Apartment within a Multi-Family Property. Qualifying Grantees shall agree that, if any single apartments are to be rehabilitated, weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable Housing Funds, those apartments shall be leased to Persons of Low or Moderate Income at the time of any such award.

**Deleted:** (6) . Additional Information. Non-Household Qualifying Grantees shall provide the Town with any and all information which the Town reasonably may require in order for it to confirm that the Non-Household Qualifying Grantees continue to satisfy the requirements of the Act, the Rules and this Ordinance throughout the term of any contract. At a minimum, on an annual basis, the Town shall certify to the MFA in writing that to the best of its knowledge the Non-Household Qualifying Grantee is in compliance with applicable provisions of the Act, the Rules and this Ordinance.¶

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1 Qualifying Grantees, who are the landlords and/or owners of such properties, shall further agree  
2 to contribute at least sixty percent (60%) of the cost of the rehabilitation, weatherization,  
3 conversion, lease, repair, and/or construction. Qualifying Grantees also shall agree that the  
4 Persons of Low or Moderate Income, who are tenants of those apartments, shall be allowed to  
5 remain tenants for any Affordability Period and for so long as there are no uncured defaults by  
6 those tenants under their respective leases and provided that there is no just cause for the  
7 landlord to terminate any lease agreement with those tenants.

8 (b) Multiple Apartments. Qualifying Grantees shall agree that, if  
9 multiple apartments or an entire multi-family property are to be acquired, rehabilitated,  
10 weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable  
11 Housing Funds, including but not limited to any loans which have been repaid with Affordable  
12 Housing Funds and which loans previously were secured by such properties, they shall maintain  
13 not less than sixty percent (60%) of the housing units as Affordable Housing for so long as any  
14 or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed  
15 to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, which ever is  
16 longer.

17 (3) Non-Residential Property. Qualifying Grantees shall agree that they shall  
18 maintain any non-residential property which has been acquired, rehabilitated, weatherized,  
19 converted, leased, repaired, constructed, or which property has otherwise benefited from  
20 Affordable Housing Funds, including but not limited to any loans which have been repaid with  
21 Affordable Housing Funds and which loans previously were secured by such properties, as a  
22 facility which provides housing related-services to Persons of Low or Moderate Income for so  
23 long as any or all of the Affordable Housing Funds which have been awarded, loaned, or

**CONTINUATION PAGE 29**

1 otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability  
2 Period, which ever is longer.

3 (4) Housing Assistance Grant Affordability Requirements. Qualifying  
4 Grantees shall agree that they shall maintain any land or buildings received as a Housing  
5 Assistance Grant either as either single-family or multi-family Affordable Housing in accordance  
6 with Sections 4(E)(1) and (2) or as a facility which provides housing related-services to Persons  
7 of Low or Moderate Income in accordance with Section 4(E)(3) (as applicable) for the duration  
8 of the Affordability Period. Qualifying Grantees shall agree that they shall maintain any land or  
9 buildings for which they have received the costs of Infrastructure as a Housing Assistance Grant  
10 either as either single-family or multi-family Affordable Housing or as a facility which provides  
11 housing related-services to Persons of Low or Moderate Income (as applicable) for the duration  
12 of the Affordability Period. In calculating the Affordability Period for Housing Assistance  
13 Grants of either land or buildings, the fair market value of the land or buildings or the costs of  
14 Infrastructure at the time of the donation by the State or Town shall apply.

15 (5) Affordability Period. The Town, in its discretion, may increase the  
16 Affordability Period to be included in any contract, note, Mortgage, loan agreement, land use  
17 restriction agreement, restrictive covenant agreements and/or any other agreement which the  
18 Town may enter into with any Qualifying Grantee or beneficiary of the Affordable Housing  
19 Funds or of the Housing Assistance Grant. See definition of Affordability Period in Section 3(H)  
20 of this Ordinance. Notwithstanding the foregoing, in the discretion of the Town, weatherization  
21 funds and/or rehabilitation funds conveyed to a Qualifying Household Grantee where an  
22 Affordability Period is not practical, shall not be subject to the Affordability Period requirements



## CONTINUATION PAGE 30

1 of this Section 4(F); but nevertheless, any such conveyances may be subject to recapture on some  
2 pro-rated basis as determined by the Town and/or the MFA.

3 G. Consent to Jurisdiction. Each Qualifying Grantee shall consent to the jurisdiction  
4 of the courts of the State over any proceeding to enforce compliance with the terms of the Act,  
5 the Rules and this ordinance and any agreement between the Qualifying Grantee and the Town  
6 and/or the MFA.

7 H. Recertification Procedures. The Town may establish procedures for recertifying  
8 Qualifying Grantees from time to time.

9 I. Compliance with the Law. Qualifying Grantee shall provide the Town with any  
10 certifications or other proof that it may require in order for the Town and the MFA to confirm  
11 that the Qualifying Grantee and the Qualifying Grantee's proposed Project are in compliance  
12 with all applicable federal, state and local laws, rules and ordinances.

13 J. Town Grant Requirements.

14 (1) The Town is authorized to make Housing Assistance Grants under the Act.  
15 Upon determination that the Town will make a Housing Assistance Grant, including the use of  
16 any Affordable Housing Funds, the Town shall provide the MFA with the following:

17 (a) documentation that confirms that the Town has an existing valid  
18 Affordable Housing Plan;

19 (b) a copy of the proposed project ordinance which provides for the  
20 authorization of Housing Assistance Grants, including the use of any Affordable Housing Funds,  
21 together with a written certification that proposed grantees will be in compliance with Act and  
22 the Rules so that the MFA may confirm both that the project ordinance is in compliance with the  
23 Act, and that all grantees are required to be Qualifying Grantees under the Act and the Rules.

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(2) Prior to the submission of a project ordinance to the Council, the Council must approve the budget for the project.

(3) An ordinance authorizing the Town to make a Housing Assistance Grant and/or distribute Affordable Housing Funds to a specific project:

(a) must authorize the grant, including use of Affordable Housing Funds, if any;

(b) must state the requirements and purpose of the grant; and

(c) must authorize the transfer or disbursement to any Qualifying Grantee only after a budget is submitted to and approved by the Council;

(d) must comply with the Rules, as amended.

(e) may provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through the MFA.

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(4) The Town, in its discretion, may also hold any award of Affordable Housing Funds or any Housing Assistance Grant made by the Town in suspense pending the issuance by the Town of any RFP or pending the award of the Affordable Housing Funds or of the Housing Assistance Grant by the Town to the Qualifying Grantee without the issuance of an RFP by the Town. Any award of Affordable Housing Funds or a Housing Assistance Grant by the Town shall subject the Qualifying Grantee of the award or grant to the oversight of the Town and the MFA under this Ordinance and the Rules.

K. School District and Post-Secondary Educational Institution Grant Requirements.

Any transfer of land by a school district to the Town to be further granted as part or all of an Affordable Housing grant shall be subject to the additional limitations contained in the Act that

**CONTINUATION PAGE 32**

1 the school district and the Council enter into a contract that provides the school district with a  
2 negotiated number of affordable housing units that will be reserved for employees of the school  
3 district. Any transfer of land by a post-secondary educational institution shall be subject to the  
4 additional limitations contained in the Act that (i) the property transferred shall be granted by the  
5 Town as part of all of an Affordable Housing grant; and (ii) the governing board of the post-  
6 secondary educational institution and the Council enter into a contract that provides the post-  
7 secondary educational institution with Affordable Housing units. As used in this section, "post-  
8 secondary educational institution" means a state university or a public community college. The  
9 Town, in its discretion, may also hold any Housing Assistance Grant made by any school district  
10 or post-secondary educational institution in suspense pending the issuance by the Town of any  
11 RFP or pending the award of the Housing Assistance Grant by the Town to the Qualifying  
12 Grantee without the issuance of an RFP by the Town. Any award of a Housing Assistance Grant  
13 by a school district or a post-secondary educational institution shall subject the Qualifying  
14 Grantee of the grant to the oversight of the Town and the MFA under these Rules.

