



2025

Fourth Round Housing Element and Fair Share Plan

May 30, 2025

ADOPTED: JUNE 12, 2025
ENDORSED: JUNE 12, 2025

Township of Ocean, Monmouth County, New Jersey

Prepared by:

Clarke Caton Hintz | 100 BARRACK STREET | TRENTON, N.J. | 08608

**TOWNSHIP OF OCEAN PLANNING BOARD
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

RESOLUTION NO. PB-6-12-2025

**RESOLUTION APPROVING AND ADOPTING A HOUSING ELEMENT
AND FAIR SHARE PLAN TO SATISFY THE TOWNSHIP'S FOURTH
ROUND AFFORDABLE HOUSING OBLIGATION**

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L.2024, c.2, establishing a new framework for determining and enforcing municipal affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the New Jersey Fair Housing Act (the "FHA") (N.J.S.A. 52:27D-301, *et al.*); and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality was to adopt a binding resolution no later than January 31, 2025, determining and setting forth its present and prospective fair share obligations for the "Fourth Round" of affordable housing obligations ("Fourth Round"); and

WHEREAS, the Mayor and Council of the Township of Ocean ("Township") adopted Resolution No. 25-023 on January 27, 2025, identifying its present need obligation as 51 units and prospective need obligation as 166 affordable units for the Fourth Round.

WHEREAS, in accordance with the FHA and Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024 ("Directive #14-24"), the Township filed a Complaint for Declaratory Judgment with the Superior Court of New Jersey, Law Division, Monmouth County, entitled In the Matter of the Application of the Township of Ocean, County of Monmouth, State of New Jersey, Docket No. MON-L-393-25 on January 29, 2025 (the "DJ Action"), identifying its present and prospective fair share obligations for the Fourth Round as set forth above, and committing to adopting and submitting a Fourth Round Housing Element and Fair Share Plan ("HEFSP") as required by the FHA; and

WHEREAS, no parties challenged the Township's present and prospective need obligations; and

WHEREAS, on April 1, 2025, the Honorable Linda Grasso Jones, J.S.C., issued an Order setting the Township's present need obligation at 51 units and the prospective need obligation at 166 affordable units and further authorized the Township to proceed with preparation and adoption of a proposed HEFSP to satisfy the Township's affordable housing obligation; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(2)(a) and Directive #14-24, each municipality must adopt and file as part of its DJ Action a HEFSP, with associated resolutions and

proposed drafts of the appropriate zoning and other ordinances, necessary to implement its HEFSP, no later than June 30, 2025; and

WHEREAS, the Township's Affordable Housing Planner, Clarke Caton Hintz, prepared a proposed HEFSP, entitled "2025 Fourth Round Housing Element & Fair Share Plan" dated May 30, 2025 (the "Fourth Round HEFSP"); and

WHEREAS, pursuant to N.J.S.A. 40:55D-28, the Township of Ocean Planning Board ("Board"), may prepare and adopt or amend a master plan or component parts thereof, after a public hearing, to guide the use of lands within the municipality in a manner which protects health and safety and promotes the general welfare; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Board held a public hearing on the proposed Fourth Round HEFSP on June 12, 2025, during which the proposed Fourth Round HEFSP was presented to the Board and public, and opportunity for comments and questions was provided; and

WHEREAS, with the conclusion of the public hearing, the Board finds and hereby determines that the proposed Fourth Round HEFSP is consistent with the goals and objectives of the Master Plan of the Township, will guide the use of lands in the municipality in a manner which protects public health and safety and promotes the general welfare in accordance with N.J.S.A. 40:55D-28, and is designed to achieve the goal of access to affordable housing to meet present and prospective housing needs in accordance with N.J.S.A. 52:27D-310; and

WHEREAS, by the adoption of this Resolution, the Board memorializes its adoption of the proposed Fourth Round HEFSP as the Housing Element and Fair Share Plan components of the Township of Ocean Master Plan, in accordance with N.J.S.A. 40:55D-28, the FHA and Directive #14-24.

NOW, THEREFORE, BE IT RESOLVED by the Township of Ocean Planning Board that the plan entitled "2025 Fourth Round Housing Element & Fair Share Plan", prepared by Clarke Caton Hintz, dated May 30, 2025 (the "Fourth Round HEFSP"), is hereby approved and adopted as the 2025 Housing Element and Fair Share Plan components of the Township of Ocean Master Plan.

BE IT FURTHER RESOLVED that the Board Secretary is hereby authorized and directed to transmit a certified, electronic copy of the 2025 HEFSP and this resolution to the Township's affordable housing counsel for further disposition

BE IT FURTHER RESOLVED the Board Secretary is hereby authorized and directed to provide a copy of the adopted Fourth Round HEFSP and a certified copy of this Resolution to the Monmouth County Planning Board and New Jersey Office of Planning Advocacy, in accordance with the requirements of N.J.S.A. 40:55D-13.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

The foregoing was Moved by: Valente

Seconded by: Ades


And on Role Call, the following vote was recorded:

Affirmative: Chairman DiFiglia, Vice Chairman Palutis, Valente, Ades, Menell, Mamiye,
Goslin, Bercouicz

Negative: None

Abstentions: None

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Township of Ocean during its meeting on June 12, 2025.



NICOLE ACRI
SECRETARY TO THE PLANNING BOARD

RESOLUTION ENDORSING THE 2025 HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L.2024, c.2, establishing a new framework for determining and enforcing municipal affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the New Jersey Fair Housing Act (the "FHA") (N.J.S.A. 52:27D-301, *et al.*); and

WHEREAS, among other things, the Act abolished the Council on Affordable Housing (hereinafter, "COAH"), and replaced it with seven retired, on recall judges designated as the Program and authorized the Director of the Administrative Office of the Courts, (hereinafter, respectively, "Director" and "AOC") to create a framework to process applications for affordable housing compliance certification; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality was to adopt a binding resolution no later than January 31, 2025, determining and setting forth its present and prospective fair share obligations for the "Fourth Round" of affordable housing obligations ("Fourth Round"); and

WHEREAS, the Mayor and Council of the Township of Ocean ("Township") adopted Resolution No. 25-023 on January 27, 2025, identifying its present need obligation as 51 units and prospective need obligation as 166 affordable units for the Fourth Round; and

WHEREAS, in accordance with the FHA and Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024 ("Directive #14-24"), the Township filed a Complaint for Declaratory Judgment with the Superior Court of New Jersey, Law Division, Monmouth County, entitled In the Matter of the Application of the Township of Ocean, County of Monmouth, State of New Jersey, Docket No. MON-L-393-25 on January 29, 2025 (the "DJ Action"), identifying its present and prospective fair share obligations for the Fourth Round as set forth above, and committing to adopting and submitting a Fourth Round Housing Element and Fair Share Plan ("HEFSP") as required by the FHA; and

WHEREAS, no parties challenged the Township's present and prospective need obligations; and

WHEREAS, on April 1, 2025, the Honorable Linda Grasso Jones, J.S.C., issued an Order setting the Township's present need obligation at 51 units and the prospective need obligation at 166 affordable units and further authorized the Township to proceed with preparation and adoption of a proposed HEFSP to satisfy the Township's affordable housing obligation; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(2)(a) and Directive #14-24, each municipality must adopt and file as part of its DJ Action a HEFSP, with associated resolutions and proposed drafts of the appropriate zoning and other ordinances, necessary to implement its HEFSP, no later than June 30, 2025; and

WHEREAS, the Township of Ocean Planning Board ("Board") adopted the HEFSP, entitled "2025 Fourth Round Housing Element & Fair Share Plan" prepared by the Township's affordable housing planner, Clarke Caton Hintz, dated May 30, 2025 (the "Fourth Round HEFSP"), as an amendment to the Township's Master Plan on June 12, 2025; and

WHEREAS, the Governing Body desires to endorse the Fourth Round HEFSP adopted by the Board on June 12, 2025.

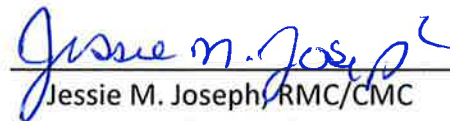
NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Ocean, Monmouth County as follows:

1. The Governing Body does hereby endorse the Fourth Round HEFSP adopted by the Township of Ocean Planning Board on June 12, 2025.
2. The Governing Body does hereby authorize the filing of this Resolution endorsing the Fourth Round HEFSP adopted by the Board on eCourts for review by the Program.
3. The Mayor and Clerk, together with other appropriate officers and employees of the Township of Ocean, are hereby authorized to take all steps necessary to effectuate the purposes of this Resolution.
4. This Resolution shall take effect immediately.

Record of Vote	Deputy Mayor Fisher	Councilman Acerra	Councilwoman Kaplan	Councilman Weinstein	Mayor Napolitani
Motion to Approve		X			
Motion to Second				X	
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

CERTIFICATION

*I hereby certify that this is a true copy of a resolution passed by the Township of Ocean Governing Body at their meeting held on **June 12, 2025**.*



Jessie M. Joseph, RMC/CMC
Township Clerk



Fourth Round Housing Element and Fair Share Plan

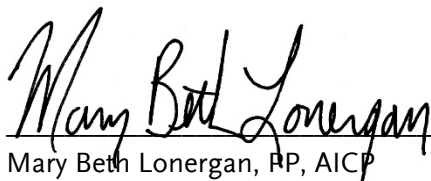
Ocean Township, Monmouth County, New Jersey

Adopted by the Planning Board on June 12, 2025

Endorsed by the Township Council on June 12, 2025

Prepared for Ocean Township by

Clarke Caton Hintz:



Mary Beth Lonergan, PP, AICP

New Jersey Professional Planner License 4288



Elaine R. Clisham, PP, AICP

New Jersey Professional Planner License 6507

A signed and sealed version is available at the municipal building



TOWNSHIP COUNCIL

Hon. John P. Napolitani Sr., *Mayor*
David Fisher, D.C., *Deputy Mayor*
Robert V. Acerra Sr., *Councilman*
Gitta D. Kaplan, *Councilwoman*
Jeffrey Weinstein, *Councilman*

David G. Brown II, *Township Manager,*
Director of Community Development
Jessie M. Joseph, RMC CMC CMR,
Township Clerk
Kevin N. Starkey, Esq., *Township Attorney*
Colleen Mayer, *Planning Administrator*
James W. Higgins, PP, *Township Planner*
Gregory Blash, PE PP CME CPWM,
Township Engineer

PLANNING BOARD

Edward DiFiglia, Class IV, *Chair*
Michael Palutis, Class IV, *Vice-Chair*
Jemal Beale, Class I
Julia Valente, Class II
Gitta D. Kaplan, *Councilwoman*, Class III
Jack Ades, Class IV
Amir Bercouicz, Class IV
Robert Goslin, Class IV
Eric Menell, Class IV
David Bodnovich, *1st Alternate*
Jack Mamiye, *2nd Alternate*

Nicole Acri, *Board Secretary*
Colleen Mayer, *Planning Administrator*
Marc A. Leckstein, Esq., *Board Attorney*
Bennett Matlack, PE, *Board Engineer*
James W. Higgins, PP, *Board Planner*



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APPENDICES TO THE HOUSING ELEMENT AND FAIR SHARE PLAN

- A. Third Round: FSHC Settlement Agreement, Fairness Order, Judgment of Repose
- B. Fourth Round Resolution, DJ Filing, Court Order
- C. Utility Capacity To Serve Documentation
- D. Updated Fourth Round Vacant Land Analysis
- E. Monmouth County Home Improvement Program Operating Manual
- F. Primrose Place Documentation
- G. Wayside Point Documentation
- H. Group Home Documentation
- I. Heritage Village at Ocean Documentation
- J. Heritage Village at Oakhurst Documentation
- K. Cindy Lane Documentation
- L. Roosevelt Properties Documentation
- M. Ocean Glades Environmental Contamination Report
- N. Affordable Housing Alliance Documentation
- O. Unmet Need Inclusionary Overlay Ordinances
- P. Seaview Square Environmental Contamination Report
- Q. 280 Norwood Avenue Documentation
- R. 44 Monmouth Road Documentation



- S. Herbert Avenue Documentation
- T. Affordable Housing Ordinance, Mandatory Set-Aside Ordinance, Development Fee Ordinance
- U. Spending Plan, Resolution of Intent To Fund
- V. Affirmative Marketing Plan
- W. Municipal Housing Liaison, Administrative Agent Documentation



EXECUTIVE SUMMARY

This Fourth Round Housing Element and Fair Share Plan (“HEFSP”) has been prepared for the Township of Ocean, of Monmouth County, in accordance with the New Jersey Fair Housing Act (“FHA”) at N.J.S.A. 52:27D-310 as amended by P.L. 2024 c.2, the Administrative Directive #14-24, and the rules of the New Jersey Council on Affordable Housing (“COAH”) contained at N.J.A.C. 5:93 et seq. This plan is an update to the Township’s Third Round HEFSP, adopted by the Planning Board on December 16, 2019, and endorsed by the Township Council on January 30, 2020. This cumulative Fourth Round HEFSP will serve as the foundation for the Township’s submission to the Superior Court of New Jersey and the Affordable Housing Dispute Resolution Program (“Program”).

There are four components to a municipality’s affordable housing obligation: the Fourth Round Present Need or Rehabilitation Share, the Prior Round obligation, the Third Round obligation, and the Fourth Round Prospective Need obligation.

Prior Round/Third Round

On June 25, 2019, the Superior Court approved the Township’s Settlement Agreement with Fair Share Housing Center (“FSHC”), which set the Township’s Prior Round Prospective Need as previously established by COAH and established the Township’s Third Round “Gap”/Prospective Need as follows:

- Prior Round Prospective Need: 873
- Third Round Prospective Need: 518

The 2019 Third Round Settlement Agreement with Fair Share Housing Center (“FSHC”) reflected a combined Prior Round and Third Round vacant land adjustment (“VLA”), which reduced the combined Prior Round and Third Round obligation of 1,391 to a combined realistic development potential (“RDP”) of 280 and a combined Unmet Need of 1,111 (1,391 – 280). The Township’s Third Round HEFSP was approved by the Superior Court in a final Judgment of Compliance and Repose (“JOR”), issued on May 4, 2020.

Since that time, one of the sites listed on the VLA as generating a 43-unit RDP has been determined to have environmental contamination that cannot be remediated to a residential standard, thus rendering it undevelopable. This reduces the Township’s combined RDP from 280 to 237 (280 – 43), and increases the combined Unmet Need accordingly from 1,111 to 1,154 (1,111 + 43). For this reason the Township has negotiated a revised Third Round RDP compliance plan with FSHC.

The Township has satisfied its revised combined Prior Round and Third Round RDP with completed and proposed inclusionary developments, completed alternative living arrangements, and 100% affordable municipally sponsored construction.

The Township continues to address its Unmet Need of 1,154 through modification to an existing inclusionary overlay zone and establishment of one new inclusionary overlay zone, by its existing affordable housing development fee ordinance, and by establishing a mandatory Township-wide inclusionary set-aside requirement for all new multi-family housing developments of five units or more.

Fourth Round

On April 1, 2025, the Superior Court affirmed the Township’s action on January 27, 2025, whereby the Township Council adopted Resolution #25-023, which accepted the determination promulgated by the New



Jersey Department of Community Affairs (“DCA”) of the Township’s Fourth Round Present Need/Rehabilitation Obligation and Prospective Need as follows:

- | | |
|-------------------------------------|-----|
| ▪ Fourth Round Rehabilitation Share | 51 |
| ▪ Fourth Round Prospective Need: | 166 |

To address its Fourth Round Rehabilitation obligation, the Township will continue participation in the Monmouth County Housing Improvement Program, and in addition will contract with the Township Administrative Agent to establish and administer a municipally sponsored Rehabilitation program available to owners of rental properties occupied by income-eligible tenants.

The Township has updated its Prior Round/Third Round VLA as part of this Fourth Round HEFSP. The Township’s Fourth Round Prospective Need of 166 has been reduced to a Fourth Round RDP of 27 and a Fourth Round Unmet Need of 139. The cumulative Unmet Need, including the Prior Round/Third Round and Fourth Round, is 1,293 (1,154 + 139).

The Township will address its Fourth Round RDP of 27 as well as the 20 remaining from the Third Round RDP with seven approved affordable units and a proposed 67-unit 100% affordable family rental development, as well as six Fourth Round bonuses, for a total of 60 Fourth Round credits. The 33 surplus credits (60-27 RDP) will be used to address any future “changed circumstances.”

The Township’s combined Unmet Need will continue to be addressed by a new inclusionary overlay zone as well as existing inclusionary overlay zones, by its existing affordable housing development fee ordinance, and by its mandatory Township-wide inclusionary set-aside requirement for all new multi-family housing developments of five units or more, which will be amended to require a 20% set-aside regardless of whether the units are for sale or for rent.



INTRODUCTION

Ocean Township, a primarily residential community with a population of 27,792 as of 2023, and a land area of approximately 11 square miles, is located in the central eastern part of Monmouth County. The Township adjoins Eatontown Borough and West Long Branch Borough to the north; Long Branch City, Deal Borough, Allenhurst Borough, Loch Arbour Village, and Interlaken Borough to the east; Asbury Park City and Neptune Township to the south; and Tinton Falls Borough to the west.

The Township constitutes approximately 2.3 percent of the land in Monmouth County. Ocean Township is approximately 25 miles from New York City and located within the Metropolitan Planning Area (PA 1) category as designated by The State Development and Redevelopment Plan (“SDRP”) of New Jersey. It is easily accessible from much of the region; New Jersey Route 18 and Route 35 run through the Township, and the Garden State Parkway is located just to its west. The Township is also served by NJ Transit bus routes 832 and 837, which provide access to Asbury Park, Red Bank, Long Branch, and connections to other regional destinations.

Ocean Township’s 2023 Master Plan portrays a community that has developed as a primarily residential municipality with significant regional commercial facilities. The Master Plan anticipates that most future development in the Township “will involve infill development of smaller vacant parcels and redevelopment of older and obsolete commercial sites.”¹

¹ Ocean Township Master Plan, September 18, 2023.



AFFORDABLE HOUSING IN NEW JERSEY: JUDICIAL AND LEGISLATIVE BACKGROUND

In the 1975 Mount Laurel² decision, the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide diversity and choice in the housing types permitted in the municipality, including housing for low- and moderate-income households. In its 1983 Mount Laurel II decision,³ the New Jersey Supreme Court extended to all municipalities with any “growth area” as designated in the State Development Guide Plan (now superseded by the State Development and Redevelopment Plan, or SDRP) the obligation to provide their “fair share” of a calculated regional need for affordable units. Mount Laurel II also introduced a “builder’s remedy” if a municipality was not providing its fair share of affordable housing. A builder’s remedy may permit a developer that is successful in litigation the right to develop what is typically a higher density multi-family project on land not zoned to permit such use, so long as a “substantial” percentage of the proposed units would be reserved for low- and moderate-income households.

In 1985, in response to Mount Laurel II, the New Jersey Legislature enacted the Fair Housing Act.⁴ The FHA created the Council on Affordable Housing as an administrative body responsible for oversight of municipalities’ affordable housing efforts, rather than having oversight go through the courts. The Legislature charged COAH with promulgating regulations (i) to establish housing regions; (ii) to estimate low- and moderate-income housing needs; (iii) to set criteria and guidelines for municipalities to use in determining and addressing their fair share obligations, and (iv) to create a process for the review and approval of municipal housing elements and fair share plans.

COAH’s First and Second Rounds, 1986-1999

COAH created the criteria and regulations for municipalities to address their affordable housing obligations. COAH originally established a methodology for determining municipal affordable housing obligations for the six-year period between 1987 and 1993,⁵ which period became known as the First Round. This methodology established an existing need to address substandard housing that was being occupied by low- and moderate-income households (variously known as “present need” or “rehabilitation share”), and calculated future demand, to be satisfied typically, but not exclusively, with new construction (“prospective need” or “fair share”).

The First Round methodology was superseded in 1994 by COAH’s Second Round regulations.⁶ The 1994 regulations recalculated a portion of the 1987-1993 affordable housing obligations for each municipality and computed the additional municipal affordable housing need from 1993 to 1999 using 1990 census data. These regulations identified a municipality’s cumulative obligations for the First and Second Rounds. Under regulations adopted for the Third Round, a municipality’s obligation to provide affordable housing for the First and Second Rounds is referred to cumulatively as the Prior Round obligation.

² Southern Burlington County NAACP v. Township of Mount Laurel, 67 N.J. 151 (1975)

³ Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158 (1983)

⁴ N.J.S.A. 52:27D-301 *et seq.*

⁵ N.J.A.C. 5:92-1 *et seq.*

⁶ N.J.A.C. 5:93-1.1 *et seq.*

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.



COAH's Third Round and Related Judicial and Legislative Activity, 1999-2025

The FHA had originally required housing rounds to be for a six-year period for the First and Second Rounds. In 2001, the time period increased to a 10-year period consistent with the Municipal Land Use Law (“MLUL”). In order to utilize 2000 census data, which hadn’t yet been released, COAH delayed the start of the Third Round from 1999 to 2004, with the Third Round time period initially ending in 2014. In December 2004, COAH’s first version of the Third Round rules⁷ became effective, and the 15-year Third Round *time period* (1999 – 2014) was condensed into an affordable housing *delivery period* from January 1, 2004, through January 1, 2014.

The 2004 Third Round rules marked a significant departure from the methods utilized in COAH’s Prior Round. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These Third Round rules implemented a “growth share” approach that linked the production of affordable housing to residential and non-residential development in a municipality.

On January 25, 2007, a New Jersey Appellate Court decision⁸ invalidated key elements of the first version of the Third Round rules, including the growth share approach, and the Court ordered COAH to propose and adopt amendments to its rules. COAH issued revised rules effective on June 2, 2008 (as well as a further rule revision effective on October 20, 2008), which largely retained the growth share approach.

Just as various parties had challenged COAH’s initial Third Round regulations, parties challenged COAH’s 2008 revised Third Round rules. On October 8, 2010, the Appellate Division issued its decision on the challenges.⁹ The Appellate Division upheld the COAH Prior Round regulations that assigned rehabilitation and Prior Round numbers to each municipality, but invalidated the regulations by which the agency assigned housing obligations in the Third Round, again ruling that COAH could not allocate obligations through a growth share formula. Instead, the Appellate Division directed COAH to use methods similar to those used in the First and Second Rounds.

Third Round Judicial Activity

After various challenges were filed, on September 26, 2013, the New Jersey Supreme Court upheld the Appellate Court decision¹⁰ and ordered COAH to prepare the necessary rules. COAH failed to adopt new rules, and more challenges ensued.

On March 10, 2015, the New Jersey Supreme Court issued a ruling on FSHC’s Motion in Aid of Litigant’s Rights, which became known as Mount Laurel IV.¹¹ In this decision, the Court transferred responsibility for reviewing and approving housing elements and fair share plans from COAH to designated Mount Laurel trial judges, declaring COAH “moribund.” Municipalities were now to apply to the Courts, instead of COAH, if they wished to be protected from exclusionary zoning lawsuits. The Mount Laurel trial judges, with the assistance of a Court-appointed Special Adjudicator, were tasked with reviewing municipal plans much in the same manner as COAH had done previously. Those towns whose plans were approved by the

⁷ N.J.A.C. 5:94-1 and 5:95-1

⁸ In re Adoption of N.J.A.C. 5:94 and 5:95, 390 N.J. Super. 1 (2007)

⁹ In re Adoption of N.J.A.C. 5:96 and 5:97, 416 N.J. Super. 462 (2010)

¹⁰ In re Adoption of N.J.A.C. 5:96 and 5:97 by New Jersey Council On Affordable Housing, 215 N.J. 578 (2013)

¹¹ In re Adoption of N.J.A.C. 5:96 & 5:97, 221 NJ 1 (2015)



Court received a Judgment of Compliance and Repose, the court equivalent of COAH's substantive certification.

While the New Jersey Supreme Court's decision set a process in motion for towns to address their Third Round obligation, the decision did not assign those obligations. Instead, that was to be done by the trial courts, although ultimately most towns entered into settlement agreements to set their fair share obligations. The Court stated that municipalities should rely on COAH's Second Round rules (N.J.A.C. 5:93) and those components of COAH's 2008 regulations that were specifically upheld, as well as the FHA, in their preparation of Third Round housing elements and fair share plans.

On January 17, 2017, the New Jersey Supreme Court rendered a decision¹² that found that the period between 1999 and 2015, now known as the "gap period," when no valid affordable housing regulations were in force, generated an affordable housing obligation. This obligation required an expanded definition of the municipal Present Need obligation to include the unaddressed housing needs of low- and moderate-income households that had formed during the gap period. This meant that the Third Round municipal affordable housing obligation would now comprise four components: Present Need (rehabilitation), Prior Round (1987-1999, new construction), Third Round Gap Need (1999-2015, new construction), and Third Round Prospective Need (Third Round, 2015 to 2025, new construction).

Third Round Legislative Activity

In addition, the New Jersey Legislature has amended the FHA several times in recent years.

On July 17, 2008, P.L. 2008 c. 46 (referred to as the Roberts Bill or A500) was enacted, which amended the FHA in a number of ways. Key provisions included the following:

- It established a statewide 2.5% non-residential development fee instead of requiring non-residential developers to provide affordable housing;
- It eliminated new regional contribution agreements ("RCAs") as a compliance technique available to municipalities; previously a municipality could fund the transfer up to 50% of its fair share to so called "receiving" municipalities;
- It added a requirement that 13% of all affordable housing units be restricted to very low-income households, which it defined as households earning 30% or less of median income; and
- It added a requirement that municipalities had to commit to spend development fees within four years of the date of collection. This was later addressed in a Superior Court decision which found the four-year period begins at the time the Court approves the municipal spending plan.¹³

In July 2020, the State amended the FHA again to require, beginning in November 2020, that all affordable units that are subject to affirmative marketing requirements also be listed on the state's Affordable Housing Resource Center website.¹⁴ All affordable housing affirmative marketing plans are now required to include listing on the State Affordable Housing Resource Center website.

¹² In Re Declaratory Judgment Actions Filed by Various Municipalities, 227 N.J. 508 (2017)

¹³ In the Matter of the Adoption of the Monroe Township Housing Element and Fair Share Plan, and Implementing Ordinances (2015)

¹⁴ <https://www.nj.gov/njhrc/>

Fourth Round Housing Element and Fair Share Plan



The Fourth Round, 2025-2035

On March 20, 2024, the FHA was amended again (as were other statutes). This amendment, P.L. 2024 c.2:

- Formally abolishes COAH;
- Requires the state Department of Community Affairs (“DCA”) to promulgate municipal obligations using an adjusted methodology. These obligations are to be considered advisory, not binding;
- Establishes a timeline within which municipalities need to adopt and submit binding resolutions stipulating to their Fourth Round fair share obligations, in order for them to retain their immunity from exclusionary-zoning lawsuits;
- Requires the New Jersey Housing and Mortgage Finance Agency (“HMFA”) and DCA to update rules and standards governing affordable housing production, trust funds, and affordable housing administration;
- Establishes a Court-based Affordable Housing Dispute Resolution Program that will be responsible for challenges to municipalities’ affordable housing obligation determinations and compliance efforts;
- Establishes a longer control period – 40 years, rather than 30 years – for new affordable rental units;
- Changes the criteria for affordable housing bonuses, making various additional categories of affordable housing eligible for bonuses;
- Establishes a timeline within which municipalities need to take various steps toward adoption of a Housing Element and Fair Share Plan, in order for them to retain their immunity from exclusionary-zoning lawsuits;
- Establishes new reporting and monitoring procedures and deadlines for both affordable units and affordable housing trust funds, and assigns oversight for reporting and monitoring to DCA.

In December 2024, the Administrative Office of the Courts issued Administrative Directive #14-24, establishing procedures for implementation of the Program and for municipalities to file their Fourth Round Declaratory Judgment (“DJ”) filings, etc. As detailed under the section covering requirements of an HEFSP, the Administrative Directive also set requirements for what must be included in a compliant Fourth Round HEFSP.

This plan has been prepared to meet the requirements of the FHA as most recently amended, as well as the 2024 Administrative Directive and all applicable regulations.



AFFORDABILITY REQUIREMENTS

Affordable housing is defined under New Jersey's FHA as a dwelling, either for sale or rent, that is within the financial means of households of low- or moderate-income, as is measured within each housing region. Ocean Township is in Region 4, which includes Mercer, Monmouth, and Ocean counties. Moderate-income households are those earning between 50% and 80% of the regional median income. Low-income households are those with annual incomes that are between 30% and 50% of the regional median income. Very low-income households must also be accounted for. These households, which are a subset of low-income households, are defined as households earning less than 30% of the regional median income.

Through the Uniform Housing Affordability Controls ("UHAC") found at N.J.A.C. 5:80-26.1 et seq., the maximum rent for a qualified unit must be affordable to households that earn no more than 60% of the median income for the region. The average rent must be affordable for households earning no more than 52% of the median income. The maximum sale prices for affordable units must be affordable for households that earn no more than 70% of the median income. The average sale price must be affordable for a household that earns no more than 55% of the median income.

The regional median income is now defined in the amended FHA and continues to utilize HUD income limits on a regional basis. In the spring of each year HUD releases updated income limits, which will be reallocated to the six housing regions. It is from these income limits that the rents and sale prices for affordable units are derived. Pursuant to P.L. 2024 c.2, the New Jersey Housing and Mortgage Finance Agency ("HMFA") was assigned responsibility for calculating and publishing annual income limits. In May of 2025, HMFA enacted new income limits for 2025, which are shown for Housing Region 4 in Table 1, below.

TABLE 1. 2025 INCOME LIMITS FOR REGION 4					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Moderate	\$75,440	\$86,160	\$96,960	\$107,680	\$116,320
Low	\$47,150	\$53,850	\$60,600	\$67,300	\$72,700
Very Low	\$28,290	\$32,310	\$36,360	\$40,380	\$43,620
Source: New Jersey Housing and Mortgage Finance Agency					

Tables 2 and 3 show illustrative sale prices and gross rents from 2024 (the latest figures available). These rents and sale prices are illustrative and are gross figures, which do not account for the specified utility allowances for rental units or for specific mortgage rates, taxes, HOA fees, etc. for sales units.

TABLE 2. ILLUSTRATIVE 2024 AFFORDABLE GROSS RENTS FOR REGION 4			
Household Income Levels (% of Median Income)	1-Bedroom Unit Rent	2-Bedroom Unit Rent	3-Bedroom Unit Rent
Moderate (60%)	\$1,463	\$1,756	\$2,029
Low (50%)	\$1,219	\$1,463	\$1,691
Very Low (30%)	\$732	\$878	\$1,014
Source: Affordable Housing Professionals of NJ Affordable Housing Regional Income Limits and Sales Calculator			

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TABLE 3. ILLUSTRATIVE 2024 AFFORDABLE SALES PRICES FOR OCEAN TOWNSHIP			
Household Income Levels (% of Median Income)	1 Bedroom Unit Price	2 Bedroom Unit Price	3 Bedroom Unit Price
Moderate (70%)	\$172,867	\$213,273	\$250,986
Low (50%)	\$115,143	\$144,005	\$170,942
Very Low (30%)	\$57,419	\$74,736	\$90,899
Source: Affordable Housing Professionals of NJ Affordable Housing Regional Income Limits and Sales Calculator			



HOUSING ELEMENT AND FAIR SHARE PLAN REQUIREMENTS

In accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1, *et seq.*), a municipal Master Plan must include a Housing Plan Element as the foundation for the municipal zoning ordinance (see N.J.S.A. 40:55D-28b(3) and -62). Pursuant to the FHA (N.J.S.A. 52:27D-301 *et seq.*), a municipality's Housing Plan Element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low- and moderate-income housing. Specifically, N.J.S.A. 52:27D-310 requires that the Housing Plan Element contain at least the following:

- An **inventory of the municipality's housing stock** by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low- and moderate-income households and substandard housing capable of being rehabilitated;
- A **projection of the municipality's housing stock**, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development trends;
- An **analysis of the municipality's demographic characteristics**, including, but not necessarily limited to, household size, income level, and age;
- An **analysis of the existing and probable future employment characteristics** of the municipality;
- A **determination of the municipality's present and prospective fair share of low- and moderate-income housing** and its capacity to accommodate its present and prospective housing needs, including its fair share of low- and moderate-income housing as established pursuant to section 3 of P.L. 2024, c.2 (C.52:27D-304.1);
- A **consideration of the lands most appropriate for construction of low and moderate income housing** and of the existing structures most appropriate for conversion to, or rehabilitation for, low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide low- and moderate-income housing;
- **An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity** as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20); and
- **An analysis of consistency with the State Development and Redevelopment Plan**, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

In addition to FHA requirements, this Fourth Round HEFSP has been prepared in compliance with the following requirements set forth by Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024:

- I. One of the requirements for a final HEFSP is the inclusion of **detailed site suitability analyses**, based on the best available data, for each of the unbuilt inclusionary or 100% affordable housing sites in the plan as well as an identification of each of the sites that were proposed for such development and rejected, along with the reasons for such rejection.

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2. The **concept plan for the development of each of the selected sites** should be overlaid on the most up to date environmental constraints map for that site as part of its analysis. When the detailed analyses are completed, the municipality can see what changes will be needed (either to the selected sites or to their zoning) to ensure that all of the units required by the settlement agreement will actually be produced. If it becomes apparent that one (or more) of the sites in the plan does not have the capacity to accommodate all of the development proposed for it, the burden will be on the municipality either to adjust its zoning regulations (height, setbacks, etc.) so that the site will be able to yield the number of units and affordable units anticipated by the settlement agreement or to find other mechanisms or other sites as needed to address the likelihood of a shortfall.
3. The final HEFSP must fully document the **creditworthiness of all of the existing affordable housing units** in its HEFSP and to demonstrate that it has followed all of the applicable requirements for extending expiring controls, including confirmation that all of the units on which the controls have been extended are code-compliant or have been rehabilitated to code-compliance, and that all extended controls cover a full 30-year period beginning with the end of the original control period. Documentation as to the start dates and lengths of affordability controls applicable to these units and applicable Affordable Housing Agreements and/or deed restrictions is also required. Additionally, the income and bedroom distributions and continued creditworthiness of all other existing affordable units in the HEFSP must be provided.
4. The HEFSP must include an **analysis of how the HEFSP complies with or will comply with all of the terms of the executed settlement agreement**. Once the HEFSP has been prepared, it must be reviewed by Fair Share Housing Center and the Program's Special Adjudicator for compliance with the terms of the executed settlement agreement, the FHA and UHAC regulations. The HEFSP must be adopted by the Planning Board and the implementation components of the HEFSP must be adopted by the governing body.

The HEFSP must also include (in an Appendix) all adopted ordinances and resolutions needed to implement the HEFSP, including:

1. All **zoning amendments** (or **redevelopment plans, if applicable**).
2. An **Affordable Housing Ordinance** that includes, among other required regulations, its applicability to 100 percent affordable and tax credit projects, the monitoring and any reporting requirements set forth in the settlement agreement, requirements regarding very low income housing and very low income affordability consistent with the FHA and the settlement agreement, provisions for calculating annual increases in income levels and sales prices and rent levels, and a clarification regarding the minimum length of the affordability controls (at least 30 years, until the municipality takes action to release the controls).
3. The adoption of the **mandatory set aside ordinance**, if any, and the repeal of the existing growth share provisions of the code.
4. An executed and updated **Development Fee Ordinance** that reflects the court's jurisdiction.
5. An **Affirmative Marketing Plan** adopted by resolution that contains specific directive to be followed by the Administrative Agent in affirmatively marketing affordable housing units, with an updated COAH form appended to the Affirmative Marketing Plan, and with both documents specifically reflecting the direct notification requirements set forth in the settlement agreement.



6. An updated and adopted **Spending Plan** indicating how the municipality intends to allocate development fees and other funds, and detailing (in mini manuals) how the municipality proposes to expend funds for affordability assistance, especially those funds earmarked for very low income affordability assistance.
7. A **resolution of intent to fund any shortfall** in the costs of the municipality's municipally sponsored affordable housing developments as well as its rehabilitation program, including by bonding if necessary.
8. Copies of the **resolution(s) and/or contract(s) appointing one or more Administrative Agent(s)** and of the adopted ordinance creating the position of, and resolution appointing, the **Municipal Affordable Housing Liaison**.
9. A **resolution from the Planning Board adopting the HEFSP**, and, if a final Judgment is sought before all of the implementing ordinances and resolutions can be adopted, a **resolution of the governing body** endorsing the HEFSP.

Consistent with N.J.A.C. 5:93-5.5, any municipally sponsored 100% affordable housing development will be required to be shovel-ready within two years of the deadlines set forth in the settlement agreement:

1. The municipality will be required to submit the identity of the project sponsor, a detailed pro forma of project costs, and documentation of available funding to the municipality and/or project sponsor, including any pending applications for funding, and a commitment to provide a stable alternative source, in the form of a resolution of intent to fund shortfall, including by bonding, if necessary, in the event that a pending application for outside funding has not yet been not approved.
2. Additionally, a construction schedule or timetable must be submitted setting forth each step in the development process, including preparation and approval of a site plan, applications for state and federal permits, selection of a contractor, and start of construction, such that construction can begin within two years of the deadline set forth in the settlement agreement.

This Fourth Round Housing Plan Element has been prepared to satisfy all of the above requirements.



HOUSING, DEMOGRAPHIC AND EMPLOYMENT ANALYSIS

HOUSING CHARACTERISTICS

The 2019-2023 American Community Survey (“ACS”)¹⁵ indicates that Ocean Township has approximately 11,828 housing units. Of those, 931, or 7.9%, are vacant, almost all of them single-family homes. The Township’s housing stock consists predominantly of single-family detached units (62.3%), 93% of which are owner-occupied. The Township’s percentage of single-family detached units is higher than that of the state (52.7%) and slightly lower than that of Monmouth County (66.1%). The percentage of housing units in Ocean Township that are in multi-family buildings of three or more units (29.5%) is higher than that of the county (20.5%) and of the state (27.8%). Renter-occupied units comprise approximately 37.7% of all occupied units, which is more than 50% higher than the county’s percentage of renter-occupied housing (24.6%) and slightly higher than the state’s (36.3%). See Table 4, Housing Units by Number of Units in Structure.

Units in Structure	Total Units	% Total	Owner Occupied	% Owner Occupied	Rentals	Vacant
1, detached	7,364	62.3%	6,115	90.6%	463	786
1, attached	806	6.8%	512	7.6%	252	42
2	134	1.1%	4	0.1%	130	0
3 or 4	447	3.8%	6	0.1%	434	7
5 to 9	609	5.1%	18	0.3%	591	0
10 to 19	1,417	12.0%	0	0.0%	1,360	57
20 or more	1,012	8.6%	98	1.5%	914	0
Mobile home	39	0.3%	0	0.0%	0	39
Boat, RV, van, etc.	0	0.0%	0	0.0%	0	0
Total	11,828	100%	6,753	57.1% of Total Units	4,144	931

Source: Tables B25032, DP04, 2019-2023 American Community Survey Five-Year Estimate

Table 5, Housing Units by Year Built, illustrates the decades during which the Township’s housing units were built. Approximately 45.3% of Ocean Township’s housing stock was built prior to 1970. The median year homes in the Township were built, 1973, makes the Township’s homes slightly older than those in the county overall (median year built = 1975) but newer than those in the state overall (median year built = 1969).

¹⁵ The American Community Survey replaced the long-form Census as the source for much of the housing data necessary to complete this section. The Census is a one-time count of the population while this ACS is an estimate taken over five years through sampling. As such, data in the ACS is subject to a margin of error.



TABLE 5. OCEAN TOWNSHIP HOUSING UNITS BY YEAR BUILT, 2023				
Year Built	Total Units	Percent	Owner	Renter
2020 or later	87	0.8%	50	37
2010 to 2019	428	3.9%	236	192
2000 to 2009	1,120	10.3%	856	264
1990 to 1999	1,109	10.2%	809	300
1980 to 1989	1,338	12.3%	778	560
1970 to 1979	1,872	17.2%	800	1,072
1960 to 1969	2,100	19.2%	1,092	1,008
1950 to 1959	1,538	14.1%	1,076	462
1940 to 1949	497	4.6%	425	72
1939 or earlier	808	7.4%	631	177
Totals	10,897	100.0%	6,753	4,144
Median Year built:	1973		1972	1973
Source: 2019-2023 American Community Survey 5-Year Estimate (B25036, B25037)				

Table 6, Housing Units by Number of Bedrooms, 2023 shows that housing in Ocean Township skews larger; more than half (58%) of the Township's housing units have three or more bedrooms, similar to the percentage in the state overall (57.4%) but lower than the percentage in Monmouth County overall (64.7%).

TABLE 6. OCEAN TOWNSHIP HOUSING UNITS BY NUMBER OF BEDROOMS, 2023		
Bedrooms	Number of Units	Percentage of Total
Efficiency	33	0.3%
1	2,412	20.4%
2	2,514	21.3%
3	3,233	27.3%
4	2,352	19.8%
5+	1,284	10.9%
Total	11,828	100.0%
Source: 2019-2023 American Community Survey 5-Year Estimate (DP04)		

Table 7, Housing Values, shows that the median housing value in Ocean Township increased 60.9% between 2013 and 2023. Monmouth County experienced slightly lower value increases during this time (45.3%). Ocean Township had a slightly higher median home value compared to the county in 2013 (\$391,100 vs. \$389,900) and a higher median home value in 2023 (\$629,100 vs. \$566,500).

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TABLE 7. OCEAN TOWNSHIP HOUSING VALUES, 2013 AND 2023				
Housing Unit Value	2013 Units	Percent	2023 Units	Percent
Less than \$50,000	104	1.5%	42	0.6%
\$50,000-\$99,999	19	0.3%	54	0.8%
\$100,000-\$149,999	5	0.1%	0	0.0%
\$150,000-\$199,999	34	0.5%	0	0.0%
\$200,000-\$299,999	889	12.9%	48	0.7%
\$300,000-\$499,999	4,136	60.0%	1,744	25.8%
\$500,000-\$999,999	1,551	22.5%	4,056	60.1%
\$1,000,000 or more	151	2.2%	809	12.0%
Total	6,889	100.0%	6,753	100.0%
Median	\$391,100		\$629,100	
Sources: 2009-2013, 2019-2023 American Community Survey 5-Year Estimate (DP04, B25075)				

The median rent in Ocean Township in 2023 was \$1,440, compared to \$1,771 across Monmouth County. See Table 8, Ocean Township and Monmouth County, Gross Rent, 2023.

TABLE 8. OCEAN TOWNSHIP AND MONMOUTH COUNTY GROSS RENT, 2023				
Gross Rent	Ocean Township		Monmouth County	
	Units	Percent	Units	Percent
Less than \$500	113	2.7%	4,045	6.6%
\$500 to \$999	39	1.0%	3,453	5.7%
\$1,000 to \$1,499	2,251	54.3%	13,711	22.5%
\$1,500 to \$1,999	677	16.3%	15,499	25.4%
\$2,000 to \$2,499	317	7.7%	10,920	17.9%
\$2,500 to \$2,999	241	5.8%	6,150	10.1%
\$3,000 or more	407	9.8%	5,445	8.9%
No cash rent	99	2.4%	1,771	2.9%
Total	4,144	100.0%	60,994	100.0%
Median Rent	\$1,440		\$1,771	
Source: 2019-2023 American Community Survey 5-Year Estimate (DP04, B25063)				

Housing is generally considered to be affordable if the costs of rents, mortgages, and other essential costs consume 28% or less of a homeowner household's income or 30% or less of a renter household's income. (Homeowner rates are lower to account for the additional home maintenance costs associated with ownership.) In Ocean Township, 22.8% of homeowner households and 55.7% of renter households (an average of 38.9% of all households in the Township) pay 30% or more of their monthly income toward housing costs. See Table 9, Housing Affordability.

**TABLE 9. OCEAN TOWNSHIP HOUSING AFFORDABILITY, 2023**

Monthly Housing Cost as % of Income	Owner-Occupied*	% of Total	Renter	% of Total	All Occupied	% of Total
Less than 20 Percent	1,672	40.2%	1,071	26.8%	2,743	33.7%
20 to 29 Percent	1,537	37.0%	699	17.5%	2,236	27.4%
30 Percent or More	947	22.8%	2,221	55.7%	3,168	38.9%
Total	4,156	100.0%	3,991	100.0%	8,147	100.0%
<i>Source: 2019-2023 American Community Survey 5-Year Estimate (DP04)</i>						
<i>* Includes only households with a mortgage</i>						

The 2023 American Community Survey found that there were 20 units that had incomplete kitchen facilities, 20 units that had incomplete plumbing facilities, and 0 units that were 50+ years old. Historically the conditions mentioned in this paragraph have been indicators of housing deficiency.

TABLE 10: OCEAN TOWNSHIP INDICATORS OF HOUSING DEFICIENCY, 2023

Indicator	Incomplete Plumbing	Incomplete Kitchen	Crowded or Overcrowded, and Built Pre-1950
Number of Units	20*	20*	0*
<i>Source: 2019-2023 American Community Survey 5-Year Estimate (DP04, B25050)</i>			
<i>*The margin of error for this information exceeds the estimated counts. As such, the estimates may be unreliable</i>			

POPULATION CHARACTERISTICS

The Township has seen its population grow by 2.6% since the 2000 census, while New Jersey's population grew by 9.4% and Monmouth County's by 4.6% during the same period. See Table 11, Population Growth.

TABLE 11. OCEAN TOWNSHIP POPULATION GROWTH, 2000 - 2020

	2000	2010	'00 - '10 Change	2020	'10 - '20 Change	'00 - '20 Change
Ocean Township	26,959	27,291	1.2%	27,672	1.4%	2.6%
Monmouth County	615,301	630,380	2.5%	643,615	2.1%	4.6%
New Jersey	8,414,350	8,791,894	4.3%	9,288,994	5.4%	9.4%
<i>Sources: 2000, 2010, and 2020 US Census</i>						

Ocean Township has seen its 5- to 24-year-old population shrink by 8.9%, though its population of children under age 5 grew 27.7%. The Township saw particular growth (45%) in the number of adults between 65 and 74. This helps account for the slight increase in the median age of Township residents, from 42.2 to 42.5. The rise in the number of children under 5 and the 13.1% increase in adults aged 25-34, indicates a growth in the number of young families in Ocean Township. See Table 12, Ocean Township Age Distribution, 2013 and 2023.

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TABLE 12. OCEAN TOWNSHIP AGE DISTRIBUTION, 2013 – 2023					
Age Group	2013	Percent	2023	Percent	Percent Change
Under 5	1,633	6.0%	2,086	7.5%	27.7%
5-14	3,542	13.0%	3,257	11.7%	-8.0%
15-24	3,094	11.3%	2,789	10.0%	-9.9%
25-34	2,989	11.0%	3,382	12.2%	13.1%
35-44	3,316	12.2%	3,234	11.6%	-2.5%
45-54	4,352	16.0%	3,252	11.7%	25.3%
55-64	3,865	14.2%	3,834	13.8%	-8.0%
65-74	2,422	8.9%	3,511	12.6%	45.0%
75+	2,059	7.5%	2,447	8.8%	18.8%
Total	27,272	100%	27,792	100%	1.9%
Median Age:	42.2		42.5		0.7%
Source: 2000-2013, 2010-2023 American Community Survey 5-Year Estimate (DP05)					

HOUSEHOLD CHARACTERISTICS

The U.S. Census Bureau defines a household as those people who occupy a single room or group of rooms constituting a housing unit; however, these individuals may or may not be related. Table 13, Household Size, shows that the distribution of households by size in the Township has remained relatively constant between 2013 and 2023.

TABLE 13. HOUSEHOLD SIZE, 2013 and 2023				
Household Size	2013		2023	
	Households	Percent	Households	Percent
1 Person	2,780	26.0%	2,873	26.3%
2 People	3,658	34.2%	3,542	32.5%
3 People	1,732	16.2%	1,871	17.2%
4 or More People	2,524	23.6%	2,611	24.0%
Total Households	10,694	100%	10,897	100%
<i>Sources: Table S2501, 2009-2013 and 2019-2023 American Community Survey Five-Year Estimates</i>				

As a subset of households, a family is identified as a group of people including a householder and one or more people related by blood, marriage or adoption, all living in the same household. In 2023, there were 10,897 households in the Township, of which 7,558 were family households, with an average of 2.55 people per household and an average of 3.06 people per family household. Approximately 55.2% of the households are married couples with or without children. Approximately 30.6% of the Township's households are non-family households, which include individuals living alone. See Table 14, Household Composition, 2023.



TABLE 14. HOUSEHOLD COMPOSITION, 2023		
Household Type	Number of Households	Percent
Family households	7,558	69.4%
Married-couple family	6,015	55.2%
With Children	2,350	21.6%
Male householder, no spouse present	613	5.6%
With Own Children Under 18	268	2.5%
Female householder, no spouse present	930	8.5%
With Own Children Under 18	550	5.0%
Nonfamily households	3,339	30.6%
Householder living alone	2,872	26.4%
Total Households	10,897	100%
Source: Table DP02, U.S. Census Bureau, 2019-2023 American Community Survey Five-Year Estimates		

When the number of bedrooms in a unit (from Table 6, above) is considered vs. the size of households in Ocean Township (from Table 13, above), there may be some mismatch: There are over twice as many one- and two-person households (58.9% of all households) than there are efficiency or one-bedroom units (26.4% of all units). This comparative shortage of smaller homes may be leading some empty nesters and young adults without children to consider other locations when seeking smaller-sized housing, or to occupy housing that is larger than their needs, and perhaps more costly than their means. Table 15, Unit Size vs. Household Size, 2023, provides more detail.

TABLE 15. OCEAN TOWNSHIP UNIT SIZE vs. HOUSEHOLD SIZE, 2023					
Unit Size	Number of Units	Percent of Total Units	Household Size	Number of Households	Percent of Total Households
0 or 1 Bedroom	2,445	20.7%	1 Person	2,873	26.4%
2 Bedrooms	2,514	21.3%	2 People	3,542	32.5%
3 Bedrooms	3,233	27.3%	3 People	1,871	17.2%
4+ Bedrooms	3,636	30.7%	4+ Persons	2,611	24.0%
Total	11,828	100%	Total	10,897	100%

INCOME CHARACTERISTICS

Households in Ocean Township have slightly lower incomes on average than those in Monmouth County overall. Median household income in 2023 in Ocean Township was \$112,586, compared to \$122,727 for the county overall. Table 16, Household Income by Income Brackets, 2023, shows the number of households in each of the income categories.

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TABLE 16. OCEAN TOWNSHIP HOUSEHOLD INCOME BY INCOME BRACKETS, 2023		
	Households	Percent
Less than \$10,000	230	2.1%
\$10,000-\$14,999	290	2.7%
\$15,000-\$24,999	402	3.7%
\$25,000-\$34,999	426	3.9%
\$35,000-\$49,000	1,244	11.4%
\$50,000-\$74,999	1,127	10.3%
\$75,000-\$99,999	1,239	11.4%
\$100,000-\$149,999	1,812	16.6%
\$150,000-\$199,999	1,374	12.6%
\$200,000 +	2,753	25.3%
Total	10,897	100.0%
Median Income:	\$112,586	
Source: 20019-2023 American Community Survey 5-Year Estimate (DP03)		

The Township's poverty rates for individuals and families (6.7% and 4.0%, respectively) are similar to the county's individual and family rates (6.4% and 4.1%, respectively), although lower than the state's rates (9.8% and 7.0%, respectively). See Table 17, Individual and Family Poverty Rates, 2023, for the comparison.

TABLE 17. INDIVIDUAL AND FAMILY POVERTY RATES, 2023		
Location	Individuals	Families
Ocean Township	6.7%	4.0%
Monmouth County	6.4%	4.1%
New Jersey	9.8%	7.0%
<i>Source: 2019-2023 American Community Survey 5-Year Estimate (DP03)</i>		

EMPLOYMENT CHARACTERISTICS

Table 18, Covered Employment by Sector, shows the distribution of jobs in Ocean Township by sector. The four industries that offer the largest employment opportunities in the Township were the retail trade industry at 23.4%; the health and social services industry at 17.6%; and educational services at 14.6%.

TABLE 18. COVERED EMPLOYMENT BY SECTOR, 2022		
	Count	Percent
Private Sector Category		
Agriculture	1	0.0%
Mining/Quarrying	1	0.0%
Utilities	19	0.2%
Construction	505	4.6%



TABLE 18. COVERED EMPLOYMENT BY SECTOR, 2022		
	Count	Percent
Manufacturing	301	2.8%
Wholesale Trade	264	2.4%
Retail Trade	2,557	23.4%
Transportation/Warehousing	128	1.2%
Information	27	0.2%
Finance/Insurance	558	5.1%
Real Estate	147	1.3%
Professional/Technical	586	5.4%
Management of Enterprises	4	0.0%
Admin/Waste Remediation	422	3.9%
Education	1,587	14.6%
Health/Social Services	1,922	17.6%
Arts/Entertainment	336	3.1%
Accommodation/Food	772	7.1%
Other Services	499	4.6%
Private Sector Total	10,637	97.5%
Public Administration	270	2.5%
Total Covered Employment	10,907	100%

Source: OnTheMap, Center for Economic Studies, U.S. Census Bureau, 2022.

Jobs-Housing Ratio

A municipality's jobs-housing ratio is a rough indicator of the degree to which the municipality has been able to generate sufficient housing to accommodate its workers. A ratio of between 0.75 and 1.5 is generally considered to indicate a healthy balance between the number of jobs a municipality can offer its residents and the municipality's ability to house all its workers who wish to live there.¹⁶ The ability to house workers locally enables them to spend less time commuting, reduces traffic congestion, and reduces the greenhouse gas emissions associated with commuting by automobile.

Based on Tables 4 and 18 above, Ocean Township has a jobs-housing ratio of 0.92, within the range considered healthy.

POPULATION PROJECTIONS

The North Jersey Transportation Authority ("NJTPA"), the Metropolitan Planning Organization that includes Ocean Township as well as the remainder of Monmouth County, published population and employment projections for the year 2050. The NJTPA projects that the Township's population and employment will increase by 5.5% and 10.9%, respectively, from 2015 to 2050. As Table 19, Population and Employment Projections, 2015 to 2050, shows, the Township's projected population and employment growth rates are slightly lower than those of the county (6.5% and 11.8%, respectively).

¹⁶ <https://enviroatlas.epa.gov/enviroatlas/datafactsheets/pdf/supplemental/employmenthousingratio.pdf>

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.



TABLE 19. POPULATION AND EMPLOYMENT PROJECTIONS, 2015 to 2050						
	Ocean Township			Monmouth County		
	2015	2050	% Change	2015	2050	% Change
Population	27,184	28,683	5.5%	629,185	669,624	6.4%
Employment	10,133	11,240	10.9%	262,372	293,290	11.8%
<i>Sources: NJTPA. Forecasts adopted September 2021</i>						

The FHA requires that housing plans include a 10-year projection of new housing units based on the number of building permits, demolition permits, development applications approved, and probable developments, as well as other indicators deemed appropriate (N.J.S.A. 52:27D-310.b). Building permit issuance for new residential construction in Ocean Township during the years 2014 through 2023 averaged approximately 61.2 units per year, and residential demolition permits averaged 9.5 per year, for an average net new residential construction rate of 51.7 units per year.

If this rate were to remain constant, Ocean Township would see approximately 517 new dwellings by July 1, 2033. Factors such as economic cycles, zoning, environmental constraints, and physical obstacles to development may result in a lower or higher actual number. Table 20, Housing Projections, provides an estimate of anticipated residential growth based on the extrapolation into the future of prior housing activity and planned new development.

TABLE 20. HOUSING PROJECTIONS TO 2025			
Year	Building Permits	Demolitions	Net New Dwellings
2014	22	5	17
2015	113	14	99
2016	25	2	23
2017	71	3	68
2018	94	3	91
2019	74	10	64
2020	95	16	79
2021	17	12	5
2022	18	14	4
2023	83	16	67
Total	612	95	517
10-Year Average	61.2	9.5	51.7
10-Year Projection (2024-2033)	612	95	517
<i>Source: NJDCA Construction Reporter, Building Permits, Yearly Summary Data, Residential Demolition Permits and Housing Units Authorized by Building Permit for New Construction.</i>			



OCEAN TOWNSHIP AFFORDABLE HOUSING HISTORY

The Township of Ocean prepared a housing element as part of its overall Master Plan in 1990. In 2009, Ocean Township adopted a resolution formally committing to comply with its Mount Laurel obligations (Resolution 09-173) and the Township filed a Motion for Temporary Immunity. A 2010 Consent Order set forth by the Honorable Paul A. Kapalko determined that Ocean Township's affordable housing obligation would be limited to the municipality's Present Need and First and Second Round (Prior Round) fair share obligation. COAH's Prior Round obligation for Ocean Township was 873, per N.J.A.C. 5:93. As the Township has limited vacant, developable land, the municipality conducted a VLA in April 2011. This analysis, involving the review of 850 sites deemed to be either vacant or municipally/publicly owned, calculated a Prior Round RDP of 216 with a Prior Round Unmet Need of 657.

