

LOW COST DWELLING UNIT AGREEMENT
(this "Agreement")

Sarahy C. Garcia and Gilberto Gutierrez-Almeida, a married couple, and Robert Jerome Garcia, an unmarried man, (individually, or collectively, as the context may require, the "Owner") and City of Santa Fe, a municipal corporation (the "City") agree:

ARTICLE I

RECITALS

1. The Owner is the owner of a low priced dwelling unit, the property described on attached Exhibit A (the "Home"), that the Owner acquired under the City's affordable housing program (the "Program"). The Program is run by the City's Office of Affordable Housing.

2. In assisting the Owner to buy the Home, the City Program incurred certain costs, including, but not limited to, development review charges, building permit charges, capital impact charges, utility expansion charges, water meter charges and waivers of retrofit program requirements, in the amount of **eight thousand dollars (\$8,000)** (the "City's Lien Amount").

3. This Agreement states the obligation of the Owner to the City, if the Owner enters into any Encumbrance or if the Home is sold or transferred. For the purpose of this Agreement, an Encumbrance means any obligations of the Owner created from time to time, other than the Lien (defined below) and any first mortgage, the payment of performance of which obligations are or were secured by an interest in the Home.

4. This Agreement, together with a Mortgage (the "Mortgage") on the Home that the Owner has or will sign in favor of the City, creates a mortgage lien on the Home (the "Lien") in an amount equal to the City's Lien Amount.

5. If the Owner does not pay the City's Lien Amount to the City when due and payable, the City has the right to foreclose the Lien on the Home.

6. If the City forecloses the Lien on the Home, the Owner could lose ownership of the Home and the right to use or occupy the Home.

ARTICLE II

AGREEMENTS

1. Obligations of the Owner. Until the City's Lien Amount is fully paid, the Owner will observe, perform and discharge the following obligations:

A. The Owner must observe, perform and discharge the obligations of the Owner to the City in the Mortgage.

B. The Owner must timely observe, perform and discharge all loans or other obligations secured by an Encumbrance.

C. If, on one or more occasions, the Owner wants to refinance, mortgage or otherwise create an Encumbrance against the interest of the Owner in the Home, the Owner must first give written notice to the City of the Owner's intent to do so at least 15 days before the estimated date of the placing of the Encumbrance against the Home.

D. The Owner wants to sell or transfer the Home, the Owner must immediately give written notice to the City of the Owner's desire to sell or transfer the Home.

E. At the same time the Owner places an Encumbrance against the Home or closes a sale or transfer of the Home as provided in this paragraph 1, the Owner will pay the City an amount equal to the City's Lien Amount.

2. Breach. Upon Owner's receipt from the City of written notice of a breach of this Agreement, the Owner has 30 days to cure the breach. If the Owner does not timely cure the breach, the City may exercise any legal remedies against the Owner for the breach of this Agreement that the law, equity, or any statute allows, including starting legal proceedings to foreclose the Lien, and the City may apply to have a receiver appointed to take possession of the Home.

3. Miscellaneous:

A. Notices. All notices, requests, demands, waivers and other communications given as provided in this Agreement will be in writing, and mailed by certified mail, postage prepaid, and addressed to the City or to the Owner at the addresses shown on attached Exhibit A, as may be updated from time to time by the City or the Owner giving written notice of such change to the other.

B. Assignment. The Owner may not assign this Agreement without the prior written consent of the City.

C. Binding Effect. This Agreement may be modified only in writing, is specifically enforceable by the City, and is binding upon, and inures to the benefit of, the City, and the Owner, and the surviving joint tenants, transferees, permitted assigns, heirs, devisees, trustees and personal representatives of the Owner.

D. Entire Agreement. This Agreement, together with the Mortgage, constitutes the entire agreement of the City and the Owner and replaces all previous

agreements, written or oral, between the City and the Owner with respect to the City's Lien Amount.