15 **SECTION 5. DISCRIMINATION PROHIBITED.** The development, construction,  
16 occupancy and operation of an Affordable Housing Program or an Affordable Housing Project  
17 financed or assisted under the Act shall be undertaken in a manner consistent with principles of  
18 non-discrimination and equal opportunity, and the Town shall require compliance by all  
19 Qualifying Grantees with all applicable federal and state laws and regulations relating to  
20 affirmative action, non-discrimination and equal opportunity.

21 **SECTION 6. ADMINISTRATION.** The Town and the MFA shall administer any  
22 Affordable Housing programs in accordance with provisions of the Act, the Rules, this  
23 Ordinance, any applicable state and federal laws and regulations as each of which may be

## CONTINUATION PAGE 33

1 amended or supplemented from time to time. The Town and the MFA, in establishing, funding  
 2 and administering the Affordable Housing Programs and by making, executing, delivering and  
 3 performing any award, contract, grant or any other activity or transaction contemplated by the  
 4 Act, shall not violate any provision of law, rule or regulation or any decree, writ, order,  
 5 injunction, judgment, determination or award and will not contravene the provisions of or  
 6 otherwise cause a default under any of its agreements, indentures, or other instruments to which  
 7 it may be bound.

8 **SECTION 7. AMENDMENT OR TERMINATION.** The Council may amend or  
 9 repeal this Ordinance and alter or terminate the Town's Affordable Housing Program. Any  
 10 amendment to this Ordinance shall be submitted to MFA for review and approval prior to  
 11 adoption. Amendment or termination shall be by ordinance following a public hearing.

Deleted: or amend

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12 **SECTION 8. REPEALER.** All bylaws, orders, resolutions and ordinances, or parts  
 13 thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the extent of  
 14 that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or  
 15 ordinance, or part thereof, previously repealed.

16 **SECTION 9. SEVERABILITY.** If any section, paragraph, clause or provision of this  
 17 Ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or  
 18 unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision  
 19 shall not affect any of the remaining provisions of this Ordinance.

20 **SECTION 10. RECORDING; AUTHENTICATION; PUBLICATION;**  
 21 **EFFECTIVE DATE**

22 This ordinance shall become effective as provided by law.

**Deleted:** . This Ordinance, immediately upon its final passage and approval, shall be recorded in the ordinance book of the Town, kept for that purpose, and shall be there authenticated by the signature of the Mayor or Mayor Pro Tem and attested to by the Town Clerk. This Ordinance shall be in full force and effect five (5) days after publication in accordance with Section 3-17-5 NMSA, 1978.

## CONTINUATION PAGE 34

ORDAINED, ADOPTED, APPROVED, AND RATIFIED this 24th day of August, 2010 by  
the following vote:

Mayor Pro Tem Rudy C. Abeyta

Councilmember Amy J. Quintana

Councilmember A. Eugene Sanchez

Councilmember Michael A. Silva

TOWN OF TAOS

Darren M. Cordova, Mayor

ATTEST: APPROVED AS TO FORM

Renee Lucero, Town Clerk Allen Ferguson, Jr., Town Attorney

CONTINUATION PAGE 35

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Passed, Approved, Signed and adopted this \_\_\_\_ day of \_\_\_\_\_ 2011

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
TOWN CLERK  
[SEAL]

# **Ordinance 11-3**

## **CLEAN Version**

## CONTINUATION PAGE 1

## TOWN OF TAOS, NEW MEXICO

## ORDINANCE NO. \_\_\_\_

**AN ORDINANCE AMENDING ORDINANCE NO. 05-03 OF THE TOWN OF TAOS AND ESTABLISHING AN AFFORDABLE HOUSING PROGRAM PURSUANT TO THE AFFORDABLE HOUSING ACT; DEFINING TERMS; ESTABLISHING APPLICATION REQUIREMENTS AND REVIEW CRITERIA; AND ESTABLISHING PROCEDURES TO ADMINISTER AN AFFORDABLE HOUSING PROGRAM.**

WHEREAS, the Town of Taos (the "Town") is a municipal corporation duly organized and existing under the laws of the State of New Mexico (the "State"); and

WHEREAS, under an exception to the "anti-donation" clause as set forth in Article IX, § 14, Sections E and F, of the New Mexico Constitution, the Town is not prohibited if certain conditions and safeguards are met from (i) donating land it owns for the construction on it of affordable housing; (ii) donating an existing building owned by the Town for conversion or renovation into affordable housing; (iii) providing or paying the costs of infrastructure necessary to support affordable housing projects; or (iv) providing financing, including the making of loans to Qualifying Grantees for affordable housing; and

WHEREAS, the Affordable Housing Act, NMSA 1978 § 6-27-1 et seq. (the "Act") implements the provisions of Subsections E and F of Section 14 of Article 9 of the New Mexico Constitution; and

WHEREAS, the Town Council ("Council"), the governing body of the Town, desires to continue and augment an affordable housing program for the Town; and



**CONTINUATION PAGE 2**

1 WHEREAS, the New Mexico Mortgage Finance Authority ("MFA") has reviewed and  
2 approved the form and terms of Town of Taos Ordinance No. 05-03 prior to final adoption  
3 thereof, and has approved the amendments to that ordinance reflected in this Ordinance No. 10-  
4                     .

5 BE IT ORDAINED BY THE TOWN COUNCIL, THE GOVERNING BODY OF THE TOWN  
6 OF TAOS, NEW MEXICO:

7 **SECTION 1. SHORT TITLE.** This article may be cited as the "Affordable Housing  
8 Ordinance."

9 **SECTION 2. PURPOSE.** This ordinance is adopted to implement the Town's  
10 Affordable Housing Program. In accordance with N.M. Const. art. IX, § 14, the Affordable  
11 Housing Act, NMSA 1978, § 6-27-1 et seq. (the "Act"), and the MFA Affordable Housing Act  
12 Rules, the purpose of the Affordable Housing Ordinance is to:

13 A. establish procedures to ensure that local housing assistance grantees are  
14 Qualifying Grantees who meet the requirements of the Act and the MFA Rules promulgated  
15 pursuant to the Act both at the time of the award and throughout the term of any grant or loan  
16 under the Program;

17 B. permit the establishment of an application and award timetable for housing  
18 assistance grants or loans to permit the selection of Qualifying Grantees by the Town;

19 C. create an evaluation process for non-Household Qualifying Grantees to  
20 determine:

- 21 (1) the financial and management stability of the Applicant;  
22 (2) the demonstrated commitment of the Applicant to the community;  
23 (3) a cost-benefit analysis of the project proposed by the Applicant;

**CONTINUATION PAGE 3**

1                   (4)     the benefits to the community of a proposed project;  
2                   (5)     the type or amount of assistance to be provided;  
3                   (6)     the scope of the Affordable Housing Project;  
4                   (7)     any substantive or matching contribution by the Applicant to the proposed  
5 project;

6                   (8)     a performance schedule for the Qualifying Grantee with performance  
7 criteria; and