On June 27, 2011, the Township adopted its HEFSP to address its Prior Round affordable housing obligation as determined by Judge Kapalko. The Township proposed to satisfy its 216 Prior Round RDP through existing affordable family rental units at Primrose Place; existing group home bedrooms; the proposed addition of new affordable units at an existing age-restricted affordable rental housing complex called Poplar Village, built in 1971; the reconstruction of the balance of the 40-year-old age-restricted affordable rentals at Poplar Village; inclusionary zoning on the Roosevelt and Wayside Point (formerly known as BVB) sites; a market-to-affordable rental program; and, if needed, a 100% affordable housing development at 777 West Park Avenue. On July 28, 2011, the Township submitted the plan to the New Jersey Superior Court.

On September 1, 2011, Frank Banisch III, PP, AICP, the court-appointed Special Adjudicator (formerly referred to as Special Master), issued a report recommending that the Township modify its April 2011 RDP calculation of 216 to an RDP of 240, resulting in a 633 Prior Round Unmet Need. Subsequently, the Township took substantial actions to address the revised Adjudicator-approved 240 Prior Round RDP and the Township's Unmet Need.

On July 6, 2015, the Township filed its Third Round Declaratory Judgment action with the Superior Court, listing in plan summary filings with the Court in October and December of 2015 its efforts to address its RDP. As a result of mediation through the Superior Court, in January 2019, the Township and FSHC negotiated and executed a Settlement Agreement (see Appendix A). The Township's agreement with FSHC established the Township's three-part Third Round fair share obligation, including a Present Need obligation of 57, the previously determined Prior Round obligation of 873, and a Third Round "Gap" and Prospective Need obligation of 518. The combined Prior Round and Third Round obligations were reduced via an updated VLA to a combined Prior Round and Third Round RDP of 280 and a combined Prior Round and Third Round Unmet Need of 1,111. The Settlement Agreement set forth the Township's preliminary compliance mechanisms to address its RDP and Unmet Need. This plan includes updated information to conform to the terms of the Third Round Settlement Agreement.

In a report dated April 1, 2019, Special Adjudicator Banisch recommended that the Township's Third Round Settlement Agreement with FSHC be approved. The 2019 Ocean Township/FSHC Settlement Agreement was approved by the Honorable Linda Grasso Jones, J.S.C., at a Fairness Hearing on April 5, 2019, as reflected in an order dated June 25, 2019. The Court's approval established the Township's Third Round fair share and provided preliminary approval of the Township's compliance efforts.

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.

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The Township proposed to satisfy its 280 combined Prior Round and Third Round RDP through existing affordable family rental units at Primrose Place; existing group home bedrooms; units from the existing Heritage Village at Oakhurst (formerly 777 W. Park Avenue) 100% affordable age-restricted development; the Cindy Lane Apartments 100% affordable family rental development; and inclusionary zoning on Roosevelt and Wayside Point (formerly known as BVB), as well as proposed inclusionary development on the Ocean Glades site. The Township's Third Round HEFSP was approved by the Court in a final JOR entered May 4, 2020. (See Appendix A.)

In addition to the Township's formal efforts to address its fair share affordable housing obligations noted above, Ocean Township also has a long history of providing a multitude of multi-family, garden apartment residential opportunities for low- and moderate-income households to live in the community, attend schools, and participate in all aspects of community life. In addition to the affordable housing units in the Township with formal affordability controls, there are a significant number of unrestricted but modestly priced rental apartments in the Township. As set forth in the Township's 2011 adopted HEFSP and as noted herein, the rents at the vast majority of its existing apartment units were affordable or would reasonably be considered affordable according to a 2009 study conducted by the Township (see attached map of garden apartment complexes).

In 2009, the Township did an inventory of the garden apartments in the municipality and documented the rents charged, based on information either gleaned from speaking with staff/managers at each apartment complex or gathered from the apartment complex's website. The Township compared the rents at those complexes with COAH's permitted rents in 2009.

As described in the "Affordability Requirements" section above, COAH defines moderate-income households as households with gross incomes less than 80% of the regional median income; however, COAH set the maximum allowed rents lower, to be affordable to a household earning no more than 60% of the regional median income. COAH defined rent as "affordable" if it equals 30% or less of a household's income. Table 21. Maximum Affordable Rents, 2009 and 2024, shows 2009 and 2024 maximum illustrative net rents at 60% of regional median income and a reasonable net rent based on income levels at 80% of the regional median income.

TABLE 21. MAXIMUM AFFORDABLE RENTS, 2009 AND 2024				
Unit Size	Maximum COAH Rent at 60% of Median Income		Maximum Rent at 80% of Median Income	
	2009	2024	2009	2024
1 bedroom	\$893	\$1,463	\$1,223	\$1,945
2 bedrooms	\$1,066	\$1,756	\$1,463	\$2,335
3 bedrooms	\$1,266	\$2,029	\$1,684	\$2,698
Source: Council on Affordable Housing 2009, Affordable Housing Professionals of New Jersey 2024				

Existing Affordable Apartments (Restricted and not Restricted)

LOCATION:
Ocean Township, Monmouth County, NJ

DATE:
November 2019

Legend

Restricted and not Restricted Sites

Aerial Source:
New Jersey 2015 High Resolution Orthophotography, MAD83(2011), MSID Tiles
Publisher: NJ Office of Information Technology (NJ.OIT)
Office of Geographic Information Systems (OGIS)
Publication Date: 2/24/2016

Wetlands Source:
Wetlands (from Land Use/Land Cover 2012 Update), Edition 2/17/2015
Publisher: NJ Department of Environmental Protection (NJDEP)
Division of Information Technology (DOIT)
Bureau of Geographic Information System (BGIS)

Special Flood Hazard Area Source:
Title: National Flood Hazard Layer (NFHL)
Organization Name: Federal Emergency Management Agency
Date: 2015-05-10
Date Type: Publication Date
Edition: Version 1.1.1.0

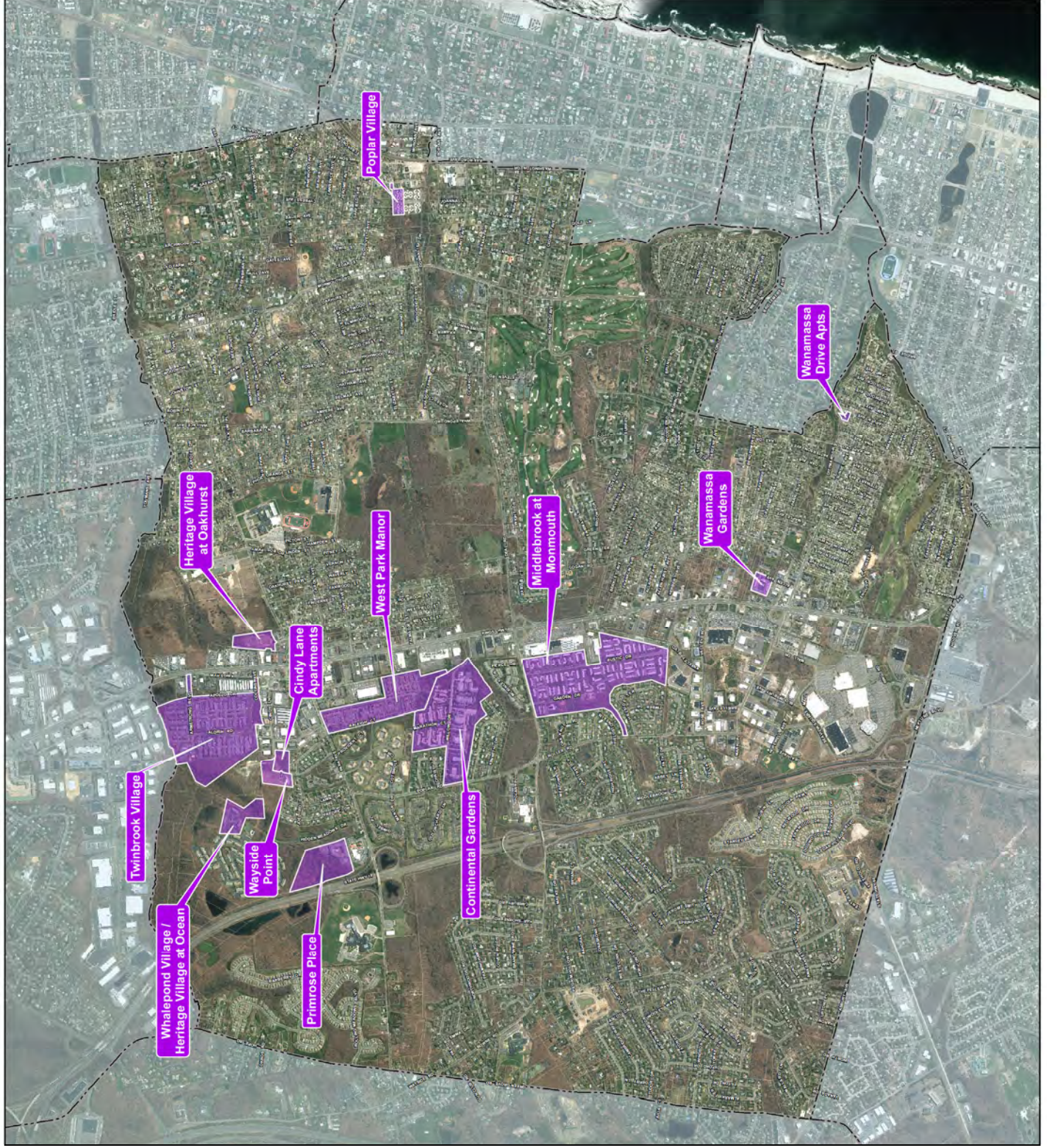
Steep Slope Source:
Steep Slopes (from NJDEP 2010 Flood Resolution LIDAR (Light Detection and Ranging) Derived Digital Elevation Model (DEM), Non-Hydro-Flattened)
Originator: New Jersey Department of Environmental Protection
Publication Date: 10/1/2012



0 0.75 Miles

Clarke Caton Hintz

Architecture
Planning
Landscape Architecture





The apartment complexes surveyed, totaling 3,155 units (including name, unit totals, number of bedrooms, and range of rents in 2009 and 2025 where available), are listed in Table 22, below, along with 151 new affordable units that have come online since 2009:

TABLE 22. PUBLISHED RENTS AT OCEAN TOWNSHIP APARTMENT COMPLEXES, 2009 and 2025

Name	Number and Type of Units	Rent Range, 2009	Rent Range, 2025
Twinbrook Village	880 units, 1 and 2 BR	\$795 to \$1,175	\$1,775 to \$2,150
Middlebrook at Monmouth	916 units, 1 and 2 BR	\$850 to \$1,150	\$1,675 to \$2,015
Continental Gardens	602 units, 1 and 2 BR	\$790 to \$1,245	\$1,395 to \$2,220
West Park Manor	344 units, 1 and 2 BR	\$945 to \$1,300	\$2,124 to \$2,474
Heritage Village at Ocean (was Whalepond Village)	96 units, 1 BR	Income-restricted rents from \$799	Income-restricted rent \$1,361
Poplar Village	93 units, eff. and 1 BR	Income-restricted rents from \$669 to \$1,000	Income-restricted rents from \$821 to \$1,059
Wanamassa Gardens	66 units, 1 and 2 BR	\$975 to \$1,300	
Wanamassa Drive Apartments	14 units; no other information provided		
Primrose Place	144 units: 125 market-rate units all 2 BR; 19 affordable units, 1, 2 and 3 BR	Market-rate rents from \$1,850 to \$2,225; Income-restricted rents from \$368 to \$1,192	Market-rate rents from \$2,640 to \$3,125; Income-restricted rents from \$422 to \$1,323
Heritage Village at Oakhurst	93 units, 1 and 2 BR		Income-restricted rents from \$611 to \$1,393
Cindy Lane Apartments	47 units, 1 BR, 2 BR and 3 BR		Income-restricted rents from \$227 to \$948
Wayside Point	11 units, 1 BR, 2 BR and 3 BR		Income-restricted rents from \$374 to \$1,286

From the survey and current rent information it is clear that in both 2009 and 2025, most of the multi-family and garden apartment units in the Township of Ocean were and are either restricted affordable units or can reasonably be deemed to be affordable units based on the rents charged.

To put the affordability of the Township's existing garden apartments into more perspective, in 2011 the Township reviewed the number of students in the Township, and specifically the number who resided in the garden apartments, who were eligible for free or reduced-cost lunch pursuant to the federal school lunch program. The federal income eligibility guidelines for the free and reduced-cost lunch program are a percentage of the federal poverty guidelines, and for the 2010-2011 school year in New Jersey, these equated to a maximum annual income for a family of four of \$28,665 for free lunch and \$40,793 for reduced-cost lunch. By comparison, in 2009 COAH deemed a family of four with an annual income of up to \$44,125 to be eligible as a low-income household, and a family of four with an annual income of up to \$70,599 to be eligible as a moderate-income household. Thus a student eligible for free or reduced-cost lunch was by definition part of a household that COAH defined as low- or moderate-income.



For 2024, a four-person household earning \$57,720 or less is eligible for reduced-price school lunches, and a four-person household earning \$40,560 or less is eligible for free school lunches. The 2025 income limits promulgated by HMFA deem a family of four making \$40,380 in Monmouth County to be at 30% of regional median income, and a family of four making \$67,300 to be at 50% of regional median income. Thus, a student eligible for free or reduced-cost lunch in 2024 was also by definition part of a household considered low-income.

In March 2011, the Township of Ocean School District, which serves grades K – 12, had a total enrollment of 4,022 students, of whom 826 students, or 20.5%, were eligible for free or reduced-cost lunch. In 2017, according to the New Jersey Department of Education, the district had an enrollment of 3,519, of which 697, or 19.8%, were eligible for free or reduced-cost lunch. Of those students in 2011, the Township found that 485, or almost 60%, resided in the five largest garden apartment complexes (Continental, Middlebrook at Monmouth, Twinbrook, West Park Manor and Wanamassa Gardens).

This is further indication that even before COAH was established, both the restricted and the unrestricted garden apartments in the Township have served the region's low- and moderate-income households well. It is also further confirmation that the Township has not utilized its zoning powers to exclude low- and moderate-income households from the community.

Availability of Existing and Planned Infrastructure

According to New Jersey American Water, which provides public water service to the Township, there is sufficient capacity to provide water to all the inclusionary developments (market-rate and affordable units) proposed to address the Township's Third Round RDP of 237, the proposed 100% affordable development that will satisfy the Township's Fourth Round RDP of 27, and all of its Unmet Need compliance mechanisms. It notes that mains of various dimensions are located near the boundaries of all proposed development sites. According to the Township of Ocean Sewerage Authority, the Township has sufficient sewer treatment capacity to handle the increased volume from all its compliance mechanisms; however, it recommends further study to determine whether the collection system has the necessary capacity, and it indicates that some infrastructure improvements for some of the Unmet Need compliance mechanisms may be necessary. (See Appendix C for the letters of capacity to serve.)

Anticipated Land Use Patterns

Anticipated land use patterns in Ocean Township will continue to favor a variety of housing types, and will range from single-family infill development in residential neighborhoods to upper-story apartments with an affordable housing set-aside in Ocean Township's neighborhood commercial districts (the C-1 District, including Norwood Avenue).

Constraints on Development

The Township is located entirely within the Metropolitan Planning Area, PA 1, and not within the jurisdiction of the Meadowlands, Highlands, or Pinelands planning areas. A small corner of the Township, specifically, the section of Norwood Avenue covered by an inclusionary zone that was included as an Unmet Need compliance mechanism in the Township's Third Round plan, is within the CAFRA boundary. However, the Township does not anticipate that CAFRA requirements would preclude any anticipated

Fourth Round Housing Element and Fair Share Plan



future inclusionary Unmet Need development. There are no known federal regulations that would hinder the development projected as part of the Township's Fourth Round HEFSP.

There are no Category 1 waterways or associated buffers in the Township. The CAFRA boundary, the wetlands areas designated by the New Jersey Department of Environmental Protection ("DEP"), and the FEMA 100-year flood plains present in the Township do not limit the development proposed to address its RDP.

The only significant open, developable lands in Ocean Township are two golf courses; most other new development will require the redevelopment of existing structures.

Consideration of Lands Appropriate for Affordable Housing

As part of this housing element, the Township has considered land that is appropriate for the construction of low- and moderate-income housing and considered all lands of developers who have expressed a commitment to provide low- and moderate-income housing. Consistent with smart growth planning principles, the Township has chosen to intersperse affordable housing throughout the existing residential neighborhoods in the Township and in proximity to transportation corridors.

The Township believes that the developments described in this document represent the best options for affordable housing development within the Township. The Township's affordable inclusionary housing sites and 100% affordable housing sites all provide opportunities for very low-, low- and moderate-income households to be a part of the community and have access to local schools, public transportation, parks and services.

Multi-Generational Family Housing Continuity

The FHA requires an HEFSP to provide an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family housing continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of 23 section 1 of P.L.2021, c.273 (C.52:27D-329.20). As of May 2025, no recommendations have been issued by the Commission.

Consistency with State Development and Redevelopment Plan

The entirety of Ocean Township is located in the Metropolitan Planning Area (PA-1) as established by the SDRP. The State Plan's intent for the Metropolitan Planning Area is to:

- Provide for much of the state's future growth in compact development and redevelopment;
- Revitalize cities, towns and neighborhoods, and in particular overburdened neighborhoods;
- Address existing legacy issues such as air pollution, urban heat islands, lead contamination, Brownfields, urban highways, and combined sewer systems;
- Prevent displacement and gentrification;
- Promote growth that occurs in centers, other appropriate areas that are pedestrian friendly, and in compact transit-oriented forms;
- Rebalance urbanization with natural systems;



- Promote increased biodiversity and habitat restoration;
- Stabilize and enhance older inner ring suburbs;
- Redesign and revitalize auto oriented areas;
- Protect and enhance the character of existing stable communities

Ocean Township is a developed community with access to regional NJ Transit bus service to Asbury Park, Brookdale College and Long Branch rail service to New York. All affordable housing sites satisfying the Township's obligations have public water, sewer, and stormwater management facilities, where required.



OCEAN TOWNSHIP'S AFFORDABLE HOUSING OBLIGATION

A municipality's Fourth Round affordable housing obligation has four components: Fourth Round Present Need (Rehabilitation share), Prior Round Prospective Need, Third Round "Gap"/Prospective Need, and Fourth Round Prospective Need. For Ocean Township, these four components were determined as follows.

In 2019, the Court approved the Third Round FSHC settlement agreement, which included the Township's cumulative Prior Round Prospective Need (previously established by COAH), and which set the Third Round Gap/Prospective Need (as negotiated with FSHC), which was then adjusted pursuant to an updated 2017 Prior Round/Third Round VLA.

In January 2025, the Township filed its Fourth Round DJ action, which included Township Council Resolution #25-023, adopted January 29, 2025, accepting the DCA calculation of its Fourth Round Present Need/Rehabilitation Share and Prospective Need, which will also be adjusted per the updated 2025 Fourth Round VLA. In an April 2025 Order, the Court affirmed the Township's acceptance of DCA's Fourth Round obligations. The entire four-component Fourth Round fair share obligation is as follows:

- Fourth Round Present Need/Rehab Share: 51
- Prior Round Prospective Need: 873
- Third Round "Gap"/ Prospective Need: 518
- Fourth Round Prospective Need: 166

Rehabilitation Obligation

The amended FHA defines *present need* as "the number of substandard existing deficient housing units currently occupied by low- and moderate-income (LMI) households" and *deficient housing unit* as "housing that (1) is over fifty years old and overcrowded, (2) lacks complete plumbing, or (3) lacks complete kitchen facilities." The Township's Fourth Round Present Need of 51 was calculated by DCA according to its October 2024 methodology report. The Township accepted DCA's determination of its Fourth Round Present Need obligation by resolution as submitted to the Superior Court/Program with its Fourth Round DJ filing.

Prior Round Prospective Need Obligation

The Prior Round Prospective Need obligation is the cumulative prospective need obligation for the First and Second Rounds (1987 to 1999). The Township's 873 Prior Round Need was calculated by COAH as set forth in the Appendices to COAH's Substantive Rules at N.J.A.C. 5:93-1.

Third Round "Gap" and Prospective Need Obligation

As established by the Township's 2019 FSHC Settlement Agreement, Ocean's Third Round obligation (1999-2025) was set at 518 units. The Township's combined Prior Round and Third Round VLA resulted in a combined Prior Round and Third Round RDP of 280, later adjusted to 237, and an Unmet Need of 1,111, later adjusted to 1,154.

Fourth Round Prospective Need Obligation

The FHA, as amended by P.L. 2024, c.2, defines *prospective need* as "a projection of housing needs based on development and growth which is reasonably likely to occur in a region or municipality, as the case may be, as a result of actual determination of public and private entities." The Township's Fourth Round Prospective



Need of 166 was calculated by DCA according to the methodology described in the October 2024 report titled *Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background*. The Township accepted DCA's determination of its Fourth Round Prospective Need of 166 by resolution, which was filed with the Superior Court/Program as part of its Fourth Round DJ action, and established by Court order entered April 1, 2025 (Appendix B).

Because of a lack of developable land in the Township, it has prepared an updated 2025 VLA (Appendix D), as part of this Fourth Round HEFSP. The updated Fourth Round VLA determined, pursuant to the 2002 NJ Supreme Court decision in the Cherry Hill Twp./Garden State Racetrack VLA matter, whether there were any "changed circumstances" from when the Township performed its earlier 2018 Third Round analysis. The Township has identified three parcels totaling 4.9 acres that are large enough to support an inclusionary development. At a gross density of six units per acre and an affordable housing set-aside of 20%, these parcels generated a Fourth Round RDP of 5.88. In addition, three parcels have approved or proposed projects that include a total of 106 residential units. At a mandatory affordable housing set-aside of 20%, these projects generate a Fourth Round RDP of 21.2, which, when added to the 5.88 RDP for the newly vacant parcels, create a combined total RDP of 27.08. Thus the Township's Fourth Round RDP is 27, and its Unmet Need is 139. When the unfulfilled Third Round Unmet Need is added to this number, the Township's total Unmet Need is 1,293.



OCEAN TOWNSHIP'S AFFORDABLE HOUSING PLAN

Satisfaction of the Rehabilitation Obligation

The Township proposes to address its 51-unit Rehabilitation share through participation in the Monmouth County Housing Improvement Program, which utilizes federal Community Development Block Grant funds. (See Appendix E for the county's Housing Improvement Program operating manual.) Because that program is only available for owner-occupied units, the Township will also establish a municipally sponsored rehabilitation program, available also to renters, and in its Spending Plan will dedicate funds from its municipal Affordable Housing Trust Fund toward the program.

Ocean Township's rehabilitation programs have adhered and will adhere to the regulations in N.J.A.C. 5:93-5.2. Specifically, all rehabilitated units will comply with the definition of a substandard housing unit in N.J.A.C. 5:93-1.3, which defines it as "a housing unit with health and safety code violations that require the repair or replacement of a major system." Major systems include weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load-bearing structural systems. All rehabilitated units will meet the applicable construction code. Additionally, all rehabilitated units will be occupied by low- or moderate-income households and upon completion of the rehabilitation, 10-year affordability controls will be placed on the property in the form of a lien or deed restriction.

Satisfaction of the 237 Combined Prior Round and Third Round (1987-2025) RDP

Pursuant to the Township's December 10, 2018, VLA, and through the Township's Third Round settlement with FSHC, the Township's Prior Round and Third Round (1987-2025) combined obligation of 1,391 units was adjusted to an RDP of 280 units and Unmet Need of 1,111 units. Since that time, the Township has determined that one site in the Township's VLA that was found to generate an RDP of 43, and on which an inclusionary development was proposed that would generate 43 affordable units, is constrained by environmental contamination and is not available for residential development. Therefore, with FSHC's preliminary approval, the Township had reduced its combined RDP to 237 and increased its combined Unmet Need to 1,154.

In addition to satisfying the RDP and proposing mechanisms to assist in addressing Unmet Need, the Township must also adhere to a minimum rental obligation, a minimum family rental obligation, a maximum number of age-restricted units, a minimum very low-income requirement, and a minimum number of family very low-income units.

As summarized in Table 23, Summary of Combined Prior Round and Third Round Revised 237 RDP Compliance, the Township has addressed its 237 RDP with completed, approved and proposed affordable family, special-needs, and senior units. The majority of the affordable units will be rentals, and a portion of one development (Roosevelt) may be for-sale affordable units. Pursuant to N.J.A.C. 5:93-5.15(d), rental bonuses for family affordable rental units are allocated on a one-for-one basis, meaning that for every affordable rental unit built or with a firm commitment, two credits are calculated up to a rental bonus cap of 25% of the Prior Round/Third Round RDP, which, in the case of Ocean Township means a rental bonus cap of 60.

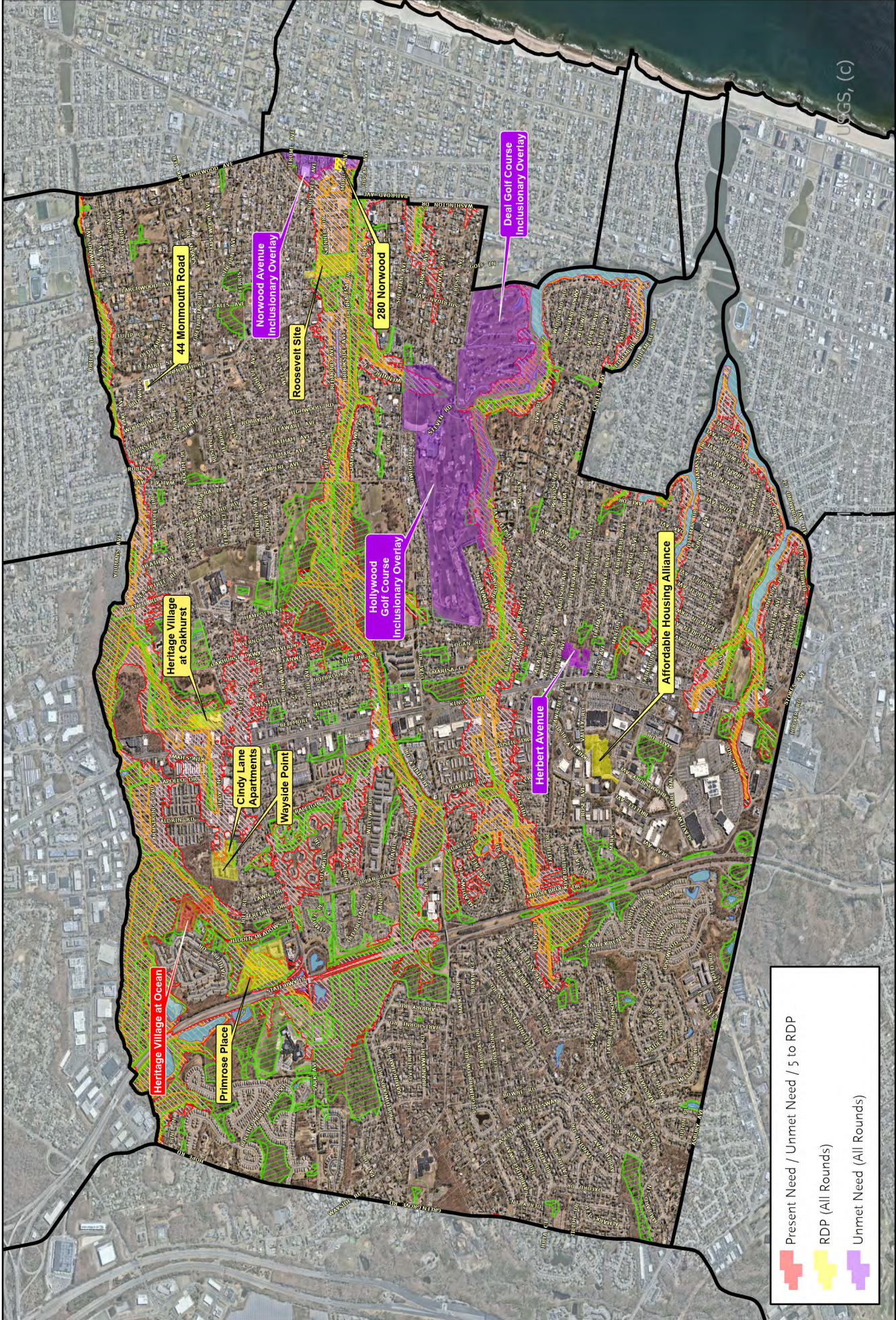


**TABLE 23. OCEAN TOWNSHIP SUMMARY OF COMBINED PRIOR ROUND AND
THIRD ROUND REVISED 237-RDP COMPLIANCE PLAN**

Compliance Mechanism	Type	Total Credits	Bonuses	Total
Primrose Place – completed	Inclusionary family affordable rental	19	19	38
Beacon Specialized Living (formerly Enable, Inc.) – completed	Special needs	4	0	4
SERV, Inc. – completed	Special needs	5	0	5
Heritage Village at Ocean (Whalepond Village) – completed (5 of 95; extension of controls)	Special needs	5	0	5
Heritage Village at Oakhurst (777 W. Park) – completed (59 of 92)	Affordable senior rental (59) and special needs (5)	59; cap 5	0	64
Cindy Lane Apartments – completed	100% affordable family rental	47	41; cap	88
Wayside Point (formerly BVB) – completed	Inclusionary family affordable rental	11	0	11
Roosevelt Properties site – approved (2 on-site/3 off-site)	Inclusionary family affordable sale/rental	2	0	2
Ocean Glades site – removed as contaminated (-43 units)	Inclusionary family affordable rental	0	0	0
Affordable Housing Alliance – 20 of 67; proposed; includes 3 off-site (2 low/1 very low) from Roosevelt Properties	100% affordable family rental	20	0	20
Total		177	60	237

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.



 Present Need / Unmet Need / 5 to RDP

 RDP (All Rounds)


 Unmet Need (All Rounds)





0 1,000 2,000 4,000 Feet




Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

 Wetlands

 100 Year Flood

 Inland Flood Hazard Area

 Waterbodies

Affordable Housing Sites: RDP Sites and Unmet Need Sites

Ocean Township

LOCATION: Ocean Township, Monmouth County, NJ

DATE: May 2025

Aerial Imagery
Nearmap (June 20, 2024)

Wetlands/Forest
NJDEP (2020)

Steep Slopes
NJOGIS (2019)

Streams/Waterbodies
NJDEP (2015)

100-Yr Flood/Flood Hazard
FEMA (2024)



INCLUSIONARY DEVELOPMENT – COMPLETED

Primrose Place

There are 19 completed affordable family rental units at Primrose Place, Block 1.02, Lot 72, at 20 Hidden Meadows Drive. In 2001, Fieldstone Associates, Inc. received Planning Board approval to construct 124 total senior market-rate rental housing units. In 2009, Fieldstone received approval from the Township to remove the age restriction for the entire complex, provided it constructed an addition to accommodate an affordable housing set-aside for the development.

The affordable units received certificates of occupancy (“COs”) in 2011, and has affordability controls of at least 30 years. The developer sold the property in 2017 to an entity known as Primrose Estates, LLC, which has contracted with the Township’s Administrative Agent, Community Grants, Planning and Housing, LLC. (CGP&H), for ongoing affirmative marketing and administration of the affordable family rental units.

The developer’s agreement required four one-bedroom units, 11 two-bedroom units and four three-bedroom units. This bedroom distribution addresses UHAC at N.J.A.C. 5:80-26.3(b) for the two- and three-bedroom requirements, although only three one-bedroom units should have been permitted instead of four (3.8 was rounded to 4.0). Although this project does not comply strictly with UHAC, the Township overall satisfies UHAC’s requirements for family bedroom distribution, as can be seen in Table 25. The Township claimed 19 family rental affordable housing credits and 19 rental bonuses from this property. (See Appendix F for the recorded deed restriction.)

Wayside Point (formerly BVB site)

In 2009 the owner of an approximately 5.9 acre site (Block 1.02, lots 52.01, 53.01 and 54.01) brought Mount Laurel litigation against the Township in a matter entitled BVB II Associates v. Township of Ocean and the Planning Board of Ocean, Docket No. MON-L-4316-09. With the guidance of the Court-appointed Special Adjudicator, in October 2015 the Township and BVB II Associates reached a settlement agreement, which received approval from the Court in an Order dated January 25, 2016, after a fairness hearing on December 4, 2015.

Pursuant to the Court-approved BVB settlement agreement, the Township rezoned the site to allow for the construction of 72 housing units, 11 of which are affordable family rental units (a 15% affordable housing set-aside). The development received its COs in November 2019, and has affordability controls of at least 30 years. The developer has retained CGP&H, the Township’s experienced affordable housing Administrative Agent, to affirmatively market and administer the affordable units. (See Appendix G for the recorded deed restriction.)

ALTERNATIVE LIVING ARRANGEMENTS – COMPLETED

Beacon Specialized Living (formerly Enable, Inc.)

Beacon Specialized Living, formerly called Enable, Inc., is an experienced provider of supportive and special needs housing in New Jersey and operates a four-bedroom group home at 604 W. Park Avenue (Block 33.08, Lot 2). The group home received a CO on January 6, 2000, and was licensed on August 29, 2000. Beacon received capital funding from the Division of Developmental Disabilities (“DDD”). The state’s required Capital Application Funding Unit agreement letter established a 20-year renewable operating

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.



contract. COAH's policies have historically honored the 20-year renewable DDD funding agreement as addressing the appropriate affordability controls. The four bedrooms in the group home are eligible for credit (credit is provided by the bedroom for group homes per N.J.A.C. 5:93-5.8(b)). (See Appendix H for crediting documentation, including the group home survey, DDD funding agreement, and the most recent available license.)

SERV, Inc.

SERV, Inc. is an experienced provider of supportive and special needs housing in New Jersey and operates a five-bedroom group home at 21 Hillside Terrace (Block 182, Lot 20). The group home was initially established by Developmental Services of New Jersey, Inc. and opened on February 18, 2002. Developmental Services received a license for the facility on March 1, 1999. At the request of DDD, SERV took over the group home in 2009, and that year received almost \$345,000 in funding from DDD, which required a Capital Application Funding Unit agreement letter establishing a 20-year renewable operating contract. (See Appendix H for crediting documentation, including the group home survey, DDD funding agreement, and current license.)

EXTENSION OF CONTROLS

Heritage Village at Ocean (formerly Whalepond Village)

Heritage Village at Ocean (Block 1.02, Lot 21.02) is an existing 96-unit affordable rental complex that includes 90 age-restricted affordable units, five special-needs units and a superintendent's unit. The complex was purchased by the Township in 1994 and transferred in 2013 to Community Investment Strategies ("CIS"), an experienced affordable housing developer, in order to preserve affordability controls on the units. New 30-year affordability controls were imposed on all of the affordable units in 2013, and in 2015 all of the units were extensively rehabilitated. To satisfy its 57-unit Third Round Rehabilitation share, the Township claimed credit for 57 of the 90 age-restricted affordable units at Heritage Village at Ocean, and applied the remaining 33 credits to its combined Prior Round and Third Round Unmet Need. In accordance with N.J.A.C. 5:97-6.14, the Township applied five credits from the extension of controls on the five special-needs units towards its combined Prior Round and Third Round RDP. (See Appendix I for the deed restriction and financing agreements.)

MUNICIPALLY SPONSORED 100% AFFORDABLE HOUSING – COMPLETED

Heritage Village at Oakhurst (formerly 777 W. Park)

The 777 W. Park Avenue site (Block 3, Lots 16.03 and 16.04), now known as Heritage Village at Oakhurst, is located off West Park Avenue and consists of approximately 6.85 acres. The Township bonded for \$1.3 million to purchase the site in June 2003, and later transferred it to CIS. In May 2013 the Township signed an agreement with CIS to develop and administer a 100% affordable senior rental housing complex. The Township also provided a low-interest loan of \$300,000 to help cover construction costs. The project contains 92 affordable units, of which 87 are senior affordable rentals and five are very low-income special needs units. As noted in the Township's 2018 VLA inventory attached to the Township's 2019 Settlement Agreement with FSHC, 62 of the 92 total units are replacement housing units that were reassigned from Poplar Village after that property flooded during Hurricane Irene and the damaged units were demolished. The project received a 4% tax credit award and received approximately \$11 million in CDBG-Disaster



Recovery funds. Of the Township's originally bonded amount, \$500,000 is considered affordability assistance, at \$100,000 each, for the five very low-income units.

The building contains 82 one-bedroom units and 10 2-bedroom units. The units received COs in 2016, and have 45-year affordability controls. The Township is subject to a cap on senior affordable units, and so is claiming only 59 credits from the total 87 senior affordable units at Heritage Village at Oakhurst, and will carry forward the balance of 28 senior rental credits toward its combined Prior Round and Third Round Unmet Need (see Appendix J for the financing documents).

Cindy Lane Apartments

In September 2015, the Township amended the existing zoning district to allow a 100% affordable housing use on this municipally owned site (Block 1.02, Lot 51.11). In October 2015, the Township approved a developer's agreement with Affordable Housing Alliance ("AHA"), an experienced nonprofit affordable housing developer, to develop, market, and administer the site with 47 family affordable rental units and one superintendent's unit. The development received tax credits and HMFA/CDBG funding of more than \$12 million, and has affordability controls of at least 30 years through a filed affordable housing deed restriction. The project received final COs in December 2019. There are six very low-income units, 18 low-income units and 23 moderate-income units, distributed across nine one-bedroom units, 27 two-bedroom units and 12 three-bedroom units. The project is eligible for 41 rental bonuses, the maximum permitted. (See Appendix K for crediting documentation.)

INCLUSIONARY DEVELOPMENTS – APPROVED

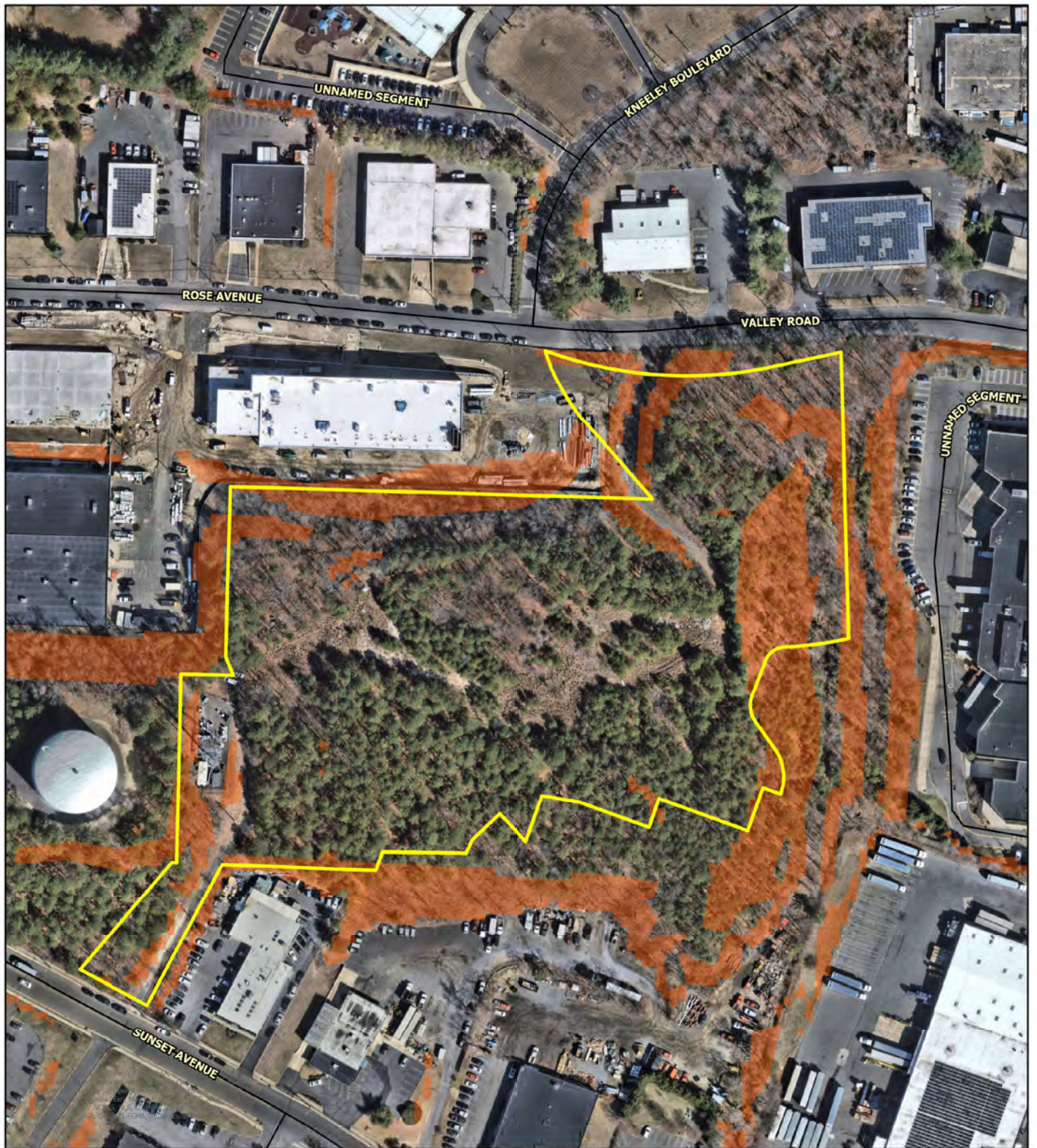
Roosevelt Properties site (approved)

In 2009, the owner of a site of approximately 10.75 acres (Block 22/lots 11, 12, and 22) brought Mount Laurel litigation against the Township in a matter entitled Roosevelt Properties, LLC v. Township of Ocean, Docket No. MON-L-5930-09. The parties executed a settlement agreement in April 2020, and the Township rezoned the property to a multi-family zoning district in order to accommodate a 22-unit development, including 17 market-rate units and five affordable units. Via the settlement agreement, the Township agreed that Roosevelt could construct 20 market-rate units and two affordable units on-site, both moderate-income family units either for rent or for sale, and, in lieu of constructing the remaining three affordable units, comprising two low-income units and one very low-income unit, Roosevelt agreed to pay a total of \$475,000 into the Township's affordable housing trust fund, payable on a per-unit basis as each of the 20 market-rate unit receives its CO.

A significant portion of the site is within the 100-year flood hazard area; therefore, subject to the standards set forth in the rezoning ordinance, the affordable units may be constructed only on the portion of the Roosevelt site outside of the Flood Hazard Area delineated by the NJDEP.

The inclusionary development received Planning Board approval in October 2021. (See Appendix L for a copy of the settlement agreement and the Planning Board resolution of approval.)

Fourth Round Housing Element and Fair Share Plan



Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

Affordable Housing Alliance 100% Affordable Family Rentals

LOCATION:
Ocean Township, Monmouth County, NJ

DATE:
May 2025

- Lot Border
 - Steep Slopes >15%
 - Parcels
- Source: NJDEP
Map Date: 2024
Steep Slopes
NJDEP (2019)
Borough/Map Date
NJDEP (2019)
NJDEP (2019)
NJDEP (2019)
NJDEP (2019)
NJDEP (2019)



Building Typology: 3-story Walk-Up
Sim. To Cindy Lane





Ocean Glades site (removed)

As part of its Settlement Agreement with FSHC, the Township agreed to designate Block 1.02, Lot 33.01, otherwise known as the Ocean Glades property, as an area in need of redevelopment, for a proposed inclusionary development of up to 218 total units to produce up to 46 affordable family rental units (including the three off-site affordable units from the Roosevelt site). However, investigation of environmental contamination at the site has confirmed that it cannot be remediated to a residential standard (see Appendix M for documentation). Therefore, this site is being removed from the Township's compliance plan and the Township's Prior Round and Third Round RDP is being reduced by the 43-unit obligation this site originally generated, from 280 to 237.

This reduction in RDP also lowers the maximum number of age-restricted units the Township can claim toward satisfaction of the RDP, from 70 to 59, and lowers the maximum number of permitted rental bonuses, from 70 to 60. To make up the resulting shortfall, the Township is proposing a 100% affordable family development on a different site that would yield 67 affordable units, of which 20 are being claimed toward the Township's combined Prior Round and Third Round RDP.

100% AFFORDABLE MUNICIPALLY SPONSORED DEVELOPMENT

Affordable Housing Alliance (proposed)

The Affordable Housing Alliance ("AHA"), an experienced developer of 100% affordable developments in New Jersey, has approached the Township about developing multiple Township-owned lots – Block 184, lots 2, 3, 7, 8, 9.02, and 12; Block 185, lot 1; Block 186, lots 3, 3.01, and 4.01; and Block 188, lots 1.01 and 2.01, totaling approximately 10.1 acres, situated across from the intersection where Kneeleigh Boulevard meets Valley Road and spanning to Sunset Avenue – with a 67-unit 100% affordable family rental complex. The Township will enter into an affordable housing agreement with AHA for this 100% affordable family rental development. Once the agreement is finalized and executed by both parties, it will be uploaded as part of the Township's Fourth Round filings to the Court and Program.

AHA anticipates applying in 2026 for 9% tax credits to finance the development, with start of construction anticipated by spring 2027. The Township will initially clear, grade, level, and provide retaining walls where necessary. The Township will convey the land to AHA and will have made a contribution of at least \$2 million from its affordable housing trust fund for the 100% affordable development, including to subsidize the creation of nine very low-income units. Five of the very low-income units, including two two-bedroom units and two three-bedroom units, will be reserved for families at risk of homelessness. Because these five units are reserved for families, the Township will claim all 67 units as family units. The Township intends to claim 20 of the 67 affordable family rental units toward Prior Round/Third Round RDP compliance, and will claim the remainder toward satisfaction of its Fourth Round RDP. The income-bedroom breakdown in Tables 25 and Table 28 indicate which units are being claimed for each round.

As upheld by the amended FHA, COAH's rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93-5.5 for Municipally Sponsored and 100 Percent Affordable Programs are addressed as follows:

- Site Control – The Township owns all the lots, and will convey them to AHA for the 100% affordable family rental housing development. Neither the Township nor AHA are aware of any title encumbrances that would preclude the contemplated development.



- Suitable Site – The site is suitable as defined in COAH’s regulations at N.J.A.C. 5:93-1.3, which indicates that a suitable site is one in which it is adjacent to compatible uses, has access to appropriate streets, and is consistent with environmental policies in N.J.A.C. 5:93-4.
 - *The site is adjacent to compatible land uses and has access to appropriate streets.* The site has frontage to the north on Valley Road, immediately to the west of Valley Road’s intersection with Route 35, and access from Sunset Avenue to the south. The lots are currently zoned Light Industrial, and have clean light industrial uses to the south and west, including a soft-drink bottling plant, a locally owned light manufacturing facility that produces residential construction materials, a locally owned residential remodeling company, and the offices of an environmental engineering firm. Across Valley Road to the north are an additional clean manufacturing facility and a restaurant supply firm. None of the industrial facilities engage in any heavy manufacturing or hazardous chemical processing, and all offer employment opportunities within easy walking distance of the proposed development. To the southwest is a water tank belonging to New Jersey American Water. To the east is the Ocean Plaza shopping center, which includes a Wegman’s grocery store, a Staples, a SteinMart, a gym, a bank, and several restaurants, as well as professional offices and personal services establishments. Ocean Plaza is accessible by car from Valley Road, Sunset Avenue and Route 35. There is currently sidewalk access to the shopping center via Sunset Avenue, to which AHA will connect the sidewalks within the development, and AHA will provide pedestrian access from the development to the Valley Road side of the shopping center. The sidewalk connections may require assistance from the Township. Within a half-mile of the site are larger retail establishments including Costco, Target, and the Seaview Square Mall, as well as additional medical and personal service establishments, and several restaurants. NJ Transit Bus Route 832, which runs between Red Bank and Asbury Park, stops at the corner of Valley Road and Route 35, less than a quarter-mile from the site, and Bus Route 837, which runs between Long Branch and Seaview Square Mall, stops along Sunset Avenue to the south of the site. The Allenhurst train station, which is served by NJ Transit’s North Jersey Coast line, is approximately two miles away, and the Asbury Park train station is approximately three miles away.
 - *The site can be developed in accordance with R.S.I.S.* Development of the site will be consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21-1 et seq.
 - *The site is located in a Smart Growth Planning Area.* All of Ocean Township is located in Planning Area 1 (PA1), the Metropolitan Planning Area of the State Development and Redevelopment Plan. The Metropolitan Planning Area is where infrastructure and amenities already exist, and where growth will come primarily from redevelopment. It is a preferred location for development of affordable housing.
 - *The development is not within the jurisdiction of a Regional Planning Agency or CAFRA.* The site is located outside of the Pinelands, CAFRA, Highlands, or Meadowlands.
 - *The site will comply with all applicable environmental regulations.* There are no wetlands, floodplains, or Category One streams on the property. There are some steep slopes on the lots, but there is sufficient unencumbered land to accommodate the proposed development.

Fourth Round Housing Element and Fair Share Plan

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- *The site will not affect any historic or architecturally important sites and districts.* There are no historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of the affordable housing.
- **Developable Site** – In accordance with N.J.A.C. 5:93-1.3, a developable site has access to appropriate sewer and water infrastructure and is consistent with the area-wide water quality management plan. The site is within the Township’s sewer service area, and is served by the Municipality’s water purveyor. The Township Engineer is providing the water/sewer capacity info and info on lines along Valley and/or Sunset, which may be found in Appendix N.
- **Approvable Site** – Pursuant to N.J.A.C. 5:93-1.3, an approvable site may be developed for low- and moderate-income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. Although the lots are currently zoned I-1, Light Industrial, the Township intends to use the redevelopment process to add residential as a permitted use, as well as to assist AHA in applying for tax credits.
- **Affirmative Marketing, Administration** – AHA, which is experienced in affirmatively marketing and administering affordable units in New Jersey, will administer the affordable units pursuant to COAH’s regulations. AHA will affirmatively market the units, income-qualify applicants, place affordability controls of at least 45 years on the units (per tax credits) and provide long-term administration of the units in accordance with N.J.A.C. 5:93 et seq. and UHAC per N.J.A.C. 5:80-26.1.
- **Low/Moderate Income Split and Bedroom Distribution** – At least half of all the affordable units developed at the site will be affordable to low-income households (13% of all affordable units will be very low-income) and an odd number of affordable units will always be split in favor of the low-income unit per UHAC at N.J.A.C. 5:80-26.1. No more than 20% of units may be one-bedroom units, and at least 25% must be three-bedroom units, per HMFA tax credit scoring requirements. Table 25 below shows AHA’s proposed income-bedroom distribution for the 67 units.
- **Funding** – AHA intends to apply in 2026 for 9% tax credits to finance the project, along with Township-donated land and a contribution of at least \$2 million from the Township’s affordable housing trust fund. Should AHA’s applications for third-party funding not be successful, the Township will provide funding through bonding or any other means in order to fund the project. AHA has provided a pro forma for the project, which may be found in Appendix N.
- **Construction Schedule** – AHA has provided a construction schedule (also in Appendix N) showing that construction will begin by spring of 2027. AHA, an experienced developer of affordable housing in New Jersey, will be responsible for monitoring the construction and overall development activity.

Compliance With Third Round RDP Required Maximums and Minimums

As noted above, the reduction in the Township’s RDP also lowers the maximum number of senior units the Township can claim toward satisfaction of its Prior Round/Third Round RDP, from 70 to 59, and lowers the maximum number of permitted rental bonuses, from 70 to 60. Table 24 shows how Ocean Township is satisfying the required maximum senior units, minimum rental obligation, minimum family unit



obligation, minimum very low-income obligation, minimum family rental obligation, and maximum rental bonuses specified in the 2019 Third Round Settlement Agreement, as amended to reflect the lower RDP.

TABLE 24. OCEAN TOWNSHIP SATISFACTION OF REQUIRED MINIMUMS AND MAXIMUMS BASED ON 237-UNIT THIRD ROUND RDP	
Requirement	Provided
Maximum senior = 59	59
Minimum rental = 60	At least 165
Minimum family = 89	At least 170
Minimum family rental = 30	At least 97
Maximum rental bonus = 60	60

Compliance With Bedroom Distribution Requirements

UHAC at N.J.A.C. 5:80-26.3(b) requires that, for family affordable units, the following maximums and minimums apply:

- No more than 20% may be one-bedroom units;
- At least 30% must be two-bedroom units;
- At least 20% must be three-bedroom units.

As shown in Table 25, based on 99 total family units; the Township satisfies these requirements with:

- 19 one-bedroom units (19.1% of all family units);
- 55 two-bedroom units (55.6% of all family units);
- 25 three-bedroom units (25.3% of all family units).

Table 25 also demonstrates that, while the Township is meeting its requirement for very low-income units, it is not currently providing enough low-income units (affordable to households making 50% or less of regional median income by household size) to comply with the income distribution requirements in N.J.A.C. 5:93-7.2, which requires half of all affordable units to be affordable to low-income households, including the 13% that are affordable to very low-income households. To address the shortage of low-income units, the Township has modified the existing inclusionary affordable zone for its C-1 District to require that a minimum of 53% of any affordable units generated there be affordable to low-income households, including 13% to be affordable to very low-income households; and it has required as part of the inclusionary overlay zoning for the two golf courses that a minimum of 53% of any affordable units generated at those sites be affordable to low-income households, including 13% of all affordable units being affordable to very low-income households. In so doing, as Table 25 shows, the Township anticipates it will be able to generate sufficient low-income units to comply with Third Round requirements.

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.



TABLE 25. OCEAN TOWNSHIP COMBINED PRIOR ROUND AND THIRD ROUND RDP INCOME AND BEDROOM DISTRIBUTION COMPLIANCE				
Compliance Mechanism	Very Low-Inc	Low-Income	Moderate-Income	Total Units
Inclusionary Family Rental				
Primrose Pl – complete				19
1-bedroom	1	1	2	4
2-bedroom	1	4	5	10
3-bedroom		3	2	5
Wayside Pt – complete				11
1-bedroom	1		1	2
2-bedroom	1	2	3	6
3-bedroom		2	1	3
Roosevelt Prop – appr.; 2 on-, 3 off-site				2
1-bedroom				
2-bedroom			1	1
3-bedroom			1	1
Group Homes				
Beacon – completed	4			4
SERV, Inc. – completed	5			5
100% Affordable Family Rentals				
Cindy Ln Apts – compl				47
1-bedroom	1	4	4	9
2-bedroom	3	10	13	26
3-bedroom	2	4	6	12
AHA– Prop; includes 3 Roosevelt off-site units				20
1-bedroom	1	1	2	4
2-bedroom	1	5	6	12
3-bedroom	1	1	2	4
Extension of Controls				
Heritage Vill at Ocean	5			5
Affordable Senior Rentals				
Heritage at Oakhurst – compl; (59 senior, 5 SN)	5	5	54	64
Total RDP	31	43	103	177
Unmet Need Inclusionary Overlay Zones Potential Affordable Units				
Norwood Avenue	6	17	19	42
Golf Courses	58	176	207	441
Total	95	236	329	660



Clarke Caton Hintz

Architecture
Planning
Landscape Architecture

Unmet Need (All Rounds)



Wetlands



Inland Flood Hazard Area



100 Year Flood



Waterbodies



AFFORDABLE HOUSING SITES: UNMET NEED

Ocean Township

LOCATION:
Ocean Township, Monmouth County, NJ

DATE:
May 2025

Aerial Imagery
Nearmap (June 20, 2024)

Steep Slopes
NJOGIS (2019)

Streams/Waterbodies
NJDEP (2015)

Wetlands/Forest
NJDEP (2020)

Floodplain
FEMA (2024)

NOAA, USGS, (c)



Mechanisms To Address the Combined Prior and Third Round Unmet Need (1,154 units)

COAH's rules at N.J.A.C. 5:93-4.2(h) state that in addressing Unmet Need, COAH "may require at least any combination of the following in an effort to address the housing obligation:

- Zoning amendments that permit apartments or accessory apartments;
- Overlay zoning requiring inclusionary development or the imposition of a development fee consistent with N.J.A.C. 5:93-8. In approving an overlay zone, COAH or the Superior Court may allow the existing use to continue and expand as a conforming use, but provide that where the prior use on the site is changed, the site shall produce low- and moderate-income housing or a development fee; or
- Zoning amendments that impose a development fee consistent with N.J.A.C. 5:93-8."

These rules do not require Unmet Need mechanisms to generate a specified number of units equal to the Unmet Need number. Rather, the mechanisms must provide a potential opportunity that affordable housing can be created through private development (i.e., via inclusionary overlay zones) or publicly facilitated projects (i.e., via a development fee ordinance). Ocean Township is addressing its combined Prior Round and Third Round Unmet Need through prior surplus age-restricted units; an amendment to an existing inclusionary overlay ordinance to increase the required affordable housing set-aside in the zone and to require at least 53% of units created to be low-income units and a maximum of 47% to be moderate-income units; by adopting an inclusionary overlay ordinance for two golf courses in the Township; by updating its development fee ordinance, which will be discussed below; and updating its Affordable Housing Ordinance to require any development or redevelopment of multi-family housing in the Township at a minimum density of six dwelling units per acre that results in five or more housing units to include a 20% affordable housing set-aside. All of the overlay zones will have a requirement for 53% low-income units and 47% moderate-income units. Each of these mechanisms is discussed below.