E. Severability. If any provision of this Agreement or application of a provision to any person or circumstance is found by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application of the provision to persons or circumstances other than those as to which the provision is held invalid or unenforceable, will not be affected by the finding, and the provision or application and each other provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

DATED: _____, 2024

CITY OF SANTA FE,
A MUNICIPAL CORPORATION



[Randy Randall \(Dec 5, 2024 16:16 MST\)](#)

RANDY RANDALL
INTERIM CITY MANAGER

ATTEST:

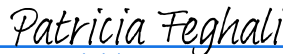


[Andrea Salazar \(Dec 10, 2024 16:41 MST\)](#)

ANDRÉA SALAZAR
CITY CLERK

xiv

CITY ATTORNEY'S OFFICE:



[Patricia Feghali \(Dec 5, 2024 14:11 MST\)](#)

ASSISTANT CITY ATTORNEY

EXHIBIT A

Lot 69, Plat Amendment No. 1 DESERT SAGE SUBDIVISION, lying within Section 16, T16N, R9E, NMPM, Santa Fe County, New Mexico, filed on July 06, 2020, recorded in Plat Book 864, Pages 13-16, as Document No. 1920975.

Street and Mailing Notice Address of Home and Owner:

**3327 Zinnia Lane
Santa Fe, New Mexico 87507**

Mailing Notice Address for the City:

P.O. Box 909
200 Lincoln Ave.,
Santa Fe, New Mexico 87504-0909
Attention: Affordable Housing

Sarahy C. Garcia
Gilberto Gutierrez-Almeida
Robert Jerome Garcia
the "Mortgagor"

CITY OF SANTA FE,
a Municipal Corporation,
the "City"

MORTGAGE

Dated: _____, 2024.
Recorded: _____, 2024,
in Book _____, starting at page _____, reception number _____,
Santa Fe County, New Mexico, records.

MORTGAGE

This Mortgage is given by **Sarahy C. Garcia and Gilberto Gutierrez-Almeida, a married couple, and Robert Jerome Garcia, an unmarried man** (the “Mortgagor”), to the City of Santa Fe, a municipal corporation (the “City”), on the following terms:

ARTICLE I

DEFINITIONS

The following terms have the following meanings in this Mortgage:

A. Obligations. (i) All, or any part of, the obligations of Mortgagor to City as provided in the Low Priced Dwelling Unit Agreement, City of Santa Fe Clerk Item Number 24-0686, (the “Agreement”), the observation, performance and discharge of which obligations, including, but not limited to, the obligation to pay the amount of eight thousand dollars, (**\$8,000.00**) to the Affordable Housing Trust Fund upon the happening of certain events, is secured by this Mortgage, (ii) and all renewals and extensions of any of the foregoing granted in the sole and absolute discretion of City, (iii) and any and all of the agreements, duties, promises and other conditions made or owing by Mortgagor to City as provided in this Mortgage or otherwise, and (iv) any form of Agreement between City and any later owner of the Land that replaces the Agreement.

B. Land. The real property and improvements described on attached **Exhibit A**.

C. Property. All, or any part of, the Land, together with:

1. All rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances of the Land belonging or in anyway pertaining to the Land and all right, title and interest of Mortgagor in and to any streets, ways, alleys, parking areas, strips or gores of land adjoining the Land or any part of the Land; and

2. All of the right, title and interest of Mortgagor in and to any payments or awards which may be made or which may be due and payable before or after the date of this Mortgage by any governmental agencies, authorities, departments, bureaus or boards to the present and all later owners of the Land, with respect to the requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Land, including any award or awards for any change or changes of grade of streets affecting the Land; and

3. All the estate, right, title, interest, claim or demand of Mortgagor in and to the Land.

ARTICLE II

GRANT

Mortgagor, for consideration paid, grants the Property to City, with mortgage covenants. This Mortgage secures the observance, performance and discharge of the Obligations, and is upon the statutory mortgage condition for the breach of which this Mortgage is subject to foreclosure.

ARTICLE III
AGREEMENT

Mortgagor will timely observe, perform and discharge the Obligations.

ARTICLE IV

A. Redemption Period. THE REDEMPTION PERIOD AFTER FORECLOSURE WILL BE ONE MONTH INSTEAD OF NINE MONTHS AS PROVIDED IN SECTION 48-10-16 NMSA 1978.