8                   (9)     any other rules or procedures which the Town believes is necessary for a  
9 full review and evaluation of the Applicant and the Application or which the MFA believes is  
10 necessary for a full review of the Town's evaluation of the Applicant;

11           D.     create an evaluation process for Household Qualifying Grantees to determine  
12 income and other eligibility;

13           E.     require long-term affordability of the Town's Affordable Housing Projects so that  
14 a project cannot be sold shortly after completion and taken out of the affordable housing market  
15 to ensure a quick profit for the Qualifying Grantee;

16           F.     require that the Town enter into a contract with the Qualifying Grantee consistent  
17 with the Act, which contract shall include remedies and default provisions in the event of the  
18 unsatisfactory performance by the Qualifying Grantee and which contract shall be subject to the  
19 review of the MFA in its discretion;

20           G.     require that a grant or loan for a Project must impose a contractual obligation on  
21 the Qualifying Grantee that the Affording Housing units in any Project be occupied by Persons  
22 of Low or Moderate Income;

23           H.     provide for adequate security against the loss of public funds or property in the

**CONTINUATION PAGE 4**

1 event that the Qualifying Grantee abandons or otherwise fails to complete the Project;

2 I. require review and approval of a housing grant project budget by the Town and/or  
3 the MFA before any expenditure of grant funds or transfer of granted property;

4 J. require that a condition of grant or loan approval be proof of compliance with all  
5 applicable state and local laws, rules and ordinances;

6 K. provide definitions for "low-income and moderate-income" and setting out  
7 requirements for verification of income levels; and

8 L. provide the Town with a valid Affordable Housing Program.

9 **SECTION 3. GENERAL DEFINITIONS.** The following words and terms shall have  
10 the following meanings.

11 A. "Act" shall mean the Affordable Housing Act, NMSA 1978, §6-27-1 et seq.

12 B. "Affordable" shall mean consistent with minimum rent and/or income limitations  
13 set forth in the MFA Act, and in guidelines established by MFA.

14 C. "Affordable Housing" means primary residential housing for Persons of Low or  
15 Moderate Income.

16 D. "Affordable Housing Funds" shall mean any or all funds awarded or to be  
17 awarded, loaned or otherwise distributed under this Ordinance or the Act

18 E. "Affordable Housing Plan" or "Plan" shall mean a plan pursuant to an Affordable  
19 Housing Program that contemplates one or more Affordable Housing Projects, which may be  
20 developed in one or more phases.

21 F. "Affordable Housing Program" or "Program" shall mean any programs the Town  
22 and/or the MFA establish pursuant to the Act.

23 G. "Affordable Housing Project" or "Project" shall mean any work or undertaking,

**CONTINUATION PAGE 5**

whether new construction, acquisition of existing Residential Housing, remodeling, improvement, Rehabilitation or conversion, which may be undertaken in one or more phases, as approved by the Town and/or the MFA for the primary purposes as allowed by the Act.

H. "Affordability Period" shall mean:

(1) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds that have been awarded, loaned, donated, or otherwise provided or conveyed to a Qualifying Grantee is from \$1 to \$14,999, then the Affordability Period shall be not less than five (5) years.

(2) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds provided or conveyed to a Qualifying Grantee is from \$15,000 up to and including \$40,000, then the Affordability Period shall be not less than ten (10) years.

(3) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds provided or conveyed to a Qualifying Grantee is from \$40,000 up to and including \$100,000, then the Affordability Period shall be not less than fifteen (15) years.

(4) if the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds provided or conveyed to a Qualifying Grantee is greater than \$100,000, then the Affordability Period shall be not less than twenty (20) years.

I. "Applicant" shall mean, subject to further qualifications in Section 4(B), an individual, a governmental housing agency, regional housing authority, a for-profit organization, including a corporation, limited liability company, partnership, joint venture, syndicate, or

**CONTINUATION PAGE 6**

1 association or a nonprofit organization that has submitted an Application meeting the appropriate  
2 criteria of the Town and/or the MFA.

3 J. "Application" shall mean an application to participate in one or more Affordable  
4 Housing Programs or Affordable Housing Plans under the Act submitted by an Applicant to the  
5 Town and/or the MFA.

6 K. "Builder" shall mean an individual or entity licensed as a general contractor to  
7 construct Residential Housing in the state and which has been approved by the Town and/or the  
8 MFA to participate in an Affordable Housing Program. L. "Building" shall mean a structure  
9 capable of being renovated or converted into Affordable Housing or a structure that is to be  
10 demolished and is located on land donated for use in connection with an Affordable Housing  
11 Project.

12 L. "Contribution" shall mean any provision of assistance for affordable housing,  
13 including an Affordable Housing Grant or Affordable Housing Funds, made by the Town.

14 M "Congregate Housing Facility" shall mean Residential Housing designed for  
15 occupancy by more than four Households of Low or Moderate Income living independently of  
16 each other. The facility may contain group dining, recreational, health care or other communal  
17 living facilities and each unit in a Congregate Housing Facility shall contain at least its own  
18 living, sleeping, and bathing facilities.

19 N. "Federal Government" shall mean the United States of America and any agency  
20 or instrumentality, corporate or otherwise, of the United States of America.

21 O. "Household" shall mean one or more persons occupying a housing unit.

22 P. "Housing Assistance Grant" means the donation, provision, or payment by the  
23 Town of:

**CONTINUATION PAGE 7**

1                   (1)     land upon which affordable housing will be constructed;

2                   (2)     an existing Building that will be renovated, converted, or demolished and  
3                   reconstructed as Affordable Housing;

4                   (3)     the costs of acquisition, design, pre-development; development,  
5     construction, financing, and operating or owning affordable housing; or

6                   (4)     The costs of financing or infrastructure necessary to support Affordable  
7     Housing.

8                   (5)     reduction or waiver of building permit fees, sewer and water hook-up fees  
9     and other fees with respect to an Affordable Housing Project.

10            Q.     "HUD" shall mean the United States Department of Housing and Urban  
11     Development.

12            R.     "Household Qualifying Grantee" or "Household Applicant" shall mean all  
13     members of a single household.

14            S.     "Infrastructure" shall mean Infrastructure Improvements and Infrastructure  
15     Purposes.

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

17                   (1)     sanitary sewage systems, including collection, transport, storage,  
18     treatment, dispersal, effluent use and discharge;

19                   (2)     drainage and flood control systems, including collection, transport,  
20     diversion, storage, detention, retention, dispersal, use and discharge;

21                   (3)     water systems for domestic purposes, including production, collection,  
22     storage, treatment, transport, delivery, connection and dispersal;

23                   (4)     areas for motor vehicle use for travel, ingress, egress and parking;

**CONTINUATION PAGE 8**

(5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, 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.

U. "Infrastructure Purpose" shall mean:

(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;

**CONTINUATION PAGE 9**

1                   (3)     acquiring interests in real property or water rights for Infrastructure,  
2 including interests of the owner; and

3                   (4)     incurring expenses incidental to and reasonably necessary to carry out the  
4 purposes specified in this subsection.

5           V.     "MFA" shall mean the New Mexico Mortgage Finance Authority.

6           W.     "MFA Act" shall mean the Mortgage Finance Authority Act, enacted as  
7 Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended (being  
8 Sections 58-18-1 through 58-18-27, inclusive, N.M.S.A. (1978), as amended).

9           X.     "Mortgage" shall mean a mortgage, mortgage deed, deed of trust or other  
10 instrument creating a lien, subject only to title exceptions as may be acceptable to the Town  
11 and/or the MFA, on a fee interest in real property located within the state or on a leasehold  
12 interest that has a remaining term at the time of computation that exceeds or is renewable at the  
13 option of the lessee until after the maturity day of the Mortgage Loan.