The Township had also originally adopted an inclusionary overlay ordinance for Seaview Square Mall, also to address its Unmet Need. However, due to "changed circumstances" that came to light regarding EPA's/DEP prior requirements for the site, the site has not been and is not now permitted to be reclaimed to residential standards and thus is not suitable for inclusionary overlay zoning. The inclusionary overlay zoning will be rescinded.

Heritage Village at Ocean (formerly Whalepond Village)

COAH regulations cap the number of senior affordable credits the Township may apply to its Prior Round and Third Round RDP. Thus, the Township will utilize the balance of 33 senior affordable rental credits (95 total affordable rentals – 57 senior credits towards Rehabilitation share – 5 special-needs units towards RDP = 33 credits) to help address its Unmet Need.

Heritage Village at Oakhurst (formerly 777 W. Park)

The Township also has additional affordable senior credits from Heritage Village at Oakhurst to apply to its Prior Round and Third Round combined Unmet Need. Out of the 87 total affordable senior units at the site (there are also five special-needs units), the Township utilized the maximum allowable 59 senior affordable credits to help meet its Prior Round and Third Round RDP, and will utilize a portion of the balance of 28 senior affordable rental credits to help address its Unmet Need.



Norwood Avenue Inclusionary Mixed Use Zoning

In 2016 the Township adopted an inclusionary zoning ordinance (Ordinance No. 2282) for its C-1 (neighborhood commercial) zone. The inclusionary ordinance permits residential as a conditional use at a density of 18 units per acre above first-floor commercial uses. It requires a 20% affordable housing set-aside if the affordable units are for-sale units and a 15% affordable housing set-aside if the affordable units are rental units. It also requires that the affordable units be in accordance with the requirements of UHAC at N.J.A.C. 5:80-26.1 et seq., the requirements of the Township's affordable housing ordinance, and the very low-income requirements of the amended FHA at N.J.S.A. 52:27D-329.1. To address the Township's 2019 Third Round Court-approved Settlement Agreement with FSHC, the Township has amended this ordinance to require the affordable housing set-aside to be 20% of all units regardless of whether they are for rent or for sale, and to add a requirement that, 53% of the affordable units developed must be available to low-income households, including 13% to very low-income households, and 47% may be available to moderate-income households. In so doing, the Township will create a realistic potential for inclusionary residential development in the zone, and in particular on the 14.36 acres covered by Block 13, lots 14-16, 17-01, 18-01, 19, and 20 and Block 22, lots 76-85, 85-01, and 87-89, which front the west side of Norwood Avenue between the NJ Transit right of way and the Township border at Poplar Brook, and Block 22, lot 90, which is adjacent to Block 22, lot 87 and fronts West Morgan Avenue.

These lots on Norwood Avenue and West Morgan Avenue are within CAFRA boundaries, but the Township does not envision that CAFRA requirements preclude the anticipated future inclusionary Unmet Need development.

Ordinance 2282 and the amendment to the Township's Neighborhood Commercial Inclusionary Mixed Use Zoning Ordinance may be found in Appendix O.

Seaview Square Inclusionary Mixed Use Overlay Zoning

As noted above, the Township has confirmed that Seaview Square Mall cannot be remediated to residential standards. Thus the property is no longer suitable for residential development, and the adopted overlay ordinance for the site will be rescinded. (The environmental report may be found in Appendix P.)

Golf Course Inclusionary Overlay Zoning

The Township has adopted an inclusionary overlay zoning ordinance on the 96.15-acre Deal Golf Course (Block 59, Lot 1 and Block 60, Lot 1) and the 180.47-acre Hollywood Golf Course (Block 40, lots 1, 2, 34, 82, 83, 84, 88, and 111). The inclusionary ordinance permits townhouses at a density of eight units per acre and requires a 20% affordable housing set-aside. Of the affordable units, 53% must be available to low-income households, including 13% to very low-income households, and 47% may be available to moderate-income households.

The Golf Course Inclusionary Overlay Zoning Ordinance may be found in Appendix O.

Fourth Round Housing Element and Fair Share Plan



Mandatory Affordable Housing Set-Aside

The Settlement Agreement required the Township to adopt a mandatory affordable housing set-aside ordinance, which it did in 2020, and which is discussed below as part of the discussion of administration of affordable units.

Mechanisms To Address the Fourth Round RDP (27 units)

The Township proposes to satisfy its Fourth Round RDP of 27 via the following compliance mechanisms, which generate a surplus of 39 credits, which the Township will use to address any future “changed circumstances:”

TABLE 26. OCEAN TOWNSHIP SUMMARY OF FOURTH ROUND 27-RDP COMPLIANCE PLAN				
Compliance Mechanism	Type	Total Credits	Bonuses and Type	Total
Heritage Village at Oakhurst	100% affordable senior rental	6		6
280 Norwood Avenue – approved	Inclusionary family affordable for-sale	5		5
44 Monmouth Road -- approved	Inclusionary family affordable rental	2		2
Affordable Housing Alliance – 47 of 67; proposed	100% affordable family rental	47	6; cap Land donation	53
Total		60	6	66
Surplus above RDP (60-27)				39

The status of each Fourth Round RDP compliance mechanism is discussed below.

Heritage Village at Oakhurst - completed

The Township has additional affordable senior credits from Heritage Village at Oakhurst to apply to its Fourth Round RDP. Out of the 87 total affordable senior units at the site (there are also five special-needs units), the Township utilized the maximum allowable 59 senior affordable credits to help meet its Prior Round and Third Round RDP, and will utilize the maximum allowable six senior affordable credits to help meet its Fourth Round RDP. The affordable senior units and have 45-year affordability controls.

280 Norwood Avenue (Block 22, lots 85 and 85.01) – approved

This property had previously been developed with a single-story commercial building and associated parking, and the building has been demolished. In December 2023 Haddad Management received preliminary and final site plan approval to construct a three-story, mixed-use commercial-residential building on this property, including 8,141 square feet of retail space and common area on the first floor and 28 total apartments on the upper levels. Because this property is in the Norwood Avenue C-1 Inclusionary Overlay Zone, five of the apartments will be deed-restricted as affordable family for-sale units and the

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.

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developer will make a fractional payment in lieu of construction into the Township's affordable housing trust fund. The developer will be required to execute a separate deed restriction for each unit imposing for-sale affordability controls of at least 30 years from the date of first transfer of title, and to retain the services of the Township's administrative agent or an administrative agent acceptable to the Township to affirmatively market and administer the units.

The five affordable units will include one low-income one-bedroom unit; one very low-income two-bedroom unit, one low-income two-bedroom unit, one moderate-income two-bedroom unit, and one moderate-income three-bedroom unit.

The Planning Board resolution of approval may be found in Appendix Q.

44 Monmouth Road (Block 7, lot 51) – approved

In April 2024 Memo Investments received preliminary and final site plan approval from the Township Zoning Board of Adjustment to construct a three-story building with 11 residential units on this property. A D-1 use variance had previously been granted, triggering the Township's mandatory affordable housing set-aside requirements. Of the 11 units, two will be deed-restricted as affordable – a moderate-income two-bedroom unit and a low-income three-bedroom unit – and the developer will be required to execute a deed restriction imposing affordability controls per UHAC, and to retain the services of the Township's administrative agent or an administrative agent acceptable to the Township to affirmatively market and administer the units. The resolution of approval may be found in Appendix R.

Affordable Housing Alliance – proposed

Please see discussion of this site as part of Prior Round/Third Round RDP compliance. The Township is claiming the remaining 47 affordable family rental units from the AHA 100% affordable family rental site toward satisfaction of its Fourth Round RDP. Because the Township is donating the land for this project to AHA, per the amended FHA at P.L. 2024 c.2, it is claiming six bonuses, the maximum permitted, in addition to the 47 unit credits.

Compliance With Fourth Round RDP Required Maximums and Minimums

Table 27 shows how Ocean Township is satisfying the required maximum senior units, minimum rental obligation, minimum family unit obligation, minimum very low-income obligation, minimum family rental obligation, and maximum bonuses specified in the amended FHA:

TABLE 27. OCEAN TOWNSHIP SATISFACTION OF REQUIRED MINIMUMS AND MAXIMUMS BASED ON 27-UNIT FOURTH ROUND RDP	
Requirement	Provided
Maximum senior = 6 (30% of units = .3 x 21, round down)	6
Minimum rental = 7 (25% of obligation = .25 x 27, round up)	49
Minimum family = 11 (50% of all units = .5 x 21, round up)	54
Minimum family rental = 4 (50% of rental obligation)	47
Maximum bonus = 6 (25% of obligation, round down)	6

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.



Compliance With Bedroom Distribution Requirements

UHAC at N.J.A.C. 5:80-26.3(b) requires that, for family affordable units, the following maximums and minimums apply:

- No more than 20% may be one-bedroom units;
- At least 30% must be two-bedroom units;
- At least 20% must be three-bedroom units.

As shown in Table 28, based on 54 total family units, the Township satisfies these requirements with:

- 9 one-bedroom units (16.7% of all family units);
- 30 two-bedroom units (55.6% of all family units);
- 15 three-bedroom units (27.8% of all family units).

TABLE 28. OCEAN TOWNSHIP FOURTH ROUND INCOME AND BEDROOM DISTRIBUTION COMPLIANCE				
Compliance Mechanism	Very Low-Income	Low-Income	Moderate-Income	Total Units
Inclusionary Family Rental				
280 Norwood Avenue				5
1-bedroom		1		1
2-bedroom	1	1	1	3
3-bedroom			1	1
44 Monmouth Road				2
1-bedroom				n/a
2-bedroom			1	1
3-bedroom		1		1
100% Affordable Family Rentals				
AHA – Proposed				47
1-bedroom	2	3	3	8
2-bedroom	2	10	14	26
3-bedroom	2	5	6	13
Total	7	21	26	54

Compliance With Overall RDP Very Low-Income Requirements

Table 29 shows how the Township satisfies its requirement that 13% of all units approved and created or proposed since July 7, 2008, regardless of the round in which they are claimed for credit, be affordable to very low-income households earning 30% or less of area median income by household size:



TABLE 29. OCEAN TOWNSHIP SATISFACTION OF VERY LOW-INCOME REQUIREMENT			
Mechanism	Total Units Generating VLI Obligation	Very Low- Income Units Required	Very Low-Income Units Provided
Primrose Place	19	2.47	2
Cindy Lane	47	6.11	6
Wayside Point	11	1.43	2
Heritage Village at Oakhurst	92	11.96	5
Group Homes	0	0	9
Roosevelt	2	0.26	0
Affordable Housing Alliance	67	8.71	9
Norwood Avenue	5	0.65	1
44 Monmouth Road	2	0.26	
Total	245	31.85, round up to 32	34
Total Family VLI Units		16	20
Total Fourth Round VLI Units Available to Families With Children (54 x .13 x .5)		3.51, round up to 4	7

Additionally, P.L. 2024 c.2 requires that at least half of the required Fourth Round very low-income units be available for “families with children”. The Township satisfies this requirement by providing four very low-income units from the Affordable Housing Alliance project that have two or three bedrooms.

Mechanisms To Address the Fourth Round Unmet Need

As a result of the Township’s Fourth Round VLA update (Appendix D), the Township has a Fourth Round Unmet Need of 139. Pursuant to the amended FHA, the Township must identify land that is likely to redevelop during the Fourth Round to address at least 25% “of the obligation that has been adjusted, and adopt realistic zoning that allows for such adjusted obligation,” or demonstrate why it is unable to do so.

There are different interpretations among land use planners and attorneys as to which portion of a municipality’s Fourth Round obligation is the target of this requirement. For purposes of this plan, Ocean Township intends to address 25% of its Fourth Round Unmet Need in order to comply with this requirement, but the Township reserves the right to formally address any other interpretations as the Court may determine.

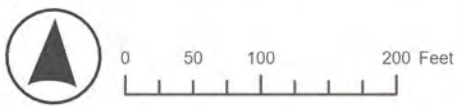
To address its Fourth Round Unmet Need of 139, including the 35-unit overlay zoning requirement (25% of 139 = 35), the Township will adopt inclusionary overlay zoning on several lots on the south side of Herbert Avenue to enable inclusionary residential redevelopment, which will create an opportunity for the development of up to 10 affordable units. To address the approximately 25 additional units of the overlay zoning requirement, the Township will rely on the inclusionary overlay zoning on Norwood Avenue and the inclusionary overlay zoning on the significant acreage of the two golf courses, and will amend its mandatory affordable housing set-aside ordinance as discussed below.

Fourth Round Housing Element and Fair Share Plan

OCEAN TOWNSHIP, MONMOUTH COUNTY, N.J.



Total			
Gross Acreage: 5.66			
Net Acreage: 5.12			
Block	Lot	Gross Acreage	Net Acreage
207	9	0.1	0.1
207	10	0.1	0.1
207	11	0.12	0.12
208	1	0.43	0.43
208	2	0.8	0.8
209	9	1.08	1
209	10	1.42	0.97
209	16	1.61	1.6



Block 207, Lots 9-11; Block 208, Lots 1-2:
and Block 209, Lots 9, 10, and 16
Herbert Avenue
Unmet Need

LOCATION:
Ocean Township, Monmouth County, NJ

DATE:
May 2025

- Lot Border
- Parcels
- Wetlands
- Steep Slopes >15%

Aerial Imagery
Nearmap (June 20, 2024)
Steep Slopes
NJOGIS (2019)
Streams/Waterbodies
NJDEP (2015)
Wetlands/Forest
NJDEP (2020)
100-Yr Flood/Flood Hazard
FEMA (2024)



Herbert Avenue – proposed

The Township has been approached by the owner of several lots on the south side of Herbert Avenue east of Route 35, on which the owner proposes to construct an inclusionary residential development. The site, which includes Block 207, lots 9, 10, and 11, Block 208, lots 1 and 2, and Block 209, lots 9, 10, and 16, total approximately 5.66 gross acres, and cross three paper streets that the owner is asking the Township to vacate. The site has approximately 400 feet of frontage on Herbert Avenue, and approximately 100 feet of frontage on Route 35. Block 209, lot 9 is currently occupied by a commercial building and associated parking, and Block 208, lot 1 is currently occupied by a single-family residence, but the remainder of the tract, and the land to the east of the tract, is vacant and wooded and there are areas of wetlands.

Some of the lots are zoned C-3, General Commercial, and the remainder are zoned O-1/40, Office Research. Residential dwellings are not a permitted use in either district. The owner is asking for all the lots to be rezoned to facilitate the proposed inclusionary development, thus triggering the Township's mandatory affordable housing set-aside requirements. The Township will adopt an inclusionary overlay zone for the tract that allows for residential development at a density of up to 10 units/acre, with a 20% affordable housing setaside thus potentially permitting up to 50 total units, requiring 10 to be affordable. A draft of the overlay ordinance may be found in Appendix S.



AFFORDABLE HOUSING ADMINISTRATION

Affordable Housing Ordinance, Mandatory Affordable Housing Set-Aside

In January 2020, Ocean Township amended its Affordable Housing Ordinance in accordance with COAH's substantive rules and UHAC, and to address terms of the Court-approved 2019 Third Round FSHC agreement (Appendix T). Once DCA and HMFA finalize their rule proposals (anticipated after June 30, 2025), the Township will prepare an updated Affordable Housing Ordinance in accordance with court-upheld COAH's rules, DCA's proposed new regulations at N.J.A.C. 5:99, and UHAC's new 2025 regulations that are anticipated to be released shortly, as well as to address any terms of the court-approved Third Round FSHC agreement, if relevant. The Affordable Housing Ordinance will govern the establishment of affordable units in the Township as well as regulating the occupancy of such units. It will cover the phasing of affordable units, the low/moderate income split, including that 13% of all units approved and constructed since 2008 be affordable to very low-income households earning no more than 30% of median income, bedroom distribution, occupancy standards, affordability controls, establishing rents and sales prices, affirmative marketing, income qualification, etc.

The Township's Affordable Housing Ordinance (§21-9B.1.a.7 of the Township Code) establishes a Township-wide mandatory set-aside that applies to any multi-family or single-family attached development created through any municipal rezoning, or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provide for densities at or above six units per acre. The required set-aside for for-sale units is 20%, and the required set-aside for rental units is 15%. As specified by the ordinance, the mandatory set-aside does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Ocean Township to grant such rezoning, variance or other relief.

When the Township amends its Affordable Housing Ordinance, it will amend the mandatory set-aside provisions to require the set-aside to be 20% whether the units are for sale or for rent.

Development Fee Ordinance

A development fee ordinance may be used to address unmet need in municipalities receiving a vacant land adjustment. A development fee ordinance establishes a fee to be paid by developers of market-rate residential and/or non-residential construction. All fees collected are deposited into an Affordable Housing Trust Fund, the balance of which may only be spent on eligible affordable housing related costs.

The Township's development fee ordinance was first adopted in May 2011, and amended in January 2020. The ordinance permits collection of residential development fees equal to 1.5% of the equalized assessed value of new residential construction and additions in all zoning districts, and mandatory non-residential development fees equal to 2.5% of the equalized assessed value of new non-residential construction and additions in all zoning districts, unless exempted. An additional provision in the ordinance permits the Township to impose a development fee of 6% on additional units that may result from a site where a "d(5)" density variance is granted by the Zoning Board of Adjustment.

In 2024 the Township amended its Development Fee Ordinance to require fees to be paid when a residence is torn down and replaced, when any new single-family dwelling is constructed, or when a residence is expanded. The amended ordinance may be found in Appendix T.



Spending Plan

The Township has prepared a Fourth Round Spending Plan (Appendix U), which discusses anticipated revenues, collection of revenues, and the use of revenues, in accordance with N.J.A.C. 5:93-5.1(c). All collected revenues are placed in the Township's Affordable Housing Trust Fund and will be dispensed for the use of affordable housing activities as indicated in the Fourth Round Spending Plan. Once DCA and HMFA finalize their rule proposals (anticipated after June 30, 2025), the Township will prepare an updated spending plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules as well as to address any terms of the court-approved Third Round FSHC agreement.

The Township may, in the future, seek to amend its Spending Plan and obtain Court approval to use its affordable housing trust funds for the following additional permitted affordable housing activities, including new, emergent affordable housing activities, subject to applicable limitations and minimum expenditures:

- New construction;
- Purchase of land for low- and moderate-income housing;
- Improvement of land to be used for low- and moderate-income housing;
- Extensions and/or improvements of roads and infrastructure to low- and moderate-income housing sites;
- Assistance designed to render units to be more affordable.

At least 30% of development fees and interest collected must be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan and for the creation of very low-income units. Additionally, no more than 20% of trust fund revenues collected each year may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a rehabilitation program, a new construction program, an HEFSP, and/or an affirmative marketing program.

The adoption of the Township's Fourth Round Spending Plan will constitute a "commitment" for expenditure per the FHA at N.J.S.A. 52:27D-329.2, with a four-year time period for expenditure that will start with the entry of the Superior Court's Fourth Round Judgment of Compliance and Repose and/or Compliance Certification.

Affirmative Marketing Plan

Ocean Township currently has a Court-approved Affirmative Marketing Plan (Appendix V). Once DCA and HMFA finalize their rule proposals (not anticipated before June 30, 2025), the Township will prepare an updated Affirmative Marketing Plan in accordance with DCA's proposed new regulations at N.J.A.C. 5:99, UHAC's new 2025 regulations that are anticipated to be released shortly, any remaining relevant COAH rules not superseded by either the proposed 2025 DCA regulations or the upcoming 2025 revised UHAC rules, as well as to address any terms of the court-approved Third Round FSHC agreement. The Township will adopt an Affirmative Marketing Plan for all affordable housing sites.

Fourth Round Housing Element and Fair Share Plan



The Township's current Affirmative Marketing Plan is designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to the affordable units located in the Township. Additionally, the Affirmative Marketing Plan is intended to target those potentially eligible individuals who are least likely to apply for affordable units and who reside in the Township's housing region, Region 4, consisting of Mercer, Monmouth, and Ocean counties.

The Affirmative Marketing Plan lays out the random-selection and income qualification procedure of the administrative agent, which is consistent with COAH's rules and N.J.A.C. 5:80-26.1. All newly created affordable units will comply with the minimum 30-year or 40-year (for rentals) affordability control required by UHAC, N.J.A.C. 5:80-26.1 et seq. This plan must be adhered to by all private, nonprofit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

As required by the Court-approved Third Round FSHC agreement, the Township's Affirmative Marketing Plan lists FSHC, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, Ocean, Inc., the Greater Red Bank, Greater Long Branch, Greater Freehold, Bayshore, Asbury Park/Neptune, and Trenton branches of the NAACP, and the Supportive Housing Association among the list of community and regional organizations. The Township will, as part of its regional affirmative marketing strategies during its implementation of this plan, provide notice to those organizations of all available affordable housing units. The Township will also require any other entities, including developers or individuals or companies retained to do affirmative marketing, to comply with this requirement. Finally, in accordance with the July 2020 amendment to the FHA, the Township will include in its Affirmative Marketing Plan the requirement that all units subject to affirmative marketing requirements be listed on the state Housing Resource Center website.¹⁷

Municipal Housing Liaison, Administrative Agent

The Township has appointed by municipal resolution (Appendix W) the Director of Community Development to the position of the Municipal Housing Liaison. The Township utilizes a number of existing experienced affordable housing administrative agents including CGP&H, CIS, and AHA. The Township will require developers of the proposed inclusionary projects, as well as any future projects not specified here, to retain the Township's experienced Administrative Agent or secure Township approval of a different experienced affordable housing Administrative Agent. To conduct all Administrative Agent duties, including affirmative marketing and monitoring of affordable units, the Township has entered into an agreement with CGP&H, an experienced affordable housing administrator, for the administration of future affordable units in the Township. (See Appendix W for the CGP&H agreement.)

Cost Generation

Ocean Township's Land Development Ordinance has been reviewed to eliminate unnecessary cost-generating standards; it provides for expediting the review of development applications containing affordable housing. Such expediting may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Development applications containing affordable housing will be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards (N.J.A.C. 5:21-1 et seq.) and the mandate of the FHA regarding unnecessary cost-generating

¹⁷ <https://njhrc.gov>



features. Ocean Township will comply with COAH's requirements for unnecessary cost-generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing, N.J.A.C. 5:93-10.3.

Monitoring

In accordance with the requirements of N.J.S.A. 52:27D-329.2 and -329.4 as amended by P.L. 2024 c.2, by February 15 of each year of the Fourth Round, the Township will provide a detailed accounting through DCA's new Affordable Housing Monitoring System ("AHMS") of all affordable units constructed and construction starts during the prior calendar year, and of all residential and non-residential development fees collected, interest earned, and other income collected and deposited into the Township's affordable housing trust fund during the prior calendar year. The Township will also provide a detailed accounting in AHMS of all expenditures of affordable housing trust funds during the prior calendar year, including purposes and amounts, and documentation of the balance remaining in the affordable housing trust fund as of December 31 of that year.

The Township or any other interested party may file an action through the Program seeking a realistic opportunity review at the midpoint of the Fourth Round and shall provide for notice to the public, including a realistic opportunity review of any inclusionary development site in this HEFSP that has not received preliminary site plan approval prior to the midpoint of the 10-year round. If such an action is initiated by the Township, the Township may propose one or more alternative sites with an accompanying development plan or plans that provide a realistic opportunity for the same number of affordable units and are otherwise in compliance with the FHA and the Mount Laurel doctrine.



A. THIRD ROUND SETTLEMENT AGREEMENT, FAIRNESS ORDER, JUDGMENT OF REPOSE

AGREEMENT TO RESOLVE ISSUES BETWEEN THE TOWNSHIP OF OCEAN AND FAIR SHARE HOUSING CENTER CONCERNING THE TOWNSHIP'S MOUNT LAUREL FAIR SHARE OBLIGATIONS AND THE MEANS BY WHICH THE TOWNSHIP SHALL SATISFY SAME.

In the Matter of the Township of Ocean, County of Monmouth, Docket No. MON-L-2531-15

THIS SETTLEMENT AGREEMENT ("Agreement") made this ____ day of January, 2019, by and between:

TOWNSHIP OF OCEAN, a municipal corporation of the State of New Jersey, County of Monmouth, having an address at 399 Monmouth Road, Oakhurst, New Jersey 07755 (hereinafter the "Township" or "Ocean");

And

FAIR SHARE HOUSING CENTER, an interested party, having an address at 510 Park Boulevard, Cherry Hill, New Jersey 08002, (hereinafter "FSHC");

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015)(Mount Laurel IV), the Township filed the above-captioned matter on July 6, 2015 seeking, among other things, a judicial declaration that its amended Housing Element and Fair Share Plan (hereinafter "Fair Share Plan") satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the Mount Laurel doctrine; and

WHEREAS, the Township simultaneously sought and ultimately secured, an Order protecting Ocean from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, the immunity secured by Ocean remains in force as of the date of this Agreement; and

WHEREAS, the trial court also appointed Frank J. Banisch, III, PP/AICP as the "Special Master" in this case as is customary in Mount Laurel matters; and

WHEREAS, with the assistance of Frank J. Banisch, III, PP/AICP, Ocean and FSHC have engaged in good faith negotiations and have reached an amicable accord on the various substantive provisions, terms and conditions delineated herein; and

WHEREAS, through that process, the Township and FSHC agreed to settle the litigation and to present that settlement to the trial court, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households; and

WHEREAS, at this time and at this particular point in the process resulting from the Mount Laurel IV decision, when fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need, instead of doing so through plenary adjudication of the present and prospective need.

NOW, THEREFORE, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereto, each binding itself, do hereby covenant and agree, each with the other, as follows:

Settlement Terms

The Township and FSHC hereby agree to the following terms, subject to any relevant conditions set forth in more detail below:

1. Ocean's Rehabilitation obligation is 57;
2. Ocean's "Prior Round" obligation is 873.
3. Ocean's "Gap (1999-2015) + Prospective Need (2015-2025) Obligation" (collectively "Third Round Obligation") is 518;
4. Ocean's RDP as updated through this declaratory judgment action is two-hundred and eighty (280).¹ See chart of sites that generate the 280-unit RDP attached as Exhibit A. The full Vacant Land Analysis will be referenced as an exhibit to the Township's future housing element and fair share plan.
5. Ocean's "Unmet Need" is 1,111, based on the following: (873 Prior Round obligation plus 518 Third Round obligation minus a 280-unit RDP = 1,111 unmet need)
6. FSHC and the Township agree that Ocean does not accept the basis of the methodology or calculations proffered by FSHC's consultant, David N. Kinsey, PhD, PP, FAICP. The Parties agree to the terms in this agreement solely for purposes of settlement of this action. Although the Township does not accept the basis of the methodology or calculations proffered by FSHC's consultant, FSHC contends, and is free to take the position before the Court, that the 518-unit Third Round obligation should be accepted by the Court because it is based on a 30% settlement discount applied to Dr. Kinsey's methodology which is based on the Prior Round methodology and includes a 'gap' 1999-2015 obligation per the 2017 NJ Supreme Court 'gap' decision.
7. **Satisfaction of Rehabilitation Obligation:** The Township has a 57-unit rehabilitation obligation, which will be satisfied through the eligible rehabilitation of 57 affordable units at Whalepond Village (total of 96 affordable units) where over \$18,000 per unit for a total of \$1.7 million was expended on rehabilitation and through continued participation in the Monmouth County Rehabilitation Program.
8. **Satisfaction of Combined Prior Round/Third Round RDP:** The municipality has a combined Prior Round/Third Round RDP of 280 units, which is addressed through the following compliance techniques:

¹ In July of 2011, the Township adopted a housing element and fair share plan which included the Township's vacant land analysis and which was submitted to the NJ Superior Court. On September 1, 2011, Frank Banisch III, PP, AICP, the court-appointed Special Master, issued a Master's Report recommending that the Township modify the April 2011 RDP of 216 units to a 240-unit RDP with a resulting 633-unit Prior Round unmet need. The updated 280-unit RDP addresses the RDP for both the Prior Round and the Third Round based on modifications to this prior analysis.

Township of Ocean's Combined Prior Round/Third Round 280-unit RDP - Compliance Mechanisms	Affordable Units	Rental Bonuses	RDP = 280
<i>Inclusionary Developments – completed</i>			
Primrose Place – affordable family rentals	19	19	38
<i>Alternative Living Arrangements- completed</i>			
Group Home - Enable, Inc.	4	0	4
Group Home – SERV, Inc.	5	0	5
<i>Municipally-Sponsored 100% Affordable Housing</i>			
777 W. Park (Heritage Village) - 92 total units (87 senior rentals + 5 special needs, non-senior), built, senior cap	70, cap	0	70
	5	0	5
Cindy Lane (Affordable Housing Alliance) - 48 affordable family rentals – under construction	48	48	96
<i>Inclusionary Developments – approved, proposed</i>			
BVB site – 11 affordable family rentals, court- approved settlement, site plan approval, bonus cap	11	3, cap	14
Roosevelt site – 25 units (20 market, 2 on-site mod affordable and 3 off-site very-low/low affordable), proposed settlement agreement	2 on 3 off	0	2 on 3 off
Ocean Glades – proposed inclusionary zoning (up to 80% market-rate/at least 20% affordable family rentals), Township must sell site to developer within 2 years of JOR	43	cap	43
TOTAL	210	70	280

9. As part of its commitment to provide for the development of low and moderate income housing units on the Ocean Glades property as reflected in this Agreement, the Township agrees to designate the parcels known as Block 1.02 Lot 33.01 in the Township as an area in need of redevelopment. In so designating, the Township agrees to fulfill all necessary and applicable statutory and regulatory criteria set forth in the Local Redevelopment and Housing Law ("LRHL"), N.J.S.A. 40A:12A-1 to 63. More specifically, the Township agrees to no later than two (2) years from the Court's grant of a final Judgment of Repose ("JOR") after a compliance hearing in this matter:

- a) No later than ninety (90) days after the Court's grant of a JOR, adopt a resolution directing the Township Planning Board to conduct a study as to whether the respective block and lot meets the criteria for an area in need of redevelopment pursuant to the Local Redevelopment and Housing Law ("LRHL"), N.J.S.A. 40A:12A-1 to 63
- b) If the Planning Board determines that the criteria establishing an area in need of redevelopment have been met, the Township governing body shall designate the respective block and lot as an area in need of redevelopment no later than one (1) year after the Court's grant of a JOR.
- c) Issue a request for proposals seeking a designated redeveloper no later than fifteen (15) months after the Court's grant of a JOR.

- d) Select and designate a redeveloper no later than eighteen (18) months after the Court's grant of a JOR.
- e) Execute a redevelopment agreement no later than two (2) years after the Court's grant of a JOR stipulating that the property shall be developed to include 43 affordable family rental units plus three (3) additional affordable family rentals [one (1) very-low and two (2) low] that will address the off-site affordable housing requirements from the Roosevelt site. In addition, of the 43 affordable family rentals, 53% shall be low income (including very-low-income) and 47% may be moderate income units. The redevelopment agreement shall provide that the affordable units will be constructed as part of an inclusionary development.
- f) If the Planning Board does not determine that the criteria establishing an area in need of redevelopment have been met or if the Township should so elect, the Township governing body shall rezone the property for 218 total units including the required affordable family rentals in accordance with subparagraph (e) above and all provisions of this agreement and dispose of the property to allow for such development through the Local Lands and Buildings Law, N.J.S.A..40A:12-1 et seq., no later than the two year deadline established in this paragraph.

10. For the purposes of settlement, the Township agrees to address its 1,111-unit remaining portion of its allocation of the Prior Round and Round 3 regional need through the following mechanisms:

a) **SURPLUS CREDITS ABOVE RDP –**

- Whalepond Village: 96 total senior affordable rentals – 57 addressing 57-unit rehabilitation share = balance of 39 senior affordable rentals towards unmet need.
- Heritage Village (777 W. Park): 92 total units (87 senior rentals + 5 special needs, non-senior). The 87 senior rentals are initially capped at 70 senior affordable rentals based on the 280-unit RDP. The 17-unit balance of senior affordable credits addresses unmet need.

b) **Overlay Zones:** Subject to all relevant notice and public hearing provisions pursuant to the New Jersey Municipal Land Use Law and consistent with its current Housing Element and Fair Share Plan, the Township shall within 120 days of the approval of this Agreement at a Fairness Hearing adopt and implement overlay zones as set forth in the map attached hereto as Exhibit B. The maximum density allowed in the Overlay Zones is noted below with a minimum required set-aside of 20 percent.

1. Norwood Avenue Inclusionary Mixed Use Zoning Overlay (Block 13/Lots 14–16, 17.01, 18.01, 19, 20 and Block 22/Lot 76-85, 85.01, 87 - 90)
 - Mixed Use Overlay
 - Commercial First Floor
 - Upper Story Residential
 - 18 du/acre gross density including zoning standards that practically allow realization of this density
 - 53% low (including 13% very-low) and 47% moderate

2. Seaview Square Inclusionary Mixed Use Zoning Overlay (Block 141/Lots 1 and 23)

- Mixed Use Commercial/Residential
- 7 du/acre gross density across the total area of these lots including zoning standards that practically allow realization of this density. The zoning standards and/or redevelopment plan referenced below shall allow for realistic development standards that permit the gross density required to be developed on certain portions of the lots referenced that are most appropriate for residential development.
- 53% low (including 13% very-low) and 47% moderate
- This Inclusionary Overlay may be implemented as part of a Redevelopment Plan which at the Township's sole discretion may also encompass additional properties besides the blocks and lots referenced in this paragraph. That Redevelopment Plan shall be adopted no later than 18 months after the approval of this Agreement at a fairness hearing. In the alternative, the Township may choose to implement overlay zoning without a Redevelopment Plan consistent with this agreement for the blocks and lots referenced by this paragraph no later than 18 months the approval of this Agreement at a fairness hearing.

3. Golf Course Inclusionary Zoning Overlay [Deal Golf Course - Block 59/Lot 1 and Block 60/Lot 1; Hollywood Golf Course – Block 40/Lots 1, 2, 34, 82, 83, 84, 88 and 111)

- Townhouses at 8 du/acre gross density including zoning standards that practically allow realization of this density
- 53% low (including 13% very-low) and 47% moderate

c) **Mandatory Inclusionary Overlay Zoning Ordinance:** Subject to all relevant notice and public hearing provisions pursuant to the New Jersey Municipal Land Use Law, within 120 days of the approval of this Agreement at a Fairness Hearing, the Township will adopt an ordinance requiring a mandatory affordable housing set aside for all new multifamily or single family attached residential developments of five (5) units or more at a density of at least six (6) dwelling units per acre or greater. The set aside for rental developments shall be fifteen percent (15%) and the set aside for for-sale developments shall be twenty percent (20%). The provisions of the ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five (5) or more. Finally, the ordinance may also provide for alternative ways to satisfy the set-aside in particular situations. The form of the Ordinance and the potential alternative means of satisfaction shall be finalized prior to the Compliance Hearing through collaboration between FSHC, Special Master Banisch, and representatives of the Township.

d) **Development Fee Ordinance:** The Township has an approved Development Fee Ordinance in place and shall comply with the Spending Plan provisions set forth below.

11. The Township's RDP shall not be revisited by FSHC or any other interested party absent a substantial changed circumstance and, if such a change in circumstances occurs either with the RDP or the remaining portion of its allocation of the Prior Round and Third Round regional need, the Township shall have the express right to address the issue without any negative impact on its immunity from all Mount Laurel lawsuits or any form of related litigation claiming that the RDP should be increased.

12. The Township agrees to require 13% of all the affordable units referenced in this plan, with the exception of units constructed or subject to preliminary or final site plan approval as of July 1, 2008, to be very low income units, with half of the very low income units being available to families. Preliminarily, the Township will address its 30-unit very-low income requirements (29.5, rounded up) as follows:

- Primrose Place: family very low income units = 2
 - Cindy Lane 100% affordable: family very low income = 6
 - BVB inclusionary: family very low income = 1 or 2
 - Roosevelt: off-site family very low = 1
 - Ocean Glades: family very low = 6
 - Heritage Village (777 W. Park): special needs very low = 5
 - Group Homes: special needs = 9
- Total = 30/31 (16/17 family very low and 14 special needs very low)

The Township also will require 13% of any affordable units developed pursuant to the overlay zoning established in sections 10(b) and 10(c) to be very low income units.

13. To the extent that Ocean is entitled to any "bonus credits" to be applied to its Round 3 obligation, such bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).

14. At least 50 percent of the units addressing the Third Round Gap and Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.

15. At least twenty-five percent of the Third Round Gap and Prospective Need shall be met through rental units, including at least half in rental units available to families.

16. At least half of the units addressing the Third Round Gap and Prospective Need in total must be available to families.

17. The Township agrees to comply with COAH's Round 2 age-restricted cap of 25 percent, and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the Township claim credit toward its fair share obligation for age-restricted units that exceed 25 percent of all units developed or planned to meet its prior round and Round 3 fair share obligations.

18. The Township and/or its administrative agent shall add the following entities to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5): Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton Branches of the

NAACP, and the Supportive Housing Association. As part of its regional affirmative marketing strategies during implementation of its fair share plan, the Township and/or its administrative agent shall also provide notice of all available affordable housing units to the above-referenced organizations.

19. All affordable housing units created pursuant to the measures set forth in this Agreement shall comply with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law. The Township as part of the Housing Element and Fair Share Plan that will be prepared, adopted and endorsed as a result of this Agreement, shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. The Housing Element and Fair Share Plan, along with a Spending Plan, and all implementing ordinances required by this agreement shall be submitted to the Court and the Special Master within 120 days of the entry of an order by the Court approving this Agreement, other than those requirements not required to be completed within 120 days pursuant to paragraphs 9 and 10(b)(2) which shall be governed by the terms of those paragraphs.

20. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Township annually within 30 days of the publication of determinations of median income by HUD as follows:

a) Regional income limits shall be established for the housing region in which the Township is located (in this case, Housing Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated number of households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total number of households from the most recent decennial Census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

b) The income limits attached hereto as Exhibit C are the result of applying the percentages set forth in paragraph (a) above to HUD's

determination of median income for FY 2018, and shall be utilized until the Township updates the income limits after HUD has published revised determinations of median income for the next fiscal year.

c) The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Township annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits, and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.

d) The resale prices of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region determined pursuant to the process outlined above. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

e) The rent levels of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the Northeast Urban Area, upon its publication for the prior calendar year. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low income housing tax credit regulations shall be indexed pursuant to the regulations governing low income housing tax credits.

The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement, the terms of which shall also be reflected in the Township's Affordable Housing Ordinance.

21. The Court has scheduled a "Fairness Hearing" seeking judicial approval the terms of this Agreement pursuant to the legal standard set forth in Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), *aff'd o.b.*, 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. City of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). Notice of the Fairness Hearing will be published at least 30 days in advance of the Hearing. Ocean shall apply to the Court for scheduling a "Compliance Hearing" seeking judicial approval of Ocean's Housing Element and Fair Share Plan, once same is prepared, adopted and endorsed. The Fairness and Compliance Hearings can be held concurrently or sequentially, which shall be decided by the Court with consultation by the Special Master, Ocean, and FSHC. Although it is expected that the Special Master will provide the majority of the required testimony, Ocean shall also make its consulting planner and any other relevant witnesses available for testimony at the Hearing(s). FSHC shall not challenge the validity of any of the documents attached hereto, or the validity of the Township's Fair Share Plan. If the Fairness and Compliance Hearing(s) result in approval of this Agreement and the Township's Fair Share Plan, the parties agree that the Township will be entitled to either a "Judgment of Compliance and Repose" ("JOR") or the "judicial equivalent of substantive certification and accompanying protection as provided under the FHA," 221 N.J. at 6, which shall be determined by the trial judge. Each party may advocate regarding whether substantive certification or repose should be provided by the Court, with each party agreeing to accept either form of relief and to not appeal an order granting either repose or substantive certification. Among other things, the entry of such an Order shall maintain Ocean's immunity from all Mount Laurel lawsuits through July 2, 2025.

22. Subsequent to the signing of this Agreement, if a binding legal determination by the Judiciary, the Legislature, or any administrative subdivision of the Executive Branch determines that Ocean's Round 3 obligation is decreased to 414 or less, with any relevant appeal periods having passed, the Township may file a proposed form of Order, on notice to FSHC and the Township's Service List, seeking to reduce its Round 3 obligation accordingly. Such relief shall be presumptively granted unless FSHC can demonstrate through clear and convincing evidence that such a reduction is manifestly prejudicial to the region's low and moderate income households. Notwithstanding any such reduction, the Township shall be obligated to implement the Fair Share Plan prepared, adopted and endorsed as a result of this Agreement, including by leaving in place any site specific zoning adopted or relied upon in connection with the Plan approved pursuant to this Agreement; taking all steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address the remaining portion of the Township's allocation of the Round 3 regional need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Township's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or the fair share plan adopted pursuant to this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Township prevails in reducing its Round 3 obligation, the Township may carry over any resulting surplus credits to Round 4.

23. The Township shall prepare a Spending Plan, which will be submitted to the Court and Court Master for review and approval within 120 days of the entry of an order by the Court approving this Agreement. FSHC reserves its right to provide any comments or objections on the Spending Plan to the Court upon review. Upon approval by the Court, the Township and Fair Share Housing Center agree that the expenditures of funds contemplated in the Township's Spending Plan shall constitute the "commitment" for expenditure required pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period contemplated therein commencing in accordance with the provisions of In re Tp. Of Monroe, 442 N.J.Super. 565 (Law Div. 2015) (aff'd 442 N.J.Super. 563). Upon approval of its Spending Plan the Township shall also provide an annual Mount Laurel Trust Fund accounting report to the New Jersey Department of Community Affairs, Council on Affordable Housing, Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services.

24. On the first anniversary of the execution of this Agreement, and every anniversary thereafter through the end of this Agreement, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC.

25. The Fair Housing Act includes two provisions regarding action to be taken by the Township during the ten-year period of protection provided in this Agreement. The Township agrees to comply with those provisions as follows:

- a) For the midpoint realistic opportunity review due on July 2, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will submit to the Court and Special Master a status report for review with notice to all interested parties on or before that date.

b) For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, the Township will submit a report to the Court and Special Master for review with notice to all interested parties within three years of the entry of an Order approving the Township's fair share plan and every third year thereafter.

26. This Agreement may be enforced by the Township or FSHC through a motion to enforce litigant's rights or a separate action filed in Superior Court, Monmouth County. If FSHC determines that such action is necessary, the Township consents to the entry of an order providing FSHC party status as an intervenor solely for purposes of its motion to enforce litigant's rights.

27. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement. However, if an appeal of the Court's approval or rejection of the Settlement Agreement is filed, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division, and New Jersey Supreme Court, and to continue to implement the terms of the Settlement Agreement if the Agreement is approved by the trial Court unless and until an appeal of the trial Court's approval is successful, at which point the Parties reserve their right to return to the *status quo ante*.

28. The Township agrees to pay \$7,500 to FSHC in attorneys fees and costs, payable within 10 days of judicial approval of this Agreement pursuant to a duly-noticed Fairness Hearing.

29. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

30. This Agreement shall be governed by and construed by the laws of the State of New Jersey.

31. This Agreement may not be modified, amended or altered in any way except by a writing signed by both the Township and FSHC.

32. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.

33. The Township and FSHC acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each person to sign this Agreement is the proper person and possesses the authority to sign the Agreement, that this Agreement contains the entire understanding of the Township and FSHC and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

34. The Township and FSHC acknowledge that this Agreement was not drafted by the Township and FSHC, but was drafted, negotiated and reviewed by representatives of the Township and FSHC and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. The Township and FSHC expressly represent that: (a) it has been represented

by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the persons executing it.

35. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both the Township and FSHC.

36. This Agreement constitutes the entire Agreement between the Township and FSHC hereto and supersedes all prior oral and written agreements between the Township and FSHC with respect to the subject matter hereof except as otherwise provided herein.

37. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which representatives of the Township and FSHC have executed and delivered this Agreement.

38. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the Township and FSHC by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO FSHC:

Adam Gordon, Esq.
Fair Share Housing Center
510 Park Boulevard
Cherry Hill, NJ 08002
Phone: (856) 665-5444
Telecopier: (856) 663-8182
E-mail: adamgordon@fairsharehousing.org

TO THE TOWNSHIP:

Jeffrey R. Surenian, Esq.
Jeffrey R. Surenian & Associates, LLC
707 Union Avenue, Suite 301
Brielle, NJ 08730
Phone: (732) 612-3100
Telecopier: (732) 612-3101
Email: jrs@surenian.com

**WITH A COPY TO THE
TOWNSHIP MANAGER:**

Michael Muscillo, Administrator
Township of Ocean
399 Monmouth Road
Oakhurst, NJ 07755
Phone: (732) 531-5000

WITH A COPY TO THE SPECIAL MASTER:

Frank J. Banisch, III, PP/AICP
Banisch Associates
111 Main Street
Flemington, NJ 08822
Phone: (908) 782-0835
Email: frankbanisch@banisch.com

In the event any of the individuals identified above has a successor, the individual identified shall name the successor and notify all others identified of their successor.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:



FAIR SHARE HOUSING CENTER:

By: 

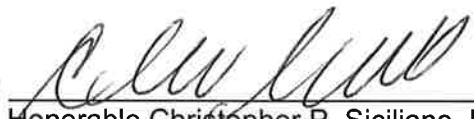
Adam Gordon, Esq.
On Behalf of Fair Share Housing Center

Witness/Attest:



Vincent Buttiglieri, Clerk
Township Clerk

TOWNSHIP OF OCEAN:

By: 

Honorable Christopher P. Siciliano, Mayor
On Behalf of the Township of Ocean

EXHIBIT A

Vacant Land Analysis
Determination of Realistic Development Potential (RDP)
Revisions to 2011 Study with 2018 Constraints Calculation,
2011 Master-Approved Densities, Recent Approvals and
2018 FSHC Settlement
Ocean Twp.
Monmouth County, NJ

Prepared by:
Mary Beth Loneragan, PP, AICP
Christian Kuhn, LLA, ASLA

SITE #	BLOCK	LOT	LOCATION	OWNER	ZONE	COMMENTS	LOT ACRES	AC UNCON	DENSITY	TOTAL UNITS	SET ASIDE	AFF UNITS	ACTUAL UNITS
1	1	26	GREEN GROVE RD	DINA, SALVATORE	R-1	RDP	1.12	1.12					
2	1	27	1251 WEST PARK AVE	DINA, SALVATORE	R-1	RDP	1.59	1.57					
Total:							2.7	2.7	6	16.1	20%	3.2	3.2
3	1.02	33.01	WEST PARK AVE REAR	OCEAN GLADES DEVELOPMENT INC	AR3-PRD	TOWNSHIP TO ACQUIRE DEP N.F.A. LETTER / RDP	16.58	10.79	12	129.5	20%	25.9	43.0
4	1.02	51.11	CLEARVIEW DR	TWP OF OCEAN	AR3-PRD	TOWNSHIP'S CLEARVIEW SITE (48 approved units)	3.67	2.08	12	24.9	20%	5.0	9.6
5	1.02	52.01	17 CINDY LN	BVB II ASSOCIATES	AR3-PRD	BVB LITIGATION SITE - required to base RDP from 20% setback, not 15% approval	3.98	3.98					
6	1.02	53.01		BVB II ASSOCIATES	AR3-PRD	BVB LITIGATION SITE	0.32	0.32					
7	1.02	54.01	21 CLEARVIEW DR	BVB II ASSOCIATES	AR3-PRD	BVB LITIGATION SITE	1.55	1.55					
Total:							5.9	5.9	12	70.2	20%	14.0	14.0
8	1.02	64B	925 WEST PARK AVE	TSILIVITIS, THOMAS & MELANIE	T-1	SUB. APP. FOR 6 LOTS, NOT FILED EXISTING HOUSE LOT EXCLUDED	0.84	0.26					
9	1.02	65B	929 WEST PARK AVE	TSILIVITIS, THOMAS & MELANIE	T-1	SUB. APP. FOR 6 LOTS, NOT FILED EXISTING HOUSE LOT EXCLUDED	0.72	0.00					
Total:							1.6	0.3	6	1.6	20%	0.0	1.9
10	3	16B	777 WEST PARK AVE	777 W. PARK AVE CONDO C/O BONELLO	O-1/80	62 of 92 affordable units are replacement housing for demolished senior rental affordable units at Poplar Village due to prior flooding. RDP 30x20% = 6.0	6.85	4.07	12	48.8	20%	9.8	6.0

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11	9	4			R-1	FARM	0.96	0.96					
12	9	5			R-1	FARM	1.40	1.40					
13	9	6			R-1	FARM	2.15	2.15					
14	9	7			R-1	FARM	5.79	5.63					
15	9	8			R-1	FARM	2.91	2.33					
16	9	10C	231 PARK AVE	ROFE, RENE	R-1	FARM / UNDEVELOPED AREA	11.20	10.29					
Total:							24.4	22.8	6	136.6	20%	27.3	27.3
17	10	1	100 NORWOOD AVE	KASSIN, JACOB S	R-1	HOUSE DEMOLISHED	2.13	2.13	6	12.8	20%	2.6	2.6
18	22	11	310 ROOSEVELT AVE	ROOSEVELT AVE. PROPER, LLC% SCHIBELL	R-4	ROOSEVELT LITIGATION SITE	0.30	0.30					
19	22	12	308 ROOSEVELT AVE	ROOSEVELT AVE. PROP., LLC% SCHIBELL	R-4	ROOSEVELT LITIGATION SITE	3.95	0.76					
20	22	22	300 ROOSEVELT AVE	ROOSEVELT AVE. PROP. LLC% SCHIBELL	R-4	ROOSEVELT LITIGATION SITE (Master approved density to 12 du/ac)	6.53	0.24					
Total:							10.8	1.3	12	15.6	20%	3.1	5.0

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21	22	27	280 ROOSEVELT AVE	TWP OF OCEAN	R-4	RDP	1.66	1.13	6	6.8	20%	1.3	1.3
22	25.15	37	MONMOUTH RD REAR	OAKHURST COUNTRY DAY ESTATES, LLC	R-3 ALT	REZONING FOR 18 HOMES	0.55	0.55					
23	25.15	38	128 MONMOUTH RD	OAKHURST COUNTRY DAY ESTATES, LLC	R-3 ALT	REZONING FOR 18 HOMES	2.26	2.26					
24	25.15	42	422 W LINCOLN AVE	OAKHURST COUNTRY DAY ESTATES, LLC	R-3 ALT	REZONING FOR 18 HOMES	0.34	0.34					
25	25.15	44	W LINCOLN AVE	OAKHURST COUNTRY DAY ESTATES, LLC	R-3 ALT	REZONING FOR 18 HOMES	1.15	1.15					
26	25.15	45		OAKHURST COUNTRY DAY ESTATES, LLC	R-3 ALT	REZONING FOR 18 HOMES	1.10	1.10					
Total:							5.4	5.4	6	32.4	20%	6.5	6.5
27	25.27	11	194 MONMOUTH RD	ISAACSON, DR R J & B	O-1/40	RDP	1.02	1.02	6	6.1	20%	1.2	1.2
29	34.03	5.01	1001 DEAL RD	YESHIVA OF OCEAN % RABBI & S MILLER	R-3 / PRD	RDP	1.41	1.41	6	8.4	20%	1.7	1.7
28	33	17		OCEAN 35 ACQUISITION	R-1T	RDP - DEAL ROAD & ROUTE 35 (Less 1.632 unconstrained acres for jughandle and ROW dedication)	16.97	13.69					
248	33	18		OCEAN 35 ACQUISITION	O-1/80	(Master added to RDP)	2.87	2.87					
249	33	19		OCEAN 35 ACQUISITION	O-1/80	(Master added to RDP)	10.03	6.60					
Total:							29.86	23.16	12	277.89	20%	55.6	51.6
30	35	6	WEST PARK AVE	APPLE FARM DEV., LLC % KLCC INVEST.	R-1	AVALON LITIGATION SITE	2.03	1.49					
31	35	7	WEST PARK AVE	APPLE FARMS DEV., LLC % KLCC INVEST.	R-1	AVALON LITIGATION SITE	5.76	5.47					
32	35	8	1216 WEST PARK AVE	APPLE FARM DEV., LLC % KLCC INVEST.	R-1	AVALON LITIGATION SITE	5.37	5.37					
33	35	10	1236 WEST PARK AVE	APPLE FARMS DEV., LLC % KLCC INVEST	R-1	AVALON LITIGATION SITE	8.40	8.40					
34	35	11	932 GREEN GROVE RD	WAYSIDE PARK ESTATES, LLC % KLCC INV	R-1	AVALON LITIGATION SITE	0.79	0.79					
35	35	13	924 GREEN GROVE RD	APPLE FARMS DEV., LLC % KLCC INVEST.	R-1	AVALON LITIGATION SITE	0.81	0.81					
36	35	14	920 GREEN GROVE RD	APPLE FARMS DEV., LLC % KLCC INVEST.	R-1	AVALON LITIGATION SITE	1.21	1.21					
37	35	46	GREEN GROVE RD	APPLE FARM DEV., LLC % KLCC INVEST.	R-1	AVALON LITIGATION SITE	27.00	3.68					

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38	35	46	GREEN GROVE RD	APPLE FARM DEV, LLC % KLCC INVEST.	R-1	AVALON LITIGATION SITE	31.03	7.71					
							82.4	34.9	6	209.7	20%	41.9	41.9
39	37	41	GREEN GROVE RD	BURKE, JOHN J & PATRICIA	R-2	NEWLY SUBDIVIDED LOT / UNDEVELOPED	0.53	0.53					
40	37	43	322 GREEN GROVE RD	BURKE, JOHN J & PATRICIA	R-2	NEWLY SUBDIVIDED LOT / UNDEVELOPED	0.54	0.54					
41	37	42B	320 GREEN GROVE RD	BURKE, JOHN J & PATRICIA	R-2	EXISTING HOUSE IN BACK / THIS IS THE UNDEV PART	1.77	1.68					
						Total:	2.8	2.8	6	16.5	20%	3.3	3.3
42	37.16	33	609 BOWNE RD	PFLASTER, LEON & LAURA	R-2	MARTELLI SETTLEMENT SITE	0.78	0.78					
43	37.16	33.01	611 BOWNE RD	PFLASTER, LEON & LAURA	R-2	MARTELLI SETTLEMENT SITE	1.94	1.94					
44	37.16	34	617 BOWNE RD	MARTELLI AT WAYSIDE, L.L.C.	R-2	MARTELLI SETTLEMENT SITE	4.07	4.07					
45	37.16	35	621 BOWNE RD	KOZLOWSKI, HARRIET & MATTHEW	R-2	MARTELLI SETTLEMENT SITE	1.05	1.05					
46	37.16	36	629 BOWNE RD	MARTELLI AT WAYSIDE, L.L.C.	R-2	MARTELLI SETTLEMENT SITE	6.32	6.32					
47	37.16	46	1232 DEAL RD	MARTELLI AT WAYSIDE, L.L.C.	R-1	MARTELLI SETTLEMENT SITE	0.30	0.30					
48	37.16	47	1232 DEAL RD	MARTELLI AT WAYSIDE, L.L.C.	R-1	MARTELLI SETTLEMENT SITE	0.69	0.69					
						Total:	15.2	15.2	6	90.9	20%	18.2	18.2
49	41	7	401 SHERMAN AVE	MSM REALTY FAMILY LP % M MUSRY	R-2	RDP	0.66	0.66					
50	41	8	415 SHERMAN AVE	MSM REALTY FAMILY LP % M MUSRY	R-2	RDP	0.77	0.77					
51	41	9	419 SHERMAN AVE	MSM REALTY FAMILY LP % M MUSRY	R-2	RDP	0.76	0.76					
						Total:	2.2	2.2	6	13.1	20%	2.6	2.6

Vacant Land Analysis
Determination of Realistic Development Potential (RDP)
Revisions to 2011 Study with 2018 Constraints Calculation,
2011 Master-Approved Densities, Recent Approvals and
2018 FSHC Settlement
Ocean Twp.
Monmouth County, NJ

SITE #	BLOCK	LOT	LOCATION	OWNER	ZONE	COMMENTS	LOT ACRES	AC UNCON	DENSITY	TOTAL UNITS	SET ASIDE	AFF UNITS	ACTUAL UNITS
52	137	5	1109 LOGAN RD	WOBITO, RUDOLF	C-3	RDP	1.02	0.91	6	5.5	20%	1.1	1.1
53	138	77			R-1	RDP / ADJ OWNER PRIVATE SCHOOL	3.81	2.42	6	14.5	20%	2.9	2.9
54	140	65.01	ENGLISH LN	CHRISTOPHER MECCIA, INC	R-4	SUBDIVISION APPROVAL FOR 12 LOTS (WITH LOT 67.02)	3.43	2.74					
55	140	67.02	DORSET RD	CHRISTOPHER MECCIA, INC	R-4	SUBDIVISION APPROVAL FOR 12 LOTS (WITH LOT 65.01)	1.97	1.28					
Total:							5.40	4.02	6	24.1	20%	4.8	4.8
56	149.01	1.01	2603 ROUTE 66	SEAVIEW CORP. PARK, LTD % US REALTY	O-1/20	RDP	13.57	10.27	6	61.6	20%	12.3	12.3
57	152	6	7 BOWNE RD	TWP OF OCEAN	O-1/20	RDP	1.18	1.18					
58	152	7	5 BOWNE RD	TWP OF OCEAN	O-1/20	RDP	0.86	0.86					
Total:							2.04	2.04	6	12.2	20%	2.4	2.4
59	208	2	1221 LAWRENCE AVE	GLITZ, L.L.P.	R-4	RDP	0.80	0.80	6	4.8	20%	1.0	1.0
60	209	16	1310 LAWRENCE AVE	GLITZ, L.L.P.	O-1/40	RDP	1.61	1.61	6	9.7	20%	1.9	1.9
60	3		Wickapecko Drive	WOODLAND FARM TECHNOLOGIES INC		Added to RDP in 2018 after house demolitions - changed circumstances	9.14	6.63					
60	4		Wickapecko Drive	WOODLAND FARM TECHNOLOGIES INC		Added to RDP in 2018 after house demolitions - changed circumstances	3.15	3.15					
Total:							12.29	9.78	6	58.7	20%	11.7	11.7
144	10	17	105 LARCHWOOD AVE	ZEKARIA REALTY INC	R-1	Added to RDP in 2018	0.96	0.96	6	5.7	20%	1.1	1.1
RDP TOTALS:							231.8	151.7		1136.7		249.8	280.1

Notes:

- A Township information suggests no or limited wetlands, thus, Township has used gross acreage.
- B See attached preliminary wetlands plan and letter and attached subdivision plan.
- C See attached minor subdivision plan.
- D See attached "Planning Analysis of a Requested Zoning Ordinance Amendment concerning Block 149.01/Lot 1.01... prepared by James W. Higgins Associates, dated August 31, 2004"

EXHIBIT B

Vacant Land Analysis Unmet Need Overlay Zoning

Ocean Township
Monmouth County
New Jersey

January 2, 2019

Legend

Unmet Need Overlay Zoning

- Norwood Ave Inclusionary Mixed Use Zoning Overlay
- Seaview Square Inclusionary Mixed Use Zoning Overlay
- Golf Course Inclusionary Zoning Overlay
- Townhouses
- 8 dwelling units / acre

Environmental Constraints

- Wetlands (NJDEP 2012)
- Water
- 100yr Flood (FEMA 2013)

Plan Notes:

Ocean Township, Monmouth County, is incorporated as Planning Area 1 (PA1) on the New Jersey State Development and Redevelopment Plan.