B. Waiver of Trial by Jury. TRIAL BY JURY IS WAIVED BY MORTGAGOR AND CITY. AS EVIDENCE OF THIS AGREEMENT TO WAIVE TRIAL BY JURY AND AS CONTEMPLATED BY RULE 1-038 NMRA, RULES OF CIVIL PROCEDURE FOR THE DISTRICT COURTS OF NEW MEXICO, A CERTIFIED COPY OF THIS MORTGAGE MAY BE ATTACHED AS AN EXHIBIT TO A PLEADING BY ANY PARTY TO THE ACTION SEEKING TO ENFORCE THE WAIVER IN ANY ACTION FILED IN THE COURTS OF THE STATE OF NEW MEXICO OR ELSEWHERE WITH RESPECT TO THE AGREEMENT, THE OBLIGATIONS, OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH ANY OF THEM, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY.

C. Binding Effect. This Mortgage is binding upon Mortgagor and will inure to the benefit of City. The provisions of this Mortgage will be covenants running with the Property. The duties, covenants, conditions, obligations and warranties of Mortgagor in this Mortgage are the joint and several obligations of Mortgagor and the heirs, devisees,

personal and legal representatives, successors, assignees and transferees of Mortgagor.

Date: _____, **2024.**

MORTGAGOR:

MORTGAGOR

Sarahy C. Garcia

Gilbert Gutierrez-Almeida

MORTGAGOR:

Robert Jerome Garcia

STATE OF NEW MEXICO)
) SS.
COUNTY OF SANTA FE)

This instrument was acknowledged before me on _____, 2024 by **Sarahy C. Garcia, Gilbert Gutierrez-Almeida and Robert Jerome Garcia**, as Mortgagor.

Notary Public

My commission expires:

EXHIBIT A
to Mortgage

Lot 69, Plat Amendment No. 1 DESERT SAGE SUBDIVISION, lying within Section 16, T16N, R9E, NMPM, Santa Fe County, New Mexico, filed on July 06,2020, recorded in Plat Book 864, Pages 13-16, as Document No. 1920975.

Street Address of Land and Improvements:

3327 Zinnia Lane
Santa Fe, NM 87507

Signature: XAVIER VIGIL

XAVIER VIGIL (Dec 10, 2024 16:39 MST)

Email: xivigil@santafenm.gov












LCD & Mortgage - Sarahy Garcia - Final CAO

Final Audit Report

2024-12-10

Created:	2024-12-05
By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAANFG_0zY-BJoMQfnDz-rTUNib_xiq0wl2


"LCD & Mortgage - Sarahy Garcia - Final CAO" History

-  Document created by Amy Cawthon (amcawthon@santafenm.gov)
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-  Document emailed to pfeighali@santafenm.gov for signature
2024-12-05 - 7:53:57 PM GMT
-  Email viewed by pfeighali@santafenm.gov
2024-12-05 - 9:11:01 PM GMT- IP address: 104.47.64.254
-  Signer pfeighali@santafenm.gov entered name at signing as Patricia Feghali
2024-12-05 - 9:11:17 PM GMT- IP address: 98.60.104.228
-  Document e-signed by Patricia Feghali (pfeighali@santafenm.gov)
Signature Date: 2024-12-05 - 9:11:19 PM GMT - Time Source: server- IP address: 98.60.104.228
-  Document emailed to Randy Randall (rrandall@santafenm.gov) for signature
2024-12-05 - 9:11:21 PM GMT
-  Email viewed by Randy Randall (rrandall@santafenm.gov)
2024-12-05 - 11:16:20 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Randy Randall (rrandall@santafenm.gov)
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-  Document emailed to XAVIER VIGIL (xivigil@santafenm.gov) for signature
2024-12-05 - 11:16:38 PM GMT
-  Document e-signed by XAVIER VIGIL (xivigil@santafenm.gov)
Signature Date: 2024-12-10 - 11:39:05 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to ANDREA SALAZAR (asalazar@santafenm.gov) for signature
2024-12-10 - 11:39:06 PM GMT




 Email viewed by ANDREA SALAZAR (asalazar@santafenm.gov)

2024-12-10 - 11:41:34 PM GMT- IP address: 104.47.65.254

 Signer ANDREA SALAZAR (asalazar@santafenm.gov) entered name at signing as Andrea Salazar

2024-12-10 - 11:41:56 PM GMT- IP address: 63.232.20.2

 Document e-signed by Andrea Salazar (asalazar@santafenm.gov)

Signature Date: 2024-12-10 - 11:41:58 PM GMT - Time Source: server- IP address: 63.232.20.2

 Agreement completed.

2024-12-10 - 11:41:58 PM GMT