14          Y.     "Mortgage Lender" shall mean any bank or trust company, mortgage company,  
15 mortgage banker, national banking association, savings bank, savings and loan association, credit  
16 union, building and loan association and any other lending institution;, and which is authorized  
17 to make mortgage loans in the state. AA.     "Mortgage Loan" shall mean a financial obligation  
18 secured by a Mortgage, including a Mortgage Loan for a Project.

19          Z.     "Multiple Family Housing Project" shall mean Residential Housing that is  
20 designed for occupancy by more than four households living independently of each other or  
21 living in a Congregate Housing Facility, at least sixty percent (60%) of whom are Persons of  
22 Low or Moderate Income, including without limitation Persons of Low or Moderate Income who  
23 are elderly and handicapped.



**CONTINUATION PAGE 10**

1           AA.    "Multi-Family Housing Program" shall mean a program involving a Congregate  
2   Housing Facility, a Multiple Family Housing Project or a Transitional Housing Facility.

3           BB.    "Ordinance" shall mean this Ordinance

4           CC.    "Persons of Low Income" shall mean individuals or households whose incomes  
5   are at or below 80% of Area Median Income, defined by the Income Limits for Taos County,  
6   NM, as approved and published each year by MFA.

7           DD.    "Persons of Moderate Income" shall mean individuals or households whose  
8   incomes are at or below 120% of Area Median Income, defined by the Income Limits set by  
9   MFA.

10          EE.    "Public Service Agencies" shall include, but are not limited to, any entities that  
11   support Affordable Housing and which believe that the program or project proposed by the  
12   Applicant is worthy and advisable, but which are not involved, either directly or indirectly, in the  
13   Affordable Housing Program or Project for which the Applicant is  
14   Applying.

15          FF.    "Qualifying Developer" shall mean an individual or entity that satisfies the  
16   requirements of Qualifying Grantee and has been approved by the Town and/or the MFA to  
17   participate in an Affordable Housing Program, who need not be licensed as a general contractor  
18   in the State, provided such individual or entity contracts with a general contractor licensed in the  
19   state to construct Residential Housing.

20          GG.    "Qualifying Grantee" means:

21                (1)    a household consisting of persons of low income or moderate income as  
22   defined in Section 3 BB and 3CC that is qualified to receive assistance pursuant to the Act and is  
23   approved by the Town; and

**CONTINUATION PAGE 11**

(2) a governmental housing agency, regional housing authority, tribal housing agency, corporation, a limited liability company, partnership, joint venture, syndicate, association or a nonprofit organization that:

(a) is organized under state, tribal, or local laws and can provide proof of such organization;

(b) if a non-profit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

(c) is approved by the Town.

HH. "Recertification" shall mean the recertification of Applicants and/or Qualifying Grantees participating in any Affordable Housing Programs or in any programs under the Act as determined necessary from time to time by the Town and/or the MFA.

II. "Rehabilitation" shall mean the substantial renovation or reconstruction of an existing single-family residence or a Multi-Family Housing Project, which complies with requirements established by the MFA. Rehabilitation shall not include routine or ordinary repairs, improvements or maintenance, such as interior decorating, remodeling or exterior painting, except in conjunction with other substantial renovation or reconstruction.

JJ. "Residential Housing" shall mean any Building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more Households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. "Residential Housing" includes congregate housing, manufactured homes and housing intended to provide or providing transitional or temporary housing for homeless persons.

**CONTINUATION PAGE 12**

1           KK. "Residential Use" shall mean that the structure or the portion of the structure to  
2 benefit from the Affordable Housing Funds or Housing Assistance Grant, is designed primarily  
3 for use as the principal residence of the occupant or occupants and shall exclude vacation or  
4 recreational homes.

5           LL. "State" shall mean the State of New Mexico.

6           MM. "Town" shall mean the Town of Taos, New Mexico, a New Mexico municipal  
7 corporation.

8           NN. "Transitional Housing Facility" shall mean residential housing that is designed for  
9 temporary or transitional occupancy by Persons of Low or Moderate Income or special needs.

10           **SECTION 4. GENERAL REQUIREMENTS.** The following requirements  
11 shall apply to all Housing Assistance Grants and/or Affordable Housing Funds awarded, loaned  
12 or otherwise distributed by the Town under the Act to a Qualifying Grantee. Any Contribution,  
13 to be authorized, must be consistent with the Town's affordable housing plan.

14           A. Request for Proposals (RFP). The Town, in its discretion or as required by law,  
15 may issue one or more RFPs to solicit applications from Applicants or shall otherwise identify a  
16 Qualifying Grantee for the use of any Affordable Housing Funds or Housing Assistance Grants  
17 to be awarded, loaned, donated or otherwise distributed under the Act.

18           B. Applicant Eligibility. The following Applicants are eligible under the Act to  
19 apply for Affordable Housing Funds or a Housing Assistance Grant to provide housing or related  
20 services to Persons of Low or Moderate Income in their community:

21                   (1) households that are qualified to receive assistance pursuant to the Act, the  
22 Rules, and this Ordinance that are approved by the Town;

23                   (2) regional housing authorities and any governmental housing agencies;

**CONTINUATION PAGE 13**

1                   (3)     for-profit organizations, including corporations, limited liability  
2 companies, partnerships, joint ventures, syndicates or associations;

3                   (4)     non-profit organizations meeting the following requirements:

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

6                   (b)     the non-profit organization must have received its 501(c)(3)  
7 designation prior to submitting an Application;

8                   (c)     have no part of its net earnings inuring to the benefit of any  
9 member, founder, contributor, or individual;

10                  (5)     all non-Household Applicants must

11                  (a)     be organized under state laws and can provide proof of such  
12 organization and be approved by the Town;

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

16                  (c)     have among its purposes significant activities related to providing  
17 housing or services to Persons or Households of Low or Moderate Income; and

18                  (d)     have no significant outstanding or unresolved monitoring findings  
19 from the Town, the MFA, or its most recent independent financial audit, or if it has any such  
20 findings, it has a certified letter from the Town, the MFA, or auditor stating that the findings are  
21 in the process of being resolved.

**CONTINUATION PAGE 14**

1           C.     Renters of Multifamily Affordable Housing units and residents of transitional  
2 housing, who did not receive grants of Town Affordable Housing Funds, shall not be required to  
3 be Qualifying Grantees.

4           D.     Applications.

5                     Applicants wishing to apply for a Housing Assistance Grant, including the use of  
6 any Affordable Housing Funds, or to participate in any Affordable Housing Program are required  
7 to submit to the Town or its designated agent the following, as applicable:

8                     (1)     Household Applicants

9                             (a)     an application on the form provided by the Town or its designated  
10 agent, together with all applicable schedules and such other information as may be required by  
11 the Town under the Ordinance. The income of all household members who are 18 years or older  
12 shall be used to determine household income for Homebuyers regardless of whether this income  
13 is being used to qualify for financing to purchase the home. Income and asset determination and  
14 inclusion will follow HUD or other applicable federal or state guidelines.

15                            (b)     a verification signed by the Applicant before a notary public that  
16 the information provided, upon penalty of perjury, is true and correct to the best of the  
17 Applicant's information, knowledge, and belief.

18                           (c)     The Town may establish additional requirements for Household  
19 Applicants in ordinances that create specific Affordable Housing projects or programs.