All of Ocean Township is in a sewer service area.

Aerial Source: NAZIM 2015



Clarke Cahan Hintz
Architecture
Planning
Landscape Architecture

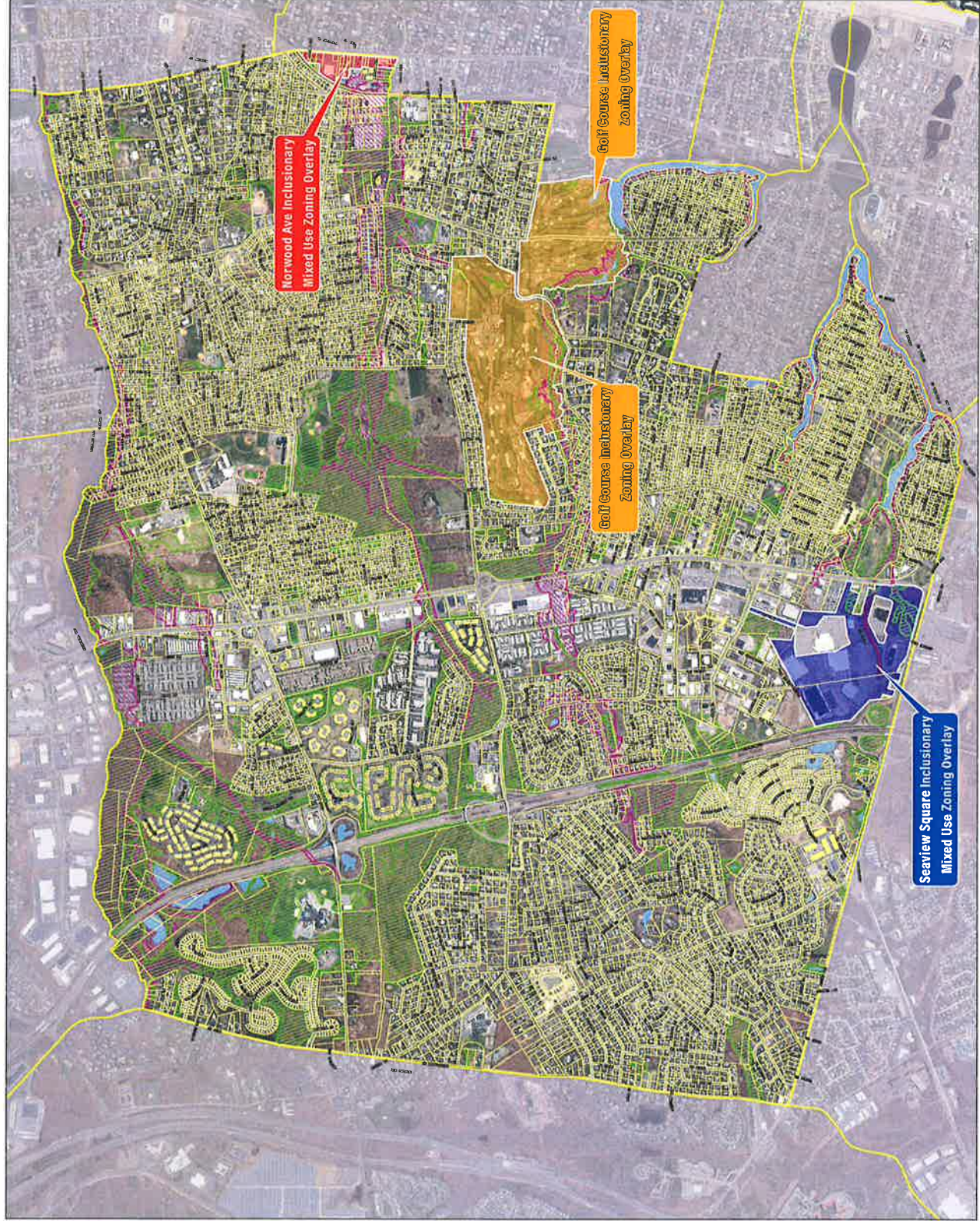


EXHIBIT C

2018 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE

Income limits not officially adopted by the State of New Jersey. Contact your municipality to see if applicable in your jurisdiction. Additional information about AHPNJ income limits is posted on

		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person	7 Person	8+ Person	Max Increase Rents*** Sales****	Regional Asset Limit*****
Region 1 Bergen, Hudson, Passaic and Sussex	Median	\$63,597	\$68,140	\$72,682	\$81,767	\$90,853	\$94,487	\$98,121	\$105,389	\$112,657	\$119,926		
	Moderate	\$50,878	\$54,512	\$58,146	\$65,414	\$72,682	\$75,589	\$78,497	\$84,311	\$90,126	\$95,940	2.2%	\$175,679
	Low	\$31,798	\$34,070	\$36,341	\$40,884	\$45,426	\$47,243	\$49,060	\$52,695	\$56,329	\$59,963	5.52%	
	Very Low	\$19,079	\$20,442	\$21,805	\$24,530	\$27,256	\$28,346	\$29,436	\$31,617	\$33,797	\$35,978		
Region 2 Essex, Morris, Union and Warren	Median	\$66,755	\$71,523	\$76,291	\$85,828	\$95,364	\$99,179	\$102,993	\$110,622	\$118,252	\$125,881		
	Moderate	\$53,404	\$57,218	\$61,033	\$68,662	\$76,291	\$79,343	\$82,395	\$88,498	\$94,601	\$100,705	2.2%	\$182,955
	Low	\$33,377	\$35,762	\$38,146	\$42,914	\$47,682	\$49,589	\$51,497	\$55,311	\$59,126	\$62,940	1.22%	
	Very Low	\$20,026	\$21,457	\$22,887	\$25,748	\$28,609	\$29,754	\$30,898	\$33,187	\$35,475	\$37,764		
Region 3 Hunterdon, Middlesex and Somerset	Median	\$75,530	\$80,925	\$86,320	\$97,110	\$107,900	\$112,216	\$116,532	\$125,164	\$133,796	\$142,428		
	Moderate	\$60,424	\$64,740	\$69,056	\$77,688	\$86,320	\$89,773	\$93,226	\$100,131	\$107,037	\$113,942	2.2%	\$205,458
	Low	\$37,765	\$40,463	\$43,160	\$48,555	\$53,950	\$56,108	\$58,266	\$62,582	\$66,898	\$71,214		
	Very Low	\$22,659	\$24,278	\$25,896	\$29,133	\$32,370	\$33,665	\$34,960	\$37,549	\$40,139	\$42,728		
Region 4 Mercer, Monmouth and Ocean	Median	\$69,447	\$74,407	\$79,368	\$89,289	\$99,209	\$103,178	\$107,146	\$115,083	\$123,020	\$130,956		
	Moderate	\$55,557	\$59,526	\$63,494	\$71,431	\$79,368	\$82,542	\$85,717	\$92,066	\$98,416	\$104,765	2.2%	\$186,616
	Low	\$34,723	\$37,204	\$39,684	\$44,644	\$49,605	\$51,589	\$53,573	\$57,541	\$61,510	\$65,478	5.19%	
	Very Low	\$20,834	\$22,322	\$23,810	\$26,787	\$29,763	\$30,953	\$32,144	\$34,525	\$36,906	\$39,287		
Region 5 Burlington, Camden and Gloucester	Median	\$61,180	\$65,550	\$69,920	\$78,660	\$87,400	\$90,896	\$94,392	\$101,384	\$108,376	\$115,368		
	Moderate	\$48,944	\$52,440	\$55,936	\$62,928	\$69,920	\$72,717	\$75,514	\$81,107	\$86,701	\$92,294	2.2%	\$161,977
	Low	\$30,590	\$32,775	\$34,960	\$39,330	\$43,700	\$45,448	\$47,196	\$50,692	\$54,188	\$57,684	5.05%	
	Very Low	\$18,354	\$19,665	\$20,976	\$23,598	\$26,220	\$27,269	\$28,318	\$30,415	\$32,513	\$34,610		
Region 6 Atlantic, Cape May, Cumberland, and Salem	Median	\$51,085	\$54,734	\$58,383	\$65,681	\$72,979	\$75,898	\$78,817	\$84,655	\$90,494	\$96,332		
	Moderate	\$40,868	\$43,787	\$46,706	\$52,545	\$58,383	\$60,718	\$63,054	\$67,724	\$72,395	\$77,066	2.2%	\$136,680
	Low	\$25,543	\$27,367	\$29,192	\$32,840	\$36,489	\$37,949	\$39,409	\$42,328	\$45,247	\$48,166	0.00%	
	Very Low	\$15,326	\$16,420	\$17,515	\$19,704	\$21,894	\$22,769	\$23,645	\$25,397	\$27,148	\$28,900		

Moderate income is between 80 and 50 percent of the median income. Low income is 50 percent or less of median income. Very low income is 30 percent or less of median income.

* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).

**This column is used for calculating the pricing for rent increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The increase for 2015 was 2.3%, the increase for 2016 was 1.1%, the increase for 2017 was 1.7%, and the increase for 2018 is 2.2% (Consumer Price Index for All Urban Consumers (CPI-U): Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015, 2016, or 2017 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.

*** This column is used for calculating the pricing for resale increases for units (as previously calculated under N.J.A.C. 5:97-9.3). The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.

Low income tax credit developments may increase based on the low income tax credit regulations.

**** The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3.

Note: Since the Regional Income Limits for Region 6 in 2017 were higher than the 2018 calculations, the 2017 income limits will remain in force for 2018 (as previously required by N.J.A.C. 5:97-9.2(c)).

JEFFREY R. SURENIAN AND ASSOCIATES, LLC

Brielle Galleria

707 Union Avenue, Suite 301

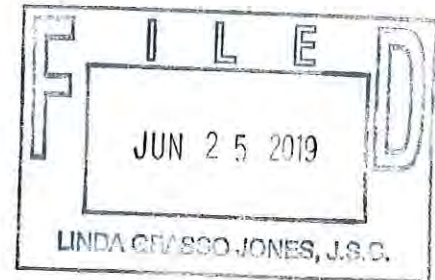
Brielle, NJ 08730

(732) 612-3100.

Attorneys for Declaratory Plaintiff, Township of Ocean

By: Jeffrey R. Surenian (Attorney ID: 024231983)

Michael A. Jedziniak (Attorney ID: 012832001)



**IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
OCEAN, COUNTY OF MONMOUTH**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY

DOCKET NO.: MON-L-2531-15

CIVIL ACTION – MOUNT LAUREL

**ORDER OF FAIRNESS AND
PRELIMINARY ROUND 3
MOUNT LAUREL COMPLIANCE**

THIS MATTER having been opened to the Court by Jeffrey R. Surenian and Associates, LLC, on behalf of declaratory plaintiff, Township of Ocean (hereinafter “the Township” or “Ocean”) via a Declaratory Judgment Complaint filed on July 2, 2015 seeking approval of the Township’s amended Round 3 Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”) in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel IV”); and the Court having appointed Francis J. Banisch III, P.P., A.I.C.P. as the Special Master (hereinafter the “Special Master”); and Fair Share Housing Center (“FSHC”) and Roosevelt Properties, LLC having participated in the Township’s DJ Action as “interested parties,” and, on or around January 24, 2019, the Township and FSHC having executed a Mount Laurel settlement agreement (“FSHC Agreement”), attached hereto as Exhibit A and incorporated by reference herein; and the FSHC Agreement having established the Township’s fair share obligations and further having identified the framework of the Township’s plan to satisfy same; and Honorable

Linda Grasso-Jones, J.S.C. having scheduled a Mount Laurel Fairness Hearing for April 5, 2019 to determine whether the FSHC Agreement is fair and reasonable to the region's low - and moderate-income households; and the Township having published notice of the Fairness Hearing in a newspaper of regional circulation and provided actual notice via certified mail to the Mount Laurel IV Service List, the Township's Service List, and to the various affordable housing advocacy groups in the region; and, despite such copious notice, no written objections having been filed; and, on April 1, 2019, Special Master Banisch having issued a report which, among other things, recommended approval of the FSHC Agreement pursuant to the legal standard set forth in East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996); and, on April 5, 2019, the Court having conducted the duly-noticed Mount Laurel "Fairness Hearing;" and Special Master Banisch having provided sworn testimony summarizing his April 1, 2019 Master's Report and recommended approval of the FSHC Agreement; and the Court having considered all of the testimony taken during the Fairness Hearing, as well as the comments of counsel for the Township, FSHC, Roosevelt Properties, LLC; and the Court having also reviewed all of the documents submitted into evidence; and the Court being satisfied that the FSHC Agreement is fair and reasonable to the region's very low-, low-, and moderate-income households; and good cause having been shown:

It is hereby ordered on this 25th day of June, 2019, as follows:

1. The Township provided sufficient published and actual notice of the Fairness Hearing to the public and all known and potential interested parties.
2. Pursuant to the judicial standards set forth in East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), the FSHC Agreement is fair, reasonable, and

adequately protects the interests of the region's very low, low and moderate income households, and the Court hereby approves the FSHC Agreement, attached hereto as Exhibit A.

3. Pursuant to the judicial standards set forth in East/West Venture v. Bor. of Fort Lee, 286 N.J. Super. 311 (App. Div. 1996), the FSHC Agreement is approved because it is fair, reasonable, and adequately protects the interests of the region's very low, low and moderate income households.

4. Per the FSHC Agreement, the Township's Rehabilitation Obligation is fifty seven (57); its Prior Round Obligation is eight hundred seventy three (873); and its allocation for Round 3 inclusive of a gap obligation and a prospective need obligation for the 26-year period between 1999 and 2025 is five hundred eighteen (518). The Court also approved a vacant land adjustment of the Township's Prior Round and Third Round Obligation to a two hundred and eighty (280) unit realistic development potential ("RDP") and a one thousand one hundred and eleven (1,111) unit unmet need.

5. The Township's proposed plan to address the obligations set forth in the preceding paragraph, as set forth in the FSHC Agreement, is preliminarily approved because it complies facially with the relevant Mount Laurel laws, principles, and policies.

6. In order to secure final approval, the Township must adopt, endorse, and file an amended Round 3 Housing Element and Fair Share Plan and take all the relevant actions set forth in Appendix A of the Special Master's Report, dated April 1, 2019, no later than 120 days after the date of this Order.

7. FSHC and the Township shall adhere to all other terms and conditions in the FSHC Agreement (Exhibit A), and all such terms and conditions are hereby incorporated by reference.

8. A duly-noticed Compliance Hearing is scheduled for **Tuesday, October 22, 2019 at 9:00 a.m.** during which the trial judge will consider whether the Township's amended Round 3 Housing Element and Fair Share Plan creates a realistic opportunity for satisfaction of its fair share of housing affordable to the region's low- and moderate-income households.

9. The Township and Planning Board's temporary immunity from all Mount Laurel lawsuits shall remain in effect through October 22, 2019 as may be extended by the Court.

10. Counsel for the Township shall provide copies of this Order to the Township's Service List within seven (7) days of receipt.



HON. LINDA GRASSO JONES, J.S.C.

SURENIAN, EDWARDS & NOLAN, LLC

Brielle Galleria

707 Union Avenue, Suite 301

Brielle, New Jersey 08730

(732) 612-3100

Attorneys for Declaratory Plaintiff, Township of Ocean

By: Jeffrey R. Surenian (Attorney ID: 024231983)

Nancy L. Holm (Attorney ID: 013442006)

**IN THE MATTER OF THE
APPLICATION OF THE TOWNSHIP OF
OCEAN, COUNTY OF MONMOUTH.**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

DOCKET NO.: MON-L-2351-15

CIVIL ACTION – *MOUNT LAUREL***ORDER OF JUDGMENT OF
COMPLIANCE AND REPOSE**

THIS MATTER having been opened to the Court by Jeffrey R. Surenian and Associates, LLC, on behalf of declaratory plaintiff, Township of Ocean (hereinafter “the Township” or “Ocean”) via a Declaratory Judgment Complaint filed on July 2, 2015 to approve the Township’s Housing Element and Fair Share Plan in response to In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mount Laurel IV”); and the Court having granted the Township immunity from Mount Laurel lawsuits from the time of the filing of the Township’s Declaratory Judgment action (hereinafter “DJ Action”); and the Court having appointed Francis J. Banisch, P.P., A.I.C.P., as the Special Mount Laurel Court Master (hereinafter the “Court Master”); and Fair Share Housing Center (hereinafter “FSHC”) having participated in the Township’s DJ Action as an “interested party,” and later as an intervenor for settlement purposes only; and FSHC’s expert, David Kinsey, Ph.D., P.P., F.A.I.C.P., having issued an expert report that calculated fair share obligations for all of the municipalities in the state; and the Township having hired Econsult Solutions, Inc., which produced its own expert report calculating fair share obligations for all municipalities in the state; and the Township’s professionals and Adam M. Gordon, Esq. of FSHC having entered into mediation supervised by the Court Master to try to settle the

Township's DJ Action globally; and the Township and FSHC having initially negotiated and entered into a settlement agreement in January of 2019 (hereinafter FSHC Settlement Agreement); and said FSHC Settlement Agreement having set agreed upon fair share obligations and how the Township would satisfy same; and the FSHC Settlement Agreement having been approved during a Fairness Hearing held on April 5, 2019, which was memorialized by an Order entered by the Court on June 25, 2019; and the Township having subsequently prepared a Housing Element and Fair Share Plan (hereinafter "Fair Share Plan")(Exhibit P-1), and all supporting documentation in accordance with the FSHC Settlement Agreement and the recommendations of the Court Master; and the Township's Fair Share Plan having been adopted by the Township's Planning Board on December 16, 2019 (Exhibit P-2) and endorsed by the Township Council on January 30, 2020 (Exhibit P-3); and a Compliance Hearing having been scheduled for February 4, 2020 to approve the Township's Fair Share Plan; and said Fair Share Plan having been put on file for public review at Township Hall more than 30 days prior to the scheduled Compliance Hearing date of February 4, 2020; and counsel for the Township having prepared a Notice Certification (Exhibit P-10), to document that proper 30-day notice of the Compliance Hearing had been given; and the Fair Share Plan, its appendix, as well as other additional required documents, resolutions and ordinances having been submitted to the Court Master for review; and the Township having received no objections to its Fair Share Plan; and the Court Master having submitted a report to the Court on January 31, 2020 (Exhibit P-11) regarding the approval of the Township's Fair Share Plan; and the Compliance Hearing having been held on February 4, 2020, during which Exhibits P-1 to P-12, a list of which is attached hereto, were marked into evidence; and Nancy L. Holm, Esq. and Martin J. Arbus, Esq. having attended the Compliance Hearing on behalf of the Township; and Bassam F. Gergi, Esq. having attended the Compliance Hearing on behalf of FSHC; and the Court having considered the report of the Court Master, the testimony taken during the Compliance Hearing, as well as the

comments of counsel; and the Court having continued the Compliance Hearing to May 4, 2020, giving the Township time to satisfy outstanding conditions of compliance, and the Township having satisfied same; and during the May 4, 2020 continuation of the Compliance Hearing, Exhibits P-13-25 were marked into evidence, a list of which is attached hereto; and the Court having reviewed all of the documents submitted into evidence during the Compliance Hearing; and good cause having been shown;

It is hereby ordered on this 4th day of May, 2020, as follows:

1. The Township of Ocean's Fair Share Plan (Exhibit P-1) is hereby approved and the Township is granted a Judgment of Compliance and Repose as to its Rehabilitation Share, its Prior Round Obligation (1987-1999), and its Third Round Obligation (the last comprised of both the Gap (1999-2015) and the Prospective (2015-2025) Needs), pursuant to the Court approved Settlement Agreement entered into between the Township and FSHC on January 24, 2019, the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.)(“FHA”), the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1, et seq.) (“UHAC”), applicable Council on Affordable Housing (hereinafter “COAH”) substantive rules, and Mount Laurel case law, including the New Jersey Supreme Court's Mount Laurel IV decision.

2. The Township's Judgment of Compliance and Repose shall remain in effect for ten (10) years beginning on July 2, 2015 and ending on July 2, 2025, and during this ten (10) year period the Township shall have immunity from all Mount Laurel lawsuits, including, but not limited to, Builder's Remedy lawsuits, other than actions brought to enforce the terms of the Settlement Agreement or the Court's orders.

3. As per the Court approved Settlement Agreement between the Township and FSHC, and as established in the Township's Fair Share Plan, the Township's Rehabilitation Obligation is 57, the Township's Prior Round Obligation (1987-1999) is 873, and the Township's Third Round Obligation (1999-2025) is 518.

4. The Township has satisfied its 57-unit Rehabilitation Share by rehabilitating 57 affordable units at Heritage Village at Ocean (formerly Whalepond Village). Even though the Township has fully satisfied its rehabilitation obligation, it will continue to participate in the Monmouth County Housing Improvement Program to rehabilitate units within the Township.

5. The Township has prepared a Vacant Land Analysis (Appendix B to Exhibit P-1), for its combined Prior Round and Third Round Obligation, and, as a result of that analysis, the Township, FSHC and the Court Master have agreed that the Township is entitled to a Vacant Land Adjustment such that it has a combined Prior Round + Third Round RDP of 280, and a remaining Prior Round + Third Round Unmet Need of 1,111. The Court hereby approves the Township's RDP of 280 and the Township's mechanisms for addressing its Unmet Need.

6. The Township will address its combined Prior Round + Third Round RDP of 280 as follows:

- a. The Township is applying the following credits for completed units toward its RDP:
 - i. 19 family rental units from Primrose Place inclusionary development;
 - ii. 19 rental bonuses from Primrose Place;
 - iii. 4 supportive and special needs units from Enable, Inc.;
 - iv. 5 supportive and special needs units from SERV, Inc.;
 - v. 5 supportive and special needs units from Heritage Village at Ocean (formerly Whalepond Village);
 - vi. 70 senior rental units and 5 supportive and special needs units from Heritage Village at Oakhurst (formerly 777 W. Park);
 - vii. 47 family rental units from Cindy Lane Apartments;
 - viii. 47 rental bonuses from Cindy Lane Apartments;
- b. The Township will address the balance of its RDP with the following projects:
 - i. 11 family rental units from Waverly Point (formerly BVB), which are currently under construction;
 - ii. 4 rental bonus credits for Waverly Point;
 - iii. 5 family rental or for-sale units from Roosevelt Properties, LLC, of which 2 units will be built on-site and the remaining 3 units will be built as part of the Ocean Glades project; and
 - iv. 43 family rental units from Ocean Glades: the Township has agreed to designate Block 1.02, Lot 33.01, otherwise known as the Ocean Glades property, as an area in need of redevelopment for a proposed

inclusionary development of up to 218 total units, which will produce up to 46 family rental units.

7. The Township will address its remaining Prior Round + Third Round Unmet Need of 1,111 units as follows:

- a. Heritage Village at Ocean (formerly Whalepond Village): Due to the cap on the amount of senior units the Township can use toward its Realistic Development Potential, the Township will apply the remaining 33 units from Heritage Village toward its Unmet Need.
- b. Heritage Village at Oakhurst (formerly 777 W. Park): Due to the cap on senior units on the Township's RDP, the remaining 17 units from this 87-unit project will be applied toward the Township's Unmet Need.
- c. Golf Course Overlay Zoning: The Township adopted an overlay ordinance on the Deal Golf Course and the Hollywood Golf Course (attached hereto as Exhibit P-8), so that affordable housing can be created on the site if it ceases to remain a golf course in the near future. The overlay ordinance permits townhouses at a density of 8 units per acre and will require a 20% set-aside for affordable units.
- d. Norwood Avenue Inclusionary Mixed Use Zoning: The Township revised its existing inclusionary C-I Zone ordinance to require a 20% affordable housing set-aside, regardless of whether the units are rental units or for-sale units.
- e. Seaview Square Inclusionary Mixed Use Overlay Zoning: Pursuant to the terms of the FSHC Settlement Agreement, the Township has until December 2020 to decide whether to adopt an overlay zoning ordinance or adopt a redevelopment plan for the 125.5 acre parcel known as Seaview Square. The overlay and/or redevelopment plan will permit commercial uses and residential uses at 7 units per acre with a 20% affordable housing set-aside.
- f. Mandatory Set-Aside Ordinance: The Township amended its Affordable Housing Ordinance to include a Township-wide Mandatory Set-Aside provision (attached hereto as Exhibit P-9), which requires that any site that benefits from a rezoning, variance or redevelopment plan approved by the Township that results in multi-family residential development of five (5) dwelling units or more at a density of 6 units per acre to produce affordable housing at a set-aside rate of twenty percent (20%) for for-sale affordable units and at a set-aside rate of fifteen percent (15%) for rental affordable units. The MSO does not give any developer the right to any such rezoning, variance, redevelopment designation or other relief, or establish any obligation on the part of Ocean to grant such rezoning, variance, redevelopment designation or other relief.

8. The continuing obligations set forth in the Settlement Agreement shall remain in full force and effect and compliance with those obligations will be satisfied by the Township within the timeframes established by the Settlement Agreement.

9. The Township's Spending Plan, which is attached hereto as part of Exhibit P-11 is hereby approved. The Township will be free to expend funds in its Affordable Housing Trust Funds in accordance with the FSHC Settlement Agreement, the Township's Fair Share Plan, the FHA, applicable COAH regulations and all other applicable law.

10. The Township's updated and adopted Affordable Housing Ordinance (Exhibit P-5) is hereby approved by the Court.

11. Counsel for the Township shall provide copies of this Order to the Township's Service List within seven (7) days of the date hereof per the Rules of Court.

/s/ Linda Grasso Jones, J.S.C.

HONORABLE LINDA GRASSO JONES, J.S.C.

APPENDIX A:
EXHIBITS MARKED INTO EVIDENCE

Exhibit P-1: Adopted Housing Element and Fair Share Plan with Appendix.

Exhibit P-2: January 27, 2020 Planning Board resolution adopting the Housing Element and Fair Share Plan.

Exhibit P-3: January 30, 2020 Township Council resolution endorsing the Housing Element and Fair Share Plan.

Exhibit P-4: January 30, 2020 adopted Affordable Housing Ordinance, which includes mandatory affordable housing set aside language.

Exhibit P-5: January 30, 2020 Resolution hiring an Administrative Agent

Exhibit P-6: January 30, 2020 Resolution of Intent to Bond.

Exhibit P-7: January 30, 2020 Resolution Adopting Spending Plan and attached Spending Plan.

Exhibit P-8: January 30, 2020 Resolution Adopting Affirmative Marketing Plan and attached exhibits.

Exhibit P-9: Order Rescheduling Compliance Hearing, which was entered by the Court on January 25, 2019.

Exhibit P-10: January 27, 2020 Notice Certification of Nancy L. Holm, Esq.

Exhibit P-11: Court Master's Report dated January 31, 2020.

Exhibit P-12: Order Rescheduling Compliance Hearing, dated October 22, 2019.

Exhibit P-13: Executed Agreement between Roosevelt and the Township.

Exhibit P-14: Ordinance 2334A - Rezoning Ordinance for Roosevelt Project.

Exhibit P-15: Resolution 20-058 Authorizing Mayor Siciliano to sign Roosevelt Agreement

Exhibit P-16: Ordinance 2333 Amending the C-1 Zone

Exhibit P-17: Ordinance 2332 Golf Course Overlay Zone

Exhibit P-18: Resolution 19-205 Appointing Municipal Housing Liaison

Exhibit P-19: Executed Primrose Place Deed Restriction and Affordable Unit Census

Exhibit P-20: Monmouth County Home Improvement Program Manual

Exhibit P-21: Interlocal Services Agreement for participation in the Monmouth County Home Improvement Program, dated 2011

Exhibit P-22: 2014 Extension of Participation in Monmouth County Home Improvement Program

Exhibit P-23: 2017 Email from HUD confirming extension of participation in Monmouth County Home Improvement Program

Exhibit P-24: Monmouth County Home Improvement Program documentation of rehabilitated units in Ocean Township

Exhibit P-25: 2020 Email confirming Township's participation in Monmouth County Home Improvement Program through 2025

Exhibit P-26: April 23, 2020 Public Notice of the Virtual Compliance Hearing on the Township of Ocean's Website



B. FOURTH ROUND RESOLUTION, DECLARATORY JUDGMENT FILING, ORDER FIXING FOURTH ROUND OBLIGATION

25-023**RESOLUTION OF THE TOWNSHIP OF OCEAN, MONMOUTH COUNTY, COMMITTING TO THE TOWNSHIP'S FOURTH ROUND AFFORDABLE HOUSING OBLIGATION AS CALCULATED BY DCA**

WHEREAS, on March 20, 2024, Governor Philip D. Murphy signed P.L. 2024, c.2 into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter "Amended FHA"); and

WHEREAS, the Amended FHA abolished the Council on Affordable Housing, also known as COAH, and delegated its responsibilities to the New Jersey Department of Community Affairs (hereinafter "DCA"), the New Jersey Housing and Mortgage Finance Agency, and the Affordable Housing Dispute Resolution Program (hereinafter "DRP"), created by the same law; and

WHEREAS, the Amended FHA requires the DCA to calculate non-binding estimates of fair share obligations on or before October 20, 2024; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and

WHEREAS, the DCA Report calculates the Township of Ocean, Monmouth County, Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 51 and a Prospective Need or New Construction Obligation of 166; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311(m)); and

WHEREAS, COAH regulations authorize vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, COAH regulations authorize municipalities to secure an adjustment to their rehabilitation obligation through a windshield survey; and

WHEREAS, based on the foregoing, the Township of Ocean accepts the DCA calculations of the Township's fair share obligations and commits to its fair share of 51 units present need and 166 units prospective need subject to any vacant land, windshield survey and/or any other additional authorized adjustments it may seek as part of the Housing Plan element and Fair Share Plan element it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Township of Ocean reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, the Township of Ocean also reserves the right to adjust its position in the event of any rulings in the Montvale case (MER-L-1778-24) or any other such litigation or legislative action that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in the event that a third party challenges the calculations provided for in this Resolution, the Township of Ocean reserves the right to take such position as it deems appropriate in response thereto, including that its Round 4 Present or Prospective Need Obligations should be lower than described herein; and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Township's Round 4 Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish, for example, unchallenged numbers by default on March 1, 2025; and

WHEREAS, in light of the above, the Governing Body of the Township of Ocean finds that it is in the best interest of the Township to declare its commitment to the obligations reported by the DCA on October 18, 2024 subject to the reservations set forth herein; and

WHEREAS, in addition to the above, the Acting Administrative Director of the Administrative Office of the Court issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the FHA shall file an action in the form of a declaratory judgment complaint . . . in the county in which the municipality is located . . . within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner"; and

WHEREAS, the Township of Ocean seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 27th day of January, 2025 by the Mayor and Council of the Township of Ocean, Monmouth County, New Jersey as follows:

1. All of the above Whereas Clauses are incorporated into the operative clauses of this resolution.
2. For the reasons set forth in this resolution, the Township of Ocean hereby commits to the DCA Round 4 Present Need Obligation of 51 units and the Round 4 Prospective Need Obligation of 166 units described in this resolution, subject to all reservations of rights which specifically include:
 - a) The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
 - b) All rights to revoke or amend this resolution in the event of a successful legal challenge, or legislative change, to the Amended FHA;
 - c) All rights to take any contrary position in the event of a third party challenge to the obligations.

3. The Township of Ocean hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Monmouth County within 48 hours after adoption of this resolution, attaching this resolution.

4. The Township of Ocean authorizes its Affordable Housing Counsel to attach this resolution as an exhibit to the declaratory judgment action that is filed and to submit and/or file this resolution with the Program or any other such entity as may be determined to be appropriate.

5. The Township of Ocean hereby directs its Township Clerk to post this resolution on the Township website within 48 hours after adoption of this resolution, attaching this resolution.

6. The Township of Ocean shall undertake all acts necessary to adopt a housing element and fair share plan to address its present and prospective need obligations as provided for by the Amended FHA, for filing by June 30, 2025 as part of the declaratory judgment action authorized herein.

7. This resolution shall take effect immediately, according to law.

Record of Vote	Deputy Mayor Fisher	Councilman Acerra	Councilwoman Kaplan	Mayor Napolitani	Vacant
Motion to Approve		X			
Motion to Second			X		
Approved	X	X	X	X	
Opposed					
Not Voting/Recuse					
Absent/Excused					

CERTIFICATION

*I hereby certify that this is a true copy of a resolution passed by the Township of Ocean Governing Body at their meeting held on **January 27, 2025.***

Jessie M. Joseph
 Jessie M. Joseph, RMC/CMC
 Township Clerk

Wendy R. Quiroga, Esq. (ID# 029772002)
WEINER LAW GROUP LLP
629 Parsippany Road
Parsippany, NJ 07054
(973) 403-1100
Attorneys for Plaintiff Township of Ocean
Our File No.: OCN001
5214505.1

IN THE MATTER OF THE
APPLICATION OF THE
TOWNSHIP OF OCEAN, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY
DOCKET NO.:

**COMPLAINT FOR A
DECLARATORY JUDGMENT OF
COMPLIANCE WITH THE FAIR
HOUSING ACT**

Plaintiff, the Township of Ocean, a municipal corporation and body politic organized under the laws of the State of New Jersey (hereinafter, “Ocean” or the “Township”), with offices located at 399 Monmouth Road, Township of Ocean, County of Monmouth, State of New Jersey, by way of this Declaratory Judgment Action (“DJ Action”) as authorized under Directive #14-24 of the Administrative Office of the Courts alleges and says:

Background

1. The Township of Ocean is a municipal corporation of the State of New Jersey.
2. The Planning Board of the Township of Ocean (hereinafter, “Planning Board”) is a municipal agency created and organized under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., (“MLUL”), and, among other duties and obligations, is responsible for adopting the Housing Element and Fair Share Plan (“HEFSP”) of the Township’s Master Plan.
3. Through this DJ Action, the Township seeks the following relief in relation to its Fourth Round (2025-2035) affordable housing obligation: (a) to secure the jurisdiction of the Affordable Housing Alternative Dispute Resolution Program (the “Program”) pursuant to P.L.

2024, c.2 (hereinafter, the “Act”) and the Court, pursuant to Directive #14-24; (b) to have the Program and the Court approve the Township of Ocean’s Present and Prospective affordable housing obligations as set forth in the binding resolution adopted by the Township, attached hereto as **Exhibit 1**; (c) to have the Program and the Court approve a HEFSP to be adopted by the Planning Board and endorsed by the Council and issue a “Compliance Certification” pursuant to the Act or other similar declaration such as a judgment of compliance and repose; (d) to the extent it is not automatically granted pursuant to the Act, through the filing of this DJ Action and binding resolution, to have the Program and the Court confirm Ocean’s immunity from all exclusionary zoning litigation, including builder’s remedy lawsuits, during the pendency of the process outlined in the Act and for the duration of Fourth Round, *i.e.*, through June 30, 2035; and (e) to have the Program and the Court take such other actions and grant such other relief as may be appropriate to ensure that the Township receive and obtain all protections as afforded to it in complying with the requirements of the Act, including, without limitation, all immunities and presumptions of validity necessary to satisfy its affordable housing obligations voluntarily without having to endure the expense and burdens of unnecessary third party litigation.

COUNT 1
ESTABLISHMENT OF JURISDICTION UNDER P.L.2024, C.2

4. The Township of Ocean repeats and realleges each and every allegation as set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

5. The Act represents a major revision of the Fair Housing Act of 1985, N.J.S.A. 52:27D-301 *et seq.*

6. Among other things, the Act abolished the Council on Affordable Housing (hereinafter, “COAH”), and replaced it with seven retired, on recall judges designated as the Program. Among other things, the Act authorized the Director of the Administrative Office of the

Courts, (hereinafter, respectively, “Director” and “AOC”) to create a framework to process applications for a compliance certification.

7. On or about December 13, 2024, the Director issued Directive #14-24, which among other things, required municipalities seeking compliance certification to file an action in the form of a declaratory judgment complaint and Civil Case Information Statement in the County in which the municipality is located within 48 hours after the municipality’s adoption of a binding resolution as authorized under the Act and attach a copy of said binding resolution to the DJ Action.

8. The Township adopted a binding resolution establishing its present and prospective affordable housing obligations within the statutory window of time set forth in the Act and in accordance with the methodology and formula set forth in the Act, a certified copy of which resolution is attached to this DJ Action as **Exhibit 1**.

9. Based on the foregoing, the Township has established the jurisdiction of the Program and the Court in regard to this DJ Action for a compliance certification as set forth hereinafter.

WHEREFORE, the Township of Ocean seeks a declaratory judgment for the following relief:

- a. Declaring that the Township has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of the Township under the Act;

- c. Declaring the approval of the Township's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Township Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- d. Declaring that the Township continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the Township of Ocean for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT II
**DETERMINATION OF THE PRESENT AND PROSPECTIVE NEED OF THE
TOWNSHIP OF OCEAN**

10. The Township repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

11. The Act adopted the methodology to calculate every municipality’s present and prospective need affordable housing obligation for the Fourth Round (2025-2035) and beyond.

12. The Act directed the Department of Community Affairs (“DCA”) to apply the methodology and to render a non-binding calculation of each municipality’s present and prospective affordable housing obligations to be contained in a report to be issued not later than October 20, 2024.

13. The DCA issued its report on October 18, 2024.

14. Pursuant to the October 18, 2024 report, the DCA calculated the Township’s present and prospective affordable housing obligations as follows:

PRESENT NEED (REHABILITATION OBLIGATION)	FOURTH ROUND PROSPECTIVE NEED OBLIGATION (2025-2035)
51	166

15. Pursuant to the Act, a municipality desiring to participate in the Program is obligated to adopt a “binding resolution” determining its present and prospective affordable housing obligations to which it will commit based upon the methodology set forth in the Act.

16. The Township adopted a binding resolution on January 27, 2025, a copy of which is attached hereto and made a part hereof as **Exhibit 1** to this DJ Action.

17. The binding resolution maintains that the Present Need (“Rehabilitation”) obligation of the Ocean is 51 and its Prospective Need obligation is 166.

18. Ocean seeks the approval of and confirmation by the Program and the Court of the Present and Prospective affordable housing obligations as set forth in the binding resolution attached hereto and made a part hereof as **Exhibit 1** or the adjustment of those obligations consistent with the Act and the applicable COAH regulations.

19. Pursuant to the binding resolution, the Township of Ocean reserves all rights to amend its affordable housing obligations in the event of a successful legal challenge, or legislative change, to the Act.

20. Pursuant to the binding resolution, Ocean specifically reserves the right to seek and obtain 1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 3) an adjustment of rehabilitation obligation based upon a windshield survey; 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the Township of Ocean seeks a declaratory judgment for the following relief:

- a. Declaring that the Township has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

- b. Declaring the present and prospective affordable housing obligations of Ocean under the Act;
- c. Declaring the approval of the Township's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- d. Declaring that the Township continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the Township for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT III
HOUSING ELEMENT AND FAIR SHARE PLAN

21. The Township of Ocean repeats and realleges each and every allegation set forth in the previous paragraphs of this DJ Action as if set forth herein in full.

22. Pursuant to the Act, a Housing Element and Fair Share Plan (hereinafter, (“HEFSP”) must be prepared, adopted by the Planning Board and endorsed by the municipality by June 30, 2025.

23. Ocean hereby commits for its professionals to prepare the appropriate HEFSP to address its affordable housing obligations, as determined by the Program and the Court which HEFSP shall apply as appropriate, any applicable adjustments, including, without limitation, 1) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 2) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); 3) an adjustment of rehabilitation obligation based upon a windshield survey; 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; 5) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; 6) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or 7) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations.

WHEREFORE, the Township of Ocean seeks a declaratory judgment for the following relief:

- a. Declaring that Ocean has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing need as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;

- b. Declaring the present and prospective affordable housing obligations of Ocean under the Act;
- c. Declaring the approval of Ocean's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- d. Declaring that the Township of Ocean continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to the Township of Ocean for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

COUNT IV
CONFIRMATION OF IMMUNITY

24. The Township of Ocean repeats and realleges each and every allegation set forth in the previous paragraphs of this declaratory judgment complaint as if set forth herein in full.

25. Pursuant to the Act, a municipality that complies with the deadlines in the Act for both determining present and prospective affordable housing obligations affordable housing obligations and for adopting an appropriate HEFSP shall have immunity from exclusionary zoning litigation.

26. The Township of Ocean has met the deadline for the adoption and filing of its binding resolution (and the filing of this DJ Action in accordance with Directive #14-24) not later than January 31, 2025 by adopting the binding resolution attached to this DJ Action as **Exhibit 1**, and has committed to the adoption of its HEFSP by June 30, 2025.

WHEREFORE, the Township of Ocean seeks a declaratory judgment for the following relief:

- a. Declaring that the Township has established jurisdiction for the Program and the Court to confirm its present and prospective affordable housing needs as set forth in the binding resolution attached as **Exhibit 1** to this DJ Action or to adjust such determination consistent with the Act;
- b. Declaring the present and prospective affordable housing obligations of Ocean under the Act;
- c. Declaring the approval of the Township's HEFSP subsequent to its adoption by the Planning Board and its endorsement by the Council, including, as appropriate and applicable, (i) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; (ii) a Durational Adjustment

- (whether predicated upon lack of sanitary sewer or lack of water); (iii) an adjustment of rehabilitation obligation based upon a windshield survey; (iv) an adjustment predicated upon regional planning entity formulas, inputs or considerations, as applicable; (v) an adjustment based on any future legislation that may be adopted that allows an adjustment of the affordable housing obligations; (vi) an adjustment based upon any ruling in litigation involving affordable housing obligations; and/or (vii) any other applicable adjustment permitted in accordance with the Act and/or applicable COAH regulations;
- d. Declaring that the Township continues to have immunity from all exclusionary zoning litigation and all litigation related to its affordable housing obligations as established under the Program;
- e. Declaring and issuing compliance certification and immunity from exclusionary zoning litigation in accordance with the Act and Directive #14-24 to Ocean for the period beginning July 1, 2025 and ending June 30, 2035; and
- f. Declaring such other relief that the Program and Court deems just and proper within the parameters of the Act and applicable COAH regulations.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Ocean

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 4:5-1

Wendy R. Quiroga, Esq., of full age, hereby certifies as follows:

1. I am a member of the Firm of Weiner Law Group, LLP, attorneys for plaintiff, Township of Ocean.
2. To the best of my knowledge, there is no other action pending in any court or any pending arbitration proceeding of which the matter in controversy herein is the subject and no such other action or arbitration proceeding is contemplated. To the best of my knowledge, there are no other parties who should be joined in this action.
3. The within Complaint was filed and served within the time prescribed by the Rules of Court.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Ocean

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

CERTIFICATION PURSUANT TO R. 1:38-7(b)

Wendy R. Quiroga, Esq., of full age, hereby certifies as follows:

1. I am a member of the Firm of Weiner Law Group, LLP, attorneys for plaintiff, Township of Ocean.
2. I certify that confidential personal identifiers have been redacted from documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Ocean

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, notice is hereby given that Wendy R. Quiroga, Esq., attorney for Plaintiff, Township of Ocean is designated as trial counsel in the above captioned matter.

WEINER LAW GROUP, LLP
Attorneys for Plaintiff, Township of Ocean

By: /s/ *Wendy R. Quiroga*
Wendy R. Quiroga, Esq.

Dated: January 29, 2025

PREPARED BY THE COURT:

**IN THE MATTER OF THE
DECLARATORY JUDGMENT
ACTION OF THE TOWNSHIP
OF OCEAN, MONMOUTH
COUNTY PURSUANT TO P.L.
2024, CHAPTER 2**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
MONMOUTH COUNTY
DOCKET NO. MON-L-393-25

Civil Action

**ORDER FIXING MUNICIPAL
OBLIGATIONS FOR “PRESENT NEED”
AND “PROSPECTIVE NEED” FOR THE
FOURTH ROUND HOUSING CYCLE**

THIS MATTER, having come before the Court on its own motion, *sua sponte*, on the Complaint for Declaratory Judgment filed on January 29, 2025 (“DJ Complaint”) by the Petitioner, Township of Ocean (“Petitioner” or “Municipality”), pursuant to N.J.S.A. 52:27D-304.2, -304.3, and -304.1(f)(1)(c) of the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, *et seq.* (collectively, the “FHA”), and in accordance with Section II.A of Administrative Directive #14-24 (“Directive #14-24”) of the Affordable Housing Dispute Resolution Program (the “Program”), seeking a certification of compliance with the FHA;

AND IT APPEARING, that on October 18, 2024, pursuant to the FHA (as amended), the New Jersey Department of Community Affairs (“DCA”) issued its report entitled *Affordable Housing Obligations for 2025-2035 (Fourth Round)*,¹ therein setting forth the present need and prospective need obligations of all New Jersey municipalities for the Fourth Round housing cycle (the “DCA’s Fourth Round Report”);

¹ See https://nj.gov/dca/dlps/pdf/FourthRoundCalculation_Methodology.pdf

AND IT APPEARING that, pursuant to the DCA's Fourth Round Report, the **present need** obligation of the Petitioner has been calculated and reported 51 affordable units, and its **prospective need** obligation of the Petitioner has been calculated and reported as 166 affordable units, and which calculations have been deemed presumptively valid for purposes of the FHA;

AND THE COURT, having determined that no interested party has filed a challenge to the Petitioner's DJ Complaint by way of an Answer thereto as provided for and in accordance with Section II.B of Directive #14-24 of the Program;

AND THE COURT, having found and determined, therefore, that the present need and prospective need affordable housing obligations of the Petitioner for the Fourth Round housing cycle as calculated and reported in the DCA's Fourth Round Report have been committed to by the Petitioner and are uncontested, and for good cause having otherwise been shown:*

IT IS, THEREFORE, on this 1st day of **APRIL, 2025 ORDERED AND ADJUDGED** as follows:

1. That the present need obligation of the Municipality, be, and hereby is fixed as 51 affordable units for the Fourth Round housing cycle.
2. That the prospective need obligation of the Municipality, be, and hereby is fixed as 166 affordable units for the Fourth Round Housing cycle; and
3. That the Petitioner is hereby authorized to proceed with preparation and adoption of its proposed Housing Element and Fair Share Plan for the Fourth Round, incorporating therein the present need and prospective need allocations aforesaid (and which plan shall include the elements set forth in the "Addendum" attached to Directive #14-24), by or before June 30, 2025, as provided for and in accordance with Section III.A of Directive #14-24, and without further delay.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on the Petitioner and Petitioner's counsel.

SO ORDERED:



HON. LINDA GRASSO JONES, J.S.C.

(X) Uncontested.

*Pursuant to N.J.S.A. 52:27D-304.1, “[i]f the municipality meets th[e] January 31 [, 2025] deadline [for adoption of a binding resolution setting forth a determination of present and prospective fair share obligation for the fourth round], then the municipality’s determination of its obligation shall be established by default and shall bear a presumption of validity beginning on March 1, 2025, as the municipality’s obligation for the fourth round, unless challenged by an interested party on or before February 28, 2025.” The municipality’s determination of its present and prospective fair share obligation for the fourth round was adopted prior to January 31, 2025 in accordance with N.J.S.A. 52:27D-304.1, and no challenge was filed in response thereto. A presumption of validity thus attaches to the determination made by the municipality that is set forth in the resolution adopted by the municipality and which is incorporated within this order.



C. UTILITY CAPACITY TO SERVE DOCUMENTATION

TO BE PROVIDED



D. UPDATED FOURTH ROUND VACANT LAND ANALYSIS

Updated Vacant Land Analysis (VLA)
Ocean Twp.
Monmouth County, NJ
April 14, 2025

Prepared by:
Mary Beth Lonergan, AICP PP
Elaine R. Clisham, AICP PP
Jason Pene

SITE #	BLOCK	LOT	LOCATION	OWNER	ZONE	COMMENTS	STATUS	LOT ACRES	AC UNCON	DENSITY	TOTAL UNITS	SET ASIDE	AFF UNITS
850	5.02	27	465 W. Park Ave.	Cliff, Maureen L., trustee	R-4	Has approval to subdivide into two lots, subdivision not perfected yet. Both vacant.	IN	1.1	1.1	6	6.6	20%	1.3
851	7	51	44 Monmouth Rd	Memo Investments LLC	C-1	Vacant in 2024; got 2024 use variance and site plan approval for three-story building with 11 residential units; two affordable units included.	IN	0.548	0.548		11	20%	2.2
852	22	85	280 Norwood Ave	Township of Ocean		Existing structure demolished. Approval for mixed-use building with residential above; five affordable for-sale units included plus fractional PIL	IN	1.15	1.15		28	20%	5.6
853	22	85.01	280 Norwood Ave	Haddad Management LLC	C-1		IN	1.18	1.18				
854	60	5.01	86 Wickapecko Drive	WAPAC 1 LLC	R-1	House demolished in 2020	IN	2.34	2.34	6	14.04	20%	2.8
855	188	1.01	Kneeley Boulevard	Township of Ocean	I-1	Potential site of LIHTC project; with other lots as noted in the HEFSP	IN	9.9	9.9		67	20%	13.4
856	216	19	1515 Logan Rd.	Township of Ocean	R-4	Existing school building to be demolished, lot to be subdivided for six sfh and a stormwater basin	IN	2.63	1.46	6	8.76	20%	1.8
							RDP TOTALS	17.668	16.498		135.4		27.08

* 65 Larchwood, Block 9, Lot 6.11, previously generated a Third Round RDP of 27.3. It received 2021 approvals for major subdivision, which does not change the prior Court-approved Third Round RDP.



Updated Vacant Land Analysis (VLA)

Ocean Twp.

Monmouth County, NJ

April 14, 2025

Prepared by:

Mary Beth Lonergan, AICP PP

Elaine R. Clisham, AICP PP

Jason Pene


SITE #	BLOCK	LOT	LOCATION	OWNER	ZONE	COMMENTS	STATUS	LOT ACRES	AC UNCON	DENSITY	TOTAL UNITS	SET ASIDE	AFF UNITS
857	3.03	35.01	5 Branch Rd.	Matthews Ezkiel & Jessica	R-4	Larger lot 35 subdivided and existing buildings demolished. Too small	OUT	0.3					
858	3.03	35.02	5 Branch Rd.	Setton, Isaac	R-4	Larger lot 35 subdivided and existing buildings demolished. Too small	OUT	0.24					
859	4	3.01	46 Whale Pond Rd	Choresch, Idan Y.	R-4	Three existing units demolished, larger Lot 3 subdivided into two lots, two single-family homes approved 2022. Permits pulled 2/11/25 and 2/13/25. Too small	OUT	0.399					
860	4	3.02	44 Whale Pond Rd	Choresch, Idan Y.	R-4	Three existing units demolished, larger Lot 3 subdivided into two lots, two single-family homes approved 2022. Permits pulled 2/11/25 and 2/13/25. Too small	OUT	0.422					
861	8	14	341 Laird St.	Oved, Darren and Nicole	R-2	House demolished; lot is currently vacant. Too small	OUT	0.172					
#REF!	9	17	42 Norwood Avenue	Eddi, Cly	R-4	House demolished; lot is currently vacant. Too small	OUT	0.385					
#REF!	9	71	3 Helen Court	Cohen, Jack R. & Penina	R-4	House demolished; lot is currently vacant. Too small	OUT	0.523					
#REF!	9.04	7.01	238 Dixon Ave.	Shammah, Alan and Rachel	R-4	Lots 7, 8, and 9 consolidated and re-subdivided; one home demolished and a new single-family home constructed. Too small	OUT	0.229					
#REF!	9.04	9.01	242 Dixon Ave.	Dweck, Isaac and Fortune	R-4	Lots 7, 8, and 9 consolidated and re-subdivided; one home demolished and a new single-family home constructed. Too small	OUT	0.209					
#REF!	22	31	232 Overbrook Avenue	Hamaoui, Marjorie and Charlie	R-4	House demolished; lot is currently vacant. Too small	OUT	0.232					
#REF!	25.09	2	183 Chatham Avenue	Dumont Holdings LLC	R-4	House demolished; lot is currently vacant. Too small	OUT	0.367					
#REF!	25.13	11.01	210 Chatham Ave	210 Chatham Ave LLC	R-4	Subdivision of Lot 11 and demolition of existing structures. Too small	OUT	0.207					
#REF!	25.13	11.02	211 Chatham Ave	211 Chatham Ave LLC	R-5	Subdivision of Lot 11 and demolition of existing structures. Too small	OUT	0.207					
#REF!	25.15	40	416 W. Lincoln Avenue	416 West Lincoln Avenue LLC	R-3	House demolished; lot is currently vacant. Too small	OUT	0.374					
#REF!	25.15	65	197 Delaware Avenue	197 Delaware LLC	R-4	House demolished; lot is currently vacant. Too small	OUT	0.184					

Updated Vacant Land Analysis (VLA)
Ocean Twp.
Monmouth County, NJ
April 14, 2025


Prepared by:
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Jason Pene


SITE #	BLOCK	LOT	LOCATION	OWNER	ZONE	COMMENTS	STATUS	LOT ACRES	AC UNCON	DENSITY	TOTAL UNITS	SET ASIDE	AFF UNITS
#REF!	26.08	22	423 W. Lincoln Avenue	423 W Lincoln Realty c/o D Shabot	R-3	House demolished; lot is currently vacant. Too small	OUT	0.536					
#REF!	33.29	2.01	1807 Holbrook Street	1807 Holbrook LLC	R4	Lots 2 and 3 merged and subdivided into three lots. Too small	OUT	0.22					
#REF!	33.29	2.02	1805 Holbrook Street	1805 Holbrook LLC	R-4	Lots 2 and 3 merged and subdivided into three lots. Too small	OUT	0.23					
#REF!	33.29	3.01	1803 Holbrook Street	1803 Holbrook LLC	R-4	Lots 2 and 3 merged and subdivided into three lots. Too small	OUT	0.24					
#REF!	65	7.01	725 Corlies Avenue	Lignum Development LLC	R-4	Originally lot 7 with one house; now subdivided and house demolished. Too small	OUT	0.298					
#REF!	65	7.02	721 Corlies Avenue	Lignum Development LLC	R-4	Originally lot 7 with one house; now subdivided and house demolished. Too small	OUT	0.298					
#REF!	79	16	915 Raymere Avenue	Vignola, Anthony J. and Christiana L.	R-4	House demolished; lot is currently vacant. Too small	OUT	0.337					
#REF!	184	1, 1.01, 4	1304-1306 Brielle Avenue	Brielle Avenue LLC	I-1	Now consolidated into lot 1.02; approved for car club; warehouse on remaining 2.49 acres on Brielle Avenue. Industrial area, not suitable for residential.	OUT	6.49					








0100020004000 Feet


RDP In


RDP Out

Wetlands

Inland Flood Hazard Area

100 Year Flood

Waterbodies

Clarke Caton Hintz

Architecture
Planning
Landscape Architecture

UPDATED 4TH ROUND VACANT LAND ANALYSIS ("VLA")

Ocean Township

LOCATION:
Ocean Township, Monmouth County, NJ

Aerial Imagery
Nearmap (June 20, 2024)

Wetlands/Forest
NJDEP (2020)

100-Yr Flood/Flood Hazard
FEMA (2024)

Steep Slopes
NJOGIS (2019)

Streams/Waterbodies
NJDEP (2015)

DATE:
April 14, 2025

ESRI, TomTom, Garmin, FAO, NOAA, USGS, (C) OpenStreetMap contributors, and the GIS User Community



E. MONMOUTH COUNTY HOME IMPROVEMENT PROGRAM OPERATING MANUAL



COUNTY OF MONMOUTH

HOUSING IMPROVEMENT PROGRAM

PROCEDURAL GUIDE

Sponsored By:

Monmouth County Board of Chosen Freeholders
Gary J. Rich, Sr. Director
Serena DiMaso, Deputy Director
John P. Curley
Thomas A. Arnone
Lillian G. Burry

Program Administrator:

Division of Planning
Office of Community Development

(732) 431-7460 – *Phone*

(732) 308-2995 – *Fax*

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INTRODUCTION

The Monmouth County Division of Planning/Office of Community Development Housing Improvement Program focuses on the REHABILITATION AND LEAD ABATEMENT OF SINGLE-FAMILY OWNER OCCUPIED DWELLING UNITS.

The Division of Planning/Office of Community Development is located on the second floor of the Hall of Records Annex, One East Main Street, Freehold, New Jersey, 07728. The office is open Monday through Friday, 8:30 am to 4:30 pm.

SECTION I. GENERAL GUIDELINES

A. ELIGIBLE PARTICIPANTS

This program is open to all residents living in participating municipalities (see Section I D for listing of participating municipalities) who own their homes and reside in them all year.

B. ELIGIBLE UNITS

Units are not eligible for improvement if they are listed for sale. Rehabilitation is limited to single family, year-round, owner-occupied structures with no more than two dwelling units per structure (duplex). In a duplex unit only the owner occupied unit will be rehabilitated, except for shared or common appurtenances such as a roof or heating unit.

C. INCOME LIMITS FOR PARTICIPATION *

The occupants of the units must have incomes that fall within the following income guidelines:

	<u>Family Size</u>	<u>Maximum Income*</u>
2014 Income Limits		
	1	\$ 44,750.00
	2	\$ 51,150.00
	3	\$ 57,550.00
	4	\$ 63,900.00
	5	\$ 69,050.00
	6	\$ 74,150.00
	7	\$ 79,250.00
	8	\$ 84,350.00

When administering Mt. Laurel programs, the County will use income limits determined by the Council on Affordable Housing (COAH).

* Maximum incomes are based upon HUD's Section 8 Income Limits and change yearly.

D. ELIGIBLE AREAS

Participants in the MONMOUTH COUNTY COMMUNITY DEVELOPMENT HOUSING IMPROVEMENT PROGRAM must reside within a municipality participating in the Urban County Consortium. These municipalities include:

Aberdeen	Highlands	Oceanport
Allenhurst	Holmdel	Red Bank
Allentown	Howell	Roosevelt
Atlantic Highlands	Interlaken	Rumson
Avon-by-the-Sea	Keansburg	Sea Bright
Belmar	Keyport	Sea Girt
Bradley Beach	Lake Como	Shrewsbury Borough
Brielle	Loch Arbour Village	Shrewsbury Township
Colts Neck	Manalapan	Spring Lake
Deal	Manasquan	Spring Lake Heights
Eatontown	Marlboro	Tinton Falls
Englishtown	Matawan	Union Beach
Fair Haven	Millstone	Upper Freehold
Farmingdale	Monmouth Beach	Wall
Freehold Borough	Neptune City	West Long Branch
Freehold Township	Neptune Township	
Hazlet	Ocean Township	

E. PROGRAM BENEFITS

Eligible homeowners may receive up to an average maximum of \$20,000.00 for eligible property improvements in the Monmouth County Housing Improvement Program, in the form of a ten-year interest-free, deferred payment loan. The Housing Improvement Program will perform the general rehabilitation necessary to bring the structure into compliance. The Program Director has the option of increasing this limit on a case by case basis if the situation warrants. (Average maximums for Mt. Laurel programs are determined by the municipality.) The loan will be totally forgiven if the homeowner resides in his/her unit for ten years. If title to the property is sold, transferred, or conveyed within a ten-year period from the date of the loan, the interest-free loan shall become payable in full upon the date of such sale or transfer. In the event of the death of all of the persons named on the deed, the loan is an immediate obligation of the heirs and/or estate.

F. REHABILITATION STANDARDS

The rehabilitation standard used in the Monmouth County Housing Improvement Program is the New Jersey State Rehabilitation Subcode. The

New Jersey State Rehabilitation Subcode is incorporated herein by reference.

G. ELIGIBILITY OF THE STRUCTURE

In order for a structure to be eligible for rehabilitation it must have at least one health, safety or code violation and/or one or more of the major systems must substantial repair or replacement.

H. ELIGIBLE IMPROVEMENTS

Housing Improvement Program funds may be used only for work and repairs required to make a unit standard and alleviate any health or safety and code violations. Work or repairs, including finishing and painting, must be directly related to maintaining the structural integrity of the house. Eligible repairs include plumbing (both regular and sanitary plumbing, electrical wiring, fixtures or systems, structural, roofing, heating/air conditioning/ventilation, weatherization, and remediation of lead-based paint hazards. Lead-based paint hazards, if present, must be mitigated or eliminated in conjunction with other eligible repairs.

I. INELIGIBLE IMPROVEMENTS

Improvements which are strictly cosmetic and do not correct substandard conditions or code violations are ineligible. The purchase of appliances, not including refrigerators and stoves, is ineligible. Refrigerators and stoves are required for habitability under housing code standards.

J. ECONOMIC FEASIBILITY

Repairs must be deemed "economically feasible" by the Housing Improvement Program. As a general rule, economic feasibility means that the after rehabilitation assessed value of the structure to be rehabilitated must be greater than the total indebtedness of the property plus the financial assistance provided by the Housing Improvement Program. The Program reserves the right to deem a project economically *infeasible* based on the availability of funds.

If, after the work write-up is completed, the Cost Estimator determines that the work required to complete the minimum of the essential livable housing needs is economically infeasible, the case will be reviewed with the Program Director, who will make the final decision as to the feasibility of the rehabilitation of the home.

The Program Director has the authority to close a case if the house is found to be economically infeasible to rehabilitate.

K. SUBORDINATION POLICY

- There is no right to subordination without the written consent of the Monmouth County Community Development Housing Improvement Program and/or the County.
- The Monmouth County Development Housing Improvement Program and/or the County will only consider a subordination request upon the receipt of the following:
 - Written statement from the homeowner requesting subordination and explaining the reason for the request;
 - Mortgage Commitment from lender stipulating rate and term of proposed financing;
 - Mortgage Application;
 - Title Binder;
 - Closing costs (dollar amount);
 - HUD1/Good Faith Estimate;
 - An appraisal submitted within 90 days of the proposed financing's closing.
- The Monmouth County Community Development Home Improvement Program and/or the County will not agree to subordinate to financings that provide cash to the borrower (including payment for points), unless 20% equity is maintained in the home after the proposed financing (based upon an appraisal submitted within 90 days of the proposed financing's closing).
- The proposed financing must close within 90 days of the subordination request.
- Applicant must submit final HUD1 before the Monmouth County Community Development Home Improvement Program and/or the County will send out executed subordination.
- Upon approval of the application, the applicant will receive an executed subordination within four weeks of receipt of the final signed HUD1.

L. RECAPTURE

In the event of a foreclosure on the property within the restricted period, the net proceeds (if any) of the foreclosure sale shall be used to repay in full (one-hundred percent) of the loan secured by the Mortgage and Note. Net proceeds are the funds remaining after the superior lien(s) are satisfied. If there are no net proceeds there is no recapture obligation.

SECTION II. ADMINISTRATIVE PROCEDURES

STEP I APPLICATION

Once a year or as often as is necessary, the Monmouth County Community Development Program will publish an advertisement in the Asbury Park Press and other local weekly newspapers announcing that it will accept coupons from residents who are interested in having their homes rehabilitated. The advertisement will be of the display variety published in the non-legal sections of the newspapers. When the advertisement appears in the newspapers, interested homeowners will be instructed to complete and return the coupon through the mail by a specific date. Any coupons not postmarked by the deadline date will not be eligible for the lottery. In addition, municipal Community Development Representatives will be notified by mail that the County will be advertising for persons interested in home repairs. Applicants will be selected through a lottery system. Those chosen shall be taken in turn. At that time, homeowners will be asked to fill out an application and submit necessary information.

STEP II ELIGIBILITY CERTIFICATION

To be eligible an applicant must meet the established income guidelines. Income eligibility must be re-reviewed if the closing is not held within 120 days (6 months) of qualification. Complete income information is essential to eligibility determination.

Eligibility shall be based upon the combined income of all adults within the household. Every household member 18 years of age or older who lives in the house to be rehabilitated and receives income shall be required to provide income documentation as applicable and determined by the Program.

Generally, estimated gross annual income figures shall be based on income reported to the IRS. Income includes but is not limited to, wages, salaries, tips, commissions, alimony, overtime, pensions, social security, unemployment compensation, AFDC, disability, net income from business or real estate, and income from assets such as savings, CDs, Money Market, Mutual Funds, stocks and bonds.

The applicant must provide and income eligibility shall be based on a review and verification of the following documents:

1. Copies of IRS Form 1040 filed for two years prior to the date of the application.
2. Employer's statement of present annual income (VOE) and four consecutive pay stubs dated within the previous 120 days.
3. A letter or appropriate reporting form verifying benefits such as Social Security or Pension income or unemployment income (monthly or annually).
4. A letter or appropriate reporting form verifying any other sources of income claimed by the applicant.
5. Reports that verify income from assets to be submitted by banks or other financial institutions managing trust funds, money market accounts, stocks or bonds.
6. Evidence or reports of income from assets that are directly held by any eligible household member.
7. Evidence or reports that verify assets that do not earn regular income such as non-income producing real estate or savings that do not earn interest.
8. Authorization to release information.

NOTE: If COAH eligibility requirements differ from those above, COAH standards will be used to determine eligibility for Mt. Laurel programs, both Indigenous Need (Owner-occupied and rental occupied housing rehabilitation) and Regional Contribution Agreement Programs.

STEP III DETERMINATION

The Housing Intake Officer shall verify the following:

- Property is located in a participating municipality in Monmouth County and is a single family, year-round structure.
- Possible historical status of structure. (Refer to the Monmouth County Historical Sites Inventory List). If a structure is identified as being on the state or Federal Historic registers, is eligible for listing on either register, or located in an historic district, the program shall contact the Monmouth County Parks System [(732) 842-4000 extension 259] and the Office of New Jersey Heritage [(609) 292-2023]. For historic districts the following information is required:
 - a. copy of the work write-up;
 - b. photographs of the exterior of the structure;
 - c. site diagram;
 - d. photographs of the streetscape.

The following information is required for structures listed on either of the registers or that are potentially eligible for listing,:

- a. copy of the work write-up;
 - b. photographs of the exterior of the structure;
 - c. photographs of the interior of the structure where work is to be performed; and
 - d. a site diagram
- Flood insurance applicability (REFER TO HUD FIRM MAPS). Where flood insurance is required the amount of the insurance must not be less than \$20,000.00 (or the cost of the improvements, whichever is greater).
- Verify that the subject Property is not listed for sale.
- Verify from all mortgage holders indicating that all mortgage payments are current. The applicant shall provide these letters at the time of eligibility determination.
- Verify with municipal tax collector to verify that property, water, and sewer tax payments are current. Property taxes must not be delinquent for any tax year unless the homeowner has entered into a written agreement with the taxing authority outlining a payment plan for delinquent taxes and is abiding by the written agreement.
- Verify with local water and sewer utilities and/or companies to verify that

utility payments are current.

- Request a title search to verify ownership, check for unposted title transfers, and outstanding liens.
- Verify that there is a health, safety or code violation or at least one of the major systems must need substantial repair or replacement. The major systems are: plumbing, sanitary plumbing, electrical, structural, roof, heating/air conditioning/ventilation, weatherization and remediation of lead-based paint hazards. (See G in Section I, General Guidelines.)

Rejection - If the homeowner does not meet the program guidelines due to income, ownership or other reason, the Housing Intake Officer will send a rejection letter stating the reason(s) for the action and close the homeowner's file.

Approval - If the homeowner meets all the program guidelines, the Housing Intake Officer shall send the homeowner an approval letter stating that they have been granted preliminary approval. If the structure to be rehabilitated was constructed prior to 1978, the Housing Intake Officer shall request a lead inspection of the structure by the Monmouth County Health Department. The Housing Intake Officer will prepare a cost estimator folder with homeowners name, address, file number, block, lot, and telephone number. If the structure is historic, the Housing Intake Officer shall indicate on the cost estimator's folder that the property is historic. The Housing Intake Officer will give the folder to the cost estimator.

STEP IV ASSIGNMENT OF HIP/MOUNT LAUREL/FTHB CASES

The Housing Intake Officer will then assign the housing rehabilitation project to an estimator on a rotating basis.

STEP V HOUSING INSPECTION

A complete inspection of the home will be made using the HIP Eligible Repair List and the Section 8 Property Standards Checklist as guides.

Under the Housing and Urban Development regulations, all homes in the Housing Improvement Program will now be subject to lead testing (See Step III, Approval). If the home tests positive, lead-based paint intervention will be undertaken during the rehabilitation of the home. This additional cost will be added to the lien on the property. In addition, all children between the ages of six months and six years old who live in the home shall be tested for elevated

lead levels in their blood. If the parents or guardians of the child(ren) refuse to have the child(ren) tested, the parents or guardians must sign a release form. If the test results show an elevated lead level and the structure has tested positive for lead-based paint hazards, the Housing Improvement Program's highest priority must be given to removing the lead-based paint hazards from the home.

Lead abatement shall be governed by the municipality for whom the Mt. Laurel program is being administered.

A detailed work write-up (abating all code violations and incorporating any required lead abatement work) shall be prepared by the Cost Estimator. It will include a breakdown of each major work item by category and will contain information as to the scope of work and specifics on materials such as type, quantity, cost and location within the structure. The work write-up may include alternate bid item(s). The acceptance of the alternate bid item(s) or the regular bid will be decided on a case-by-case basis, budgetary constraints and requirements by the local building code officials.

The write-up shall be reviewed by the Program Director, for eligible repairs and economic feasibility. If necessary, appropriate revisions will be made. The work write-up is proofread and signed and dated by the Cost Estimator and the Program Director.

If a cost estimator notes two or more of the following situations, he must write a memorandum to the Program Director documenting the findings. Two or more of the following situations may indicate the structure is not a single-family structure:

- more than one or two electric meters;
- two kitchens;
- separate entrances with no passageway between the units (that does not require a key to open);
- separate hot water heaters; and/or
- separate heating systems.

Step VI COST ESTIMATES

Cost estimates must not be saved on the hard drives of the Cost Estimators' computers in order to protect the integrity of the Housing Improvement Program's bidding process. Work write- shall be typed and saved in the individual computers. One copy of the work write-up shall be printed. The cost estimator shall neatly hand write the costs for each of the items on one copy of the work write-up, seal it in an envelope and tape the envelope flap and

initial on the tape. The envelope shall then be put in the lock box labeled "Sealed Cost Estimates". The envelope will list the homeowner's name, address, and file number. This way, the only copy of the cost estimate will be sealed in the lock box and the integrity of our bidding process will be ensured.

STEP VII WORK WRITE-UP AND HOMEOWNER AGREEMENT

The Housing Intake Officer makes an appointment with the homeowner to sign the Homeowners Agreement and the work write-up. The signing takes place in the Community Development office unless the homeowner is handicapped or disabled; then, it is done at the homeowner's house.

At the work write-up interview the following items are discussed and explained:

- (a) Program guidelines and benefits
- (b) Eligible repairs
- (c) Contractors (homeowner is asked if there are any contractors they know of who they want to bid on their house)
- (d) Homeowner Agreement
- (e) Power of Attorney
- (f) Work write-up

The client indicates acceptance by signing the Homeowner's Agreement, Power of Attorney, and work write-up. A Notary Public will be present to witness all applicable documents.

Power of Attorney:

The client is required to execute a limited Power of Attorney, which grants the Program Director the authority to do the following:

- Execute checks on the client's behalf for payment to the contractor as per the Construction Agreement (see Step IX)
- Execute necessary documents as required as a result of the Program's Conflict Resolution Procedures (see Section III).

The Power of Attorney shall not be affected by the client's disability and cannot be revoked by the client until the project is closed out by the Program.

Disapproval of Work Write-up:

If the homeowner disapproves of the work write-up, he/she shall indicate in writing by initialing next to the offending items and supplying the reason(s) for the disapproval. The work write-up shall be reviewed by the Cost Estimator and the Program Director. If any changes are made the revised write-up shall

be mailed to the homeowner for approval.

If the homeowner signs the Homeowners Agreement and revised work write-up, he/she will be certified as eligible and will be notified in writing. If the homeowner refuses to sign the Agreement or the write-up (after 2 disapprovals), they will be certified as ineligible and a letter will be sent by certified mail notifying them and stating the reasons for the action.

Cancellation of Homeowners Agreement:

The Program Director has the authority to cancel the Homeowners Agreement for the following reasons:

- If the homeowner does not comply with the terms of the Homeowner Agreement (as determined by the Program Director).
- If a determination is made by the Program Director that the homeowner has no justification and willfully and arbitrarily refuses to give approval of voucher.
- Determination of a falsified application.

If the Homeowner Agreement is cancelled due to the failure of the Homeowner(s) to comply with the Homeowner's Agreement, as determined by the Program Director, the Homeowner will be responsible for immediate payment of expenses incurred by the Contractor(s) through and including the time up to the Director's determination of cancellation.

STEP VIII CONTRACTOR PRE-QUALIFICATION AND INSURANCE REQUIREMENTS

A contractor who wants to be certified as a bidder in the Monmouth County Community Development Housing Improvement Program must complete a Contractor's Application Form and submit it to the Program. After the application is received by the program, the program will check the applicant against the New Jersey and Federal debarred contractor's list and the Monmouth County Consumer Affairs.

If the applicant is found to be debarred, suspended or ineligible the contractor shall be notified in writing that their application has been denied and the reason(s) for the denial.

If the applicant is not suspended, debarred or ineligible and has no serious unresolved complaints with the County Department of Consumer Affairs, the

Program Director shall contact the applicant and set up a meeting.

At the meeting the Program Director shall explain to the contractor how the program works, including but not limited to bidding procedures, payments, and inspections. The Program Director shall give the contractor a copy of the Monmouth County Housing Rehabilitation Specifications. In addition, the contractor is told that they and/or their crew must take the lead-based paint hazards Safe Work Practices class and receive their certificate. The contractor shall provide the Program with a copy of the certificates for all of the crew members that took the class.

A new contractor bidding for the first time shall be considered to be on probation until he/she has proven to the Program that their work standards as acceptable to the Program. In addition, the contractor shall be awarded the first bid that they win. If the contractor successfully completes the job to the satisfaction of the Program, he/she will be allowed to bid on and receive more than one job.

If the contractor's workmanship is not acceptable to the Program and/or the job is not completed on time, the Program may continue the contractor's probationary status. If the Program decides that the contractor's workmanship or work ethics are not compatible with Program requirements, the contractor may not be allowed to continue to bid in the Monmouth County Community Development Housing Improvement Program.

STEP IX COST PROPOSALS PROCESS

A cost proposal package will be prepared, which will include the final approved work write-up and a cover sheet which lists the homeowner's name, address, telephone number, file number, and a cost proposal due date and time.

Contractors will pick-up the cost proposals and sign for them. Contractors must submit bids in sealed envelopes prior to the specified due date. Each envelope will be stamped with the date and time it is received by the Program and given to the Program Director who will lock them in the fire-rated security box.

Approximately fifteen minutes before the cost proposal opening, the Program Director and another person (other than a CD Program or HIP staff) shall open each sealed cost estimate and record the total on the Cost Proposal Summary Sheet and shall calculate the acceptable range for bids.

The Program Director shall lock the cost estimates and Summary Sheet in a secure place. At the bid opening the Program Director and the Cost Estimator

and at least one other person (other than CD/HIP staff) shall be present. Opening will be open to the public. The Program Director will open and read aloud all bids. They will be recorded in ink on the Comparison Sheet. Any change made on the Comparison Sheet shall be initialed. The following will be kept on file: (a) copy of cost proposal package; (b) cost proposal tally sheet; (c) cost proposal summary sheet.

All bids will be reviewed by the Program Director as soon as possible. Bids shall be rejected for the following reasons:

- Bid is not written in ink or typed.
- Bid is received after time and date specified in the cost proposal package for cost proposal receipt.
- Bid is not itemized.
- Bid is more than 5% over or 10% under the Program's cost estimate.
- The sum of all line items does not equal the bid total.
- Changes or corrections are crossed out without being initialed in ink by the contractor.
- Corporate or business name, address and telephone number is not completed on the cover sheet.
- Inability to read a number(s) on the bid and therefore unable to determine the total (without guessing).
- Bid is not signed in ink by the contractor on both cover sheet and total page.

If less than 2 bids are received for any job, the job must be re-bid after review by the Program Director and the Cost Estimator. If after a second bid attempt, less than two bids are received, the following occurs: (a) if one bid is received, the bid will be accepted only if it is within the high/low split; and (b) if no bids are received, the homeowner may obtain a contractor to perform the work (within the high/low split). If rejected, Program Director will send letter to applicant telling them that their cost estimate will have to be re-bid.

Based on the review of the cost proposals, the Program Director will award the winning cost proposal. Copies shall be made of the Cost Proposal Summary Sheet and distributed. The certified cost proposal tally sheet will be available for inspection each Monday following opening of the cost proposals.

The Program Director will send a cost proposal acceptance letter to the approved contractor with a copy to the homeowner.

STEP X PRECONSTRUCTION CONFERENCE/ CONTRACT/CLOSING DOCUMENTS SIGNING

After award of the bids, a preconstruction conference and document signing is scheduled (referred to as "Closing Conference"). The homeowner must accept the contractor selected through the bid process or the file will be closed.

The Program notifies the homeowner and the contractor of the date, time, and location of the Closing Conference. At this meeting, the following documents will be explained to and signed by the homeowner: (a) Mortgage; (b) Mortgage Note; (c) Affidavit of Title; (d) Construction Agreement; (e) Three Day Right of Recision. Questions regarding scheduling, property access, etc. will also be addressed. the homeowner will be provided with copies of all the above documents. A Notary Public will be present to witness all applicable documents.

A proceed to work order will be issued at the Closing Conference by the Program Director. Rehabilitation work shall begin no later than fifteen (15) calendar days from the expiration of the homeowner's Three-Day-Right-of-Recision, and shall be completed no later than 45 days from that start date, for a total of 60 calendar days. Lead-based paint mitigation or elimination work shall begin no later than fifteen (15) calendar days from the expiration of the homeowner's Three-Day-Right-of-Recision, and shall be completed no later than 60 days from that start date, for a total of 75 calendar days. Extensions, for good reason, will be granted by the Program Director upon written request of the contractor.

If the homeowner refuses to sign either the Mortgage, Mortgage Note or the Construction Agreement the Program Director shall send a rejection letter stating the reason(s) for the action and close the homeowner's file.

If the contractor does not sign the Construction Agreement within three days of the closing conference, the contract will be awarded to the second lowest bidder within the high/low split. The Cost Estimator shall inform the Program Director.

STEP XI CONSTRUCTION CONTRACT ADMINISTRATION:

A. General Contract Provisions

Permits:

It is the responsibility of the contractor to secure all necessary building permits prior to beginning work. Contractors must post the permits in a front window or door of the residence as prescribed by law. It is the contractor's responsibility to notify the assigned Cost Estimator, and local building officials before closing up walls on plumbing and electrical improvements.

Copies of all required permits or a letter from the municipal building department that permits are not required must be on file with the Program before payment is made. Failure to comply with these requirements will result in a delay of payment or nonpayment to the contractor.

Liability and Workers Compensation Insurance:

All contractors shall provide up-to-date and adequate liability and workers compensation insurance. At each closing, the contractor shall provide the Housing Improvement Program with a current Certificate of Insurance for all required coverage, to be kept on file in the Housing Improvement office and in the homeowner's file. The certificate of insurance shall specifically name the Housing Improvement Program and the homeowner (whose house will be rehabilitated) as the insured parties.

The contractor shall indemnify and hold harmless the homeowner and County of Monmouth from liability for any injury or damages to persons or property resulting from his prosecution of work under this agreement. Coverage shall be not less than \$500,000.

The contractor must carry and require all subcontractors to carry full and complete workers compensation insurance for all of his employees and those of subcontractor(s) engaged in work on the contract premises. Further, the contractor shall procure and maintain all insurance necessary to compensate and indemnify the homeowner and the County of Monmouth Housing Improvement Program for any or all claims arising from the contract.

Warranty:

The contractor must warrant for a period of one year that all work under the contract is free from defect arising from the equipment, material, and workmanship of the contractor and any subcontractor. All warranty and guarantee periods will be effective from the date the client authorizes final payment to the contractor.

The Contractor will be allowed thirty (30) days to resolve a valid warranty complaint. Emergency warranty items (i.e. no heat in winter, burst pipes, etc.) require action within 24 hours of verbal notification of a problem. If a valid complaint is not resolved within the appropriate time frame, another contractor will be brought in to correct any defects. The repairs will be at the expense of the original contractor.

Licenses:

If jobs require electrical and/or plumbing work, the contractor or subcontractor MUST hold a current, valid license to perform said work from the State of New Jersey.

Lead-based Paint

In order to become eligible to bid on housing rehabilitation and maintain their bidding eligibility in the Monmouth County Community Development Housing Improvement Program, all contractors and/or their crew must take the lead-based paint hazards Safe Work Practices class and receive their certificate. The contractor shall provide the Program with a copy of the certificates for all of the crew members that took the class.

Classes in safe work practices are offered free of charge periodically around the state.

Cancellation of Construction Agreement:

With written documentation, the Program Director will cancel the Construction Agreements for the following reasons:

- Failure of contractor to comply with the terms of the Construction Agreement;
- Failure of the contractor to provide acceptable workmanship as determined by the Program;
- Failure of the homeowner and/or contractor to create and maintain a reasonable working relationship;
- Actions necessitated by binding decision and/or arbitration (See Section III);
- Failure of the homeowner to comply with the terms of the Homeowner Agreement; and
- Failure of the homeowner to comply with the Construction Agreement.

If the remaining work to be done is less than \$2500, the job will not be re-bid. A simple agreement with a contractor selected through the solicitation of at least three competitive quotations will be executed by the homeowner, new contractor and Cost Estimator after discussions with the Program Director.

If the Construction Agreement is cancelled for any reason and the remaining work to be completed is more than \$2500, the job must be re-bid. The re-bid will follow procedures outlined in Step VI.

Assignment:

The contractor shall not assign the Construction Agreement in whole, to a subcontractor or to another contractor without the prior written consent of the homeowner and the Housing Improvement Program.

Extension:

If the work cannot be completed by the date specified in the Proceed to Work Order, the contractor must submit a Contractor's Request for Extension form which explains why an extension is needed. The Request for Extension must be submitted prior to the Completion Date. The Program Director will meet with the Cost Estimator to review the request for extension and arrive at a decision.

Approval - If the request is approved, the Program Director and the Cost Estimator will sign the Request for Extension form, along with the contractor and homeowner.

Disapproval - If the request is denied and the contractor does not complete the work within the prescribed time limits as set forth in the Construction Agreement, the contractor will be penalized at the rate of 1/2 of 1% of the contract sum for each day, or part thereof, that the work is incomplete. This amount will be deducted from the final payment to the contractor upon completion and inspection of the work.

Master Specification Index:

All construction work must comply with Monmouth County Housing Improvement Program Master Rehabilitation Specifications Index. The document is incorporated by reference.

Arbitration: See Section III.

B. Inspections

Progress Inspections:

The assigned Cost Estimator will make periodic inspections of the house to monitor the progress of property improvements. This is necessary to ensure that the ongoing improvements coincide with the scope of work outlined in the work write-up.

The Cost Estimator shall make the final determination of acceptable workmanship and it shall be subject to the concurrence of the Program Director. The determination shall be binding upon the homeowner and the contractor.

Change Orders:

Change orders shall address previously undiscovered code violations and emergency conditions ONLY. No substitutions or additional work items will be permitted. Change orders will require the approval of the homeowner, the assigned Cost Estimator, Assistant County Counsel and the Program Director.

Change orders must be accompanied by a written explanation detailing the reason(s) for the change order. Non-emergency change orders will require the solicitation of at least three price quotations.

An emergency change order is defined as any situation which would render the house uninhabitable, i.e., no water, no heat, roof open, no toilet, etc.

If immediate action is required due to an emergency condition, the Contractor shall contact the Cost Estimator immediately. The Cost Estimator will obtain the Program Director's verbal approval to make the repairs. If the Cost Estimator is not available, the contractor shall call the Program Director directly. The assigned Cost Estimator shall document the approval in the homeowner's file and obtain the client's signature and date of signature on the change order paperwork as soon as possible. Emergency change order work must be left uncovered for inspection.

Final Inspection:

The Cost Estimator shall conduct a final inspection to make sure that the required property improvements are complete and meet program quality standards. If the work is satisfactory, the Cost Estimator shall obtain the client's signature on the Certificate of Completion and related paperwork. The Cost Estimator will also confirm that the Contractor has provided the client with a copy of operation manuals and available warranty information for all equipment installed.

STEP XII PAYMENTS

A. General Information:

The first payment made to a contractor shall be in an amount not less than 25% nor more than 72% of the total contract. A minimum of 25% or a maximum of 75% of the contract price shall be retained until the final payment. Contractors shall not receive more than 75% of the contract price unless the job is completed.

Payments to the contractor may be made twice a month, based upon the County's Finance Department schedule. Checks will be available for pick-up by the contractor in the Community Development Offices on the 1st and 3rd Thursdays of each month. The Program Director will receive the check from the Finance Department and endorse the check on the clients' behalf by Power of Attorney.

The contractor (or authorized representative) must pick-up the check and sign a receipt. Upon request, the check will be mailed to the contractor by registered mail.

B. Payment Authorization

All change orders shall be on individual vouchers, separate from regular progress payment vouchers.

Only complete, typed vouchers and change orders shall be presented by the Cost Estimator to the homeowner and contractor for signature. No voucher, change order, or certificate of completion shall be signed in anticipation of completion of the work - **NO EXCEPTIONS.**

The Program Director will review and initial the voucher package before forwarding it to the Program Financial Officer. All voucher packages must include a homeowner-initialed work write-up indicating work completed to date, and a partial payment form in order to be processed. In addition,

The final voucher for payment must be accompanied by:

- executed Certificate of Completion;
- **Certificate of Standard (if applicable);**
- copies of all applicable municipal permits;
- copies of all applicable municipal inspection approvals; and
- a work write-up fully initialed by the homeowner.

STEP XIII MORTGAGE RECORDING / PROJECT CLOSE-OUT

The Program secretary shall file the mortgage and the mortgage note and any modifications with the Office of the County Clerk. The mortgage documents will be filed at the end of the three day rescission period. Mortgage modifications will be signed and recorded after the rehabilitation work is complete. The Program secretary shall send copies of: the executed certificate of completion; checks and vouchers; any change orders; recorded mortgage documents and modifications; and HIP Post-Rehabilitation Questionnaire to the client at the completion of the rehabilitation project.

SECTION III. CONFLICT RESOLUTION

A. CONSTRUCTION AND WARRANTY COMPLAINTS

Complaints will be logged-in by the Clerical or Housing Intake staff. Copies of the complaint form will be forwarded to the Program Director and Cost Estimator.

All complaints will be referred to the assigned Cost Estimator for inspection and resolution. If it is determined by the Cost Estimator and confirmed by the Program Director that a complaint is valid, the complaint will be referred to the Contractor for correction/resolution within the time frame outlined in Step VIII (Warranty) above.

The assigned Cost Estimator will take the necessary corrective action, complete the lower portion of the complaint form and forward it to the Program Director. The Program Director will review the complaint form to determine if the situation has been adequately resolved and file the form in the client's file.

B. CLIENTS REFUSAL OF SIGNATURES

If a homeowner refuses to sign a voucher, the following procedures will be implemented:

The Cost Estimator will discuss the complaint with the homeowner and the contractor and attempt to resolve the problem.

If the complaint cannot be settled informally, the homeowner must submit a written report within five (5) calendar days from the date of the refusal to sign the voucher to the Program Director indicating the reason(s) why.

The Program Director will assign a second Cost Estimator to review the case and submit a written opinion to the Program Director as to a solution. If no settlement can be made after the second Cost Estimator's review, the case will be referred to the Program Director for review and binding decision as to payment. All decisions will be documented and filed.

Still, if no settlement is reached, the matter will be referred to arbitration.

C. ARBITRATION

Should the procedures outlined above fail to resolve any dispute between the parties, the following shall apply:

Unresolved claims or disputes arising out of the Construction Agreement or the breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association unless the parties mutually agree otherwise. Notice of the demand for arbitration shall be filed in writing with the other party to the Construction Agreement and with the American Arbitration Association and shall be made within a reasonable time after the dispute has arisen, but not later than thirty (30) days thereafter.

SECTION IV. CONTRACTOR RELATED PROCEDURES

A. CONTRACTOR REMOVAL FROM PROGRAM

The Program Director has the authority to remove a contractor from the HIP Approved Contractor List for the following reasons:

- Unacceptable workmanship
- Failure to complete the job on time
- Failure to comply with construction agreement and/or Program procedures
- Failure to actively participate in the quote procedures for 6 consecutive bid cycles

The Program will advise the contractor of the action and reasons for the decision in writing.

B. CONTRACTOR SANCTIONS

Probation:

In those instances where a contractor has failed to comply with the terms of the Construction Agreement, however not to the degree warranting dismissal from the program, the Program Director) shall place the contractor on probation.

Probation removes the contractor from the qualified bid list for a period to be determined by the Program Director and upon re-instatement the contractor will be awarded only one job until his/her performance is approved.

Before a contractor is put on probation he/she will be put on notice, sent a letter giving seven days notice, that if he/she doesn't meet the terms of the construction agreement he'll be in default. If no response, contractor will be sent another notice stating he/she is in default, in breach of contract and stating actions to be taken.

These controls shall be implemented for the following reasons:

- Late start or late completion without an approved extension.
- Lack of expedient repair of one year warranty items.

- Failure to comply with all terms of the Construction Agreement.
- Inability to cooperate with clients and/or lack of professionalism.

Removal from the Qualified Bidder's List:

SECTION V. MAINTENANCE OF RECORDS AND CLIENT FILES

The Monmouth County Community Development Housing Improvement Program staff will be responsible for establishing and maintaining individual files for each unit. Each record file will contain the following:

- Application form
- Income verification calculations and documentation
- Housing inspection report
- Photographs or Videotape (before and after)
- Cost Estimates
- Work Write-up
- Homeowner Agreement
- Construction Agreement
- Affordability Controls: Mortgage, Mortgage Note
- Copies of Payments: checks, vouchers

A computerized Rehabilitation Log will be maintained by the Community Development Housing Improvement Program staff that depicts the status of all applications in progress.

APPENDIX I - ELIGIBLE REPAIRS

The Housing Improvement Program's main objective is to correct building code violations and fire/safety hazards. Eligible items for repair or replacement include the following:

- Heating
- Sanitary Plumbing
- Plumbing
- Structural
- Electrical
- Roof
- Weatherization

Cosmetic/luxury repairs are NOT eligible!

NOTE: ELIGIBLE REPAIRS ARE SUBJECT TO BUDGET RESTRAINTS AND MUST CORRECT CODE VIOLATIONS OR SUBSTANDARD CONDITIONS.

APPENDIX II

SAMPLE COPIES OF ALL FORMS AND AGREEMENTS

The following sample documents are contained in this appendix:

1. Homeowner Application Form
2. Income Verification Form
3. Section 8 Housing Inspection Form
4. Work Write-Up form & Cost Proposal Cover Sheet
5. Homeowner Agreement
6. Power of Attorney
7. Construction Agreement (between the homeowner and the contractor)
8. Proceed to Work Order
9. Mortgage
10. Mortgage Note
11. Affidavit of Title
12. 3-Day Right of Rescission Form
13. Mortgage Modification Agreement
14. Sample Monmouth County Voucher
15. Request for Extension of Time
16. Change Order Form
17. Contractor Application



Monmouth County Division of Planning Office of Community Development

Hall of Records Annex
One East Main Street
Freehold, NJ 07728
Office (732) 431-7460
Fax (732) 308-2995

AFFADAVIT OF ACKNOWLEDGEMENT

STATE OF NEW JERSEY)
)
COUNTY OF MONMOUTH)

The undersigned, being duly sworn, deposes and says that:

I, _____ ("homeowner") have on this date _____
submitted an application for a ten-year interest-free, deferred payment second mortgage loan from the MONMOUTH COUNTY HOUSING IMPROVEMENT PROGRAM, an Agency of Monmouth County ("Lender") which would be secured by a mortgage encumbering the premises located at _____, (the "**Premises**").

Borrower hereby acknowledges receipt of the **Monmouth County Housing Improvement Program Policy Guidelines ("Policy Guidelines")**.

Borrower hereby acknowledges that he/she has read and understands all of the terms as set forth in the Policy Guidelines and acknowledge these polices and agree to adhere to these procedures in resolving any difference or disputes which may arise during the course of and upon completion or rehabilitation work on the above listed property.

This Affidavit is made to induce Lender to make the Loan to Borrower secured by the Mortgage covering said Premises, knowing that Lender will rely on the statements.

Dated: _____

By: _____
Applicant Signature

Sworn and Subscribed to before me
This ____ day of 2015

Notary Public
State of New Jersey



F. PRIMROSE PLACE DOCUMENTATION



Monmouth County Document Summary Sheet



MONMOUTH COUNTY CLERK -
PO BOX 1251
MARKET YARD
FREEHOLD NJ 07728

Return Name and Address
Township of Ocean
Attn: Jessie M. Joseph
399 Monmouth Road
Oakhurst, NJ 07755



601DXG

Official Use Only

Submitting Company

Township of Ocean

37

Document Type

Deed Restriction

Document Date (mm/dd/yyyy)

08/03/2020

Total Number of Pages

(Including the cover sheet)

5

Consideration Amount (If applicable)

Official Use Only

JAN 14 2021

5

CHRISTINE GIORDANO HANLON
COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER

2021014934

RECORDED ON

Jan 27, 2021

11:12:29 AM

BOOK:OR-9477

PAGE:431

Total Pages: 5

COUNTY RECORDING FEES \$8.00

FEES

TOTAL PAID \$8.00

First Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Township of Ocean		399 Monmouth Road Oakhurst, NJ 07755		
Second Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Primrose Estates, LLC		920 E. County Line Road Suite 104 Lakewood, NJ 08701		
The Following Section is Required for DEEDS Only					
Parcel Information	Municipality	Block	Lot	Qualifier	Property Address
	Twp. of Ocean	1.02	72		20 Hidden Meadows Drive
Recording Reference to Original Document (if applicable)					
Reference Information (Marginal Notation)	Book	Beginning Page		Instrument No.	

Please do not detach this page from the original document as it contains important recording information and is part of the permanent record

After Recording Return To:
CGP&H
Megan York
1249 Cranbury, Suite 301
Cranbury, NJ 08512

This Instrument was Prepared By:
Megan York

APPENDIX E-2
MANDATORY DEED RESTRICTION FOR RENTAL PROJECTS

Deed Restriction

**DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY
WITH RESTRICTIONS ON RESALE AND REFINANCING**

THIS DEED RESTRICTION, entered into as of this the 3rd day of August, 2020, by and between the CGP&H, LLC with offices at 1249 Cranbury, Suite 301, Cranbury, New Jersey 08512 ("Administrative Agent"), or its successor, acting on behalf of Ocean Township, with offices at 399 Monmouth Road, Oakhurst, New Jersey 07755, and Primrose Estates LLC with corporate offices located at 920 E County Line Road, Suite 104, Lakewood, New Jersey 08701, the developer/sponsor (the "Owner") of a residential low- or moderate-income rental project (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

The Property consists of all of the land, and a portion of the improvements thereon, that is located in the municipality of Ocean, County of Monmouth, State of New Jersey, and described more specifically as Block No. 1.02 Lot No. 72, and known by the street address 20 Hidden Meadows Drive, Ocean Township, New Jersey 07712.

More specifically designated as: Nineteen affordable housing units, of which two shall be very low (affordable to households making 30 percent or less of median income in the housing region, as defined in the New Jersey Fair Housing Act), eight low income and nine moderate income, and of the nineteen affordable housing units, there shall be four 1-bedroom units, eleven 2-bedroom units, and four 3-bedroom units, all as more fully listed below with initial certificate of occupancy date:

20 Hidden Meadows Drive, Unit 236, 2 Bedroom, Moderate Income, 2/1/2011
20 Hidden Meadows Drive, Unit 240, 2 Bedroom, Moderate Income, 2/2/2011
20 Hidden Meadows Drive, Unit 238, 2 Bedroom, Moderate Income, 2/2/2011
20 Hidden Meadows Drive, Unit 242, 1 Bedroom, Moderate Income, 2/2/2011

20 Hidden Meadows Drive, Unit 244, 3 Bedroom, Moderate Income, 2/2/2011
20 Hidden Meadows Drive, Unit 245, 1 Bedroom, Very Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 247, 2 Bedroom, Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 251, 2 Bedroom, Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 249, 2 Bedroom, Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 253, 3 Bedroom, Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 336, 1 Bedroom, Moderate Income, 2/2/2011
20 Hidden Meadows Drive, Unit 340, 2 Bedroom, Moderate Income, 2/2/2011
20 Hidden Meadows Drive, Unit 342, 2 Bedroom, Moderate Income, 2/1/2011
20 Hidden Meadows Drive, Unit 344, 3 Bedroom, Moderate Income, 2/1/2011
20 Hidden Meadows Drive, Unit 345, 1 Bedroom, Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 347, 2 Bedroom, Low Income, 2/2/2011
20 Hidden Meadows Drive, Unit 349, 2 Bedroom, Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 351, 2 Bedroom, Very Low Income, 2/1/2011
20 Hidden Meadows Drive, Unit 353, 3 Bedroom, Low Income, 2/1/2011

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each dwelling unit, commencing upon the initial certificate of occupancy date, and shall and expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years; provided, however, that:

1. Units located in high-poverty census tracts shall remain subject to these affordability requirements for a period of at least 10 years; and
 2. Any unit that, prior to December 20, 2004, received substantive certification from COAH, was part of a judgment of compliance from a court of competent jurisdiction or became subject to a grant agreement or other contract with either the State or a political subdivision thereof, shall have its control period governed by said grant of substantive certification, judgment or grant or contract.
- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq*, the "Uniform Controls").
- B. The Property shall be used solely for the purpose of providing rental dwelling units for low- or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent and the Municipality.
- C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent and the Municipality.

- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

CGP&H

BY: 

Megan York
Vice President

PRIMROSE ESTATES

BY: 

Moshe Mendlowitz
Managing Member

APPROVED BY OCEAN TOWNSHIP

BY: 

Christopher P. Siciliano
Mayor

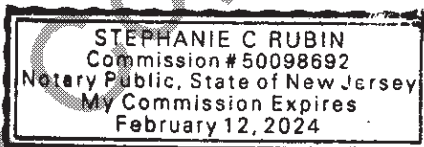
ACKNOWLEDGEMENTS

STATE OF NEW JERSEY)
) SS.:
COUNTY OF Monmouth)

I CERTIFY that on this the 23rd December day of ~~August~~, 2020, Megan York personally came before me and stated to my satisfaction that this person:

- (a) was the maker of the attached instrument;
- (b) was authorized to and did execute this instrument as Administrative Agent for the Township of Ocean, the entity named in this instrument; and
- (c) executed this instrument as the act of the entity named in this instrument.

Stephanie C. Rubin
NOTARY PUBLIC

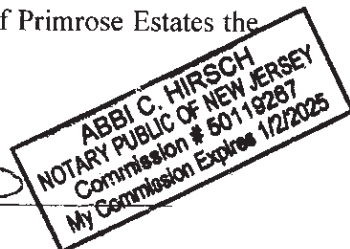


STATE OF NEW JERSEY)
) SS.:
COUNTY OF Ocean)

I CERTIFY that on this the 27th November day of ~~August~~, 2020, Moshe Mendlowitz personally came before me and stated to my satisfaction that this person:

- (a) was the maker of the attached instrument;
- (b) was authorized to and did execute this instrument as Managing Manager of Primrose Estates the entity named in this instrument; and
- (c) executed this instrument as the act of the entity named in this instrument.

[Signature]
NOTARY PUBLIC

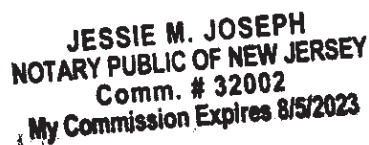


STATE OF NEW JERSEY)
) SS.:
COUNTY OF Monmouth)

I CERTIFY that on this the 30th December day of ~~August~~, 2020 Christopher P. Siciliano personally came before me and stated to my satisfaction that this person:

- (a) was the maker of the attached instrument;
- (b) was authorized to and did execute this instrument as Mayor of the Township of Ocean, the entity named in this instrument; and
- (c) executed this instrument as the act of the entity named in this instrument.

Jessie M. Joseph
NOTARY PUBLIC





G. WAYSIDE POINT DOCUMENTATION



Monmouth County Document Summary Sheet



MONMOUTH COUNTY CLERK
PO BOX 1251
MARKET YARD
FREEHOLD NJ 07728

Return Name and Address
Township of Ocean
Attn: Township Clerk
399 Monmouth Road
Oakhurst, NJ 07755



500AVP

Official Use Only

Submitting Company

Township of Ocean

Document Type

Deed Restriction (M Deed)

Document Date (mm/dd/yyyy)

09/12/2019

Total Number of Pages

6

(Including the cover sheet)

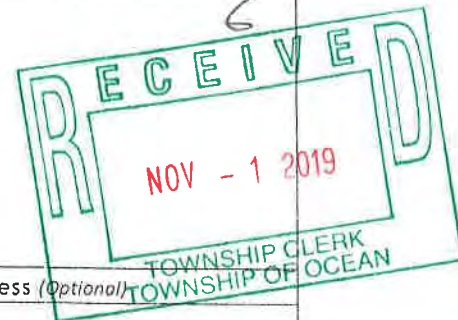
Consideration Amount (If applicable)

Official Use Only

OCT 03 2019

\$ 8 Municipal Fee

OCT 18 2019



CHRISTINE GIORDANO HANLON
COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER

2019099761

RECORDED ON

Oct 23, 2019

2:52:34 PM

BOOK: OR-9375

PAGE: 5738

Total Pages: 6

COUNTY RECORDING FEES \$8.00

TOTAL PAID \$8.00

First Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Township of Ocean		399 Monmouth Road Oakhurst, NJ 07755		
Second Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Ocean Residential Development		125 Half Mile Road Suite 200 Red Bank, NJ 07701		
The Following Section is Required for DEEDS Only					
Parcel Information	Municipality	Block	Lot	Qualifier	Property Address
	Township of Ocean	1.02	52.01, 53.01, 54.01		17 Cindy Lane
Recording Reference to Original Document (if applicable)					
Reference Information (Marginal Notation)	Book	Beginning Page		Instrument No.	

Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.

After Recording Return To:

Prepared by: Megan York

Megan York
CGP&H
101 Interchange Plaza, Suite 301
Cranbury, NJ 08512

Deed Restriction

THIS DEED RESTRICTION, entered into as of this the 12th day of ~~August~~ ^{September}, 2019, by and between CGP&H, LLC, with offices at 101 Interchange Plaza, Suite 301, Cranbury, NJ 08512 ("Administrative Agent"), or its successor, acting on behalf of the Township of Ocean, with offices at 399 Monmouth Road, Oakhurst, NJ 07755, and Ocean Township Residential Development whose mailing address is 125 Half Mile Road, Suite 200, Red Bank, NJ 07701, the developer/sponsor (the "Owner") of a residential low- or moderate-income rental project (the "Project"):

WITNESSETH

Article 1. Consideration

In consideration of benefits and/or right to develop received by the Owner from the Municipality regarding this rental Project, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (the Property).

Article 2. Description of Property

The Property consists of the land, and a portion of the improvements thereon, that is located in the municipality of the Township of Ocean, County of Monmouth, State of New Jersey, and described more specifically as Block No. 1.02, Lots 52.01, 53.01, 54.01, and known by the street address 17 Cindy Lane, Ocean, New Jersey.

There shall be 11 affordable housing units, of which two shall be very low income units (affordable to households making 30 percent or less of median income in the housing region, as defined in the New Jersey Fair Housing Act), four low income units, and five moderate income units. Of the 11 affordable housing units, two shall be 1-bedroom units, six shall be 2-bedroom units, and three shall be 3-bedroom units.

More specifically, the eleven units designated by unit number, bedroom size, and income restriction are listed below:

17 Cindy Lane, apt 118, 17 Cindy Lane, apt 118, 3-bedroom, Low Income
17 Cindy Lane, apt 120, 17 Cindy Lane, apt 120, 2-bedroom, Moderate Income
17 Cindy Lane, apt 122, 17 Cindy Lane, apt 122, 2-bedroom, Very Low Income
17 Cindy Lane, apt 218, 17 Cindy Lane, apt 218, 3-bedroom, Low Income
17 Cindy Lane, apt 219, 17 Cindy Lane, apt 219, 1-bedroom, Very Low Income
17 Cindy Lane, apt 220, 17 Cindy Lane, apt 220, 2-bedroom, Moderate Income
17 Cindy Lane, apt 221, 17 Cindy Lane, apt 221, 1-bedroom, Moderate Income
17 Cindy Lane, apt 222, 17 Cindy Lane, apt 222, 2-bedroom, Low Income

17 Cindy Lane, apt 318, 17 Cindy Lane, apt 318, 3-bedroom, Moderate Income
17 Cindy Lane, apt 320, 17 Cindy Lane, apt 320, 2-bedroom, Low Income
17 Cindy Lane, apt 322, 17 Cindy Lane, apt 322, 2-bedroom, Moderate Income

Article 3. Affordable Housing Covenants

The following covenants (the "Covenants") shall run with the land for the period of time (the "Control Period"), determined separately with respect for each very low, low, or moderate income dwelling unit, commencing upon the date on which the first certified household occupies the very low, low, or moderate income unit, and shall expire as determined under the Uniform Controls, as defined below.

In accordance with N.J.A.C. 5:80-26.11, each restricted unit shall remain subject to the requirements of this subchapter, the "Control Period," until the municipality in which the unit is located elects to release the unit from such requirements. Prior to such a municipal election, a restricted unit must remain subject to the requirements of this subchapter for a period of at least 30 years.

- A. Sale and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, et seq., the "Uniform Controls")
- B. The Property shall be used solely for the purpose of providing dwelling units for very low, low, or moderate income households, and no commitment for any such very low, low, or moderate income dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any very low, low, or moderate income dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent and municipality.
- C. No improvements may be made to the Property that would affect the bedroom configuration of any of its very low, low, or moderate income dwelling units, and any improvements to the very low, low, or moderate income dwelling units must be approved in advance and in writing by the Administrative Agent and municipality.
- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Remedies for Breach of Affordable Housing Covenants

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including but not limited to, forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

CGP&H, LLC

BY: _____



Megan York
Vice President

OCEAN TOWNSHIP RESIDENTIAL DEVELOPMENT, LLC

BY: _____



John Giunco
Member

APPROVED BY THE TOWNSHIP OF OCEAN

BY: _____



Christopher P. Siciliano
Mayor

STATE OF NEW JERSEY
COUNTY OF MONMOUTH SS:

ACKNOWLEDGEMENTS

On this the ^{September} 6th day of ~~August~~, 2019 before me came Megan York, to me known and known to me to be the Administrative Agent for The Township of Ocean who states that (s)he has signed said Agreement on behalf of said Municipality for the purposes stated therein.

Katherine E. Ritenband
A NOTARY PUBLIC of the STATE OF NEW JERSEY

(Seal)

My commission expires: _____



On this the 10th day of August, 2019 before me came John Giunco, to me known and known to me to be the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

Denise M. Wegryniak
A NOTARY PUBLIC of the STATE OF NEW JERSEY

(Seal)

My commission expires: _____

August 20, 2024
DENISE M. WEGRYNIAK
NOTARY PUBLIC STATE OF NEW JERSEY
MY COMMISSION EXPIRES 8/20/24

On this the ^{September} 12th day of ~~August~~, 2019 before me came Christopher P. Siciliano known and known to me to be Mayor of the Township of Ocean, the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

Jessie M. Joseph
A NOTARY PUBLIC of the STATE OF NEW JERSEY

(Seal)

My commission expires: _____

8/5/2023
JESSIE M. JOSEPH
NOTARY PUBLIC OF NEW JERSEY
Comm. # 32002
My Commission Expires 8/5/2023

RESOLUTION

WHEREAS, Ocean Township Residential Development is constructing a residential low or moderate income rental project at Block 1.02, Lots 52.01, 53.01 and 54.01 (more commonly known as 17 Cindy Lane); and

WHEREAS, this development consists of 72 units of which 11 are designated as affordable units; and

WHEREAS, in consideration of benefits and/or right to develop received by the owner, Ocean Township Residential Development, it does hereby agree to abide by the covenants, terms and conditions set forth in a Deed Restriction, with respect to the land and improvements of said property; and

WHEREAS, the Mayor and Municipal Clerk are hereby requesting authorization to execute said Deed Restriction;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Ocean that authorization is hereby given for the Mayor and Municipal Clerk to execute the Deed Restriction as it pertains to Block 1.02, Lots 52.01, 53.01 and 54.01 (more commonly known as 17 Cindy Lane); and

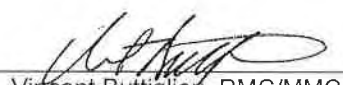
BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the following:

1. Megan York, Community Grants, Planning and Housing
2. Township Manager
3. Township Attorney
4. Tax Assessor

Record of Vote	Deputy Mayor Napolitano	Councilman Acerra	Councilwoman Donlon	Councilman Fisher	Mayor Sciliano
Motion To Approve			X		
Motion to Second				X	
Approved	X	X	X	X	
Opposed					
Not Voting/Recuse					
Absent/Excused					X

CERTIFICATION

I hereby certify that this is a true copy of a resolution passed by the Township of Ocean Governing Body at their meeting held on **August 1, 2019**.


 Vincent Buttiglieri, RMC/MMC
 Township Clerk



H. GROUP HOME DOCUMENTATION



*Enabling individuals with disabilities
to live full and independent lives within the community*

13 Roszel Road
Suite B110
Princeton, NJ 08540
Tel: (609) 987-5003 Fax: (609) 520-7979
www.enablenj.org

FAX TRANSMITTAL SHEET

To: Kathleen Grady, Clarke Caton Hintz

Fax #: 609-883-4044

From: Sharon Copeland

Telephone #: 609-987-5003 Ext. 115

Date: 4/21/09

Total number of pages being transmitted (Including the cover sheet): 31

COMMENTS:

COAH Alternative Living Arrangement Survey, Current operating license for West Park
and the Capital Funding Agreement with DDD for West Park

Confidentiality Notice

This facsimile contains confidential and/or legally privileged information from Enable, Inc., intended only for the use of the individual(s) named on this transmission sheet. If you are not the intended recipient, you are notified that any disclosure, copying or distribution of this information or the taking of any action reliant on the content of this facsimile transmission is strictly prohibited. If you have received this transmission in error, please notify us by telephone immediately so that we can arrange for the return of the document at no cost to you.

Council on Affordable Housing (COAH) Alternative Living Arrangement Survey

Municipality: Ocean Township _____ County: Monmouth _____

Sponsor: Enable _____ Developer: Enable _____

Block: 33.08 _____ Lot: 2 _____ Street Address: 604 West Park Avenue

Facility Name: Enable Group Home _____

Type of Facility:

- ☒ Group Home for developmentally disabled as licensed and/or regulated by the NJ Dept. of Human Services (Division of Developmental Disabilities (DDD))
- ☐ Group Home for mentally ill as licensed and/or regulated by the NJ Dept. of Human Services (Division of Mental Health Services) (DMHS))
- ☐ Transitional facility for the homeless
- ☐ Residential health care facility (licensed by NJ Dept. of Community Affairs or NJ Dept. of Human Services)
- ☐ Congregate living arrangement
- ☐ Other – Please Specify: _____

Sources of funding committed to the project (check all that apply):

- ☒ Capital funding from State – Amount \$ _____
- ☐ Balanced Housing – Amount \$ _____
- ☐ HUD – Amount \$ _____
- ☐ Federal Home Loan Bank – Amount \$ _____
- ☐ Farmers Home Administration – Amount \$ _____
- ☐ Development fees – Amount \$ _____
- ☐ Bank financing – Amount \$ _____
- ☐ Other – Please specify: _____

☐ Please provide a pro forma for proposed projects

of total bedrooms 4 _____

of low-income residents 4 _____

of moderate-income residents _____

of market residents _____

Residents qualify as low or moderate income?