20                     (2)     Non-Household Applicants

21                            (a)     one original Application, together with all required schedules,  
22 documents, or such other information which may be required by the Town or in any RFP which  
23 may have been issued by the Town, must be included in the completed Application;

**CONTINUATION PAGE 15**

(b) a proposal describing the nature and scope of the Affordable Housing Project proposed by the Applicant and for which the Applicant is applying for funds or a grant under the Act, and which describes the type and amount of assistance which the Applicant proposes to provide to Persons of Low or Moderate Income;

(c) executive summary and project narrative(s) that address the evaluation criteria set forth in any RFP issued by the Town for the Affordable Housing Funds or the Housing Assistance Grant for which the Applicant is applying;

(d) a proposed budget for the Affordable Housing Project for which the Applicant is applying for Affordable Housing Funds or for a Housing Assistance Grant;

(e) current independent financial audit;

(f) if the Applicant is a non-profit organization:

(i) proof of 501(c)(3) tax status;

(ii) documentation that confirms that no part of its net earnings inures to the benefit of any member, founder, contributor or individual;

(g) if an Applicant is a legal entity, including a non-profit organization:

(i) a current annual budget for the Applicant, including all sources and uses of funds not just those related to relevant programs and/or a current annual budget only for the program for which the Applicant is applying for a Housing Assistance Grant, or as otherwise may be required by the Town and/or the MFA in its discretion;

(ii) an approved mission statement that the Applicant has among its purposes significant activities related to providing housing or housing-related services to Persons or Households of Low or Moderate Income;

**CONTINUATION PAGE 16**

(iii) a list of members of the Applicant's current board of directors or other governing body, including designated homeless participation, where required by the Town;

(iv) evidence (or a certification as may be allowed by the Town) that the Applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principals, or has a designated entity that will maintain such an accounting system consistent with generally accepted accounting principals;

(v) evidence that the Applicant has no significant outstanding or unresolved monitoring findings from the Town, the MFA, or its most recent independent financial audit; or if it has any significant outstanding or unresolved monitoring findings from the Town, the MFA, or its most recent independent financial audit, it has a certified letter from the Town, the MFA, or the auditor stating that the findings are in the process of being resolved;

(vi) an organizational chart, including job titles and qualifications for the Applicant's employees who are, or will be, working on the proposed project. Job descriptions may be submitted as appropriate;

(vii) documentation that the Applicant is duly organized under state, tribal, or local law and certification that the Applicant is in good standing with any state authorities, including the Public Regulation Commission, the Attorney General, and/or the Secretary of State;

(h) information as may be required by the Town in order for it to determine the financial and management stability of the Applicant;

**CONTINUATION PAGE 17**

1 (i) information as may be required by the Town in order for it to  
2 determine the demonstrated commitment of the Applicant to the community;

3 (j) adequate information describing the Affordable Housing project  
4 proposed by the Applicant. The information provided must clearly evidence the need for the  
5 subsidy, that the value of the housing assistance grant reduces the housing costs to persons of  
6 low or moderate income, and that there is or will be a direct benefit from the project proposed by  
7 the Applicant to the community and/or to the purported beneficiaries of the project, consistent  
8 with the provisions of the Act.

9 (k) information to the Town supporting the benefits to the community  
10 of the Affordable Housing Project proposed by the Applicant;

11 (l) proof, as the Town may require, of substantive or matching funds  
12 or contributions and/or in-kind donations to the proposed Affordable Housing Project in  
13 connection with the Application for funds under the Act. Nothing contained herein shall prevent  
14 or preclude an Applicant from matching or using local, private, or federal funds in connection  
15 with a specific Housing Assistance Grant or a grant of Affordable Housing Funds under the Act;

16 (m) any certifications or other proof which it may require in order for  
17 the Town to confirm that the Applicant is in compliance with all applicable federal, state and  
18 local laws, rules and ordinances;

19 (n) a verification signed by the Applicant before a notary public that  
20 the information provided, upon penalty of perjury, is true and correct to the best of the  
21 Applicant's information, knowledge, and belief;

22 (o) certifications as may be required by the Town and signed by chief  
23 executive officer, board president, or other authorized official of the Applicant;



**CONTINUATION PAGE 18**

(p) the Town may set forth criteria for a waiver of the above application requirements in an ordinance defining and authorizing specific Affordable Housing projects, to the extent permitted by the Affordable Housing Act, the MFA Rules, and any other applicable law.

(3) Additional Requirements for Multi-Family Housing Projects. Applicants who are submitting Applications in connection with a Multi-Family Housing Program, the Applicant must also submit to the Town following additional information:

(a) a verification signed by the Applicant before a notary public that the information provided, upon penalty of perjury, is true and correct to the best of the Applicant's information, knowledge, and belief and that, among other things:

(i) identifies every Multi-Family Housing Program, including every assisted or insured project of HUD, RHS, FHA and any other state or local government housing finance agency in which such Applicant has been or is a principal;

(ii) except as shown on such statement, states that:

(A) no mortgage on a project listed on such statement has ever been in default, assigned to the Federal Government or foreclosed, nor has any mortgage relief by the mortgagee been given;

(B) there has not been a suspension or termination of payments under any HUD assistance contract in which the Applicant has had a legal or beneficial interest;

(C) such Applicant has not been suspended, debarred or otherwise restricted by any department or agency of the Federal Government or any state

**CONTINUATION PAGE 19**

1 government from doing business with such department or agency because of misconduct or  
2 alleged misconduct; and

3 (D) the Applicant has not defaulted on an obligation  
4 covered by a surety or performance bond.

5 If such Applicant cannot certify to each of the above, such Applicant shall submit a  
6 signed statement to explain the facts and circumstances that such Applicant believes will explain  
7 the lack of certification. The Town may then determine if such Applicant is or is not qualified.

8 (b) the experience of the Applicant in developing, financing and  
9 managing Multiple-Family Housing Projects; and

10 (c) whether the Applicant has been found by the United States Equal  
11 Employment Opportunity Commission or the New Mexico Human Rights Commission to be in  
12 noncompliance with any applicable civil rights laws.

13 (4) Submission Procedure.

14 (a) Time, Place and Method of Submission Delivery.

15 (i) If the Town has issued an RFP, all Applications must be  
16 received by the Town no later than the deadline set forth in the RFP; otherwise, all Applications  
17 must be received by the Town by the deadline the Town has established in connection with the  
18 respective award or grant.

19 (ii) Applications shall be submitted by Applicants to the Town  
20 in the form required by the Town and shall contain all information which is required by this  
21 Ordinance, any specific project ordinance, and any RFP which may have been issued.

22 (b) Additional Factors. The Application procedures shall take into  
23 consideration:

**CONTINUATION PAGE 20**

1 (i) timely completion and submission to the Town of an  
2 Application or other appropriate response to any solicitation by the Town;

3 (ii) timely submission of all other information and  
4 documentation related to the program required by the Town as set forth in this Ordinance or as  
5 set forth in the Rules;

6 (iii) timely payment of any fees required to be paid to the Town  
7 at the time of submission of the Application; and

8 (iv) compliance with program eligibility requirements as set  
9 forth in the Act, the Rules and this Ordinance.

10 (c) Submission Format.

11 (i) Town forms must be used when provided and no  
12 substitutions will be accepted; however attachments may be provided as necessary.

13 (ii) An Applicant's failure to provide or complete any element  
14 of an Application, including all requirements of the Town or as may be listed on any RFP, may  
15 result in the rejection of the Application prior to review.

16 (iii) Illegible information, information inconsistent with other  
17 information provided in the application, and/or incomplete forms will be treated as missing  
18 information and evaluated accordingly.