☒ Yes ☐ No

Length of Controls: _____ years

Effective Date of Controls: ____/____/____

Expiration Date of Controls: ____/____/____

Average Length of Stay: _____ months (transitional facilities only)

☒ CO Date: January 6, 2000

Indicate licensing agency:

☒ DDD ☐ DMHS ☐ DHSS ☐ DCA

Initial License Date: 8/29/2000 – 6/30/2001

Current License Date: 5/31/08 – 5/31/09

The following verification is attached:

- ☐ Copy of deed restriction (30-year minimum, HUD, FHA, FHLB, BHP deed restriction, etc.)
- ☒ Copy of Capital Application Funding Unit (CAFU) Letter (20-year minimum, no deed restriction required)
- ☐ Award letter/financing commitment (proposed new construction projects only)

Residents 18 yrs or older? ☒ Yes ☐ No

Age-restricted? ☐ Yes ☒ No

Population Served (describe):

Accessible (in accordance with NJ Barrier Free
Subcode)? ☐ Yes ☒ No

Affirmative Marketing Strategy (check all that apply):

☒ DDD/DMHS/DHSS/DCA waiting list

☐ Other (please specify): _____

CERTIFICATIONS

I certify that the information provided is true and correct to the best of my knowledge and belief.

Certified by:

Project Administrator (Sharon J.B. Copeland, Executive Director)

Date

Certified by:

Municipal Housing Liaison

Date



License Number GH902

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
GROUP HOME

LICENSE

This is to certify that 604 WEST PARK AVENUE

OAKHURST, NJ 07755

Operated by **ENABLE, INC.**

Having met the requirements of the New Jersey Statute,
 P.L. 1977, c. 448,
 and the regulations of this Department, is hereby licensed as a

GROUP HOME
 (type of residence)
 from 5/31/2008
 (date issued)

for 4 Individuals
 (number)
 effective to 5/31/2009
 (expiration date)

A handwritten signature in black ink, appearing to read "Jennifer Velez".

Jennifer Velez, Commissioner, Department of Human Services

54 = UA

INVOICE

OF
NEW JERSEY

VENDOR STATUS

 BLANK 0 NO CHANGE
 1 NEW VENDOR
 2 ADDRESS CHANGE
 3 LOCATION CODE
 4 NEW VENDOR AND LOCATION
 5 VENDOR NO. CORRECTION

(10) ACCOUNT NUMBER				(11)	(12)	(13)		
ORGANIZATION	FUND	PROGRAM	OBJECT	COST CENTER	PROJECT ACTIVITY	EXTENDED NUMBER	(14) TOTAL AMOUNT	(15) AGENCY P.O. NO.
								(16) OBLIGATION NUMBER

PAYEE NAME AND ADDRESS

(18) NAME (19) (20) STREET (21) CITY (22) STATE (23) ZIP CODE

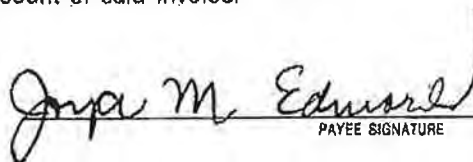
 Enable Inc.
 13 Roszel Rd.
 Princeton, NJ 08540

DEPARTMENT/AGENCY

 DEPT. OF HUMAN SERVICES
 PO Box 700
 TRENTON N.J. 08645

PAYEE DECLARATION:

I certify that the within invoice is correct in all its particulars, that the described goods or services have been furnished or rendered, and that no bonus has been given or received on account of said invoice.



PAYEE SIGNATURE

Executive Director


TITLE

 (E) BILLING DATE
 MONTH DAY YEAR

 PROMPT PAYMENT
 EXEMPT CODE

(24) COMMODITY CODE	(25) 1099 INDICATOR	(26) PAYEE REFERENCE—(LIMIT 34 CHARACTERS)	(27) PAYEE IDENTIFICATION NUMBER	(28) CONTRACT NUMBER
		22-2993393	22-2993393	
(32) LAST INVOICE	(33) PROMPT PAYMENT START DATE	(34) CHECK	(35) ACCOUNTING USE ONLY	(36) TERMS
MONTH DAY YEAR	MONTH DAY YEAR	SERIES NUMBER	(37) ERROR SUSPENSE NUMBER (38) DEL REPL	PAYMENT DUE DATE
				MONTH DAY YEAR

PAYEE—SEE INSTRUCTIONS ON REVERSE SIDE

ITEM NO.	QUANTITY	UNIT	DELIVERY IS <input type="checkbox"/> F.O.B. DESTINATION <input type="checkbox"/> F.O.B. SHIPPING POINT	DESCRIPTION	UNIT PRICE	AMOUNT
				Purchase and related closing costs for group home located at: 604 West Park Ave. Ocean Twp., NJ 07740  561-054-7600-001-LL-7110 AO 75006003132		\$ 188,500.0
TOTAL:						\$ 188,500.0

CERTIFICATION BY RECEIVING AGENCY

I CERTIFY THAT THE ABOVE ARTICLES HAVE BEEN RECEIVED OR SERVICES RENDERED AS STATED HEREIN.

SIGNATURE

DATE

CERTIFICATION BY APPROVAL OFFICER

I CERTIFY THAT THIS INVOICE IS CORRECT AND JUST, AND PAYMENT IS APPROVED.

AUTHORIZED SIGNATURE

TITLE

DATE

 TITLE
 AR 50/54 (9/87)

ORIGINAL

STATE OF NEW JERSEY - DEPARTMENT OF HUMAN SERVICESSTANDARD LANGUAGEFUNDING AGREEMENT FOR CONSTRUCTION, PURCHASE, OR
PURCHASE AND RENOVATION OF COMMUNITY-BASED FACILITIESTABLE OF CONTENTSI. DEFINITIONS

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AGREEMENT effective as of the date recorded on the signature page between the New Jersey Department of Human Services (the "Department") and the signatory agency (the "Agency") identified on the signature page.

WHEREAS the New Jersey Legislature has from time to time authorized the Department to expend such funds as are appropriated for the construction, purchase, or purchase and renovation of Community-Based facilities for certain Department Clients; and

WHEREAS the Department has established a capital funding program to carry out such authorizations; and

WHEREAS the Agency, as a Community-Based private agency or a local government agency, is eligible and desires to utilize funding under the aforementioned appropriations;

THEREFORE the Department and the Agency agree as follows:

I. DEFINITIONS

For the purposes of this document, the following terms, when capitalized, shall have meanings as stated:

Agreement means this document, the Annex(es), all additional appendices and attachments (including the Mortgage and any approved assignments, subcontracts, amendments and modifications) and all supporting documents. The Agreement constitutes the entire agreement between the parties.

Agreement Ceiling means the amount so designated in the Annex(es) and reflects the total amount of funding committed by the Department under this Agreement.

- 2 -

Agreement Funds means funds committed by the Department to the Agency pursuant to this Agreement.

Annex(es) means the attachment(s) to this document containing at least the following information: a description of the Project; schedules for Project implementation and completion, Agency reporting of Project progress and Expenditures, and payment of Agreement Funds by the Department to the Agency; the commencement and expiration dates of the Agreement and the Project Period; the time period during which use of the Facility shall be restricted pursuant to the terms of Section 3.05 Facility Restrictions; the names of the Project director, the Agency officer authorized to sign this document and any other documents and papers under this Agreement, and the persons to whom Notices shall be directed; the title(s) of the Department officer(s) authorized to sign this document and any other documents and papers under this Agreement; the duties and responsibilities of the Project director; the Project budget, identifying both the Total Project Cost and the Agreement Ceiling; the sources and amounts of all funds supporting the Project; and a description of the services required to be provided in the Facility subsequent to its inspection and approval by the Department or the Division and subsequent to any required licensure. Copies of the forms of the mortgage and promissory note to be executed pursuant to Section 5.01 Mortgage Execution are appended to the Annex(es).

Community-Based means those service delivery programs or facilities which are not located on the grounds of or operated by a State institution.

Current Fair Market Value means the value of the Facility as determined by a reputable real estate appraiser approved by the Department. All appraisals must be independent of any influence either by the Agency or the Department. When used in connection with the satisfaction of the Mortgage, the Current Fair Market Value must be determined as close in time as possible to the date of such satisfaction.

-3-

Days means calendar days.

Department Clients means, as appropriate, clients of the Division of Youth and Family Services, the Division of Developmental Disabilities or the Division of Mental Health.

Division means, as appropriate, the Division of Youth and Family Services, the Division of Developmental Disabilities or the Division of Mental Health.

Facility means the building constructed, purchased, or purchased and renovated in whole or in part under this Agreement and includes the land on which such building is situated.

Mortgage means the mortgage or mortgages executed pursuant to Section 5.01 Mortgage Execution and also includes the promissory note(s) secured by such mortgage(s).

Notice means an official written communication between the Department or the Division and the Agency. All Notices shall be delivered in person or by certified mail, return receipt requested, and shall be directed to the persons at the addresses specified for such purpose in the Annex(es) or to such other persons as either party may designate in writing.

Project means the project described in the annex(es) for construction, purchase, or purchase and renovation of a Community-Based facility for Department Clients and may include acquisition of land for such purpose. The Project may be wholly or partially financed with Agreement Funds.

Project Expenditures (also Expenditures) means expenditures made by the Agency in accordance with the Project budget contained in the Annex(es).

Project Period means the period, specified in the Annex(es), which spans the time from implementation to completion of the Project.

State means the State of New Jersey.

Total Project Cost means the amount so designated in the Annex(es) and reflects the total cost of the Project. If the Agency provides or obtains funding in addition to Agreement Funds to support the Project, the Total Project Cost will exceed the Agreement Ceiling by the amount of such additional funds.

II. BASIC OBLIGATIONS OF THE DEPARTMENT

Section 2.01 Payment. Payment of Agreement Funds to the Agency shall be in accordance with Article VI of this document.

Section 2.02 Inspection and Monitoring. The Department or its designee shall inspect the Project site and shall monitor Project activities for conformity with the terms of this Agreement, as well as with all other applicable Departmental specifications.

Section 2.03 Referenced Materials. Upon written request of the Agency, the Department or the Division shall make available to the Agency copies of federal and State regulations and other materials specifically referenced in this document.

III. BASIC OBLIGATIONS OF THE AGENCY

Section 3.01 Project Implementation and Completion. The Agency shall implement and complete the Project in accordance with the schedule outlined in the Annex(es).

- 5 -

Section 3.02 Expenditure of Agreement Funds. The Agency shall expend Agreement Funds for the Project in accordance with the budget contained in the Annex(es) and for no purpose other than as reflected therein. Salaries and travel expenses for Agency employees shall not be paid by Agreement Funds, except as may be specifically approved by the Department and budgeted in the Annex(es).

With exceptions only as expressly approved by the Department, the Agency may expend Agreement Funds only during the Project Period specified in the Annex(es). When circumstances force Agency expenditures for Project-related activities prior to the Project Period, such circumstances shall be documented by the Agency and forwarded in writing to the Department. At the discretion of the Department, part or all of such expenditures may be recoverable from Agreement Funds. The Department makes no assurance that it shall permit such recovery.

Section 3.03 Mortgage. The Agency shall execute and satisfy a Mortgage in accordance with Article V of this document.

Section 3.04 Matching Funds. The Department may require that the Agency provide or obtain matching funds for the Project. Any required Agency match shall be provided in accordance with Departmental specifications, and the source(s) and amount(s) of such match shall be recorded in the Annex(es).

Section 3.05 Facility Restrictions. The Agency shall maintain the Facility as an approved facility for Department Clients for a period of time stipulated by the Department in accordance with writer Division policies. Such time period constitutes the Agreement term and is recorded in the Annex(es). Unless otherwise stipulated in the Annex(es), the Agency shall reserve 100 percent of the Facility's maximum client capacity for Division referrals, except during such times as the Division may determine that a lesser percent is adequate

Section 3.06 Project Director. Under the direction of the Agency's governing body, the Project director named in the Annex(es) shall be responsible for all Project activities.

Section 3.07 Documents and Information. The Agency shall furnish the Department or the Division with all documents and information required by this Agreement, as well as with any additional material which may be considered necessary by the Department or the Division in support of the Agreement.

Section 3.08 Compliance with Laws. In fulfilling its commitment under this Agreement, the Agency shall comply with all applicable federal, State and local laws, rules and regulations (collectively, "laws"), including but not limited to the following: the federal Civil Rights Act of 1964, as amended; P.L. 1933, Chapter 277, of the State of New Jersey, as amended (N.J.S.A. 10:2-1 et seq.) and P.L. 1975, Chapter 127, of the State of New Jersey (N.J.S.A. 10:5-31 et seq.) pertaining to affirmative action and nondiscrimination in public contracts; the federal Equal Employment Opportunity Act; Section 504 of the federal Rehabilitation Act of 1973 pertaining to nondiscrimination on the basis of handicap; the federal Age Discrimination Act of 1975; and the New Jersey Conflicts of Interest Law (N.J.S.A. 52:13D-12 et seq.), including but not limited to those sections pertaining to contracting, solicitation and the provision of inducements to State legislators, officers or employees. In addition, the Agency shall comply with all applicable State and local laws relating to licensure, with standards specified by the Department as appropriate to the Facility, and with all applicable policies and procedures issued by the Department or the Division.

IV. SERVICE CONTRACT

The execution of this Agreement shall require execution of separate contract(s) or affiliation agreement(s) for the provision of services in the Facility. The parties to such service contract(s)

- 7 -

or agreement(s) shall be the Division and the Agency or, alternatively the Division and another entity approved by the Division. The services to be provided in the Facility are described in the Annex(es).

This Article, in conjunction with Section 3.05 Facility Restrictions, binds the Agency to make the Facility available for the provision of Department-approved services for the entire term of the Agreement. This Article shall not be construed, however, to obligate the Division or the Department to continue to fund such services throughout the Agreement term. The Division may choose or may be forced to discontinue such funding; and such discontinuance may, at the option of the Department, result in termination of this Agreement. Should such termination occur, the Department may act in accordance with any appropriate option set forth in Section 5.02 Mortgage Satisfaction.

V. MORTGAGE

Section 5.01 Mortgage Execution. The Agency shall execute and deliver to the Department a promissory note and a mortgage against the Facility. Execution of such documents shall be authorized by a resolution of the Agency's governing body. The amounts of both the note and the Mortgage shall be equal to the Agreement Ceiling. At the conclusion of the Project Period, should the actual amount of Project Expenditures approved for payment by the Department differ from the Agreement Ceiling as budgeted in the Annex(es), an additional note and an additional mortgage shall be executed by the Agency in the amount actually paid or approved for payment in excess of the original Agreement Ceiling. The original Mortgage and any additional Mortgage shall be filed by the Agency for recording in the county in which the Facility is located, and proof of such filing shall be delivered to the Department within seven Days thereafter. The original Mortgage and any additional Mortgage shall continue in full force and

- 8 -

amount until or unless the Department acts in accordance with any of its options set forth in Section 5.02 Mortgage Satisfaction.

Section 5.02 Mortgage Satisfaction. The Department may, upon expiration or termination of the Agreement, exercise any of the following options:

- (a) If the Agreement Ceiling equals the Total Project Cost, the Department may require that the Agency transfer the Facility's title either to the Department or to an entity designated by the Department.
- (b) If the Agreement Ceiling is less than the Total Project Cost, the Department may pay the Agency for the Agency's interest in the Facility, and upon such payment the Agency shall transfer the Facility's title either to the Department or to an entity designated by the Department. In such case, the amount of the Department's payment to the Agency shall be calculated by multiplying the Current Fair Market Value of the Facility by the percentage of the original investment represented by Agency funds.
- (c) Regardless of the relationship of the Agreement Ceiling to the Total Project Cost, the Department may require payment by the Agency to satisfy the Mortgage. If the Agency must sell the Facility in order to satisfy the Mortgage, and if the proceeds of such sale are less than the amount of the Mortgage, the Department's fair share of such proceeds shall be deemed to satisfy the Agency's indebtedness under the Mortgage. The Department's fair share of the sale proceeds shall be the same percentage as the percentage of the original investment represented by Department funds. No amount less than the full amount of the Mortgage shall be deemed to satisfy the Agency's indebtedness to the

Department unless the Agency furnishes the Department with an appraisal indicating the Current Fair Market Value at the time of such sale and unless the Department is satisfied that the sale price was reasonable in light of such appraisal.

VI. PAYMENT

Section 6.01 General Payment Obligation. Except as otherwise limited or precluded in this Agreement, and contingent upon satisfactory fulfillment of the Agency's obligations as set forth in Section 3.01 Project Implementation and Completion, the Department shall pay the Agency the lesser of (a) the Agreement Ceiling or (b) an amount which bears the same percentage relationship to aggregate Project Expenditures as the Agreement Ceiling bears to the Total Project Cost.

Section 6.02 Method and Schedule of Payment. The Agency shall be paid under this Agreement in accordance with the method and schedule outlined in the Annex(es). Where applicable, the Department reserves the right to require written verification from the Project architect, contractor or other appropriate person, certifying the percentage of the Project completed to the date of Agency billing. In addition, the Department may require copies of statements from parties involved in Project activities.

Section 6.03 Payments Conditional. All payments by the Department under this Agreement shall be subject to revision on the basis of an audit conducted under Section 7.04 Audit.

VII. BOOKS AND RECORDS; REPORTING REQUIREMENTS; VISITATION AND INSPECTION; AUDIT

Section 7.01 Books and Records. The Agency shall maintain such books, records and accounts as are considered necessary by the

- 10 -

Department to ensure an accurate and adequate accounting of all receipts, expenditures and available funds, regardless of their source, relating to the Project. A separate bank account shall be established for Agreement Funds to ensure that they are identifiable for monitoring and auditing purposes and that co-mingling of Agreement Funds does not occur.

All books, records and documents of any kind pertaining to this Agreement shall be retained by the Agency for a minimum of four years after expiration or termination of the Agreement or ten years after completion of the Project, whichever is later. Such requirement can be waived only by written authorization of the Department.

Section 7.02 Reporting Requirements. The Agency shall report Project progress and Expenditures to the Department in accordance with the schedule and procedures established in the Annex(es).

Section 7.03 Visitation and Inspection. The Agency's books, records and facilities, as well as the Project site itself, shall be available for inspection by authorized representatives of the Department, the Division and any other appropriate unit, agency or agent of State or local government. At the discretion of the Department, visitations and inspections may be at any time and may be announced or unannounced. The Agency's obligation to make available its books and records for on-site inspection, however, shall be limited to regular business hours.

Section 7.04 Audit. At any time during the Agreement term, the Agency's overall operations, its compliance with specific Agreement provisions, and the operations of any assignees or subcontractors engaged by the Agency under Section 10.01 Assignment and Subcontracts may be subject to audit by the Department, by any other appropriate unit or agency of State government, or by a private firm retained or approved by the Department for such purpose.

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Whether or not such audits are conducted during the Agreement term, a final financial and compliance audit of Project operations, including the relevant operations of any assignees or subcontractors, shall be conducted. Generally such audit shall be initiated within two years after expiration of the Project Period. Should extraordinary circumstances prevent this from occurring, the final audit shall commence as soon as feasible thereafter. The final audit shall be performed by a unit or agency of State government or by a private firm retained for such purpose by the Department or the Agency and shall follow guidelines issued by the Department. Final financial settlement of this Agreement shall be contingent upon the findings of the final audit.

All provisions of Section 7.03 Visitation and Inspection shall apply to the Agency and to any assignees or subcontractors in the case of any visitations or inspections made for the purpose of audit. The Department reserves the right to have access to all written material, including but not limited to work papers, generated in connection with any audit conducted. Should the Agency retain a private auditing firm, the Agency shall ensure that the instrument used to engage such firm contains express reference to the Department's right of access pursuant to this section.

VIII. AGREEMENT TERM; PROJECT PERIOD; AMENDMENTS AND MODIFICATIONS;
CLOSEOUT

Section 8.01 Agreement Term. This Agreement shall commence and expire on the dates specified in the Annex(es). The Agreement's expiration date shall coincide with the date on which the Agency shall have satisfied its obligation to the Department as established pursuant to the terms of Section 3.05 Facility Restrictions and recorded in the Annex(es).

Notwithstanding the foregoing, the Department and the Agency retain the right, during the Agreement term, to terminate this Agree-

ment upon six months' Notice to the other. Should such termination occur, the Department may act in accordance with any appropriate option set forth in Section 5.02 Mortgage Satisfaction.

Section 8.02 Project Period. The Project Period shall commence on the same date as the Agreement and shall expire on the date specified in the Annex(es). The Project Period may be extended only upon written authorization of the Department.

Section 8.03 Amendments and Modifications. Except as may otherwise be provided for in this document, all amendments and modifications to the terms of this Agreement shall be consistent with Department or Division policies and shall be accomplished by means of a written agreement signed by the parties' authorized agents identified in the Annex(es). All written amendments and modifications shall become part of this Agreement and shall be appended to this document.

Section 8.04 Closeout. All financial accounts under this Agreement, with the exception of the Mortgage, shall be settled as accurately as possible within 90 Days after expiration of the Project Period and shall be settled finally based upon the findings of the final audit conducted under Section 7.04 Audit. Any unexpended Agreement Funds in the possession of the Agency shall be returned to the Department within the 90-Day closeout period. The Mortgage shall be satisfied in accordance with Section 5.02 Mortgage Satisfaction.

Except as may otherwise be provided for in this document, all non-financial obligations of both parties shall continue after the Project Period and shall cease on the effective date of expiration or termination of the Agreement.

IX. DEFAULT

Section 9.01 Causes. The occurrence of any of the following shall be considered by the Department as Agency default of this Agreement:

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- (a) Agency failure, judged to be substantial by the Department, to abide by Project specifications stipulated in the Annex(es);
- (b) Agency failure, judged to be substantial by the Department, to adhere to the schedule established in the Annex(es) for Project implementation and completion;
- (c) any Agency use of Agreement Funds for purposes other than as approved by the Department and specified in the Annex(es);
- (d) Agency submission to the Department or the Division of reports or other documents that are inaccurate or incomplete in any material respect;
- (e) Agency refusal or failure to permit the Department, the Division or a designee of the Department to inspect the Agency's facilities, including the Project site, or to review and monitor Agency administrative records and operational practices;
- (f) Agency allowance, in the absence of Departmental approval, of the placement of any lien, mortgage or other encumbrance on the Facility during the term of this Agreement, other than as provided for in Section 5.01 Mortgage Execution or identified in the Annex(es);
- (g) Agency use of Agreement Funds to employ or otherwise compensate directly or indirectly any employee of the Department;
- (h) Department discovery, in the absence of Agency disclosure, of any pecuniary or personal interest by the Agency, its

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officers, trustees, directors or employees in any assignment or subcontract executed pursuant to Section 10.01 Assignment and Subcontracts;

- (i) conduct or acts, including but not limited to alleged or adjudged criminal activity, on the part of the Agency, its officers, trustees, directors or employees, which are detrimental to the reputation of the Agency or the Department;
- (j) any Agency failure, judged to be substantial by the Department, to comply with the terms and conditions of this Agreement, including any failure to maintain an approved use of the Facility pursuant to Section 3.05 Facility Restrictions.

Section 9.02 Procedures. Upon occurrence of any of the events enumerated in Section 9.01 Causes, the Department shall give Notice to the Agency that it is in default of this Agreement and shall elect either to terminate the Agreement on a date of the Department's choosing or to invoke the remedy provision set forth in Section 9.03 Remedy. Should the Agreement be terminated pursuant to this section, the Department shall act in accordance with any appropriate option set forth in Section 5.02 Mortgage Satisfaction.

Section 9.03 Remedy. In lieu of terminating this Agreement in the event of default, the Department may advise the Agency, in the Notice of default, of specific measures the Agency must undertake to remedy the default by a date of the Department's choosing. Such date shall be no more than six months from the date of the Notice of default and may be extended only at the discretion of the Department and upon Notice to the Agency. The Department's election of this provision shall in no way limit or preclude its right to terminate the Agreement upon Notice to the Agency, should the Agency fail to adhere to the remedy measures or the time schedule specified in the Notice of default.

X. MISCELLANEOUS

Section 10.01 Assignment and Subcontracts. No rights or obligations of the Agency under this Agreement may be assigned or subcontracted by the Agency, nor may the Agency sell or transfer title to the Facility, except as may be provided within the terms of this Agreement or with the prior written approval of the Department. All approved assignments and subcontracts shall become part of this Agreement and shall be subject to its terms. The Agency shall bear full responsibility, without recourse to the State or any of its subdivisions, for performance under any approved assignment or subcontract. The Agency shall forward copies of all assignment and subcontract documents to the Department and shall retain copies of them on file together with this document.

Section 10.02 Procurement. The Agency shall bear full responsibility, without recourse to the State or any of its subdivisions, for the settlement and satisfaction of any issues arising from any procurement arrangement entered into in support of this Agreement.

Section 10.03 Insurance. The Agency and any assignees or subcontractors engaged in construction or renovation of the Facility shall obtain the following types of insurance in coverage amounts judged adequate by the Department and indicated in the Annex(es):

- (a) workers' compensation;
- (b) general liability, including completed operations, broad form property damage and broad form contractual coverage;
- (c) fire insurance with extended coverage, such coverage to be equal to the replacement value of the Facility without any co-insurance; and

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(d) builder's risk, on an all-risk basis.

In addition, the Department may require the Agency and any assignees or subcontractors to obtain a completion bond and/or to maintain any other type of insurance coverage considered necessary by the Department. The State, which shall include the Department, shall be included as an additional named insured on any insurance policy applicable to the Project. The Department may require such proof of the required insurance and/or bond as it deems appropriate at any time during the Project Period.

Section 10.04 Indemnification. The Agency shall defend, indemnify and otherwise save harmless the State of New Jersey, its agencies, departments, bureaus, boards, officials and employees from any and all claims or actions at law, whether for personal injury, property damage or liabilities, including the costs of defense (a) which arise from acts or omissions, whether negligent or not, of the Agency or its agents, employees, servants, subcontractors, material suppliers or others working for the Agency, irrespective of whether such risks are within or beyond the control of the Agency, or (b) which arise from any failure to perform the Agency's obligations under this Agreement or any improper performance.

Notwithstanding the Agency's responsibilities outlined above in this section, the State reserves the right to provide its own attorney(s) ~~to~~ assist in the defense of any legal actions which may arise as a result of this Agreement.

Section 10.05 Insufficiency of Funds. The Agency and the Department recognize that this Agreement is dependent upon funding through State appropriations. The Department shall not be held responsible for any breach of this Agreement arising due to insufficiency of such appropriations.

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Section 10.06 Exercise of Rights. A failure or a delay on the part of the Department or the Agency in exercising any right, power or privilege under this Agreement shall not waive that right, power or privilege. Moreover, a single or a partial exercise shall not prevent another or a further exercise of that or of any other right, power or privilege.

Section 10.07 Application of New Jersey Law. The parties to this Agreement hereby acknowledge that this Agreement is governed by New Jersey law, including the provisions of the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) governing the Department's liability in any dispute that may arise under this Agreement.

Section 10.08 Title to Facility. The title to the Facility shall be and remain in the Agency until such time as the Agreement has expired or been terminated for any reason. At such time, the Department's choosing of certain options set forth in Section 5.02 Mortgage Satisfaction may result in transfer of the Facility's title either to the Department or to an entity designated by the Department.

Section 10.09 Renewability. Upon expiration of the Agreement term specified in the Annex(es), this Agreement may be renewed only on the condition that such renewal is desired and its terms are fully agreed upon by both the Department (or its successor) and the Agency in a renewal agreement. Nothing either explicit or implicit in this Agreement shall be construed as granting to the Agency an automatic right of renewal. The Department reserves the right, for any reason whatsoever, to refrain from renewing this Agreement.

Should the Agreement be renewed in accordance with the terms of this section, the Mortgage shall also be renewed; and the Agency's liability to satisfy the Mortgage shall continue under and be governed by the renewal agreement.

AGREEMENT SIGNATURES AND DATE

The terms of this Agreement have been read and understood by the persons whose signatures appear below. The parties agree to comply with the terms and conditions of the Agreement as set forth in Article I through Article X above.

BY: 

Assistant Commissioner
New Jersey Department of Human Services

BY: 

Authorized Agency Representative

L.S.

NAME: Joyce M. EdwardsTITLE: Executive DirectorAGENCY: ENABLE INC.ADDRESS: 13 Roszel Rd.Princeton, NJ 08540

AGREEMENT DATED:

JANUARY 12, 2000

PROMISSORY NOTE\$ 188,500.00Jan. 12, 2000

In accordance with a Capital Funding Agreement dated _____

Jan. 12, 2000, ENABLE, INC.

promises to pay on demand to the order of the State of New Jersey,
Department of Human Services, one hundred, eighty-eight thousand,
five hundred dollars and no cents ~~xxxxxxxxxxxxxxxx~~
~~dollars~~, payable at Capital Place One, 222 South Warren Street,
Trenton, New Jersey 08625.

BY: Joyce M. Edwards L.S.
Authorized Agency RepresentativeNAME: Joyce M. EdwardsTITLE: Executive DirectorAGENCY: Enable Inc.ADDRESS: 13 Roszel Rd.Princeton, NJ 08540Deborah A. Barry
Notary Public in and for the County of
Mercer

State of New Jersey.

My Commission expires 7/13/02On this 6 Day of January 19 2002DEBORAH A. BARRY
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 7/13/02

**COMMUNITY RESIDENTIAL FACILITY FUNDING PROGRAM
STATE OF NEW JERSEY - DEPT. OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX A - PROJECT SUMMARY

1. This Agreement commences on 1-12-2000 and expires on 1-11-2020
2. Legal Name of Agency: ENABLE INC.
3. Agency Address (Including P.O. Box, City, State, Zip Code, County):
13 Roszel Rd.
Princeton, NJ 08540
4. Date of Agency Incorporation: October 1, 1989
5. Federal I.D. Number: 22-2993393
6. Project Location (Street, Address, City, State, County):
604 West Park Ave.
Ocean Twp., NJ07740
7. Project Scope:

<input checked="" type="checkbox"/>	Purchase	<input type="checkbox"/>	Land	<input type="checkbox"/>	Existing Building(s)
<input checked="" type="checkbox"/>	Renovation	<input type="checkbox"/>	Expansion of Existing Facility		
<input type="checkbox"/>	New Construction	<input type="checkbox"/>	Equipment		
8. The Project Period Commences on 1-12-2000 and expires on 7-11-2000
9. Project Director:
Name: Alice J. Broda
Address: Enable Inc.
13 Roszel Rd.
Princeton, NJ 08540
Phone: (609) 987-5003
10. Agency Officer authorized to sign this and other documents:
Name: Joyce M. Edwards, Exec. Dir.
Address: Enable Inc.
13 Roszel Rd.
Princeton, NJ 08540
Phone: (609) 987-5003
11. Person to whom Notices shall be directed:
a) Agency
Name: same as above
Address: _____

b) Department
Name: Erika Loyka
Address: DDD
CN 726
Trenton, NJ 08625-0726

**COMMUNITY RESIDENTIAL FACILITY FUNDED PROGRAM
STATE OF NEW JERSEY - DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX A - ATTACHMENT A:
DUTIES AND RESPONSIBILITIES OF PROJECT DIRECTOR

The Project Director of ENABLE INC. is responsible for:

1. reporting the progress of the construction and related work to the Department through the Regional Assistant Director's Office, DDD;
2. paying all contractor's and other bills as appropriate;
3. submitting the invoices to the Statement for payment as per the Schedule in Annex C of this Agreement;
4. verifying that the work is completed as approved by the Department.

**COMMUNITY RESIDENTIAL FACILITY FUNDING PROGRAM
STATE OF NEW JERSEY - DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX B - PROJECT BUDGET: PURCHASE AND RENOVATION

<u>1. PROJECT COSTS:</u>	<u>PROJECT TOTAL</u>	<u>AGREEMENT AMT</u>	<u>AGENCY AMT</u>	<u>BASIS*</u>
A. Purchase of Facility			Seeking	
1) Purchase Price	\$ 185,000.00	\$ 185,000.00	\$ Lev. Grant	\$ _____
2) Closing costs, including legal fees, studies & survey	\$ 3,000.00	\$ 3,000.00	\$ _____	\$ _____
B. Architect	\$ _____	\$ _____	\$ _____	\$ _____
C. Appliances	\$ _____	\$ _____	\$ _____	\$ _____
D. Carpeting	\$ _____	\$ _____	\$ _____	\$ _____
E. Renovations, including general contract, fire alarm/ detection and equipment	\$ _____	\$ _____	\$ _____	\$ _____
F. Other	\$ 500.00	\$ 500.00	\$ _____	\$ _____
G. Total Project Cost	\$ 188,500.00	\$ 188,500.00	\$ " "	\$ _____

2. Agreement Ceiling: \$ _____

3. SOURCES OF FUNDS TO SUPPORT PROJECT (use additional sheet if necessary):

DHS Funding

* List the basis for each element of the Project Cost - e.g., architect's estimate, contractor's estimate, agency estimate, consultant's estimate, purchase price.

**COMMUNITY RESIDENTIAL FACILITY FUNDING PROGRAM
STATE OF NEW JERSEY - DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX C - PROJECT PROGRESS AND PAYMENT: PURCHASE & RENOVATION

1. Reports and Inspections.
 - A. The Agency will report Project progress and expenditures as requested, but not less frequently than monthly, to the Department through the Regional Assistant Director's Office, Division of Developmental Disabilities.
 - B. The Department will make periodic site inspections as necessary. At minimum, the following inspections will be made:
 1. site inspection prior to purchase of facility
 2. renovation inspection at 50% completion
 3. final inspection upon completion of Project, prior to final payment of capital funds.
2. Payment of Capital Funds by the Department to the Agency
 - A. Upon commencement of the Agreement, the Department will make initial payment of the following budgeted costs as specified:

	<u>Amount to be paid</u>	<u>% of Budgeted Amt (Per Annex B)</u>
1. Purchase of Facility	\$ <u>185,000.00</u>	\$ <u>100%</u>
2. Closing Costs	\$ <u>3,000.00</u>	\$ <u>100%</u>
3. Architect	\$ _____	\$ _____
4. Appliances	\$ _____	\$ _____
5. Carpeting	\$ _____	\$ _____
6. Renovations	\$ _____	\$ _____
7. Other	\$ <u>500.00</u>	\$ <u>100%</u>
Total to be paid	\$ <u>188,500.00</u>	

- B. Subsequently upon receipt from the Agency of billings and written verification of the percentage of the project completed to date, the Department will pay renovations costs as follows:

<u>% of Project Completed</u>	<u>% of Budgeted Renovations Amount (Per Annex B) to be paid</u>	<u>Dollar Amount to be paid</u>
1. 50%	_____	_____
2. 100%	_____	_____

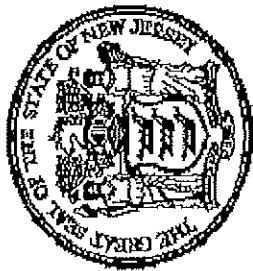
An adjustment based on actual costs may be made in the second payment to compensate for any previous over or underpayment made based on estimated costs.

- C. Subsequent to the final inspection required in 1B3 above, the Department will pay the remainder of the documented approved Project costs up to, but not to exceed, the Agreement Ceiling.

Annex D - DESCRIPTION OF SERVICES TO BE DELIVERED IN FACILITY

The Agency shall maintain the Facility as a licensed community residence for the Developmental Disabled housing 4 persons. The facility shall provide food, shelter and personal guidance for developmentally disabled persons who require assistance, temporarily or permanently, in order to live independently in the community.

anexapro



License No. GH902

State of New Jersey
Department of Human Services
Office of Licensing

LICENSE

ENABLE, INC.

13 Roszel Rd.
Suite B110
Princeton, NJ 08540

Having met the requirements of the New Jersey Statute, P.L. 1977, c. 448, and the regulations of this Department,
is hereby licensed as a

Group Home Developmental Disability

for 4 individuals

at

**604 W PARK AVE
OAKHURST, NJ 07755**

This License is effective from 07/31/2018 to 07/31/2019

A handwritten signature in cursive script, appearing to read "Carol Johnson".

Carol Johnson, Commissioner, Department of Human Services

**COMMUNITY RESIDENTIAL FACILITY FUNDING PROGRAM
STATE OF NEW JERSEY – DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX A – PROJECT SUMMARY

1. This Agreement commences on April 10, 2009 expires on April 9, 2029

2. Legal Name of Agency: SERV Properties & Management, Inc.

3. Agency Address (Including P.O. Box, City, State, Zip Code, County):
20 Scotch Rd

Ewing, NJ 08628

4. Date of Agency Incorporation: 1993

5. Federal I.D. Number: 22-3265548

6. Project Location (Street, Address, City, State, County):

21 Hillside Terrace

Ocean, NJ

7. Project Scope:

<input checked="" type="checkbox"/> Purchase	<input type="checkbox"/> Land	<input type="checkbox"/> Existing Building/s
<input type="checkbox"/> Renovation	<input type="checkbox"/> Expansion of Existing Facility	
<input type="checkbox"/> New Construction	<input type="checkbox"/> Equipment	

8. The Project Period commences on _____ and expires on _____

9. Project Director:

Name: Ahmed Taylor

Address: 20 Scotch Rd
Ewing, NJ 08628

Phone: 609-209-4535

10. Agency Officer authorized to sign this and other documents:

Name: Morris Breitstein

Address: 20 Scotch Rd
Ewing, NJ 08628

Phone: _____

11. Persons to whom Notices shall be directed:

a) Agency: SERV

Name: Robert Bacon

Address: 20 Scotch Rd
Ewing, NJ 08628

b) Department: DDD

Name: Iwona Kozak

Address: PO BOX 726
Trenton, NJ 08825

**COMMUNITY RESIDENTIAL FACILITY FUNDED PROGRAM
STATE OF NEW JERSEY – DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX A – ATTACHMENT A: DUTIES AND RESPONSIBILITIES OF PROJECT DIRECTOR:

The Project Director of SERV Properties & Management, Inc. is responsible for:

- (1) reporting the progress of the construction and related work to the Department through the Program Development Unit, DDD;
- (2) paying all contractor's and other bills as appropriate;
- (3) submitting the invoices to the State for payment as per the Schedule in Annex C of this Agreement;
- (4) verifying that the work is completed as approved by the Department.

**COMMUNITY RESIDENTIAL FACILITY FUNDING PROGRAM
STATE OF NEW JERSEY – DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX B – PROJECT BUDGET: PURCHASE AND RENOVATION

1. PROJECT COSTS:	<u>PROJECT TOTAL</u>	<u>AGREEMENT AMOUNT</u>	<u>AGENCY AMOUNT</u>	<u>BASIS*</u>
A. Purchase of Facility				
1. Purchase Price	\$ _____	\$ _____	\$ _____	_N/A_
2. Closing costs, including legal fees, studies and survey	\$ _____	\$ _____	\$ _____	_N/A_
B. Architect	\$ _____	\$ _____	\$ _____	_N/A_
C. Appliances	\$ _____	\$ _____	\$ _____	_N/A_
D. Carpeting	\$ _____	\$ _____	\$ _____	_N/A_
E. Renovations, including general contract, fire alarm/ detection and equipment	\$ _____	\$ _____	\$ _____	_N/A_
F. Other	\$ _____	\$ _____	\$ _____	_N/A_
G. Total Project cost	\$ _____	\$ _____	\$ _____	_N/A_
2. AGREEMENT CEILING:	<u>\$344,734.23</u>	<u>\$344,734.23</u>	<u>\$0.00</u>	<u>\$_N/A_</u>
3. <u>SOURCES OF FUNDS TO SUPPORT PROJECT</u> (use additional sheet if necessary)				

*List the basis for each element of the Project Cost – e.g., architect's estimate, contractor's estimate, agency estimate, consultant's estimate, purchase price.

**COMMUNITY RESIDENTIAL FACILITY FUNDING PROGRAM
STATE OF NEW JERSEY – DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

ANNEX C – PROJECT PROGRESS AND PAYMENT: PURCHASE AND RENOVATION

1. Reports and Inspections.

- A. The Agency will report Project progress and expenditures as requested, but not less frequently than monthly, to the Department through the Program Development Unit, Division of Developmental Disabilities.
- B. The Department will make periodic site inspections as necessary. At minimum, the following inspections will be made:
1. site inspection prior to purchase of facility
 2. renovation inspection at 50% completion
 3. final inspection upon completion of Project, prior to final payment of capital funds.

2. Payment of Capital Funds by the Department to the Agency

- A. Upon commencement of the Agreement, the Department will make an initial payment of the following budgeted costs as specified:

	<u>AMOUNT TO BE PAID</u>	<u>% OF BUDGETED AMOUNT (PER ANNEX B)</u>
1. Purchase of Facility	\$ _____	_____
2. Closing costs	\$ _____	_____
3. Architect	\$ _____	_____
4. Appliances	\$ _____	_____
5. Carpeting	\$ _____	_____
6. Renovations	\$ _____	_____
7. Other	\$ _____	_____
TOTAL TO BE PAID	<u>\$357,022.00</u>	

**COMMUNITY RESIDENTIAL FACILITY FUNDING PROGRAM
STATE OF NEW JERSEY – DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

- B Subsequently, upon receipt from the Agency of billings and written verification of the percentage of the project completed to date, the Department will pay renovations costs as follows:**

	<u>% OF PROJECT COMPLETED</u>	<u>% OF BUDGETED RENOVATIONS AMOUNT (PER ANNEX B) TO BE PAID</u>	<u>DOLLAR TO BE:</u>
1.	50%	_____N/A_____	___N/A___
2.	100%	_____N/A_____	___N/A___

An adjustment based on actual costs may be made in the second payment to compensate for any previous over or underpayment made based on estimated costs.

- C. Subsequent to the final inspection required in 1B3 above, the Department will pay the remainder of the documented approved Project costs up to, but not to exceed, the Agreement Ceiling.**

ANNEX D – DESCRIPTION OF SERVICES TO BE DELIVERED IN FACILITY

The Agency shall maintain the Facility as a licensed community residence for the Developmentally Disabled housing (4) persons. The facility will provide food, shelter and personal guidance for Developmentally Disabled persons who require assistance, temporarily or permanently, in order to live independently in the community.



Monmouth County Document Summary Sheet



MONMOUTH COUNTY CLERK
PO BOX 1251
MARKET YARD
FREEHOLD NJ 07728

Return Name and Address

Ahmed Taylor
20 Scotch Rd. 3rd Floor
Ewing, NJ 08628

Official Use Only

Submitting Company

Serv Properties & Mgmt

Document Type

MTG

Document Date (mm/dd/yyyy)

10/03/2018

Total Number of Pages

(Including the cover sheet)

5

Consideration Amount (If applicable)

344,734.23

Official Use Only



600LLL

CHRISTINE GIORDANO HANLON
COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER

2018102830

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COUNTY RECORDING \$70.00

FEES

TOTAL PAID \$70.00

First Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Serv Properties & Mgmt.				
Second Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	State of NJ				
The Following Section is Required for DEEDS Only					
Parcel Information	Municipality	Block	Lot	Qualifier	Property Address
	Ocean	344	724.23		
Recording Reference to Original Document (if applicable)					
Reference Information (Marginal Notation)	Book	Beginning Page		Instrument No.	

Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.

PURCHASE MONEY MORTGAGE

MORTGAGE made this 3 day of October, 2018,

between the Mortgagor, **SERV Properties & Management, Inc.**

and the Mortgagee, the State of New Jersey, Department of Human Services,

Division of Developmental Disabilities, 50 east State Street, P O Box 726,

Trenton, New Jersey, 08625.

WHEREAS the Mortgagor is indebted to the Mortgagee in the sum of

Three Hundred Forty Four Thousand Seven Hundred Thirty Four and Twenty

Three (\$344,734.23) dollars which indebtedness is evidenced by a promissory note

dated **April 10, 2009** and by a certain agreement dated **April 10, 2009**;

THEREFORE to secure the indebtedness of **\$344,734.23**

lawful money of the United States, to be paid in accordance with the aforesaid agreement,

the Mortgagor does hereby mortgage the following described property located in the

Township of Ocean, County of Monmouth,

State of New Jersey, and more particularly described in Exhibit A annexed hereto and

made a part hereof, the aforesaid property being designated as:

Block (344), Lot (724.23),

on the tax map of said **Township of Ocean**, and having a street address of

21 Hillside Terrace, Ocean, NJ 07712.

Upon default by the Mortgagor in the performance of any term, provision or requirement of the aforesaid agreement of April 10, 2009, or upon no-fault termination of said agreement pursuant to Section 8.01 thereof, the entire amount of this mortgage shall, at the option of the Mortgagee, immediately become due and payable. Alternatively, upon Mortgagor default or upon no-fault termination of the agreement of April 10, 2009, the Mortgagee may exercise other options as set forth in Section 5.02 of the said agreement.

The Mortgagor agrees that if default shall be made in any term, provision or requirement of the agreement of April 10, 2009, the Mortgagee shall have the right forthwith, after any such default, to enter upon and take possession of the said mortgaged premises and to operate same in accordance with the aforesaid agreement.

The Mortgagor shall keep the building or buildings and improvements now on said premises, or that may hereafter be erected thereon, in good and substantial repair, and, upon failure to do so, the whole indebtedness secured and represented by this Mortgage, and the note accompanying same shall, at the option of the Mortgagee, become immediately due and payable; and also the Mortgagee may enter upon the premises and repair and keep in repair the same, and the expense thereof shall be added to the sum secured hereby.

In the event that the aforesaid property is condemned, the proceeds of any award for damages, direct as well as consequential, or the proceeds of any conveyance in lieu of condemnation, are hereby assigned and shall be paid to the Mortgagee.

IN WITNESS HEREOF, the Mortgagor has hereto set its hand and seal
the day and year first written above.

SERV Properties + Management
Agency Name (Mortgagor)

BY: Regina Widdows L.S.

ATTEST:

Peter M. Doolan L.S.
Secretary

State of New Jersey, County of Burlington ss.: Be it remembered that

on October 3 2018 before me, the subscriber, personally appeared

Peter Doolan, Secretary of Properties + Mgt. Board

who being by me duly sworn on his/her oath, deposes and makes proof to my

satisfaction, that he/she is the Secretary of SERV Properties + Management

the agency name in the within Instrument; that Regina Widdows
is the chief executive officer of said agency; that the execution, as well as the making of
this Instrument, has been duly authorized by a proper resolution of the governing body of
the said agency; that deponent well knows the seal of said agency; and that the seal
affixed to the said Instrument is the proper seal and was thereto affixed and said
Instrument signed and delivered by said chief executive officer as and for the voluntary
act and deed of said agency, in the presence of deponent, who thereupon subscribed
his/her name thereto as attesting witness

Sworn to and subscribed before me,
the date aforesaid

Prepared by:

Sherry Dzurko
SHERRY L. DZURKO
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES AUG. 28, 2022

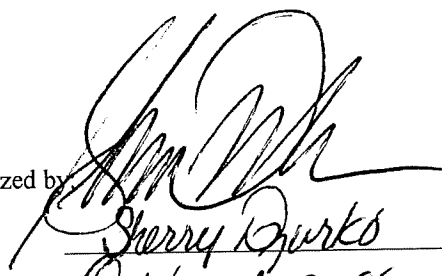
PROMISSORY NOTE\$344,734.23

April 10, 2009

In accordance with the terms of a Funding Agreement for Construction, Purchase, or Purchase and Renovation of Community-Based Facilities dated April 10, 2009 promises to pay on demand to the order of the STATE OF NEW JERSEY, DEPARTMENT OF HUMAN SERVICES, Three Hundred Forty Four Thousand Seven Hundred Thirty Four and Twenty Three (\$344,734.23) dollars, payable at Capital Place One, 222 South Warren Street, Trenton, New Jersey 08625.

BY:  L.S.

Authorized Agency Representative

NAME: MORRIS BREITSTEINTITLE: CFOAGENCY: SERV Properties & Management, Inc.ADDRESS: 20 Scotch RoadEwing, NJ 08628Notarized by Date: October 3, 2018

SHERRY L. DZURKO
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES AUG. 28, 2022

Council on Affordable Housing (COAH)
Alternative Living Arrangement Survey

Municipality: Ocean Township _____ County: Monmouth _____

Sponsor: SERV Achievement Centers, Inc. Developer: SERV Properties and Management, Inc.

Block: 182 _____ Lot: 20 _____ Street Address: 21 Hillside Terrace

Facility Name: SERV Group Home _____

Type of Facility:

- ☒ Group Home for developmentally disabled as licensed and/or regulated by the NJ Dept. of Human Services (Division of Developmental Disabilities (DDD))
- ☐ Group Home for mentally ill as licensed and/or regulated by the NJ Dept. of Human Services (Division of Mental Health Services) (DMHS))
- ☐ Transitional facility for the homeless
- ☐ Residential health care facility (licensed by NJ Dept. of Community Affairs or NJ Dept. of Human Services)
- ☐ Congregate living arrangement
- ☐ Other – Please Specify: _____

Sources of funding committed to the project (check all that apply):

- ☒ Capital funding from State – Amount \$ 344,734
- ☐ Balanced Housing – Amount \$ _____
- ☐ HUD – Amount \$ _____
- ☐ Federal Home Loan Bank – Amount \$ _____
- ☐ Farmers Home Administration – Amount \$ _____
- ☐ Development fees – Amount \$ _____
- ☐ Bank financing – Amount \$ _____
- ☐ Other – Please specify: _____
- ☐ Please provide a pro forma for proposed projects

of total bedrooms 5

of low-income residents 5

of moderate-income residents _____

of market residents _____

Residents qualify as low or moderate income?

☒ Yes ☐ No

Length of Controls: 20 years

Effective Date of Controls: 03/01/1999

Expiration Date of Controls: 02/28/2019

Average Length of Stay: _____ months (transitional facilities only)

☒ CO Date: 03/17/2009

Indicate licensing agency:

☒ DDD ☐ DMHS ☐ DHSS ☐ DCA

Initial License Date: 03/01/1999

Current License Date: 01/15/2009

The following verification is attached:

- ☐ Copy of deed restriction (30-year minimum, HUD, FHA, FHLB, BHP deed restriction, etc.)
- ☒ Copy of Capital Application Funding Unit (CAFU) Letter (20-year minimum, no deed restriction required)
- ☐ Award letter/financing commitment (proposed new construction projects only)

Residents 18 yrs or older? ☒ Yes ☐ No

Age-restricted? ☐ Yes ☒ No

Population Served (describe):

Accessible (in accordance with NJ Barrier Free
Subcode)? ☐ Yes ☐ No

Affirmative Marketing Strategy (check all that apply):

☒ DDD/DMHS/DHSS/DCA waiting list

☐ Other (please specify): _____

CERTIFICATIONS

I certify that the information provided is true and correct to the best of my knowledge and belief.

Certified by:

K. V. Hamilton

Project Administrator

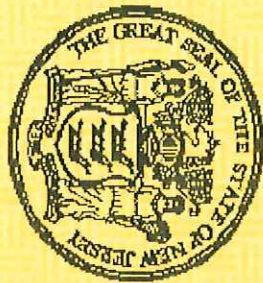
4/23/09

Date

Certified by:

Municipal Housing Liaison

Date



License No. GH819A

State of New Jersey
Department of Human Services
Office of Licensing

LICENSE

SERV Achievement Centers, Inc.

20 Scotch Rd
West Trenton, NJ 08628

*Having met the requirements of the New Jersey Statute, P.L. 1977, c. 448, and the regulations of this Department,
is hereby licensed as a*

Group Home Developmental Disability

for 5 individuals

at

**21 HILLSIDE TERRACE
OCEAN, NJ 07712**

This License is effective from 04/30/2019 to 04/30/2020

Garole Johnson, Commissioner, Department of Human Services



I. HERITAGE VILLAGE AT OCEAN DOCUMENTATION

Record and Return to:

Yadira Simmons, Paralegal Manager

Division of Regulatory Affairs

New Jersey Housing and Mortgage

Finance Agency

637 South Clinton Avenue

P.O. Box 18550

Trenton, New Jersey 08650-2085

**HERITAGE VILLAGE AT OCEAN PROJECT
HMFA # 2828**

FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT

between

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

and

HERITAGE VILLAGE AT OCEAN LLC

Prepared by:

(Construction Financing - Conduit Program)



Robert M. Purcell
Deputy Attorney General

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Signatures

Schedule A	Legal Description
Schedule B	Lender Rider

THIS FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT (this “Agreement” or “Regulatory Agreement”), is made and entered into as of August 1, 2015, between the **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the “Agency”), a body politic and corporate and an instrumentality exercising public and essential governmental functions of the State of New Jersey, created pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 *et seq.* (the “Act”) and **HERITAGE VILLAGE AT OCEAN LLC** (together with its successors and assigns, the “Owner” or “Borrower”), a limited liability company organized and existing pursuant to the laws of the State of New Jersey, duly authorized to transact business in the State of New Jersey, and a qualified housing sponsor within the meaning of the Act.

WITNESSETH:

In consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Agency and the Owner hereby agree as follows:

Section 1. Definitions and Interpretation

Capitalized terms used but not defined in this Regulatory Agreement shall have the meanings given to them in the Indenture. In addition, the following terms shall have the respective meanings set forth below:

“**Act**” means the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended from time-to-time, P.L. 1983, c. 530, N.J.S.A. 55:14K-1 *et seq.*

“**Agency Financing**” means the First Mortgage Loan.

“**Agency Regulations**” means the regulations promulgated by the Agency pursuant to the Act and any policies, procedures or guidelines issued by the Agency with respect to the housing projects financed by the Agency under the Act, all of the foregoing as they may be amended from time-to-time.

“**Applicable Public Housing Requirements**” means all requirements applicable to public housing, including, but not limited to, the United States Housing Act, of 1937 (42 U.S.C. § 1437, *et seq.*), as amended from time-to-time, HUD regulations thereunder (and, to the extent applicable, any HUD-approved waivers of regulatory requirements), the Section 202 grant agreement (as applicable), HUD notices, the HUD-approved Declaration of Restrictive Covenants in favor of HUD, the admissions and occupancy policies applicable to the Project as set forth in the PHA Plan (as applicable), and all applicable Federal statutory, executive order and regulatory requirements, as those requirements may be amended from time-to-time.

“**Approvals**” means all federal, state, county, municipal and other governmental permits, licenses, and approvals for the construction of the Project.

“Bonds” means the New Jersey Housing and Mortgage Finance Agency Multifamily Conduit Revenue Bonds (Heritage Village at Ocean Project), Series 2015G issued under and pursuant to the Resolution and the Indenture.

“Borrower Tax Certificate” means the Arbitrage and Tax Certificate dated the date of delivery of the Bonds executed by the Borrower.

“Code” means the Internal Revenue Code of 1986, as amended.

“Construction Contract” means the agreement between the Owner and ETC Companies, LLC, or any other agreement executed by the Owner and approved by the Agency, for the rehabilitation of the Project in accordance with the plans and specifications for the Project approved by the Agency.

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement between the Borrower and the Trustee, as dissemination agent, pertaining to the Bonds as the same may hereafter be modified, supplemented or amended.

“Day” or “Days,” whether or not the word is a capitalized term, shall mean calendar day or day(s) unless otherwise specified.

“Deed of Easement” means the Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy in accordance with Section 42 of the Code in connection with the low income housing tax credit being allowed to the Borrower in connection with the Project.

“Environmental Laws” shall mean and include any federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, element, compound, mixture or material, as now or at any time hereafter in effect including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C. Sections 9601 *et seq.*, the Federal Hazardous Materials Transportation Act, as amended 42 U.S.C. Sections 1801 *et seq.*, the Federal Resource Conservation and Recovery Act as amended, 42 U.S.C. Sections 6901 *et seq.*, the Superfund Amendments and Reauthorization Act, 42 U.S.C. Sections 9601 *et seq.*, the Federal Toxic Substances Control Act, 15 U.S.C. Sections 2601, *et seq.*, the Federal Hazardous Material Transportation Act, 49 U.S.C. Sections 1801 *et seq.*, the Federal Clean Air Act, 42 U.S.C. Sections 7401 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251, *et seq.*, the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401 *et seq.*, the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. Section 4852(d), the New Jersey Environmental Cleanup Responsibility Act, as amended N.J.S.A. 13:1K-6 *et seq.*, the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 *et seq.*, the Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11 *et seq.*, the New Jersey Tank Registration Act, N.J.S.A. 58:10A-21 *et seq.*, the New Jersey Water Pollution Control Act, as amended, N.J.S.A. 58:10A-1 *et seq.*, and all rules and regulations adopted and publications promulgated thereto, or any other so-called “Superfund” or “Superlien” laws, or any other federal, state or local environmental law,

ordinance, code, rule, regulation, order or decree as any of the foregoing have been, or are hereafter amended.

“Environmental Report” means the Phase I Environmental Site Assessment prepared by Nova Consulting Group, Inc., dated October 24, 2014, as amended.

“Event of Default” means any of the events set forth in Section 30 of this Agreement.

“Financial Agreement” means that certain Agreement dated as of March 21, 2013, by and between Owner and the Township of Ocean, a municipal corporation, as it may be modified, amended or restated.

“First Mortgage” or **“Mortgage”** means the Mortgage, Assignment of Rents and Security Agreement of even date herewith given by the Owner to the Agency to secure the payment of the First Mortgage Note and that constitutes a valid first lien on the Project in a shared first lien position with the mortgage securing the Freddie Mac Loan.

“First Mortgage Loan” or **“Loan”** means the mortgage loan made to the Owner by the Agency to finance a portion of the cost of the Project, which is evidenced by the First Mortgage Note and secured by the First Mortgage.

“First Mortgage Note” and/or **“Note”** means, the interest bearing, non-recourse promissory note, made by the Owner to the Agency, that contains the promises of the Owner to pay the sums of money stated therein at the times stated therein and that, together, evidence the obligations of the Owner to repay the First Mortgage Loan.

“Freddie Mac” means the Federal Home Loan Mortgage Corporation, a shareholder owned government sponsored enterprise organized and existing under the laws of the United States of America, and its successors and assigns.

“Freddie Mac Loan” means the mortgage loan in the original principal amount of \$5,821,000 to be advanced by the Lender to the Borrower.

“Hazardous Materials” shall mean and include those elements, materials, compounds, mixtures or substances that are contained in any list of hazardous substances adopted by the United States Environmental Protection Agency (the “EPA”) or any list of toxic pollutants designated by Congress, the EPA, or the New Jersey Department of Environmental Protection (“NJDEP”), or that are defined as hazardous, toxic, pollutant, infectious, flammable or radioactive by any of the Environmental Laws, and, whether or not included in such lists, shall be deemed to include all products or substances containing petroleum, asbestos, lead, and polychlorinated biphenyls.

“HUD” means the United States Department of Housing and Urban Development.

“Indenture” means the Trust Indenture dated as of August 1, 2015, by and between the Agency and Trustee governing the issuance of the Bonds and the security thereof.

“Intercreditor Agreement” means the Intercreditor Agreement, dated as of August 1, 2015, by and among the Lender, the Agency and the Trustee with respect to the liens of the Agency and the Lender on the Project.

“Investor Member” means PNC Bank, National Association, its permitted successors and assigns.

“IRS Regulations” means the regulations promulgated or proposed by the United States Department of the Treasury or the Internal Revenue Service pursuant to the Code, and to the extent applicable, pursuant to the Internal Revenue Code of 1954, as both may be amended from time-to-time, including all rules, rulings, policies, and official statements issued by the United States Department of the Treasury or the Internal Revenue Service.

“Land” means the real property described in Schedule “A” attached hereto and made a part hereof.

“Lender” means Prudential Affordable Mortgage Company, LLC, a Delaware limited liability company and its successors and assigns, including Freddie Mac, if and when Freddie Mac acquires the Freddie Mac Loan, and any other successors and assigns.

“Loan Agreement” means the Loan Agreement, dated as of August 1, 2015, between the Agency and the Borrower.

“Loan Documents” means and includes this Agreement, the Loan Agreement, the First Mortgage, the First Mortgage Note, the Intercreditor Agreement, the UCC-1 Financing Statements, and the Borrower Tax Certificate.

“Low Income Tenants” means occupants of the Project who have income of sixty percent (60%) or less of the area median gross income, adjusted for family size, as determined under Section 142(d) and 42(g) of the Code, as applicable to the Project’s financing structure.

“Official Statement” means the Official Statement, dated July 31, 2015, in connection with the sale of the Bonds.

“Permitted Encumbrances” means any:

(i) Utility, access and other easements and rights of way, restrictions and exceptions that do not, individually or in the aggregate, materially impair the utility or value of the Project or Land for the purposes for which it is intended;

(ii) Liens that are being contested in good faith and for which the Owner has provided security satisfactory to the Agency;

(iii) Liens subordinate to the First Mortgage Loan arising due to any monies loaned in connection with the Project or other monies loaned to the Owner, provided such liens are disclosed to and approved by the Agency in writing;

(iv) Any other encumbrances approved by the Agency in writing, including the Deed of Easement and the lien securing the Freddie Mac Loan; and

(v) Any other exceptions to title listed on Schedule B, Section II of the title insurance policy issued by Stewart Title Guaranty Company (Policy No. M-9302-003909681) simultaneously with the execution and delivery of this Agreement.

“Plans” means all construction, architectural and design contracts and all architectural design plans and specifications.

“Preliminary Official Statement” means the Preliminary Official Statement, dated July 20, 2015, in connection with the sale of the Bonds.

“Project” means the multifamily residential rental project acquired, constructed, rehabilitated or otherwise financed with the proceeds of the Agency Financing and all other improvements to be constructed or located on the Land.

“Project Revenues” means all rents and other revenues of any type whatsoever received with respect to the Project or Owner, except for advances of the Agency Financing.

“Qualified Bond Counsel” means an attorney or law firm acceptable to the Agency with respect to the issuance of bonds by states and their political subdivisions for the purpose of financing housing projects.

“Qualified Project Period” means the period beginning on the first day on which 10 percent of the residential units in the Project are occupied and ending on the latest of--

(i) the date which is 15 years after the date on which 50 percent of the residential units in the Project are occupied,

(ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or

(iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

“Residential Rental Project” means a qualified residential rental project as defined in Section 142(d) and 42(g) of the Code, as applicable to the Project’s financing structure.

“Resolution” means the Resolution of the Agency authorizing the sale and issuance of the Bonds, in connection with the financing or refinancing of the Project.

“Rule 15c2-12” means Securities and Exchange Commission Rule 15c2-12(b)(5), as it may be amended from time-to-time.

“Servicing Fee” means, collectively, the fees that are due from the Owner to the Agency as set forth in the Loan Agreement.

“Special Funds” means, collectively, the Bond Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in the Indenture.

“Special Member” means Columbia Housing SLP Corporation, an Oregon corporation, its permitted successors and assigns.

“State” means the State of New Jersey.

“Tax Certificate” means the Tax Certificate for Borrowers of Tax-Exempt Bond Proceeds, if the Project is receiving Tax-Exempt Financing.

“Tax Credits” means low income housing tax credits that the Project may receive pursuant to the Code.

“Tax-Exempt Financing” means financing received by the Owner from the proceeds of the tax-exempt Bonds issued by the Agency, the interest on which is excludable from gross income for purposes of federal or State income taxation.

“Trustee” means the institution named under the Indenture and designated to act as trustee thereunder with respect to the Bonds, and its successors.

“UCC-1 Financing Statements” means the UCC-1 financing statements in favor of the Agency to perfect the security interests granted to the Agency pursuant to the Loan Documents.

Section 2. Background and Purpose

The Owner will acquire, construct or rehabilitate and shall own, maintain, and operate the Project and the Land. The Project consists of 96 units of housing, including one superintendent’s unit that will not be income restricted, located in the Township of Ocean, County of Monmouth, New Jersey. To obtain financing for the Project, the Owner has applied to the Agency for the Agency Financing pursuant to the provisions of the Act. The Project and the Land constitute a “housing project” as defined in the Act.

In connection with its application for the First Mortgage Loan, the Owner has furnished to the Agency Project information, including the description of the Land on which the Project is situated, plans and specifications for the construction and/or rehabilitation of the Project, the tenant population that is to be housed in the Project, the number of units of each type to be included therein, the estimated cost of providing the Project, information as to the projected income and expenses of the Project once completed and placed in operation and arrangements for the payments in lieu of taxes with respect to the Project in accordance with the Financial Agreement. In approving the application and as a basis for providing the Agency Financing, the Agency has relied upon all of the foregoing Project information.

The First Mortgage Loan is an “eligible loan,” as defined in the Act. The Agency intends to make the First Mortgage Loan from funds obtained or to be obtained through the issuance of tax-exempt Bonds. To secure payment of the Bonds, if issued, the Agency will pledge payments due from the Owner from its repayment of the First Mortgage Loan, when made. As a condition

of the Agency's approval of the Owner's application for the First Mortgage Loan, the Owner and the Agency have entered into the Loan Documents.

In addition to the First Mortgage Loan, the Owner has represented to the Agency that the Project will be funded (the "Plan of Finance") from the following sources:

- (a) \$5,821,000 Freddie Mac Loan;
- (b) \$1,300,000 loan from the New Jersey Department of Community Affairs;
- (c) \$500,000 loan from the Township of Ocean;
- (d) \$500,000 loan from the Agency from the Special Needs Housing Trust Fund; and
- (e) Tax credit investor equity in the approximate amount of \$3,491,716, which amount is subject to adjustment pursuant to Owner's Amended and Restated Operating Agreement.

Owner will make an investment in the Project as provided in Section 42 of this Agreement.

Section 3. Residential Rental Property

The Owner hereby represents, covenants, warrants and agrees that:

(a) The Project shall be owned, managed, and operated exclusively as a multi-family residential rental property and, in the event the Project receives Tax-Exempt Financing, as a Residential Rental Project. The Project shall be comprised of a building or structure or several buildings or structures containing similarly constructed dwelling units, together with any functionally related and subordinate facilities and such other non-dwelling units as approved by the Agency. The Project shall consist solely of a Residential Rental Project and no commercial or other facilities may be part of the Project unless permitted by the Agency, the Code or IRS Regulations.

(b) The Project shall contain one or more similarly constructed dwelling units, each of which will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or a family including a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the units in the Project will be utilized at any time for an initial lease term of less than six months or as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, life care facility, trailer court or park.

(d) All of the units shall be rented or available for rent on a continuous basis to members of the general public and the Owner will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are

required to be leased or rented to tenants as provided under Section 3(h) or Section 4 of this Agreement.

(e) The Project shall comply with any additional requirements of the Code and IRS Regulations dealing with the residential character of the Project.

(f) Substantially all (*i.e.*, not less than 95%) of the Project shall consist of proximate buildings or structures which have similarly constructed residential units financed pursuant to a common plan together with functionally related and subordinate facilities, all of which shall be owned by the same "person" (as such term is used in the IRS Regulations) for federal tax purposes.

(g) All dwelling units have been and shall be occupied by or held available for rental only to members of the general public, without regard to race, creed, religion, national origin or sex.

(h) Additionally, the Project shall be owned, managed, and operated exclusively as a multifamily residential rental property for senior citizens (which shall include disabled families to the extent allowable by applicable law), such that, in accordance with applicable federal guidelines, at least 80 percent of the occupied units must be occupied by at least one person 55 years of age or older per unit, and the Owner or management of the Project must publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 years or older; provided that one (1) unit is to be occupied by a superintendent and will not be age-restricted.

Section 4. Occupancy Restrictions Governing Tenant Income

The Owner acknowledges that as a condition of receiving financing pursuant to the Act, there are limits on the maximum income that tenants may earn in order to be eligible to lease, occupy, and/or reside in a unit at the Project. The Owner agrees to comply with the income restrictions as set forth in the Act and the Agency Regulations promulgated under the Act governing income restrictions.

The Owner also acknowledges that there are additional limits on the maximum income that tenants may earn in order to be eligible to lease, occupy and/or reside in a unit at the Project. The Owner agrees to comply with the income restrictions as set forth in the Code or IRS Regulations governing income restrictions.

In compliance with the foregoing income restrictions, the Owner agrees to rent forty percent (40%) of the units at the Project to tenants whose income does not exceed sixty percent (60%) of the area's median income adjusted for family size, as median income is defined by the United States Department of Housing and Urban Development, from time-to-time. The Owner acknowledges that if the income restrictions set forth in this paragraph are more restrictive than the restrictions prescribed under the Act and/or the Code, the Owner will abide by the most stringent restrictions as an inducement for and part of the consideration for the Agency to make the Agency Financing.

The Owner hereby represents, warrants and covenants that at all times throughout the Qualified Project Period, not less than forty percent (40%) of the units shall be leased to qualified Low-Income Tenants. For purposes of complying with these requirements, any dwelling unit occupied by an individual or family who is a Low-Income Tenant at the commencement of occupancy shall continue to be treated as if occupied by a Low-Income Tenant even though such individual or family subsequently ceases to be a Low-Income Tenant. The preceding sentence shall not apply to any resident whose income as of the most recent income determination exceeds one hundred forty percent (140%) of the income limit applicable to such resident, if after such determination, but before the next determination, any residential unit of comparable or smaller size in the Project is occupied by a new resident whose income exceeds the applicable income limit. If a unit is vacated by an individual or family who qualified as a Low-Income Tenant, such dwelling unit shall be treated as occupied by a Low-Income Tenant until reoccupied (other than for a temporary period of not more than 31 days), at which time the character of the unit shall be redetermined.

The Owner hereby represents, warrants and covenants that at all times throughout the Qualified Project Period, the Owner shall comply with its representations, warranties and covenants in the Tax Certificate.

Section 5. Representations, Warranties and Covenants of the Owner

The Owner represents, warrants and covenants that:

(a) The Owner (i) is a limited liability company duly organized and validly existing under the laws of the State, duly authorized to transact business in the State and a qualified housing sponsor within the meaning of the Act, (ii) has provided the Agency with a true and complete filed copy of its certificate of formation and operating agreement with all amendments to any such documents, (iii) has the power and authority to own its properties and assets including the Project and Land and to carry on its business as now being conducted (and as now contemplated), and (iv) has the power to execute and perform all the undertakings of this Agreement and the other Loan Documents.

(b) To the best of the Owner's knowledge after due and diligent inquiry, the execution and performance of this Agreement, the other Loan Documents and other instruments required pursuant to this Agreement by the Owner (i) shall not violate or, as applicable, have not violated, any provision of law, rule or regulations, any order of any court or other agency or government or any provision of any document to which the Owner is a party, and (ii) will not violate or, as applicable, have not violated, any provision of any indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature other than the liens created hereby or permitted hereunder.

(c) All necessary action has been taken by the Owner to authorize the Owner's execution, delivery and performance of the Loan Documents.

(d) The Loan Documents have been duly executed and delivered by the Owner and constitute the valid and legally binding obligations of the Owner, enforceable against the Owner in accordance with their respective terms.

(e) The Owner has, at the time of execution of this Agreement, good and marketable fee simple title to the Project and Land free and clear of any lien or encumbrance, except for Permitted Encumbrances. It will continue to retain ownership of the Project and Land during the term of the Mortgage, subject to the terms of this Agreement and the other Loan Documents, the Act, the Agency Regulations, and if applicable, the Code or IRS Regulations.

(f) There is no arbitration, mediation or other dispute resolution proceeding now pending or, to the knowledge of the Owner after due and diligent inquiry, threatened against or affecting it, or any of its properties or rights, which would impair its right to carry on business as now conducted, or as contemplated to be conducted under this Agreement, or would materially adversely affect its financial condition.

(g) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner after due and diligent inquiry, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would impair its right to carry on business substantially as now conducted, or as contemplated to be conducted under this Agreement, or would materially adversely affect its financial condition.

(h) The operation of the Project in the manner presently contemplated and as described in this Agreement will not conflict with any zoning, water or air pollution or other ordinance, order, law or regulation applicable thereto. The Owner has caused the Project to be designed in accordance with all federal, State and local statutes, laws, ordinances, code, rule, order, regulation or decree relating to zoning, building, safety and environmental quality. Further, the Owner has or will receive all necessary governmental approvals and building permits for the Project.

(i) The Owner has filed or caused to be filed by it all federal, State and local tax returns which are required to be filed by it, and has paid or caused to be paid all taxes as shown on said return(s) or on any assessment received by it, to the extent that such taxes have become due.

(j) The Owner is not in material default in the performance, observance or fulfillment of any other obligations, covenants or conditions contained in any material agreement or instrument to which it is a party.

(k) To the best of its knowledge after due and diligent inquiry, the information contained in the legal description of the Land as set forth in Schedule "A" is accurate in all material respects and does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(l) All information contained in the Preliminary Official Statement and Official Statement as it relates to the Owner, the Project and the Land, as of the date on which the Preliminary Official Statement and Official Statement are furnished to the underwriter, did not and will not contain any untrue statement of a material fact and did not and will not omit to state a material fact necessary in order to make the statements made therein, in light of the

circumstances under which they were made, not misleading. The Owner shall not take or permit any action to be taken which would have the effect, directly or indirectly, of causing interest on any Bonds to be included in gross income for purposes of federal or State income taxation.

(m) The Owner has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof or the Loan Documents and in any event the Owner acknowledges that the requirements of this Agreement and the other Loan Documents are paramount and controlling as to the rights and obligations therein and shall supersede any other requirements in conflict therewith.

(n) All statements contained in all applications, correspondence or other materials as amended from time-to-time and delivered to the Agency by the Owner in connection with the Agency Financing or relating to the Project and/or the Land are accurate in all material respects and do not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(o) The Owner will not permit any modification or amendment of the Owner's charter, articles of incorporation or association, bylaws or operating agreement or other governing instrument or instruments, or a transfer of any stock or ownership interest, which would impair its right to carry on business as now conducted, or as contemplated to be conducted under this Agreement.

(p) The representations, covenants and warranties of the Owner contained in this Agreement on the date of its execution are true and shall continue to be true at all times during the term of this Agreement. The Owner has a continuing obligation to notify the Agency if any of the representations, covenants and warranties contained in this Agreement is no longer true.

(q) No event has occurred and no condition exists which constitutes an Event of Default under this Agreement or the other Loan Documents or which, but for a requirement of notice or lapse of time, or both, would constitute such an Event of Default.

(r) A true copy of the entire contract for construction and/or rehabilitation of the Project, with all modifications and addenda to date, has been delivered to the Agency and no default exists under such contract.

(s) The Owner has entered into the Financial Agreement with the municipality in which the Land is situated providing for real property tax abatement or payments in lieu of taxes by the Owner with respect to the Project and Land. A true copy of the Financial Agreement and all amendments thereto have been furnished to the Agency, are in full force and effect, and no proceedings questioning its validity are pending or threatened.

(t) The Owner has provided the Agency with a 100% payment and performance bond in a form acceptable to the Agency to ensure that the Project shall be properly completed in accordance with the plans and specifications and that all contractors, subcontractors, suppliers, materialmen, and vendors performing work on the Project have been paid.

(u) At the time of completion of the construction and/or rehabilitation of the Project, the Owner shall obtain valid releases acceptable to the Agency from all contractors and subcontractors who have performed work on the Project.

Section 6. Environmental Representations, Warranties and Covenants of the Owner

Except as disclosed in the Environmental Report, a copy of which was provided to and approved by the Agency, the Owner represents, warrants and covenants as follows:

(a) Neither Owner nor, to the best of the Owner's knowledge, information and belief, any prior owner or any current or prior tenant, subtenant, or other occupant of all or any part of the Project or Land has used or is using Hazardous Materials on, from or affecting the Project or Land in any manner that violates any Environmental Laws, and no Hazardous Materials have been or will be disposed of or stored on the Project or Land intentionally or unintentionally, directly or indirectly, or by any person whether related or unrelated to Owner.

(b) The Owner has received no notice from any person or entity, public or private, claiming any violation of any Environmental Laws with regard to the Project or Land. There have been no claims, litigation, administrative proceedings, whether actual or threatened, or judgments or order relating to any Hazardous Materials, hazardous wastes, discharges, emissions, or other forms of pollution relating to the Project and/or Land.

(c) The Project and Land do not contain any asbestos-containing material in friable form, and there is no current and will be no future airborne contamination of the Project or Land by asbestos fiber, including any potential contamination that would be caused by maintenance or tenant activities in the Project.

(d) To the best of the Owner's knowledge, information and belief, there have been no Hazardous Materials, hazardous substances or hazardous wastes, as defined by the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 *et seq.* (P.L. 1993, C.112), Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 *et seq.*), CERCLA as amended (42 U.S.C. Subsection 9601 *et seq.*), or any other applicable Environmental Laws generated, manufactured, refined, transported, treated, stored, handled, discharged, spilled or disposed of on the Project and/or Land.

(e) There are no underground storage tanks in the Project or on the Land except as disclosed to the Agency in the Environmental Report. The Owner agrees to maintain, operate, monitor or close all underground storage tanks strictly in compliance with the applicable Environmental Laws.

(f) There is no lead-based paint hazard at the Project and no lead-contaminated soil on the Land except as disclosed to the Agency in the Environmental Report. The Owner agrees to perform any lead-hazard abatement or remediation activities with the approval of the Agency and strictly in compliance with applicable federal and State laws and regulations. The Owner of any housing constructed prior to 1978 ("Target Housing") agrees to provide lead warning statements and to disclose known lead-based paint hazards to all tenants and prospective tenants in Target Housing as required by 42 U.S.C. Section 4852d and the federal regulations promulgated thereunder.

(g) The Project is not located within “freshwater wetlands” or a “transition area,” each as defined by N.J.S.A. 13:9B-3, and will be or has been constructed in compliance with the New Jersey Freshwater Wetlands Protection Act, as amended, N.J.S.A. 13:9B-1 *et seq.*, and the rules and regulations promulgated thereunder.

(h) The Owner will construct and/or rehabilitate, maintain, and operate the Project and Land, and will cause its tenants to use and operate the Project and Land, in compliance with all Environmental Laws.

Section 7. Reporting Requirements

The Owner agrees to comply with the following reporting requirements:

(a) The Owner shall obtain from each tenant, prior to the date of such tenant's initial occupancy in the Project, an income certification in the form required by the Agency, or in the event the Project receives Tax-Exempt Financing and/or Tax Credits, the Owner shall obtain the certification in the form and, for tenants already in occupancy as of the date hereof, within the timeframes, required by the Code or IRS Regulations. The Owner shall obtain income recertifications from each tenant at such times as required by the Act or the Agency Regulations or, if applicable, the Code or IRS Regulations.

(b) The Owner shall file with the Agency, (i) on the fifth day of each month, copies of the initial occupancy income certifications specified in Section 7(a) hereof obtained during the previous month and (ii) within 45 days of the end of each calendar year copies of the recertifications specified in Section 7(a) hereof, or at such other times as required by the Act or the Agency Regulations or, if applicable, the Code or IRS Regulations.

(c) The Owner shall maintain complete and accurate records beginning with the date of initial occupancy pertaining to the income of each tenant and rent charged to tenants residing in the Project, and shall permit, with or without notice to the Owner, any duly authorized representative of the Agency to inspect the books and records of the Owner pertaining to the incomes of and rent charged to all tenants residing in the Project.

(d) The Owner shall maintain and/or provide to the Agency such other reports, records and information as required by the Act, the Agency Regulations or, if applicable, the Code or IRS Regulations.

(e) The Owner shall submit to the Secretary of the United States Department of the Treasury, at such time and in such manner as the Secretary shall prescribe, an annual certification as to whether the Project continues to meet the requirements of Section 142 (d) of the Code. A copy of such certification shall be sent to the Agency.

(f) In the event the Project is receiving a subsidy or subsidies from HUD, the Owner shall comply with the reporting requirements imposed by HUD therefor.

Section 8. Covenants to Run With the Land

(a) The Agency and the Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth in this Agreement touch and concern the Land in that the Owner's legal interest in the Project and Land is rendered less valuable thereby. The Agency and the Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the Project and Land by enhancing and increasing the enjoyment and use of the Project and the Land by the tenants, contemplated under this Agreement and by furthering the public purposes for which the First Mortgage Loan is made and the Bonds, if any, are to be issued. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project and Land. Except as provided in subsection (b) below, the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and hereof and shall pass to and be binding upon the Owner's assigns and successors in title to the Land or Project. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or the Land or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument. If a portion or portions of the Project or Land are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project and Land.

(b) Upon termination of this Agreement in accordance with Section 9 hereof, said covenants, reservations and restrictions shall expire and in such event, the Agency shall, at the expense of the Owner, execute any and all instruments reasonably required to evidence of record the satisfaction, cancellation and discharge of this Agreement.

Section 9. Term

This Agreement shall remain in full force and effect until all indebtedness from the Owner to the Agency with respect to the Project shall have been paid in full in accordance with the provisions of this Agreement, the First Mortgage Note and the other Loan Documents, provided however that (a) this Agreement shall remain in effect as required by the Code or IRS Regulations, (b) if the First Mortgage Loan is prepaid, this Agreement shall remain in effect as provided in the Agency Regulations governing prepayment, to the extent applicable; and (c) this Agreement shall remain in full force and effect for a period not less than the Qualified Project Period.

Section 10. Construction/Rehabilitation and Funding

A. Construction/Rehabilitation of Project.

The Owner covenants and agrees to comply with all of the provisions of the Loan Agreement. In addition, the Owner covenants and agrees to comply with all the provisions of the Construction Contract. The Owner covenants and agrees to diligently pursue the construction and/or rehabilitation of the Project to completion by the date of completion in the Construction Contract, time being of the essence, in accordance with the plans and specifications for the Project approved by the Agency.

The Owner shall not approve or allow to occur any change in the plans and specifications for the Project or any change order under the Construction Contract except with the prior written approval of the Agency in the manner provided in the Construction Contract. Construction of the Project shall at all times be subject to the inspection, review, regulation and approval of the Agency and its duly authorized representatives as provided in the Construction Contract. Any such inspection, review, regulation and approval of the Agency shall be solely for its benefit for the purpose of assuring that the programs and goals of the Agency are being fulfilled and in furtherance of its obligations under the Act and shall not be construed as making the Agency a party to the Construction Contract, nor shall it relieve the Owner of any of its obligations under this Agreement, the Construction Contract or Loan Documents.

Pursuant to the Act the Owner agrees that it will not pay nor will it permit any contractor or subcontractor engaged in the construction or rehabilitation of the Project to pay any workers employed on the construction of the Project less than the prevailing wage rates as determined by the Commissioner of the New Jersey Department of Labor pursuant to and in accordance with the New Jersey Prevailing Wage Rate Act, N.J.S.A. 34:11-1 *et seq.*, or, should the Project or the tenants of the Project be subject to federal assistance, then as required by the Secretary of HUD and as determined by the Secretary of the United States Department of Labor and Industry in accordance with the Davis-Bacon Act, as amended and recodified, 40 U.S.C. Sections 3141-3144, 3146 and 3147, which regulate "wage rate requirements" on federal "public buildings and works", to the extent applicable. The Owner shall cause the Construction Contract to include the provisions of this paragraph.

The Construction Contract shall provide for performance and payment bonds in favor of the Agency and the Owner. The Owner shall not do any act that would cause the release, in whole or in part, of the surety bond or bonds issued in connection with the Construction Contract, including, without limitation, deviation from the payment schedule, waiver of any requirements imposed on the general contractor or any subcontractor under the Construction Contract or consent to any change in the plans and specifications or scope of the work, unless such act would not cause any release because the surety has consented thereto.

The Owner covenants and agrees to notify the Agency in writing within three (3) business days of the occurrence of any default under the Construction Contract or the Loan Documents.

B. Funding of Construction/Rehabilitation.

Funding of the acquisition for the Project will be in accordance with the Intercreditor Agreement and from certain other funds set forth in the Plan of Finance.

The rehabilitation of the Project will be completed in accordance with the Freddie Mac Loan Documents and the Loan Agreement.

The Owner agrees to contribute equity toward the construction and/or rehabilitation of the Project as may be required pursuant to Section 42 of this Agreement and to pay all cost overruns related to the construction and/or rehabilitation and completion of the Project.

The Owner covenants and agrees, upon completion of the Project, to certify to the Agency the actual cost of the Project. This cost as certified by the Owner shall be audited and verified by the Agency in accordance with its normal procedures. In the event that the amount advanced on the Agency Financing shall exceed 90% of the cost of the Project, the Owner shall pay forthwith to the Agency the amount of such excess, as determined by the Agency, notwithstanding any prepayment restrictions otherwise applicable, as an allowed partial prepayment of the Agency Financing. When the Agency has completed its audit and verification, it shall promptly notify the Owner in writing of the actual Project cost as finally determined by the Agency.

Section 11. Insurance; Condemnation

During the term of the Agency Financing, the Owner shall cause all the buildings on the premises and the fixtures and articles of personal property covered by the Loan Documents to be insured against loss by fire and against loss by such other hazards as may be required by the Agency for the benefit of the Agency including, but not by way of limitation, flood insurance if any part of the Project is located in an area designated by or on behalf of the federal government as having specific flood hazard. Such insurance shall be written by companies, in forms as are satisfactory to the Agency, and in amounts not less than the full replacement value of the Project. The Owner shall assign and deliver the policies to the Agency. All such insurance policies which are obtained by the Owner during the term of the Agency Financing shall fully comply with all Agency requirements for property and liability insurance, including but not limited to the Agency requirement that the insurer must meet certain rating standards. The Agency shall be listed as first mortgagee, loss payee and additional insured under such policies. Such policies shall provide that the insurer may not cancel the policy and will not refuse to renew the policy except after thirty (30) days written notice to the Agency. If the Owner does not provide the Agency with the evidence of insurance as required herein, the Agency may (but shall not be required to) obtain such coverage. The Owner shall reimburse the Agency on demand for any premiums paid for insurance procured by the Agency, and until so reimbursed, the amount of such premiums shall be added to the principal sum of the First Mortgage Note and shall bear interest at the same interest rate as in the First Mortgage Note.

If, during the term of the Agency Financing, the Project shall be damaged, destroyed or taken by condemnation (in whole or in part), the Agency shall direct the Owner to promptly reconstruct the Project to substantially the same condition as existed prior to such damage, destruction or condemnation, with such changes, alterations and modifications as may be desired by the Owner and approved by the Agency, provided that the plans and specifications for reconstruction of the Project are approved by the Agency and, in the Agency's sole determination, (y) the proceeds of the insurance or of the damages or award received as a consequence of such damage, destruction or condemnation, together with any other money available for such purpose, are sufficient to pay the cost of such reconstruction and (z) upon completion of the reconstruction of the Project it shall be financially feasible.

In the event of reconstruction of the Project, the Agency, upon receipt of a written request by the Owner that payments are required for such purpose, shall apply so much as may be necessary of such proceeds of the insurance and any investment income earned thereon to the payment of the costs of such reconstruction as such work progresses.

No money shall be disbursed to pay the costs of reconstruction unless no Event of Default exists hereunder and unless the Agency first shall have received all of the following:

(a) a certification from the Owner stating that:

(1) the full amount of such disbursement and all of the prior disbursements constitute proper and reasonable costs of reconstruction work performed or materials delivered to the site of the Project;

(2) all work performed and material furnished for the reconstruction of the Project have been in accordance with plans and specifications;

(3) all such work has been performed to the satisfaction of the architect retained to prepare the plans and specifications for reconstruction of the Project; and

(4) the Project remains financially feasible.

(b) appropriate insurance from a title insurance company, licensed to do business in the State and acceptable to the Agency, insuring that there are no liens or encumbrances on the Project other than Permitted Encumbrances; and

(c) if the location of any improvement is to be altered, a currently dated, certified survey showing that all improvements are on the Land within any required set-backs and do not encroach on the real property of others.

If, in the Agency's sole determination, (a) the proceeds of the insurance or of the damages or award received as a result of damage, destruction or condemnation together with any other money available for such purpose are not sufficient to pay the cost of reconstruction, or (b) the Project will not be financially feasible upon such reconstruction, then the proceeds of such insurance, damages or award shall be applied to the payment of the indebtedness on the First Mortgage Loan to the extent that the funds then on deposit in the Special Funds are insufficient to pay the principal of and interest due on the Bonds through the maturity date thereof. Nothing in this Section shall affect the liens of this Agreement and the Mortgage(s) or the liability of the Owner for payment of the entire balance of the Agency Financing.

During the term of the Agency Financing, if the Owner shall maintain continuously in effect such other insurance coverage of the types and in the amounts specified by the Agency, including worker's compensation insurance and other insurance required by law with respect to employees of the Owner, and liability insurance with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, and a blanket excess liability policy in an amount not less than \$10,000,000, protecting the Owner and the Agency against any loss or liability or damage for personal injury or property damage with respect to the Project. The Owner shall also maintain use and occupancy insurance covering loss of revenues derived from the Project by reason of interruption, total or partial, of the use of the Project resulting from loss or physical damage thereto in an amount not less than one year's gross rental income. The Owner shall carry fidelity bond insurance covering all employees of

the Owner authorized to handle the revenues derived from the Project in an amount equal to one and one-half (1½) times the maximum monthly rent roll.

In the event the Project receives financing from proceeds of Bonds, the Owner covenants and agrees to provide such additional insurance coverage as required in the Indenture.

Section 12. Taxes, Payments in Lieu of Taxes and Other Municipal Charges

The Owner covenants and agrees to pay all taxes, payments in lieu of taxes, assessments, water charges, sewer charges, and other charges imposed on the Project or Land by the municipality, county, State or other governmental body having jurisdiction over the Project.

Section 13. Liens and Encumbrances

The Owner covenants and agrees to maintain its right, title and interest in the Project, Land and all items enumerated in the Loan Documents, as security for repayment of the Agency Financing, free and clear of all liens, security interests and other encumbrances except for Permitted Encumbrances. The foregoing covenant and agreement shall not prevent the Owner from leasing or renting the Project in the manner as otherwise provided in this Agreement. Except with the written consent of the Agency, the Owner will not install any item of tangible personal property as part of the fixtures or furnishings of the Project that is subject to a purchase money lien or security interest

The Agency may, at its sole option, pay the amount necessary to discharge any lien or other encumbrance other than the Permitted Encumbrances, and the Owner shall reimburse the Agency upon demand for any amounts so paid; provided, however, that no such payment shall be made by the Agency without the express prior written consent of the Lender (to be given or withheld in its sole discretion). Until reimbursement of the Agency of any amounts so paid, such amount shall be added to the principal sum of the First Mortgage Note and shall bear interest at the same interest rate as in the First Mortgage Note.

Section 14. Maintenance, Repair and Replacement

The Owner covenants and agrees that, from and after the date it places the Project in service, the Owner shall maintain the Project and the Land, including, but not limited to, the dwelling units contained therein, any related facilities, the appurtenant equipment and grounds in good repair and condition so as to provide decent, safe and sanitary housing accommodations. In the event that any investigation, site monitoring, containment, clean-up, removal, restoration, remediation, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Laws at, on, about, under or within the Project or Land, the Owner agrees to commence and diligently perform and complete such Remedial Work in compliance with all applicable Environmental Laws, at its own expense. In the event the Owner shall fail to timely commence, perform and complete such Remedial Work, the Agency may, at its sole and absolute discretion, cause such Remedial Work to be performed and the Owner shall reimburse the Agency upon demand for all costs incurred by the Agency in connection with the performance, completion and monitoring of such Remedial Work; provided, however, that unless the funds then on deposit in the Special Funds are insufficient to pay the principal of and interest due on the Bonds through the maturity date thereof, the Agency shall not cause such Remedial

Work to be performed without the express prior written consent of the Lender (to be given or withheld in its reasonable discretion). Until reimbursement of the Agency of any costs so incurred, such amount shall be added to the principal sum of the First Mortgage Note and shall bear interest at the same interest rate as in the First Mortgage Note.

The Owner will not make any substantial alteration to the Project without the consent of the Agency.

The Owner, except in connection with the rehabilitation, will not demolish any part of the Project, substantially subtract from or permit any waste of the real or personal property comprising the Project or Land, or make any alteration that will increase the hazard of fire or other casualty.

Section 15. Advance Amortization Payments

Because the public purposes of the Agency include maximizing the period during which the dwelling units in the Project are available to persons whose incomes do not exceed the maximums provided by the Act, the Agency Regulations, and if applicable, the Code or IRS Regulations, the Owner shall not make any advance principal repayment except as allowed by the Agency Regulations and if the Project is financed by Bonds, as allowed under the Indenture. With respect to any advance amortization payment, if the Agency shall have consented thereto, the Owner shall, if the First Mortgage Loan is financed from Bonds, pay to the Agency an amount sufficient (a) to enable the Agency to redeem Bonds of the appropriate series in the principal amount as required under the Indenture, (b) to pay the interest accrued and to accrue on the Bonds to be redeemed to the redemption date thereof, (c) to pay the redemption premium, if any, on the Bonds to be redeemed, (d) to pay the cost and expense of the Agency in effecting the redemption of the Bonds to be redeemed including legal fees of the Agency, as determined by the Agency, including any investment shortfall resulting from liquidation of investments, and (e) to pay any other cost, expense and liability incurred by the Agency in connection with the financing of the Project and issuance of its Bonds for such purpose not previously paid or provided for by the Agency including, without limitation, underwriting discount or other unamortized Bond discount; provided, however, that only the amount of such advance amortization payment applied as provided in (a) above shall be credited against the unpaid balance of the First Mortgage Loan.

Section 16. Reserved.

Section 17. Compliance Requirements

The Owner covenants and agrees to comply with the Act and the Agency Regulations, and with any amendments or supplements to the Act or Agency Regulations. If the Project receives Tax-Exempt Financing or Tax Credits, the Owner covenants and agrees to comply with the Code or IRS Regulations and with any amendments or supplements to the Code or IRS Regulations, and, in addition, if the Project receives Tax-Exempt Financing, the Owner shall comply with its representations and covenants in the Tax Certificate throughout the term hereof.

The Owner acknowledges that the proceeds of the First Mortgage Loan have been or are expected to be funded through the issuance of Bonds. The Owner agrees that it will execute and

be bound by any amendments to this Agreement or the other Loan Documents and any additional documents as may be required by Qualified Bond Counsel for the issuance of the Bonds and/or to comply with the Code or IRS Regulations. The Owner further agrees to comply with any other requirements of the Agency that Qualified Bond Counsel reasonably believes to be necessary in connection with its marketing and issuance of Bonds. To the extent any amendments, modifications or changes to the Code or IRS Regulations shall, in the written opinion of Qualified Bond Counsel, impose requirements upon the construction, rehabilitation, ownership, occupancy or operation of the Project, the parties agree that this Agreement and/or the other Loan Documents shall be amended and modified in accordance with such requirements. The parties hereto agree to execute, deliver, and record, if applicable, any and all documents or instruments necessary in the opinion of and in the form approved by Qualified Bond Counsel to effectuate the intent of this Section.

If the Project receives financing from proceeds of Bonds, the Owner acknowledges that it is the only Obligated Person with respect to the Bonds within the meaning of Rule 15c2-12 and that it has entered into the Continuing Disclosure Agreement and will perform all of its obligations thereunder when and as required.

The Owner and Agency acknowledge that the Owner is receiving Tax-Exempt Financing and is receiving Tax Credits. Accordingly, the Owner acknowledges that all of the provisions concerning Tax-Exempt Financing are applicable and that all of the provisions concerning Tax Credits are applicable.

In the event of a conflict between, or among any one or more of the Applicable Public Housing Requirements (as defined in this Agreement) and a requirement contained in any Loan Document (or "Project Document") the Applicable Public Housing Requirements shall in all instances be controlling.

Section 18. Lease of Dwelling Units - Maximum Rents

The Owner shall offer dwelling units for lease and occupancy in strict accordance with the Act or Agency Regulations governing tenant marketing, eligibility and selection. The form of lease to be used by the Owner in leasing to residential tenants shall be previously approved by the Agency and shall comply in all respects with the Agency Regulations and the requirements of the Agency. Initial rents may not exceed such amounts as approved by the Agency. In the event the Project receives Tax-Exempt Financing or Tax Credits, rents may not exceed such amounts as prescribed by the Code or IRS Regulations. The form and terms of all leases for any other portion of the Project and/or Land, if permitted under this Agreement, are subject to the prior consent of the Agency. Rent increases for any dwelling unit shall be made pursuant to procedures prescribed by the Agency Regulations, or if applicable, the Code or IRS Regulations.

Section 19. Consideration for Lease

The Owner covenants and agrees not to require as a condition of the occupancy or leasing of any dwelling unit in the Project and not to accept or allow any employee or agent to accept any consideration other than the prepayment of the first month's rent plus a security deposit not in excess of one and one-half (1½) month's rent or as otherwise mandated by Freddie Mac or

HUD, if applicable, unless otherwise approved in writing by the Agency to guarantee the performance of the covenants of the lease or occupancy agreement.

Section 20. [RESERVED]

Section 21. [RESERVED]

Section 22. Inspection of Premises

The Owner covenants and agrees to permit the Agency, its agents or representatives to enter upon and inspect the Project without prior notice, pursuant to the provisions of the Act.

Section 23. Books and Records

The Owner covenants and agrees to maintain adequate books and records of its transactions with respect to the Project in the form required by the Agency. Such books and records shall be available for inspection and audit by the Agency or its agents at any time during business hours, with or without notice, pursuant to the provisions of the Act. The Owner further covenants and agrees to cause its financial affairs to be audited at least annually by independent certified public accountants and shall furnish the Agency with the audit report of such accountants when received and in any event within three (3) months of the close of each of its fiscal years. The Owner shall adopt and use such uniform systems of accounts and records as may from time-to-time be required by the Agency.

Section 24. [RESERVED]

Section 25. Prohibited Actions

Except with the express approval of the Agency during the term of the Agency Financing, the Owner shall not:

(a) incur any liabilities except in connection with the financing, refinancing, acquisition, construction, rehabilitation, repair, improvement and rental of the Project and Land, and its operation and maintenance;

(b) engage in any business activity except the ownership and operation of the Project and Land;

(c) enter into contracts greater than \$100,000 to be paid from Project Revenues for managers, attorneys, accountants, or other services; provided that contracts for attorney services paid from Project Revenue shall be subject to the provisions of N.J.A.C. 5:80-31.1 *et seq.*;

(d) pay more than the fair market value thereof for goods or services without the prior written approval of the Agency;

(e) transfer or invest Project Revenues in any other accounts or investment vehicles, except as permitted by Agency Regulations; or

(f) pay compensation from Project Revenues to any officer, director, member, partner, or shareholder in his capacity as such or make any cash distribution to any of the foregoing; provided, however, that if no Event of Default has occurred, the Owner may make distributions annually of a return on investment in an amount not to exceed the amount permitted under the Act, the Agency Regulations, and then only to the extent of its retained earnings not previously distributed, or as otherwise approved by the Agency. The Owner, however, shall not make any distribution payment without the express agreement of the Agency that retained earnings (or other funds) are available for such distribution.

Section 26. Change of Owner Status

During the term of the First Mortgage Loan, the Owner shall not dissolve, liquidate, sell, transfer, convey or exchange the Project and/or Land or any portion thereof without prior approval of the Agency and the Owner's compliance with the Agency Regulations. During the term of the First Mortgage Loan, the Owner shall not dissolve, liquidate, sell, transfer, convey or exchange any shares, partnership or other ownership interest in the Owner without prior approval of the Agency and the Owner's compliance with N.J.A.C. 5:80-5.1 et seq. of the Agency Regulations. Notwithstanding the foregoing, the Owner shall provide notice to the Agency of any dissolution, liquidation, sale, transfer, conveyance and exchange of the Project and/or Land or dissolution, liquidation, sale, transfer, conveyance and exchange of any shares, partnership or other ownership interest in the Owner. The Owner shall notify in writing and obtain the agreement in writing of any buyer or successor or other person acquiring the Project or Land or any interest therein, in a form acceptable to the Agency, that such acquisition is subject to the requirements of the Loan Documents, Act and Agency Regulations and, if applicable, the Code or IRS Regulations. This notice provision shall not act to waive any other Agency restriction on such dissolution, liquidation, sale, transfer, conveyance or exchange.

Section 27. Estoppel

Within ten (10) business days of written demand by the Agency, the Owner will furnish to the Agency in writing a statement of the outstanding balance of the principal sum plus all the accrued interest remaining due on the Agency Financing, together with a statement of any defenses which may exist as to any liability of the Owner with regard to the Loan Documents.

Section 28. Financing Statements

The Owner hereby irrevocably authorizes the Agency to file on its behalf one or more UCC-1 Financing Statements or renewals thereof with respect to any of the security interests granted by the Loan Documents. The Owner hereby assigns all of its rights and interests in accounts established under this Agreement to the Agency, to the extent that such interest may be needed, pursuant to this Agreement.

Section 29. Assignment

The Owner transfers and assigns to the Agency all of its right, title and interest, but not its liability, in, under, and to all construction, architectural and design contracts, all architectural design plans and specifications and all government permits, licenses and approvals for the construction and/or rehabilitation of the Project (the foregoing collectively referred to as the

“Plans and Approvals”). The Owner represents and warrants that the copies of the Plans and Approvals delivered to the Agency are and shall be true and complete copies of the Plans and Approvals, that there have been no modifications thereof which are not fully set forth in the copies delivered, and that the Owner’s interest therein is not subject to any claim, setoff, or encumbrance. Neither this assignment nor any action by the Agency shall constitute an assumption by the Agency of any obligation under or with respect to the Plans and Approvals; the Owner shall continue to be liable for all obligations of Owner with respect thereto; and the Owner hereby agrees to perform all of its obligations under the Plans and Approvals.

The Owner hereby consents to any assignment of this Agreement by the Agency. No assignment or delegation of this Agreement by the Owner is permitted unless approved in writing by the Agency. If assigned, all rights, duties, obligations and interest arising under this Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

Section 30. Defaults

Each of the following shall be an Event of Default:

(a) failure by the Owner to pay (i) any installment of principal or interest under the Agency Financing when due, or (ii) any payment of the Servicing Fee or any other payment required by the Owner to the Agency or any other person pursuant to the terms of this Agreement, the First Mortgage Note, or the other Loan Documents more than ten (10) days after the due date of such payment;

(b) commission by the Owner of any act prohibited by the terms of this Agreement, or the other Loan Documents, or failure by the Owner to perform or observe in a timely fashion any action, obligation, warranty or covenant required by any of the terms of this Agreement or the other Loan Documents or failure by the Owner to produce satisfactory evidence of compliance therewith. An event set forth in this subsection shall not constitute an Event of Default until the prohibited act or failure to perform or observe shall remain uncured for a period of thirty (30) days after the Agency’s written notice to the Owner, specifying such prohibited act or failure and requesting that it be remedied, unless the Agency shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the prohibited act or failure stated in such notice is correctable, but cannot be corrected within the 30-day period, the Agency may consent to an extension of up to 120 days from the delivery of the written notice referred to herein if corrective action is instituted by the Owner within the initial 30-day period and diligently pursued; provided further that the Agency will send, simultaneously with sending to the Owner any notices under this subsection, a copy of the aforementioned notices to the Investor Member and Special Member and, to the extent the Event of Default is curable, a cure tendered in full pursuant to the terms and conditions of this Agreement and the other Loan Documents by the Investor Member or Special Member shall be honored by the Agency;

(c) the filing by the Owner under any federal or State bankruptcy or insolvency law or other similar law, or any petition in bankruptcy or for reorganization or composition with creditors or the making of an assignment for the benefit of creditors;

(d) the filing against the Owner of a petition seeking an adjudication as a bankrupt or the appointment of a receiver for the benefit of its creditors that shall not have been dismissed within sixty (60) days of the filing thereof, or the adjudication of the Owner as a bankrupt or the appointment of a receiver for the benefit of its creditors; or the appointment by court order of a custodian (such as a receiver, liquidator or trustee) of the Owner or of any of its property or the taking of possession of the Owner or any of its property for the benefit of its creditors and such order remains in effect or such possession continues for more than sixty (60) days;

(e) the occurrence of substantial destruction of the Project by an uninsured casualty or the inability to replace or restore the Project in accordance with Section 11, or failure to maintain insurance that fully complies with the Agency insurance requirements set forth at Section 11 or in Agency insurance specifications minimum requirements, or failure to provide, immediately or no later than 30 days from notice, replacement insurance to meet Agency insurance requirements as set forth in Section 11 during the term of the First Mortgage Loan;

(f) any representation in conjunction with the Loan Documents or the Project by or on behalf of the Owner that is false or misleading in any material respect when made;

(g) any occurrence that results in the dissolution or liquidation of the Owner pursuant to the formation documents of the Owner;

(h) failure to comply with applicable provisions of the Act, the Agency Regulations, and if applicable, the Code or IRS Regulations;

(i) failure to substantially complete the Project pursuant to the Construction Contract; and

(j) an Event of Default as to any one mortgage loan to the Borrower held by the Agency shall be deemed an Event of Default as to all mortgage loans to the Borrower held by the Agency.

Notwithstanding the foregoing, Borrower's Investor Member and Special Member shall have the right, but not the obligation, to cure a default hereunder within the same cure period as Borrower.

Section 31. Remedies

Upon the occurrence of any Event of Default, the Agency may at its option take any one or more of the following actions or remedies, in addition to any and all remedies set forth in the other Loan Documents and in the Indenture, and no failure or delay to exercise any remedy or take any action enumerated shall constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy:

(a) declare the outstanding balance of the principal sum under the First Mortgage Note plus all accrued interest, the Servicing Fee and all other liabilities of the Owner under the Loan Documents to be immediately due and payable;

- (b) cease making disbursements from reserves held by the Agency, if any;
- (c) apply any reserves held by the Agency to the payment of the Owner's liabilities under the Loan Documents;
- (d) foreclose the lien of all Mortgage(s) securing the Agency Financing on the Project and Land including, without limitation, all improvements existing or hereafter placed in or on the Project and Land. In any action to foreclose, the Agency shall be entitled to the appointment of a receiver of the rents and profits of the Project as a matter of right, with power to collect the rents, uses, and profits of the Project, due and becoming due during the pendency of such foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured by the Mortgage(s) without regard to the value of the Project or the solvency of any person or persons liable for payment of the mortgaged indebtedness. The Owner, for itself and any such subsequent owner, hereby waives any and all defenses to the application for a receiver as above and hereby specifically consents to such appointment, but nothing herein contained is to be construed to deprive the holder of the Mortgage(s) of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provisions for the appointment of a receiver of the rents and profits and the assignment of such rents and profits are made express conditions upon which the Agency Financing is made. Upon such foreclosure the Agency shall have the right to have a receiver appointed for the Project and the rent from the Project;
- (e) take possession of the Project;
- (f) without judicial process, collect all rents and other revenue including federal and State subsidies as the assignee of the Owner, and apply the same, at the Agency's option, either to the operation and maintenance of the Project or to the liabilities of the Owner under the Loan Documents and to accept assignment of leases;
- (g) subject to Section 42 of the Code, act as landlord of the Project and rent or lease the same on any terms or dispossess by summary proceedings or other available means any tenant defaulting under the terms of the lease of a dwelling unit;
- (h) take possession of equipment, appliances and other tangible personal property in which a security interest has been granted by the Loan Documents and dispose of the same in any commercially reasonable manner. The Agency shall have the option to dispose of any such equipment and personal property either separately from or in conjunction with disposition of the Project or Land. In conjunction with a sale of the Project or Land, the Owner agrees that either method of disposition shall be commercially reasonable;
- (i) sue under or make effective an assignment by the Owner to the Agency of any warranty for the Project or any contract for construction, rehabilitation, repair, renovation, reconstruction or improvement of the Project, in which event the Agency is specifically empowered by the Owner to exercise any and all rights of the Owner under the said contract or warranty to recover any amount payable to the Owner pursuant to the contract or any such warranty and to settle any such claim or liability and release the same and apply the proceeds of

any such suit, settlement or release to the liabilities of the Owner under the First Mortgage Note, this Agreement, or the other Loan Documents;

(j) sue the Owner for mandatory injunction, specific performance or other equitable relief requiring performance by the Owner of any of its obligations under this Agreement or the other Loan Documents. The Owner agrees with the Agency that the Agency's remedy at law for the violation and nonperformance of the Owner's obligations under this Agreement or the other Loan Documents is not adequate by reason, among other things, of the Agency's public purpose to provide adequate, safe and sanitary dwelling units for the tenants contemplated under this Agreement;

(k) subject to and in accordance with the Act and the Agency Regulations, replace the general partner, officers, managers, directors, managing members or partners of, or other persons exercising control over the affairs of the Owner with such person or persons as the Agency in its sole discretion deems advisable, including officers or employees of the Agency, who shall exercise all of the authority of managing general partner or other manager of the Owner. Such appointment by the Agency shall be for the duration provided in Section 7 (b)(6) of the Act and any person so appointed shall be entitled to the same immunities and compensation as provided in such Act. If the Agency decides to remove and replace the general partner, officers, managers, directors, managing members or partners of the Owner pursuant to its rights under the Act, the Agency may require from the newly appointed officers, managers, directors, managing members or partners a deed to the Project in lieu of foreclosure;

(l) exercise any rights of the Owner under the Plans and Approvals and to take in its name or in the name of Owner such action as the Agency may determine to be necessary pursuant to the assignment of Plans and Approvals (as set forth in Section 29). The Agency may use the Plans and Approvals for any purpose relating to the Project. The Owner irrevocably constitutes and appoints the Agency as the Owner's attorney-in-fact, in the Owner's name or in the Agency's name, to enforce all rights of the Owner under any Plans and Approvals.

Notwithstanding the above enumeration of remedies, the Agency shall have available to it all other remedies provided at law or in equity or any other action permitted by law.

Section 32. Anticipatory Breach

If the Owner threatens to commit a breach of any of the provisions of this Agreement or the other Loan Documents, the Agency shall have the right, without posting bond or other security, to seek injunctive relief or specific performance, it being acknowledged and agreed that any such breach, or threatened breach, will cause irreparable injury to the Agency and that money damages will not provide an adequate remedy.

Section 33. Expenses Due to Default

The Owner hereby acknowledges that if the Project receives Bond financing, the payments to be made by the Owner pursuant to the First Mortgage Note may be used by the Agency to pay interest and principal on the Bonds. In the event that the Owner fails to make any payment due under the First Mortgage Note and the Agency is required to advance funds to pay

interest or principal on the Bonds, the Owner shall be required to pay the Agency interest on any amounts so advanced by the Agency on demand, which interest shall be equal to the applicable interest rate in the First Mortgage Note.

Section 34. Amendments; Notices; Waivers

This Agreement may be amended only by a written instrument executed and acknowledged on behalf of the Agency and the Owner in such manner that the instrument may be recorded.

No waiver by the Agency of any Event of Default or required performance by the Owner and no course of conduct of the parties or failure by the Agency to enforce or insist upon performance of any of the obligations of the Owner under this Agreement, or the other Loan Documents at any time shall preclude enforcement of any of the terms of this Agreement or the other Loan Documents except as expressly set forth in a written waiver signed by the Agency.

Any provision of this Agreement requiring the consent or approval of the Agency for the taking of any action, or the omission of any action or otherwise called for under this Agreement, requires such written consent by the Agency signed by a duly authorized officer of the Agency. Any such consent or approval, unless it expressly states otherwise, is limited to the particular action or omission referred to therein and does not apply to subsequent similar actions or omissions.

Notice provided for under this Agreement shall be given in writing and signed by a duly authorized officer and any notice required to be given hereunder shall be given by hand delivery by recognized private carrier with acknowledgment of delivery by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

Owner:	Heritage Village at Ocean LLC c/o Community Investment Strategies, Inc. 1970 Brunswick Avenue Lawrenceville, New Jersey Attention: Christiana Foglio Telephone: 609-298-2229 Facsimile: 609-298-7708
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With a copy to:	Gluck Walrath LLP 11 Wharf Avenue, Suite 4 Red Bank, New Jersey 07701 Attention: Chris Walrath, Esq. Telephone: 732-530-8822 Facsimile: 732-530-6770
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Agency: Executive Director
New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085

Investor Member: PNC Bank, National Association
121 S.W. Morrison Street, Suite 1300
Portland, Oregon 97204-3143
Attention: Real Estate Tax Credit Capital

Special Member: Columbia Housing SLP Corporation
121 S.W. Morrison Street, Suite 1300
Portland, Oregon 97204-3143
Attention: Fund Manager

Lender: Prudential Affordable Mortgage Company, LLC
4350 North Fairfax Drive, Suite 700
Arlington, Virginia 22203
Attention: President-Affordable Housing
Telephone: 571-357-7820
Facsimile: 571-357-7877

With a copy to: Prudential Affordable Mortgage Company, LLC
c/o Prudential Asset Resources
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Asset Management Department
Telephone: 214-777-4523
Facsimile: 214-777-4556

And following assignment of the Freddie Mac Loan to Freddie Mac a copy sent to:

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive
McLean, Virginia 22102
Attention: Senior Director, MF Asset Management

Section 35. Severability

The invalidity of any part or provision hereof shall not affect the validity, legality or enforceability of the remaining portions hereof, and to this end the provisions of this Agreement shall be severable.