19 (iv) The Town and the MFA reserve the right to request further  
20 information from any Applicant so long as the request is done fairly and does not provide any  
21 Applicant an undue advantage over another Applicant.

22 (v) The Town in its discretion may cancel any RFP or reject  
23 any or all proposals in whole or part submitted by any Applicant.

**CONTINUATION PAGE 21**

1 (vi) Neither the Town nor the MFA shall be responsible for any  
2 expenses incurred by an Applicant in preparing and submitting an Application. However, the  
3 Town or the MFA, as applicable, may establish and collect fees from Applicants who file  
4 Applications. Notice that fees will be charged and the amount of any such fees shall be included  
5 by the Town or the MFA, as applicable, in any RFP or otherwise shall be advertised as part of  
6 the Application solicitation process.

7 (5) Review by the Town. On receipt of an Application, the Town shall:

8 (a) determine whether the Application submitted by the Applicant is  
9 complete and responsive;

10 (b) determine whether the Applicant is a Qualifying Grantee as  
11 defined herein and in the Act;

12 (c) Non-Household Applicants:

13 (i) review and analyze whether the Applicant has  
14 shown a demonstrated need for activities to promote and provide affordable housing and related  
15 services to Persons of Low or Moderate Income;

16 (ii) determine whether the Applicant has  
17 demonstrated experience related to providing housing or services to Persons of Low or Moderate  
18 Income, as well as experience and/or the capacity to administer the Affordable Housing Program  
19 or Project for which the Applicant has applied;

20 (iii) determine whether the Applicant's proposal  
21 provides a plan for coordinating with other service providers in the community; whether the  
22 Applicant's plan addresses how Persons of Low Income or Moderate Income in need of housing  
23 and/or housing related supportive services can receive supportive services and referrals to

**CONTINUATION PAGE 22**

1 federal, state and local resources; and, whether the Applicant's plan addresses outreach efforts to  
2 reach the population to be served as identified by the Town in any RFP or otherwise;

3 (iv) determine whether the Applicant has support from Public  
4 Service Agencies, or such other support as may be required by the Town and/or the MFA in its  
5 discretion, for its proposed services in the community;

6 (v) ascertain the amount of any matching funds or in-kind  
7 services specific to the program that may be utilized by the Applicant in connection with the  
8 program;

9 (vi) ascertain whether any local, private, or federal funds will  
10 be used by the Applicant in connection with the specific grant for which the Applicant is  
11 applying;

12 (vii) ascertain whether the Applicant has and can demonstrate  
13 the capability to manage the implementation of the Program for which the Applicant is applying;

14 (viii) if Applicant is a prior recipient of either a Housing  
15 Assistance Grant, Affordable Housing Funds and/or other Program funds, confirm that the  
16 Applicant had no outstanding findings or matters of non-compliance with program requirements  
17 from the Town or the MFA, as applicable or if it has any such findings, it has a certified letter  
18 from the Town, the MFA, or auditor stating that the findings are in the process of being resolved;

19 (ix) if Applicant is a prior recipient of either a Housing  
20 Assistance Grant, Affordable Housing Funds and/or other Program funds, confirm that the  
21 Applicant reasonably committed and expended the funds under the prior Program and/or met  
22 anticipated production levels as set forth in any contract with the Town or the MFA, as  
23 applicable, for those prior Program funds;

**CONTINUATION PAGE 23**

1 (x) evaluate the Applicant's proposal in part based upon the  
2 Applicant's current financial audit;

3 (xi) evaluate the Applicant's proposed budget for the Project for  
4 which the Applicant is applying for Affordable Housing Funds or a Housing Assistance Grant,  
5 which proposed budget must be approved by the Town before Applicant can be approved as a  
6 Qualifying Grantee and any expenditure of grant funds under the Act or granted property is  
7 transferred to the Applicant;

8 (xii) on receipt of an Application from a Non-Household  
9 Applicant, the Town will analyze the Builder's ability to construct and sell sufficient Residential  
10 Housing units to Persons of Low or Moderate Income within the time or times as may be  
11 required by the Town.

12 (6) Certification by the Town to the MFA. The Town shall certify an  
13 Application to the MFA in writing upon:

14 (a) completion of its review of the Application;

15 (b) determination that the Application is complete;

16 (c) determination that the requirements of the Act, the Rules and this  
17 Ordinance have been satisfied; and

18 (d) determination that the Applicant is a Qualifying Grantee.

19 (7) Review by the MFA. The MFA upon its receipt of the certification from  
20 the Town may, in its discretion, review the Application and any of the materials submitted by the  
21 Applicant to the Town. The MFA may also request any additional information from the  
22 Applicant, which it may require in order to determine whether the Applicant is a Qualifying  
23 Grantee under the Act and the Application is complete. The MFA will then notify the Town of

**CONTINUATION PAGE 24**

1 its determination of whether or not the Application is complete and that the requirements of the  
2 Act and the Rules have been satisfied and the Applicant is a Qualifying Grantee. Unless the  
3 period is extended for good cause shown, the MFA shall act on an Application within  
4 forty-five (45) days of its receipt of any Application, which the MFA deems to be complete, and,  
5 if not acted upon, the Application shall be deemed to be approved.

6 (8) Notification of Acceptance. The Town, upon completion of its review of  
7 the Application, shall notify each Applicant in writing of the approval or disapproval of its  
8 Application. Upon approval of its Application, the Applicant shall be considered approved to  
9 participate in the Affordable Housing Program. The Town's determination of any Application  
10 shall be conclusive.

11 E. Additional Requirements. Upon acceptance, the following additional  
12 requirements shall apply to any Applicant who is a Qualifying Grantee:

13 (1) Contractual Requirements. The Qualifying Grantee shall enter into one or  
14 more contracts with the Town, which contract(s) shall be consistent with the Act and subject to  
15 the review of the MFA, in its discretion, and which contract(s) shall include remedies and default  
16 provisions in the event of the unsatisfactory performance by the Qualifying Grantee.

17 (2) Security Provisions; Collateral Requirements. In accordance with the Act,  
18 the Rules and this Ordinance, the Town shall require the Qualifying Grantee to execute  
19 documents, which will provide adequate security against the loss of public funds or property in  
20 the event the Qualifying Grantee abandons or fails to complete the Affordable Housing Project,  
21 and which shall further provide, as may be permitted by law, for the recovery of any attorneys'  
22 fees and costs which the Town and/or the MFA may incur in enforcing the provisions of this  
23 Ordinance, the Rules, the Act and/or any agreement entered into by the Town and the Qualifying

**CONTINUATION PAGE 25**

1 Grantee, and which documents may include, but are not limited to the following: note, Mortgage,  
2 loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other  
3 agreement which the Town may require in order to allow for any funds which the Qualifying  
4 Grantee may receive under a Housing Assistance Grant or Affordable Housing Funds to be  
5 adequately secured and to allow the Town and the MFA to ensure that such funds shall be  
6 utilized by the Qualifying Grantee in accordance with the Act, the Rules and this Ordinance.

7 (3) Qualifying grantees shall provide the Town with any and all information  
8 which the Town reasonably may require in order for it to confirm that the qualifying grantees  
9 continue to satisfy the requirements of the act, the rules and this chapter throughout the term of  
10 any contract and/or any affordability period or otherwise as may be required by the Town or the  
11 MFA in its discretion. At a minimum, on an annual basis, the Town shall certify to the MFA in  
12 writing that to the best of its knowledge the qualifying grantee is in compliance with applicable  
13 provisions of the act, the rules and this chapter.

14  
15 (4) Performance Schedule and Criteria. The Non-Household Qualifying  
16 Grantee shall be required to abide by a reasonable performance schedule and performance  
17 criteria that the Town, in its discretion, may establish.

18 (5) Examination of Books and Records. Each Non-Household Qualifying  
19 Grantee shall submit to and the Town shall cause to be made such examinations of the books and  
20 records of each Qualifying Grantee as the Town and/or the MFA deems necessary or appropriate  
21 to determine the Qualifying Grantee's compliance with the terms of the Act, the Rules, this  
22 Ordinance and any contracts between the Qualifying Grantee and the Town. The Town and/or  
23 the MFA may require each Qualifying Grantee to pay the costs of any such examination.



**CONTINUATION PAGE 26**

(6) Cost Reimbursement Contracts with Non-Household Qualifying Grantees.

(a) Cost Reimbursements. Payment to a Qualifying Grantee under cost reimbursable contract provisions shall be made upon the Town's receipt from the Qualifying Grantee and approval of certified and documented invoices for actual expenditures allowable under the terms of any agreement between the Qualifying Grantee and the Town.

(b) Cost Reimbursements For Units of Service. Payment under any unit cost contract provisions shall be made upon the Town's receipt from the Qualifying Grantee and approval of a certified and documented invoice showing the number of units of service provided during the billing period.

(c) Every contract shall contain a provision that the Town's obligations under the contract are subject to appropriations and availability of funds.

(d) Invoices. Qualifying Grantees shall not submit invoices more than once a month, unless written approval is obtained in advance from the Town.

(e) No Dual Application of Costs. The Qualifying Grantee shall certify that any direct or indirect costs claimed by the Qualifying Grantee will not be allocable to or included as a cost of any other program, project, contract, or activity operated by the Qualifying Grantee and which has not been approved by the Town in advance, in writing.

(f) Prohibition of Substitution of Funds. Any Affordable Housing Funds or other amounts received by Qualifying Grantee may not be used by Qualifying Grantee to replace other amounts made available or designated by the state or local governments through appropriations for use for the purposes of the Act.

**CONTINUATION PAGE 27**

1 (g) Cost Allocation. The Qualifying Grantee shall clearly identify and  
2 distribute all costs incurred pertaining to the Affordable Housing Project by a methodology and  
3 cost allocation plan at times and in a manner prescribed by, or acceptable to the Town.

4 F. Affordable Housing Requirements. All Affordable Housing Funds or Housing  
5 Assistance Grants awarded under the Act are to be used by Qualifying Grantees for the benefit of  
6 Persons of Low or Moderate Income subject to the provisions of the Act and with particular  
7 regard to their housing related needs.

8 (1) Single Family Property. Qualifying Grantees shall agree that they shall  
9 maintain any single-family property which has been acquired, rehabilitated, weatherized,  
10 converted, leased, repaired, constructed, or which property has otherwise benefited from  
11 Affordable Housing Funds, including but not limited to any loans which have been repaid with  
12 Affordable Housing Funds and which loans previously were secured by such properties, as  
13 Affordable Housing for so long as any or all of the Affordable Housing Funds which have been  
14 awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or  
15 the Affordability Period, which ever is longer.

16 (2) Multi-Family Property. Any Qualifying Grantees providing Multi-Family  
17 Affordable Housing units shall enter into a contractual agreement with the Town of Taos that the  
18 housing units in an Affordable Housing Project be occupied by low- or moderate-income  
19 households.

20 (a) Single Apartment within a Multi-Family Property. Qualifying  
21 Grantees shall agree that, if any single apartments are to be rehabilitated, weatherized, converted,  
22 leased, repaired, constructed, or otherwise are to benefit from Affordable Housing Funds, those  
23 apartments shall be leased to Persons of Low or Moderate Income at the time of any such award.

**CONTINUATION PAGE 28**

1 Qualifying Grantees, who are the landlords and/or owners of such properties, shall further agree  
2 to contribute at least sixty percent (60%) of the cost of the rehabilitation, weatherization,  
3 conversion, lease, repair, and/or construction. Qualifying Grantees also shall agree that the  
4 Persons of Low or Moderate Income, who are tenants of those apartments, shall be allowed to  
5 remain tenants for any Affordability Period and for so long as there are no uncured defaults by  
6 those tenants under their respective leases and provided that there is no just cause for the  
7 landlord to terminate any lease agreement with those tenants.

8 (b) Multiple Apartments. Qualifying Grantees shall agree that, if  
9 multiple apartments or an entire multi-family property are to be acquired, rehabilitated,  
10 weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable  
11 Housing Funds, including but not limited to any loans which have been repaid with Affordable  
12 Housing Funds and which loans previously were secured by such properties, they shall maintain  
13 not less than sixty percent (60%) of the housing units as Affordable Housing for so long as any  
14 or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed  
15 to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, which ever is  
16 longer.

17 (3) Non-Residential Property. Qualifying Grantees shall agree that they shall  
18 maintain any non-residential property which has been acquired, rehabilitated, weatherized,  
19 converted, leased, repaired, constructed, or which property has otherwise benefited from  
20 Affordable Housing Funds, including but not limited to any loans which have been repaid with  
21 Affordable Housing Funds and which loans previously were secured by such properties, as a  
22 facility which provides housing related-services to Persons of Low or Moderate Income for so  
23 long as any or all of the Affordable Housing Funds which have been awarded, loaned, or

**CONTINUATION PAGE 29**

1 otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability  
2 Period, which ever is longer.

3 (4) Housing Assistance Grant Affordability Requirements. Qualifying  
4 Grantees shall agree that they shall maintain any land or buildings received as a Housing  
5 Assistance Grant either as either single-family or multi-family Affordable Housing in accordance  
6 with Sections 4(E)(1) and (2) or as a facility which provides housing related-services to Persons  
7 of Low or Moderate Income in accordance with Section 4(E)(3) (as applicable) for the duration  
8 of the Affordability Period. Qualifying Grantees shall agree that they shall maintain any land or  
9 buildings for which they have received the costs of Infrastructure as a Housing Assistance Grant  
10 either as either single-family or multi-family Affordable Housing or as a facility which provides  
11 housing related-services to Persons of Low or Moderate Income (as applicable) for the duration  
12 of the Affordability Period. In calculating the Affordability Period for Housing Assistance  
13 Grants of either land or buildings, the fair market value of the land or buildings or the costs of  
14 Infrastructure at the time of the donation by the State or Town shall apply.

15 (5) Affordability Period. The Town, in its discretion, may increase the  
16 Affordability Period to be included in any contract, note, Mortgage, loan agreement, land use  
17 restriction agreement, restrictive covenant agreements and/or any other agreement which the  
18 Town may enter into with any Qualifying Grantee or beneficiary of the Affordable Housing  
19 Funds or of the Housing Assistance Grant. See definition of Affordability Period in Section 3(H)  
20 of this Ordinance. Notwithstanding the foregoing, in the discretion of the Town, weatherization  
21 funds and/or rehabilitation funds conveyed to a Qualifying Household Grantee where an  
22 Affordability Period is not practical, shall not be subject to the Affordability Period requirements

**CONTINUATION PAGE 30**

1 of this Section 4(F); but nevertheless, any such conveyances may be subject to recapture on some  
2 pro-rated basis as determined by the Town and/or the MFA.

3 G. Consent to Jurisdiction. Each Qualifying Grantee shall consent to the jurisdiction  
4 of the courts of the State over any proceeding to enforce compliance with the terms of the Act,  
5 the Rules and this ordinance and any agreement between the Qualifying Grantee and the Town  
6 and/or the MFA.

7 H. Recertification Procedures. The Town may establish procedures for recertifying  
8 Qualifying Grantees from time to time.

9 I. Compliance with the Law. Qualifying Grantee shall provide the Town with any  
10 certifications or other proof that it may require in order for the Town and the MFA to confirm  
11 that the Qualifying Grantee and the Qualifying Grantee's proposed Project are in compliance  
12 with all applicable federal, state and local laws, rules and ordinances.

13 J. Town Grant Requirements.

14 (1) The Town is authorized to make Housing Assistance Grants under the Act.  
15 Upon determination that the Town will make a Housing Assistance Grant, including the use of  
16 any Affordable Housing Funds, the Town shall provide the MFA with the following:

17 (a) documentation that confirms that the Town has an existing valid  
18 Affordable Housing Plan;

19 (b) a copy of the proposed project ordinance which provides for the  
20 authorization of Housing Assistance Grants, including the use of any Affordable Housing Funds,  
21 together with a written certification that proposed grantees will be in compliance with Act and  
22 the Rules so that the MFA may confirm both that the project ordinance is in compliance with the  
23 Act, and that all grantees are required to be Qualifying Grantees under the Act and the Rules.

**CONTINUATION PAGE 31**

(2) Prior to the submission of a project ordinance to the Council, the Council must approve the budget for the project.

(3) An ordinance authorizing the Town to make a Housing Assistance Grant and/or distribute Affordable Housing Funds to a specific project:

(a) must authorize the grant, including use of Affordable Housing Funds, if any;

(b) must state the requirements and purpose of the grant; and

(c) must authorize the transfer or disbursement to any Qualifying Grantee only after a budget is submitted to and approved by the Council;

(d) must comply with the Rules, as amended.

(e) may provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through the MFA.

(4) The Town, in its discretion, may also hold any award of Affordable Housing Funds or any Housing Assistance Grant made by the Town in suspense pending the issuance by the Town of any RFP or pending the award of the Affordable Housing Funds or of the Housing Assistance Grant by the Town to the Qualifying Grantee without the issuance of an RFP by the Town. Any award of Affordable Housing Funds or a Housing Assistance Grant by the Town shall subject the Qualifying Grantee of the award or grant to the oversight of the Town and the MFA under this Ordinance and the Rules.

K. School District and Post-Secondary Educational Institution Grant Requirements.

Any transfer of land by a school district to the Town to be further granted as part or all of an Affordable Housing grant shall be subject to the additional limitations contained in the Act that

**CONTINUATION PAGE 32**

1 the school district and the Council enter into a contract that provides the school district with a  
2 negotiated number of affordable housing units that will be reserved for employees of the school  
3 district. Any transfer of land by a post-secondary educational institution shall be subject to the  
4 additional limitations contained in the Act that (i) the property transferred shall be granted by the  
5 Town as part of all of an Affordable Housing grant; and (ii) the governing board of the post-  
6 secondary educational institution and the Council enter into a contract that provides the post-  
7 secondary educational institution with Affordable Housing units. As used in this section, "post-  
8 secondary educational institution" means a state university or a public community college. The  
9 Town, in its discretion, may also hold any Housing Assistance Grant made by any school district  
10 or post-secondary educational institution in suspense pending the issuance by the Town of any  
11 RFP or pending the award of the Housing Assistance Grant by the Town to the Qualifying  
12 Grantee without the issuance of an RFP by the Town. Any award of a Housing Assistance Grant  
13 by a school district or a post-secondary educational institution shall subject the Qualifying  
14 Grantee of the grant to the oversight of the Town and the MFA under these Rules.

15 **SECTION 5. DISCRIMINATION PROHIBITED.** The development, construction,  
16 occupancy and operation of an Affordable Housing Program or an Affordable Housing Project  
17 financed or assisted under the Act shall be undertaken in a manner consistent with principles of  
18 non-discrimination and equal opportunity, and the Town shall require compliance by all  
19 Qualifying Grantees with all applicable federal and state laws and regulations relating to  
20 affirmative action, non-discrimination and equal opportunity.

21 **SECTION 6. ADMINISTRATION.** The Town and the MFA shall administer any  
22 Affordable Housing programs in accordance with provisions of the Act, the Rules, this  
23 Ordinance, any applicable state and federal laws and regulations as each of which may be

**CONTINUATION PAGE 33**

1 amended or supplemented from time to time. The Town and the MFA, in establishing, funding  
2 and administering the Affordable Housing Programs and by making, executing, delivering and  
3 performing any award, contract, grant or any other activity or transaction contemplated by the  
4 Act, shall not violate any provision of law, rule or regulation or any decree, writ, order,  
5 injunction, judgment, determination or award and will not contravene the provisions of or  
6 otherwise cause a default under any of its agreements, indentures, or other instruments to which  
7 it may be bound.

8 **SECTION 7. AMENDMENT OR TERMINATION.** The Council may amend or  
9 repeal this Ordinance and alter or terminate the Town's Affordable Housing Program. Any  
10 amendment to this Ordinance shall be submitted to MFA for review and approval prior to  
11 adoption. Amendment or termination shall be by ordinance following a public hearing.

12 **SECTION 8. REPEALER.** All bylaws, orders, resolutions and ordinances, or parts  
13 thereof, inconsistent with this Ordinance are repealed by this Ordinance but only to the extent of  
14 that inconsistency. This repealer shall not be construed to revive any bylaw, order, resolution or  
15 ordinance, or part thereof, previously repealed.

16 **SECTION 9. SEVERABILITY.** If any section, paragraph, clause or provision of this  
17 Ordinance shall for any reason be held by a court of competent jurisdiction to be invalid or  
18 unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision  
19 shall not affect any of the remaining provisions of this Ordinance.

20 **SECTION 10. RECORDING; AUTHENTICATION; PUBLICATION;**  
21 **EFFECTIVE DATE**

22 This ordinance shall become effective as provided by law.



**CONTINUATION PAGE 34**

**ORDAINED, ADOPTED, APPROVED, AND RATIFIED** this 24th day of August, 2010 by  
the following vote:

Mayor Pro Tem Rudy C. Abeyta	_____
Councilmember Amy J. Quintana	_____
Councilmember A. Eugene Sanchez	_____
Councilmember Michael A. Silva	_____

**TOWN OF TAOS**

\_\_\_\_\_  
**Darren M. Cordova, Mayor**

**ATTEST:**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**Renee Lucero, Town Clerk**

\_\_\_\_\_  
**Allen Ferguson, Jr., Town Attorney**

**CONTINUATION PAGE 35**

1           Passed, Approved, Signed and adopted this \_\_\_\_ day of \_\_\_\_\_ 2011.

2

3

4

\_\_\_\_\_  
Mayor

5   ATTEST:

6

7

\_\_\_\_\_  
TOWN CLERK

8

[SEAL]

9

10

11



**January 25, 2011**

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**Title:**

Resolution 11-03

**Summary:**

Consideration and approval of Resolution 11-03; A Resolution that supports halting any and all work on the proposed Chemistry Metallurgy Research Replacement Nuclear Facility (CMRR-NF) at Los Alamos National Laboratory until a new and full Environmental Impact Statement, with scoping, is completed by the Department of Energy.

**Background:**

**Attachments:**

**Click to download**

No Attachments Available

**APPROVALS:**

Date/Time:	Approval:	Department:
1/14/2011 9:49 AM	Approved	Town Manager
1/14/2011 9:49 AM	Approved	Town Clerk