Section 36. Personal Liability

Notwithstanding any other provision contained in this Agreement or the other Loan Documents, the Agency agrees, on behalf of itself and any future holder of the Loan Documents, that the liability of the Owner, any general or limited partner, member or shareholder of the Owner and their respective heirs, representatives, successors and assigns, for the payment of its obligations under the Loan Documents, including, without limitation, the payment of principal and interest due and other charges due hereunder and thereunder, shall be limited to the collateral pledged under the Loan Documents, and that the Agency shall have no right to seek a personal judgment against the Owner, any general or limited partner, member or shareholder of the Owner, or their respective heirs, representatives, successors and assigns, individually, except to the extent necessary to subject the collateral pledged under the Loan Documents to the satisfaction of the mortgage debt; provided, however, that the Agency shall retain the right to exercise any and all remedies granted to it under this Agreement and the other Loan Documents, including without limitation the right to sue for injunctive or other equitable relief. The foregoing limitation of liability shall not apply to any party to the extent such party has committed fraudulent, criminal or unlawful acts and, solely as to the Borrower or the Managing Member of the Borrower, shall not apply to such amounts that may be due to the Agency pursuant to Sections 11, 12, 13, 14, 15(c) through (e), 33 and/or 42.

Section 37. Counterparts

This Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original. A fax copy of a signature on this Agreement shall have the same effect as an original provided that an original is received by the other party hereto within two business days thereafter.

Section 38. Disclaimer of Warranties, Liability, Indemnification

(a) The Owner acknowledges and agrees that (i) the Agency has not heretofore and does not make any warranty or representation, either express or implied as to the value, condition, or fitness for particular purpose or any use of the Project or Land or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Agency or its agents or employees be liable or responsible for any incidental, indirect, special, consequential or punitive damages in connection with or arising out of this Agreement or any of the other Loan Documents or from the acquisition, construction, rehabilitation, reconstruction, repair, improvement, ownership, operation or maintenance of the Project or Land or any items or services provided for in this Agreement or the other Loan Documents; and (iii) during the term of this Agreement and the other Loan Documents and to the fullest extent permitted by law, the Owner shall indemnify and hold the Agency harmless against, and the Owner shall pay any and all liability, loss, cost, damage, claims, judgments or expenses of any and all kinds or nature and however arising, imposed by law, which the Agency may sustain, be subject to, or caused or incurred by reason of any claim, suit or action based upon personal injury, death or damage to property or any other damage or loss sustained, whether real, personal or mixed, or arising out of any alleged violation of the Environmental Laws or the alleged use, storage or disposal of Hazardous Materials by the Owner or by any person or entity or other source related to the Project or Land, or upon or arising out of contracts entered into by the

Owner, or arising out of the Owner's acquisition, construction, rehabilitation, reconstruction, repair, improvement, ownership, operation or maintenance of the Project or Land.

(b) It is mutually agreed by the Owner and the Agency that the Agency and its members, directors, officers, agents, servants, employees and attorneys shall not be liable for any action performed under this Agreement, and that the Owner shall hold them harmless from any claim or suit of whatever nature.

(c) Any claims asserted against the Agency shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 *et seq.* (except for N.J.S.A. 59:13-9 thereof). While this statute is not applicable by its terms to claims arising under contracts with the Agency, the Agency and the Owner agree that it shall be applicable to claims arising under this Agreement or the other Loan Documents. It is acknowledged by the parties that the Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 *et seq.*

(d) Notwithstanding the provisions of this Section 38, but in no way intending to reduce the obligations of Owner under this Agreement or the other Loan Documents, in the event the Agency takes possession, ownership and/or control of the Project and commences operating the same, Owner shall not be liable for the acts or omissions of the Agency, its employees, agents or representatives from and after the date of such possession, ownership or control.

Section 39. Filing

This Agreement shall be duly recorded in the Office of the Clerk for the county in which the Land is located.

Section 40. Governing Law and Venue

This Agreement shall be governed by the laws of the State of New Jersey.

If any legal action should be filed by any party against any other in connection with this Agreement and/or the other Loan Documents, the venue and forum for such action shall be the New Jersey Superior Court, Mercer County.

Section 41. Equal Opportunity and Non-Discrimination

The Owner covenants and agrees that it will comply with the Agency guidelines with respect to equal opportunity and non-discrimination in its purchase of goods and services for the operation and maintenance of the Project throughout the term of this Agreement.

Section 42. Investment Funding and Return on Investment

The Owner agrees to make an investment in the Project and Land in an amount which is not less than 10% of the total Project cost as determined by the Agency pursuant to the Act. In the event the combined principal sum set forth in the Agency Financing that is advanced to the Owner is determined by the Agency to exceed 90% of the total Project cost, the Owner shall

reimburse the Agency an amount which would reduce the Agency Financing to 90% of the total Project cost.

The total Project cost and the portion thereof that is contributed by the Owner as investment shall be determined by the Agency in accordance with the cost certification procedures under the Act. The calculation for return on equity/investment shall not be applicable due to the loan term.

Section 43. Applicability and Conflict of Terms and Conditions

The terms and conditions of this Agreement are applicable for the entire term of this Agreement (as set forth in Section 9 hereof) unless otherwise set forth in this Agreement. In the event of any conflict or inconsistency between the terms and conditions of any of the Loan Documents and including this Agreement, the terms and conditions of this Agreement shall prevail. Notwithstanding the foregoing, the Owner agrees that the Agency may render a decision concerning the intent and/or applicability of any term or condition of the Loan Documents and unless such decision is found to be arbitrary or capricious by a court of competent jurisdiction, the Agency decision shall be final.

Section 44. Miscellaneous

Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

Section 45. Lender Rider

The Owner and Agency each hereby agree that for so long as the Freddie Mac Loan remains outstanding, this Agreement shall be amended by the terms set forth in the Rider, attached hereto as Schedule B.

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, this Agreement is duly executed by the Owner and Agency and by signing below, the Owner acknowledges that it has received a true copy of this Agreement, without charge.

HERITAGE VILLAGE AT OCEAN LLC,
a New Jersey limited liability company

By: CIS Ocean LLC,
a New Jersey limited liability company,
its managing member

By:

CIS Ocean LLC,
a New Jersey limited liability company,
its managing member

By: Community Investment Strategies II LLC,
a New Jersey limited liability company,
its managing member

By: CIS Affordable LLC,
a New Jersey limited liability company,
its managing member

By:


Name: Christiana Foglio
Title: Managing Member

STATE OF NEW JERSEY)
) SS:
COUNTY OF MIDDLESEX)

I CERTIFY that on August 7 2015, Christiana Foglio personally came before me, the subscriber, a notary public and acknowledged under oath, to my satisfaction that (a) she is the Managing Member of CIS Affordable LLC, which is the managing member of Community Investment Strategies II LLC, which is the managing member of CIS Ocean LLC, which is the managing member of HERITAGE VILLAGE AT OCEAN LLC, the Borrower named in this document; and (b) she executed and delivered this document as the voluntary act of the limited liability company duly authorized by the Members.



Notary Public of New Jersey



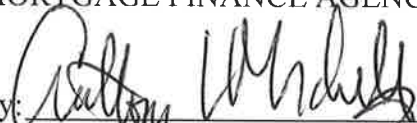
IN WITNESS WHEREOF, this Agreement is duly executed by the Owner and Agency and by signing below, the Owner acknowledges that it has received a true copy of this Agreement, without charge.

(SEAL)
ATTEST:



David Bonomo
Assistant Secretary

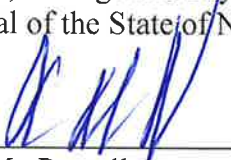
NEW JERSEY HOUSING AND
MORTGAGE FINANCE AGENCY

By: 

Anthony L. Marchetta
Executive Director

This Agreement has been reviewed and
approved as to form.

John J. Hoffman, Acting Attorney General
Attorney General of the State of New Jersey

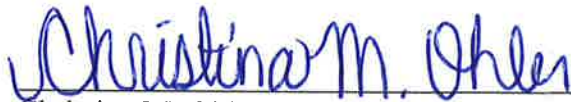


By:

Robert M. Purcell
Deputy Attorney General

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on August 3, 2015 **Anthony L. Marchetta**, personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) he is the **Executive Director** of **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**, the Agency named in this document, and b) he executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.



Christina M. Ohler

Notary Public of New Jersey

My Commission Expires 11/21, 2016

SCHEDULE A

Legal Description

All that certain lot, tract or parcel of land situate, lying and being in the Township of Ocean, in the County of Monmouth and the State of New Jersey, and being all of Lot 21.02, cap block 1.02 as shown on a map entitled "Final Plat-Major Subdivision Hidden Meadows, Lot 21, cap block 1.02, Township of Ocean, Monmouth County, New Jersey", prepared by Birdsall Engineering, Inc., dated May 28th 1992 and filed in the Monmouth County Clerk's Office on September 4, 1992, as Case No. 2044-11, and being more particularly bounded and described as follows, to wit:

BEGINNING at a concrete monument found in the easterly line of the entire tract as described in Deed Book 5147 Page 502, said point being the following courses from the point of intersection of the aforesaid easterly line of the entire tract with the southeasterly line of Lynn Drive (50' ROW.)

- A. S 60° 38' 57" W (S 50° 51' 02" E, deed), 223.74', thence
- B. N 84° 48' 33" E (S 85° 23' 32" E, deed), 66.88', thence
- C. N 07° 33' 30" E (N 17° 21' 25" E, deed), 683.41', thence
- D. S 84° 27' 48" W (N 85° 44' 17" W, deed), 330.64', thence
- E. N 01° 54' 04" W (N 07° 53' 51" W, deed), 20.04' to the true Point of BEGINNING and running, thence

Running along the division line between Lots 21.01 and 21.02 as shown on the aforementioned filed map, the following five (5) courses:

1. S 84° 27' 48" W (N 85° 44' 17" W, deed), 400.00 feet, passing over a concrete monument found 70.0 feet measured from the terminus of this course, thence
2. N 01° 54' 04" W (N 07° 53' 51" E, deed), 407.27 feet to a concrete monument found, thence
3. N 67° 05' 11" W (N 57° 17' 16" W, deed), 376.52 feet to a concrete monument found, thence
4. N 07° 52' 05" E (N 17° 40' 00" E, deed), 440.00 feet to a point near a leaning concrete monument found, thence
5. S 76° 07' 50" E (S 66° 19' 55" E, deed), 721.03 feet to a concrete monument found in the outside line of the entire tract as shown on the aforementioned filed map, thence
6. S 29° 53' 45" W (S 39° 41' 40" W, deed), 435.00 feet along said outside tract line to a rebar with cap "Birdsall" found, thence
7. S 38° 53' 43" E (S 29° 05' 55" E, deed), 335.05 feet along the same to rebar with cap set, thence
8. S 01° 54' 04" E (S 07° 53' 51" W, deed), 140.27 feet along the same to the Point and Place of BEGINNING.

Together with as set forth in Rights and Easements set forth in the Master Deed of the Hidden Meadows Condominium recorded 11/5/92 in Deed Book 5286 Page 578 and amended by First amendment dated 3/5/93 recorded 3/12/93 in Deed Book 5206 Page 47, Second Amendment dated 7/8/93 recorded 7/22/93 in Deed Book 5234 Page 47, Third Amendment dated 10/7/93 recorded 10/26/93 in Deed Book 5257 Page 450, Fourth Amendment dated 1/25/94 recorded 2/8/94 in Deed Book 5286 Page 578.

The foregoing description was prepared by the undersigned land surveyor for the firm of Maser Consulting PA and is based on a map entitled, "ALTA/ACSM Land Title Survey, Whale Pond Village, for the Township of Ocean, Lot 21.02, Block 1.02, Township of Ocean, Monmouth County, New Jersey" dated January 11, 2013, last revised 6/10/2015.

FOR INFORMATION PURPOSES ONLY: BEING known as Stacey Drive, Tax Lot 21.02, Tax Block 1.02 on the Official Tax Map of Township of Ocean, NJ.

LENDER RIDER

This Lender Rider (the "Rider") is attached to and forms a part of the Financing, Deed Restriction and Regulatory Agreement (the "Regulatory Agreement"), dated as of August 1, 2015, by and between **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the "Agency"), and **HERITAGE VILLAGE AT OCEAN LLC** (together with any successor to its rights, duties and obligations hereunder and as owner of the Project identified herein, the "Borrower").

1. **Definitions.** Terms used in this Rider as defined terms shall have the meanings given those terms in the Regulatory Agreement. In addition, the following terms shall have the following meanings:

"Freddie Mac Borrower Note" means the \$5,821,000 Multifamily Note dated August 11, 2015 from Borrower to Lender to evidence its indebtedness under the Freddie Mac Loan.

"Freddie Mac Loan Commitment" means, collectively, the commitments for the Freddie Mac Loan with respect to the Project from the Lender and from Freddie Mac.

"Freddie Mac Loan Documents" the documents related to the Freddie Mac Loan, including the Freddie Mac Loan Commitment, the Freddie Mac Borrower Note, the Freddie Mac Mortgage, and any and all other documents, agreements, or instruments which evidence or secure the indebtedness evidenced by the Freddie Mac Borrower Note.

"Freddie Mac Mortgage" means the first-lien priority Multifamily Mortgage, Assignment of Rents, and Security Agreement dated as of August 1, 2015 from Borrower for the benefit of Lender to secure the repayment of the Freddie Mac Borrower Note.

2. **Applicability.** The provisions of this Rider shall amend and supplement the provisions of, and in the event of a conflict shall supersede the conflicting provisions of, the Regulatory Agreement.

3. **Indemnification.** Inasmuch as the covenants, reservations and restrictions of the Regulatory Agreement run with the land, the indemnification obligations of the Borrower contained in the Regulatory Agreement will be deemed applicable to any successor in interest to the Borrower, but, it is acknowledged and agreed, notwithstanding any other provision of the Regulatory Agreement to the contrary, that neither Lender nor any successor in interest to Lender will assume or take subject to any liability for the indemnification obligations of the Borrower for acts or omissions of the Borrower prior to any transfer of title to Lender, whether by foreclosure, deed in lieu of foreclosure or comparable conversion of the Freddie Mac Loan. The Borrower shall remain liable under the indemnification provisions for its acts and omissions prior to any transfer of title to Lender. Lender shall indemnify the Agency following acquisition of the Project by Lender, by foreclosure, deed in lieu of foreclosure or comparable conversion of the Freddie Mac Loan, during, and only during, any ensuing period that Lender owns and operates the Project, provided that Lender's liability shall be strictly limited to acts and omissions of Lender occurring during the period of ownership and operation of the Project by

Lender. Lender shall have no indemnification obligations with respect to the Bonds or the Loan Documents. The Borrower shall remain liable under the Regulatory Agreement for its actions and omissions prior to any transfer of title to Lender.

4. Sale or Transfer.

(a) Restrictions on sale or transfer of the Project or of any interest in the Borrower, Agency consents, transferee agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to Lender or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Freddie Mac Loan or to any subsequent transfer by Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Freddie Mac Loan. No transfer of the Project shall operate to release the Borrower from its obligations under the Regulatory Agreement. Nothing contained in the Regulatory Agreement shall affect any provision of the Freddie Mac Mortgage, or any of the other Freddie Mac Loan Documents that requires the Borrower to obtain the consent of Lender as a precondition to sale, transfer or other disposition of, or any direct or indirect interest in, the Project or of any direct or indirect interest in the Borrower. No covenant obligating the Borrower to obtain an agreement from any transferee to abide by all requirements and restrictions of the Regulatory Agreement shall have any applicability to a transfer to Lender upon foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Freddie Mac Loan by Lender, or to any subsequent transfer by Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Freddie Mac Loan. Any written consent to a sale or transfer obtained from the Agency must be deemed to constitute conclusive evidence that the sale or transfer is not a violation of the transfer provisions.

(b) Notwithstanding anything contained in the Regulatory Agreement to the contrary, Additional Loans (as defined in the First Mortgage) shall not be subject to restrictions on transfers or encumbrances.

(c) Notwithstanding anything contained in Section 4(a) of this Rider to the contrary, in the event that the Agency Financing will remain outstanding following any transfer of title to the Project to Lender or to a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Freddie Mac Loan, all applicable provisions of the Act and Agency Regulations, including but not limited to restrictions on sale or transfer of the Project or of any interest in the Borrower, Agency consents, transferee agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like, shall apply to such transfer (provided that Agency consents shall be granted in accordance with the Agency's then applicable policies and procedures).

5. Enforcement. Notwithstanding anything contained in the Regulatory Agreement or the Indenture to the contrary:

(i) the occurrence of an event of default under the Regulatory Agreement shall not, under any circumstances whatsoever, be deemed or

constitute a default under the Freddie Mac Loan Documents, except as may be otherwise specified in the Freddie Mac Loan Documents;

(ii) upon the occurrence of an event of default under the Regulatory Agreement, the Agency may not seek, in any manner, to (a) cause or direct acceleration of the First Mortgage Loan, (b) enforce the First Mortgage Note, (c) foreclose on the First Mortgage, (d) cause the Trustee to redeem the Bonds or to declare the principal of the Bonds and the interest accrued on the Bonds to be immediately due and payable or (e) cause the Trustee to take any other action under any of the Loan Documents or any other documents which action would or could have the effect of achieving any one or more of the actions, events or results described in the preceding clauses (a) through (d); and

(iii) the occurrence of an event of default under the Regulatory Agreement shall not impair, defeat or render invalid the lien of the Freddie Mac Mortgage.

The foregoing prohibitions and limitations are not intended to limit the rights of the Agency to specifically enforce the Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Internal Revenue Code and state law. Accordingly, upon any default by the Borrower, the Agency may seek specific performance of the Regulatory Agreement or enjoin acts which may be in violation of the Regulatory Agreement or unlawful, but the Agency may not seek any form of monetary recovery from the Borrower, although the Agency may seek to enforce a claim for indemnification, provided that no obligation of the Borrower under the Regulatory Agreement, including, without limitation, any indemnification obligation, any other obligation for the payment of money, any claim and any judgment for monetary damages against the Borrower, occasioned by breach or alleged breach by the Borrower of its obligations under the Regulatory Agreement or otherwise, shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Agency or any other person, and all such obligations shall be, and by this Rider are, subordinate in priority, in right to payment and in all other respects to the obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Freddie Mac Loan Documents. Accordingly, neither the Agency nor the Trustee shall have the right to enforce any monetary obligation other than directly against the Borrower, without recourse to the Project. In addition, any such enforcement must not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

The obligations of any owner under the Regulatory Agreement shall be personal to the person who was the owner at the time that an event, including, without limitation, any default or breach of the Regulatory Agreement, occurred or was alleged to have occurred, and such person shall remain liable for any and all such obligations, including damages occasioned by a default or breach, even after such person ceases to be the owner of the Project. Accordingly, no subsequent owner of the Project shall be liable or obligated for the obligation of any prior owner (including the Borrower), including, but not limited to, any obligation for payment, indemnification or

damages, for default or breach of the Regulatory Agreement or otherwise. The owner of the Project at the time the obligation was incurred, including any obligation arising out of a default or breach of the Regulatory Agreement, shall remain liable for any and all payments and damages occasioned by the owner even after such person ceases to be the owner of the Project, and no person seeking such payments or damages shall have recourse against the Project.

Under no circumstances shall the Agency:

(i) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Freddie Mac Loan;

(ii) interfere with or attempt to influence the exercise by Lender of any of its rights under the Freddie Mac Loan, including, without limitation, Lender's remedial rights under the Freddie Mac Loan Documents upon the occurrence of an event of default by the Borrower under the Freddie Mac Loan; or

(iii) upon the occurrence of an event of default under the First Mortgage Loan, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the First Mortgage Loan.

6. Notice of Violations. Promptly upon determining that a violation of the Regulatory Agreement has occurred, the Agency shall, by notice in writing to the Borrower and Lender, inform the Borrower and Lender that such violation has occurred, the nature of the violation and that the violation has been cured or has not been cured, but is curable within a reasonable period of time, or is incurable; notwithstanding the occurrence of such violation, the Agency shall not have, and the Agency acknowledges that it shall not have, any right to cause or direct acceleration of the First Mortgage Loan, to enforce the First Mortgage Note or to foreclose on the First Mortgage.

7. Amendments. The Regulatory Agreement shall not be amended without the prior written consent of Lender.

8. Fees; Penalties. Lender shall not be liable for the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by the Borrower or any subsequent owner of the Project prior to the date of acquisition of the Project by Lender, whether such acquisition is by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Freddie Mac Loan.

9. Subordination. The terms, covenants and restrictions of the Regulatory Agreement, other than those pertaining to federal tax requirements set forth in Sections 3, 4, 7, 9, 17, 18 and this Rider and, so long as the Agency Financing remains outstanding, other than all applicable provisions of the Act and Agency Regulations, are and shall at all times remain subject and subordinate, in all respects, to the liens, rights and interests created under the Freddie Mac Loan Documents. Upon a conveyance or other transfer of title to the Project by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Freddie Mac Loan, the Person who acquires title to the Project pursuant to such foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Freddie Mac Loan (unless (i) such Person is the Borrower or a

Person related to the Borrower within the meaning of Section 1.103-10(e) of the Regulations or (ii) the Agency Financing remains outstanding following such conveyance or other transfer of title to the Project, in either of which events the Regulatory Agreement shall remain in full force and effect in its entirety) shall acquire such title free and clear of the terms, covenants and restrictions of the Regulatory Agreement, other than those pertaining to federal tax requirements set forth in Sections 3, 4, 7, 9, 17, 18 and this Rider, from and after the date on which such Person acquires title to the Project, the terms, covenants and restrictions of the Regulatory Agreement, other than those pertaining to federal tax requirements set forth in Sections 3, 4, 7, 9, 17, 18 and this Rider, shall automatically terminate and be of no force and effect; provided that the federal tax requirements set forth in Sections 3, 4, 7, 9, 17, 18 and this Rider, shall also terminate and be of no force and effect under the circumstances set forth in Section 9 of the Regulatory Agreement.

10. Third-Party Beneficiary. The parties to the Regulatory Agreement recognize and agree that the terms of the Regulatory Agreement and the enforcement of those terms are essential to the security of Lender and are entered into for the benefit of various parties, including Lender. Lender shall accordingly have contractual rights in the Regulatory Agreement and shall be entitled (but not obligated) to enforce, separately or jointly with the Agency, or to cause the Agency to enforce, the terms of the Regulatory Agreement. In addition, Lender is intended to be and shall be a third-party beneficiary of the Regulatory Agreement.

11. Notices. Copies of all notices under the Regulatory Agreement shall be sent to Lender at the address set forth below or to such other address as Lender may from time-to-time designate:

To the Freddie Mac Lender:

Prudential Affordable Mortgage Company, LLC
c/o Prudential Asset Resources
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Asset Management Department

And following assignment of the Freddie Mac Loan:

Federal Home Loan Mortgage Corporation
8100 Jones Branch Drive
McLean, Virginia 22102
Attention: Senior Director, MF Asset Management

With a copy to:

Prudential Affordable Mortgage Company, LLC
c/o Prudential Asset Resources
2100 Ross Avenue, Suite 2500
Dallas, Texas 75201
Attention: Asset Management Department

6

CHRISTINE GIORLANDO HANLON
COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER
2016112067

RECORDED ON

NOV 09, 2016

10:48:28 AM

BOOK: OR-9197

PAGE: 2966

Total Pages: 9

COUNTY RECORDING

FEES

TOTAL PAID

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MONMOUTH COUNTY
HOME INVESTMENT PARTNERSHIPS PROGRAM
AFFORDABLE HOUSING DEED RESTRICTION



400WZ5

Effective Date October 4, 2016

LENDER: COUNTY OF MONMOUTH, a municipal corporation of the State of New Jersey, having its principal offices located at the Office of Community Development, Monmouth County Division of Planning, 1 East Main Street, Freehold, NJ 07728.

BORROWER/OWNER: Heritage Village at Ocean LLC, a limited liability company organized under the laws of the State of New Jersey, having an address located at 1970 Brunswick Ave. Suite 100, Lawrenceville, New Jersey 08648.

PROJECT PROPERTY: The Property mortgaged to Lender is located in the Township of Ocean, County of Monmouth, and State of New Jersey known on the tax map of Ocean Township as Block 1.02, Lot 21.02, more commonly known as 400 Stacey Drive, Ocean Township, NJ 07712.

PROJECT: Rehabilitation of two (2) undesignated "floating" affordable rental units ("HOME Units") as part of a project for the rehabilitation of ninety-five (95) affordable residential affordable rental units and one (1) superintendent's unit.

LOAN AMOUNT: \$110,095.00

LOAN TERM: Thirty (30) years from the date hereof.

COMPLIANCE TERM: For twenty (20) Years, Monmouth County will monitor for HUD compliance.

AFFORDABILITY PERIOD: Thirty (30) years from the date hereof.

WHEREAS, the above named Lender has entered into a HOME Investment Partnership Agreement pursuant to Title II of the National Affordable Housing Act with United States Department of Housing and Urban Development (hereinafter "HUD"), by which HUD provides funding for eligible projects; and

WHEREAS, the Lender has been designated to implement a HOME Investment Partnerships Program (hereafter referred to as the "HOME Program") in accordance with applicable regulations, including 24 CFR Part 92; and

WHEREAS, the Note is secured by that certain Mortgage dated October 4, 2016 from Borrower to Lender (the "Mortgage"), which Mortgage was recorded in the office of the Clerk of Monmouth County, New Jersey on _____; and

RTR
(No charge)
RTR via Interoffice
mail to:
Community Development
ATTN: Sabrina Dunn

WHEREAS, the Project is subject to the terms of that certain Home Investment Partnerships Program - Loan Agreement by and between the County of Monmouth and Heritage Village at Ocean LLC; and

WHEREAS, the Borrower has requested funding to undertake the above described Project; and

WHEREAS, the proposed Project is eligible for funding if carried out pursuant to HUD's rules and regulations; and

WHEREAS, the HOME Program requires eligible project properties be subject to a deed restriction, reflecting that said properties are for the purpose of providing housing for families of certain income levels as established by HUD; and

WHEREAS, Borrower has agreed to comply with this condition by signing and delivering this document.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions contained herein, the above-named Borrower/Owner grants to the above-named Lender, its successors and assigns the rights stated in this document on the above-described Project Property ("Premises"), which Property is described in Exhibit A attached hereto, for the purpose of ensuring retention of affordable rental housing for occupancy by low and very low-income persons and families.

1. Purpose. The purpose of this Affordable Housing Restriction is to assure that low and very low-income households will retain the Premises as affordable housing for occupancy.

2. Nature and Term of Covenants. The Borrower intends, declares and covenants, on behalf of itself and its successors and assigns, that the covenants and restrictions set forth in this Affordable Housing Restriction regulating and restricting the use, occupancy and transfer of the Premises (a) shall be and are covenants running with the land, encumbering the Premises for a term of THIRTY (30) YEARS from the date of execution hereof; (b) are binding upon the Borrower's successors in title and all subsequent owners of the Premises, (c) are not merely personal covenants of the Borrower, and (d) shall bind the Borrower and its successors and assigns and the benefits shall inure to the Lender and to any present or prospective tenant of the Premises. The Borrower acknowledges that it has received assistance from the Lender in developing the Premises as affordable rental housing, which assistance includes a loan from the Lender under the HOME Program. This Affordable Housing Restriction shall continue in force for its stated term regardless of the prior repayment of such loan.

3. Notice of Covenants. Each and every contract, deed or other instrument hereafter executed conveying the Premises or portion thereof shall expressly provide that such conveyance is subject to this Affordable Housing Restriction. The covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Premises or portion thereof actually provides that such conveyance is subject to this Affordable Housing Restriction.

4. Unit Standards. The Premises shall be used for up to ninety-six (96) units of rental housing, as described above. Each of the HOME Units shall contain complete facilities for

living, sleeping, eating, cooking and sanitation that are to be used on other than a transient basis. Each of the HOME Units shall meet the housing quality standards set forth in the regulations of the HOME Investment Partnership Program at 24 CFR Part 92, Section 92.251 or any successor thereto.

5. Discrimination Prohibited. The Borrower shall not discriminate on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin or any other basis prohibited by law in the lease, use and occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project. The Borrower shall not discriminate against, or refuse to lease, rent or otherwise make available units in the Project to a holder of a certificate of family participation under the Federal Rental Certificate Program (24 CFR Part 882) or a rental voucher under the Federal Rental Voucher Program (24 CFR Part 887) or a holder of a comparable document evidencing participation in a HOME Program, tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate of family participation, rental voucher or comparable HOME Program tenant-based assistance document. Notwithstanding the above, the project shall be age restricted as per the regulations of the Housing for Older Persons Act.

5.1. Nondiscrimination Policies. The Borrower shall adopt and submit resident selection policies and criteria to Lender and Lender shall have the right of approval thereof. Said policies and criteria shall comply with the following requirements:

(a) They shall be consistent with the purpose of providing housing for "Low Income Families" and "Very Low Income Families", as defined below in Section 6 and required herein;

(b) They shall be reasonably related to HOME Program eligibility of prospective tenants and to the prospective tenants' ability to perform the obligations of the Borrower's form lease;

(c) They shall give reasonable consideration to the housing needs of families that would have preference under 24 CFR Part 960.211 (Federal selection preferences for admission to public housing); and

(d) They shall provide for (i) the selection of residents from a written waiting list in the chronological order of their application, insofar as practicable, and (ii) the prompt written notification to any related applicant of the grounds for any rejection.

Lender must approve any changes to these policies and criteria in writing. The Borrower shall also provide the Lender with an affirmative marketing plan acceptable to the Lender.

The approved marketing plan and the approved resident selection policies and criteria shall be adhered to in every respect.

6. Tenant Income Standards. During the term of this Affordable Housing Restriction the HOME Units shall be leased to Families or individuals whose annual incomes are at or less than SIXTY PERCENT (60%) of the median income for the Area (as defined below). A "Family" is defined as one or more individuals occupying a unit and satisfying the standards adopted by HUD for the so-called Section 8 Program under the United States

Housing Act of 1937 and promulgated at 24 CFR Part 812. The "Area" is defined as the Monmouth-NJ PMSA. A Family's annual income shall be the anticipated total income from all sources received by the Family head and spouse (even if temporarily absent) and by each additional member of the Family (other than children under the age of 18 years), including all net income derived from assets for the 12-month period following the effective date of certification of income. Annual Income specifically includes and excludes certain types of income as set forth in, and shall be determined in accordance with, 24 CFR Part 813.106 (or any successor regulations).

7. Rental Amount Limits. Rental amounts shall comply with the following:

a. The monthly rent charged for the HOME Units to be rented to families whose incomes are at or below sixty percent (60%) of median area income shall not be greater than thirty percent (30%) of the monthly gross income of a Family and less than the established Low Home Rent for that year (or such higher or lower percentage as may be established by HUD pursuant to applicable regulations under the HOME Program) of the median income for the Area, as determined by HUD, with adjustment for number of bedrooms in the unit using average occupancy per unit assumptions provided by HUD. The monthly rent charged for the HOME Units to be rented to families whose incomes are above sixty percent (60%) of median area income shall not be greater than the lesser of the Fair Market Rent for Monmouth County as established by HUD or thirty percent (30%) of the monthly gross income of a Family whose income equals sixty-five percent (65%) (or such higher or lower percentage as may be established by HUD pursuant to applicable regulations under the HOME Program) of the median income for the Area, as determined by HUD, with adjustment for number of bedrooms in the unit using average occupancy per unit assumptions provided by HUD. In determining the maximum monthly rent that may be charged for a unit under this clause the Borrower shall subtract from the above amount a monthly allowance for any utilities and services (excluding telephone) to be paid by the Family. Further, Annual Income shall be determined pursuant to 24 CFR part 92.203

b. Borrower shall make the determination of whether a Family meets the income requirements set forth herein at the time of leasing of a HOME Unit and thereafter at least annually on the basis of the current income of such Family.

8. Initial Proposed Rents. Prior to initial occupancy of a HOME Unit and annually thereafter as part of the annual reports required under Section 9 below, Borrower shall submit to Lender a proposed schedule of monthly rents and monthly allowances for utilities and services for all HOME Units in the Project. The rent schedule shall include both the maximum rents applicable to units as described above as well as the actual rents to be charged to over-income Families or Individuals. Such schedule shall be subject to the approval of Lender for compliance with the requirements of this Affordable Housing Restriction.

9. Records and Reporting to Lender. Borrower shall maintain as part of its Project records copies of all leases of the HOME Units and all initial and annual income certifications by tenants of the HOME Units. Within 60 days after the end of each calendar year of occupancy of any portion of the Project, the Borrower shall provide to the Lender annual reports consisting of certifications regarding the annual and monthly gross and adjusted income of each Family occupying any of the HOME Units. With respect to Families or Individuals who move to the HOME Units in the prior year, the annual report shall also

include certifications regarding the annual and monthly gross and adjusted incomes of such Families at the time of the initial occupancy of a HOME Unit. The annual report shall be in a form approved by the Lender and shall contain such supporting documentation as the Lender shall reasonably require. In addition to the foregoing, Borrower shall keep such additional records and prepare and submit to lender such additional reports as Lender may deem necessary to ensure compliance with the requirements of this Affordable Housing Restriction and of the HOME Program.

10. **Increases in Rental Amounts.** Rents for the HOME Units shall not be increased without the Lender's prior written approval of either (a) a specific request by Borrower for a rent increase or (b) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by Borrower to all affected tenants.

11. **Prohibited Lease Provisions.** The Borrower shall not include in any lease for a HOME Unit in the Project any of the following provisions:

a. Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the Borrower in a lawsuit brought in connection with the lease.

b. Agreement by the tenant that the Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the unit after the tenant has moved out of the unit. The Borrower may dispose of such personal property in accordance with New Jersey law.

c. Agreement by the tenant not to hold the Borrower or the Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent.

d. Agreement of the tenant that the Borrower may institute a lawsuit without notice to the tenant.

e. Agreement by the tenant that the Borrower may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.

f. Agreement by the tenant to waive any right to a trial by jury.

g. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

h. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Borrower against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

12. **HOME Unit Lease Terms and Lease Terminations.** All leases for HOME Units in the Project shall be for terms of not less than one (1) year, unless by mutual agreement between the tenant and the Borrower, and shall require tenants to provide information

required for the Borrower to meet its reporting requirements hereunder. Borrower may not terminate the tenancy or refuse to renew the lease of an occupant of the Project except for (a) for serious or repeated violations of the terms and conditions of the lease; (b) violations of applicable federal, state or local law or (c) other good cause. Any termination or refusal to renew must be preceded by not less than 90 days by Borrower's service on the tenant of a written notice specifying the grounds for the action. Lender must be copied on any such notice for units relating to this restriction.

13. **Transfer or Sale of Project Property.** The Borrower may not sell, transfer or exchange all or any portion of the Project without the Lender's prior written consent. Any sale, transfer or change of title shall require either full payment of the outstanding obligation under the mortgage or such other requirements as the Lender may specify.

14. **Demolition or Reduction of Project Property.** The Borrower shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project except in conjunction with renovation or rehabilitation of the Project or construction of a new project on the Premises, in either case subject to the prior written consent of the Lender, which consent may be granted or withheld in the Lender's reasonable judgment. The Borrower shall not permit the use of any residential unit for any purpose other than rental housing.

15. **Destruction or Damage of Project Property.** If the Project, or any part thereof, shall be damaged or destroyed, the Borrower shall use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, and the Borrower represents, warrants and agrees that the Project shall thereafter continue to operate in accordance with the terms of this Affordable Housing Restriction.

16. **Use of Project Property.** Any use of the HOME Units or activity thereon which is inconsistent with the express conditions or purpose of this Affordable Housing Restriction is expressly prohibited. Borrower shall carry out each activity provided for in this Affordable Housing Restriction in compliance with all applicable federal laws and regulations described in 24 CFR Part 92.251 (Property Standards), Part 92.252 (Qualifications as Affordable Housing: Rental Housing), Part 92.253 (Tenant and Participation Protections), Part 92.257 (Religious Organizations), Part 92.303 (Tenant Participation Plan), Part 92.350 (Equal Opportunity and Fair Housing), Part 92.351 (Affirmative Marketing), Part 92.352 (Environmental Review), Part 92.353 (Displacement, Relocation and Acquisition), Part 92.354 (Labor), Part 92.355 (Lead-based Paint), Part 92.356 (Conflict of Interest), Part 92.357 (Executive Order 12372). Lender and its duly authorized representatives shall have the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of inspecting the Premises to determine compliance with this Affordable Housing Restriction.

17. **Enforcement of Restrictions.** Lender shall have the right to enforce this Affordable Housing Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations including, without limitation, relief requiring restoration of the Premises to its condition prior to any such violation, it being agreed that the Lender will have no adequate remedy at law, and shall be in addition to, and not in limitation of, any other rights and remedies available to the Lender. Borrower covenants and agrees to reimburse Lender all reasonable costs and expenses (including without

limitation reasonable counsel fees) incurred in enforcing this Affordable Housing Restriction or in taking reasonable measures to cure any violation hereof, provided that a violation of this Affordable Housing Restriction is acknowledged by Borrower or determined by a court of competent jurisdiction to have occurred. By its acceptance of this Affordable Housing Restriction, Lender does not undertake any liability or obligation relating to the condition of the Premises.

18. Notice of Restrictions. The Lender shall have the right to record or file any notices or instruments appropriate to assuring the enforceability of this Affordable Housing Restriction and the Borrower, on behalf of itself and its successors and assigns, appoints the Lender its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Borrower and its successors and assigns agree to execute any such instruments upon request.

19. Conditional Relief from Restrictions. Notwithstanding anything herein to the contrary, but subject to the next succeeding paragraph, if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the property in lieu of foreclosure, and provided that the holder of such mortgage (a) has given Lender not less than 60 days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure and (b) agrees to recognize any contractual or legal rights of public agencies, non-profit sponsors, or others to take actions that would avoid termination of low-income affordability of the Project, then the rights and restrictions herein contained shall not apply to such holder upon such acquisition of the Property or to any purchaser of the Property from such holder, so long as the purchaser of the Property or holder of the Property repays from the proceeds of such sale 100% of the net proceeds after superior liens have been settled, if any, not to exceed the outstanding balance of the HOME loan, at such time such Property shall, subject to the next two succeeding sentences, thereafter be free from all such rights and restrictions.

20. No Relief from Restrictions on Certain Transfers. The rights and restrictions contained herein shall not lapse if any portion of the Project Property is acquired through foreclosure or deed in lieu of foreclosure by (a) Borrower, (b) any person with a direct or indirect financial interest in Borrower, (c) any person related to a person described in "b" by blood, adoption or marriage, (d) any person who is or at any time was a business partner of a person described in "b" and (e) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if all or a portion of the Premises is acquired by a Related Party during the period in which this Affordable Housing Restriction would be in effect but for provisions providing for its termination, this Affordable Housing Restriction shall be revived and shall apply to the Property as though it had never lapsed.

21. In the event a person having the right to do so pursues a foreclosure or other proceeding enforcing its rights under a mortgage or other instrument and the Property is sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages of the Property plus all future advances, accrued interest and all reasonable costs and expenses which the holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess proceeds shall be shared equitably with the

Lender in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the Lender pursuant to this Section in connection with such proceeding. In the event that such excess shall be so paid to the Lender, the Lender shall thereafter indemnify such holder against loss or damage to such holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the Lender in accordance herewith, provided that such holder shall give the prompt notice of any such claim and shall not object to intervention by the Lender in any proceeding relating thereto. To the extent the Borrower possesses any interest in any amount which would otherwise be payable to the Lender under this paragraph, to the full extent permissible by law, the Borrower hereby assigns its interest in such amount to said holder for payment to the Lender.

22. Notices. Any notice, request or other communication which either party hereto may be required or may desire to give hereunder shall be made in writing, and shall be deemed to have been properly given if hand delivered or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Lender:
County of Monmouth
Office of Community Development
Monmouth County Division of Planning
1 East Main Street
Freehold, NJ 07728

If to Borrower:
Heritage Village at Ocean LLC
1970 Brunswick Ave, Suite 100
Lawrenceville, NJ 08648

With a copy to:

Columbia Housing SLP Corporation
121 S.W. Morrison Street, Suite 1300
Portland, Oregon 97204-3143

or such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by first class mail shall be deemed given two days after mailing; a notice delivered by hand shall be deemed given upon receipt.

23. Effective Date. The Borrower and the Lender intend that the restrictions arising hereunder take effect on the effective date as written above. HOME Units (2) shall be considered to be qualified HOME units when the units have been rented to Qualified Tenants and the project data is completed in the HUD Integrated Disbursement and Information System (IDIS) and is given an IDIS status code of complete or "CP".

24. Lender shall have the right to assign its interest in this Affordable Housing Restriction.

25. This Affordable Housing Restriction may not be amended, nor may any obligation hereunder be waived or released, without first obtaining the written consent of the Lender.

26. If any provision of this Affordable Housing Restriction shall be declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected.

In witness whereof and intending to be bound thereby, the Borrower and Lender have caused this Affordable Housing Deed Restriction to be executed by its duly authorized agent on the date reported.

BORROWER:

Heritage Village at Ocean LLC, a New Jersey limited liability company

By: CIS Ocean LLC, its managing member

By: Community Investment Strategies II LLC, its managing member

By: CIS Affordable, LLC, its managing member

ATTEST:

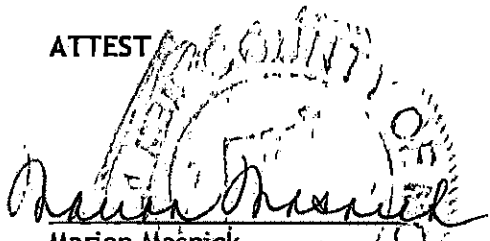


Notary Public

By: 

Christiana Foglio, Managing Member

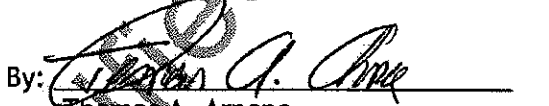
ATTEST:



Marion Masnick
Clerk of the Board of Freeholders

LENDER:

County of Monmouth

By: 

Thomas A. Arnone
Director, Board of Chosen Freeholders

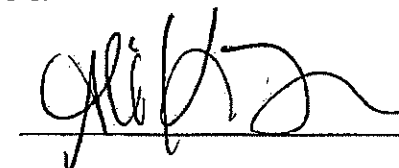
ACKNOWLEDGMENT

STATE OF NEW JERSEY)

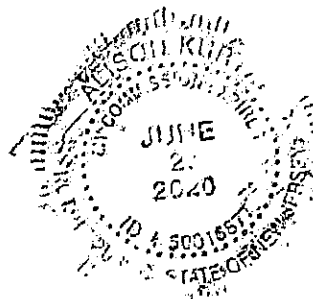
) SS:

COUNTY OF MERCER)

I CERTIFY that on September 19 2016, Christiana Foglio personally came before me, the subscriber, an Attorney at Law of the State of New Jersey, and acknowledged under oath, to my satisfaction that (a) she is the Managing Member of CIS Affordable, LLC, the managing member of Community Investment Strategies II LLC, the managing member of CIS Ocean LLC, which is the managing member of Heritage Village at Ocean LLC, the limited liability company named in this document; and (b) she executed and delivered this document as the voluntary act of the limited liability company duly authorized by the Members.



ALISON KURTZ
ID # 50016877
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires June 2, 2020





Monmouth County Document Summary Sheet



MONMOUTH COUNTY CLERK
PO BOX 1251
MARKET YARD
FREEHOLD NJ 07728

Return Name and Address

Johanna Peña
 Administrative Assistant III
 Tax Credit Services
 NJHMFA
 637 S. Clinton Avenue
 Trenton, NJ 08611



501J9H

Official Use Only

Submitting Company New Jersey Housing and Mortgage Finance Agency

Document Type Deed *Easement (Amended)*

Document Date (mm/dd/yyyy) 04/06/2018

Total Number of Pages
(Including the cover sheet) 7

Consideration Amount (If applicable) ~~\$110.00~~

Official Use Only

APR - 9 2018 JB

CHRISTINE GIORDANO HANLON
 COUNTY CLERK
 MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER
2018036403
 RECORDED ON
APR 13, 2018
9:54:32 AM
BOOK: OR-9282
PAGE: 4633
 Total Pages: 7

UNTY RECORDING \$100.00
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 TAL PAID \$100.00

First Party	Name(s) <i>(Last Name, First Name or Company Name)</i>		Address (Optional)		
	New Jersey Housing and Mortgage Finance Agency Heritage Village at Ocean, LLC		1970 Brunswick Ave., Ste. 100 Lawrenceville, NJ 08648		
Second Party	Name(s) <i>(Last Name, First Name or Company Name)</i>		Address (Optional)		
	Heritage Village at Ocean, LLC New Jersey Housing and Mortgage Finance Agency		1970 Brunswick Ave., Ste. 100 Lawrenceville, NJ 08648		
The Following Section is Required for DEEDS Only					
Parcel Information	Municipality	Block	Lot	Qualifier	Property Address
	Ocean Township	1.02	21.02		400 Stacey Drive
Recording Reference to Original Document (if applicable)					
Reference Information <i>(Marginal Notation)</i>	Book		Beginning Page		Instrument No.
	OR-9166		8719		

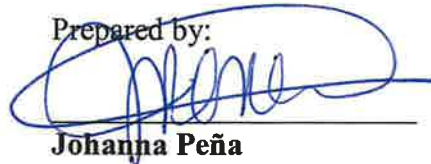
Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.

RECORD & RETURN TO:

Johanna Peña, Administrative Assistant III
NJ Housing and Mortgage Finance Agency
637 S. Clinton Avenue
Trenton, NJ 08611

LIHTC #1546

Prepared by:



Johanna Peña

AMENDMENT TO
DEED OF EASEMENT AND RESTRICTIVE COVENANT
FOR EXTENDED LOW-INCOME OCCUPANCY

This Amendment to Deed of Easement and Restrictive Covenant (the "Amendment"), dated as of **January 24, 2018**, is entered into between **Heritage Village at Ocean, LLC** and its successors and assigns (the "Project Owner") whose principal address is **1970 Brunswick Avenue, Suite 100, Lawrenceville, NJ 08648**, and the New Jersey Housing and Mortgage Finance Agency, its successors and assigns (the "Agency"), acting as the housing credit agency for the State of New Jersey, as described in Section 42(h)(3) of the Internal Revenue Code, as amended, and to income-eligible members of the public, as defined below. As conditioned below, this Amendment restricts occupancy of the described premises to income eligible-occupants for a specified period of time. This Amendment is made in satisfaction of the requirements of Section 42 of the Federal Tax Reform Act of 1986, P.L. 99-514, as amended (the "Code").

W I T N E S S E T H:

WHEREAS, in conjunction with an allocation of low income housing tax credits, the Owner made and entered into a Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy (the "Deed of Easement") on **August 11, 2015** with the Agency, encumbering the land, being known as Tax Map Block No. **1.02**, Lot Nos. **21.02**, in the County of **Monmouth** New Jersey, and title to which has been recorded in the County Clerk or Register's Office in Deed Book No. **OR-9166** at Page No. **8719**, and

WHEREAS, it has come to the Owner's and the Agency's attention that **Section one** of the Deed of Easement is inaccurate, to the extent that it states;

- (1) The **one** building, which consist of a total of **95** residential rental units, of which **95** are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section

42(g)(1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as **Heritage Village at Ocean** (the "Project"). The Project is located at **400 Stacey Drive, Ocean Township NJ, 07712**, Municipal Tax Map Block No. **1.02**, Lot **21.02** in the County of **Monmouth**, New Jersey, and title to which has been recorded in the County Clerk or Register's Office being more fully described as set forth in Attachment "A" hereto.

NOW, THEREFORE, based upon mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree that **Section one** of the Deed of Easement shall be amended to state:

- (1) The **three** building(s), which consist of a total of **95** residential rental units, of which **95** are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section 42(g)(1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as **Heritage Village at Ocean** (the "Project"). The Project is located at **400 Stacey Drive, Ocean Township NJ, 07712**, Municipal Tax Map Block No. **1.02**, Lot **21.02** in the County of **Monmouth**, New Jersey, and title to which has been recorded in the County Clerk or Register's Office being more fully described as set forth in Attachment "A" hereto.

All other terms and conditions set forth in the original Deed of Easement not specifically amended hereby shall remain in full force and effect as if fully set forth herein.

[THIS SPACE INTENTIONALLY LEFT BLANK]

Signatures: This Covenant is granted by the Project Owner whose duly authorized representative's signature appears below.

Sworn and subscribed to before
The undersigned Notary Public or
Attorney on the date appearing below:

PROJECT OWNER:

Heritage Village at Ocean, LLC
By: CIS Ocean, LLC, its managing member
By: Community Investment Strategies II LLC,
its managing member;
By: CIS Affordable LLC, its managing member


WITNESS: (IF INDIVIDUAL, LLC, OR PARTNERSHIP)


Julia Meister


Barbara K. Schoor
Assistant Secretary

NEW JERSEY HOUSING AND
MORTGAGE FINANCE AGENCY

WITNESS:


By: 
Debra M. Urban
Chief of Legal and Regulatory Affairs

Date: 3/15/18

ACKNOWLEDGEMENT FOR LIMITED LIABILITY COMPANY

STATE OF NEW JERSEY)
) SS:
COUNTY OF Mercer)

I CERTIFY that on March 6, 2018, Barbara K. Schoor personally came before me, and this person acknowledged under oath, to my satisfaction, that (a) this person is the Managing Member of the Managing Member, of the Managing Member of Heritage Village at Ocean, LLC, the Owner named in this document (the "LLC"); and (b) this document was signed and delivered by the Company as its voluntary act duly authorized by a proper resolution of the Company.

SWORN TO AND SUBSCRIBED
before me, the date aforesaid.

Karen Armlin
Notary Public

KAREN ARMLIN
Notary Public - State of New Jersey
My Commission Expires Apr 18, 2022

STATE OF NEW JERSEY, COUNTY OF MERCER

SS:

I CERTIFY that on 3/15/18, 2018, **DEBRA M. URBAN** personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) she is the **Senior Director of Programs** of **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**, the Agency named in this document, and b) she executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.

Alda Luz Silva

Notary Public of the State of New Jersey

My Commission Expires on

July 19, 2022

Alda Luz Silva
Notary Public
New Jersey
My Commission Expires July 19, 2022
2362190

Attachment "A"

Stewart Title Guaranty Company

OWNER'S POLICY

SCHEDULE C LEGAL DESCRIPTION

Policy No.: O-9301-003034507

File No.: 14-27706

All that certain lot, tract or parcel of land situate, lying and being in the Township of Ocean, in the County of Monmouth and the State of New Jersey, and being all of Lot 21.02, cap block 1.02 as shown on a map entitled "Final Plat-Major Subdivision Hidden Meadows, Lot 21, cap block 1.02, Township of Ocean, Monmouth County, New Jersey", prepared by Birdsall Engineering, Inc., dated May 28th 1992 and filed in the Monmouth County Clerk's Office on September 4, 1992, as Case No. 2044-11, and being more particularly bounded and described as follows, to wit:

BEGINNING at a concrete monument found in the easterly line of the entire tract as described in Deed Book 5147 Page 502, said point being the following courses from the point of intersection of the aforesaid easterly line of the entire tract with the southeasterly line of Lynn Drive (50' ROW.)

- A. S 60° 38' 57" W (S 50° 51' 02" E, deed), 223.74', thence
- B. N 84° 48' 33" E (S 85° 23' 32" E, deed), 66.88', thence
- C. N 07° 33' 30" E (N 17° 21' 25" E, deed), 683.41', thence
- D. S 84° 27' 48" W (N 85° 44' 17" W, deed), 330.64', thence
- E. N 01° 54' 04" W (N 07° 53' 51" W, deed), 20.04' to the true Point of BEGINNING and running, thence

Running along the division line between Lots 21.01 and 21.02 as shown on the aforementioned filed map, the following five (5) courses:

1. S 84° 27' 48" W (N 85° 44' 17" W, deed), 400.00 feet, passing over a concrete monument found 70.0 feet measured from the terminus of this course, thence
2. N 01° 54' 04" W (N 07° 53' 51" E, deed), 407.27 feet to a concrete monument found, thence
3. N 67° 05' 11" W (N 57° 17' 16" W, deed), 376.52 feet to a concrete monument found, thence
4. N 07° 52' 05" E (N 17° 40' 00" E, deed), 440.00 feet to a point near a leaning concrete monument found, thence
5. S 76° 07' 50" E (S 66° 19' 55" E, deed), 721.03 feet to a concrete monument found in the outside line of the entire tract as shown on the aforementioned filed map, thence
6. S 29° 53' 45" W (S 39° 41' 40" W, deed), 435.00 feet along said outside tract line to a rebar with cap "Birdsall" found, thence
7. S 38° 53' 43" E (S 29° 05' 55" E, deed), 335.05 feet along the same to rebar with cap set, thence
8. S 01° 54' 04" E (S 07° 53' 51" W, deed), 140.27 feet along the same to the Point and Place of BEGINNING.

Together with as set forth in Rights and Easements set forth in the Master Deed of the Hidden Meadows Condominium recorded 11/5/92 in Deed Book 5286 Page 578 and amended by First amendment dated 3/5/93 recorded 3/12/93 in Deed Book 5206 Page 47, Second Amendment dated 7/8/93 recorded 7/22/93 in Deed Book 5234 Page 47, Third Amendment dated 10/7/93 recorded 10/26/93 in Deed Book 5257 Page 450, Fourth Amendment dated 1/25/94 recorded 2/8/94 in Deed Book 5286 Page 578.

The foregoing description was prepared by the undersigned land surveyor for the firm of Maser Consulting PA and is based on a map entitled, "ALTA/ACSM Land Title Survey, Whale Pond Village, for the Township of Ocean, Lot 21.02, Block 1.02, Township of Ocean, Monmouth County, New Jersey" dated January 11, 2013, last revised 6/10/2015.

FOR INFORMATION PURPOSES ONLY: BEING known as Stacey Drive, Tax Lot 21.02, Tax Block 1.02 on the Official Tax Map of Township of Ocean, NJ.

ALTA Owner's Policy



J. HERITAGE VILLAGE AT OAKHURST DOCUMENTATION



004DYX

Record & Return to:

R-2

Lisa DiOrio, Senior Paralegal
New Jersey Housing and Mortgage
Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085

(Stonebridge Title)

HERITAGE VILLAGE AT OAKHURST
HMFA # 2874
SNHTF # 322

FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT

Between

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

And

HERITAGE VILLAGE AT OAKHURST LLC

Prepared by:

William F. Hanna
Deputy Attorney General

Special Needs Housing Trust Fund
Third Mortgage Loan
Construction and Permanent Financing

CHRISTINE GIORAND HANLON
ACTING COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER
2015040933

RECORDED ON

MAY 11, 2015
10:49:42 AM
BOOK:OR-9112
PAGE:3255

Total Pages: 25

COUNTY RECORDING	\$270.00
FEES	
TOTAL PAID	\$270.00

THIS FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT (this "Agreement"), made and entered into as of this 27th day of April, 2015, by and between the **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the "Agency" or "Lender"), a body politic and corporate and an instrumentality exercising public and essential governmental functions of the State of New Jersey (the "State") and **HERITAGE VILLAGE AT OAKHURST LLC**, ("Owner" or "Borrower"), a limited liability company organized and existing pursuant to the laws of the State of New Jersey and duly authorized to transact business in the State of New Jersey.

W I T N E S S E T H

In consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Agency and the Owner hereby agree as follows:

Section 1. Definitions and Interpretation. The following terms shall have the respective meanings set forth below:

"Act" means the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended from time to time, P.L. 1983, c. 530, N.J.S.A. 55:14K-1 et seq., and the regulations promulgated thereunder.

"Agency Financing" means the Third Mortgage Loan

"Agency Regulations" means the regulations promulgated by the Agency pursuant to the Act and any policies, procedures or guidelines issued by the Agency with respect to the housing projects financed by the Agency under the Act, all of the foregoing as they may be amended from time to time, if applicable.

"Architect's Contract" means the agreement between the Owner and Barton Partners Architects Planners, Inc. dated September 24, 2014 or any other agreement executed by the Owner and approved by the Agency, for the design and construction oversight of the Project in accordance with the plans and specifications for the Project approved by the Agency, if applicable.

"Assignment of Leases" means the Assignment of Leases by and between the Owner and Lender of even date herewith.

"Code" means the Internal Revenue Code of 1986, as amended.

"Construction Contract" means the agreement between the Owner and R. Stone & Co., Inc. dated September 24, 2014, or any other agreement executed by the Owner and approved by the Agency, for the construction of the Project in accordance with the plans and specifications for the Project approved by the Agency.

"Construction Period", if applicable, means the period of time as required to substantially complete the construction of the Project. The Project Construction Period is estimated to be 24 months from the date of execution of this Agreement, if applicable.

"Day" or "Days," whether or not the word is a capitalized term, shall mean calendar day or day(s) unless otherwise specified.

"DDD" means the New Jersey Department of Human Services, Division of Developmental Disabilities, or its successors and assigns, if applicable.

"DMHS" means the New Jersey Department of Human Services, Division of Mental Health Services, or its successors or assigns, if applicable.

"Environmental Laws" shall mean and include any federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, element, compound, mixture or material, as now or at any time hereafter in effect including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C. Sections 9601 et seq., the Federal Hazardous Materials Transportation Act, as amended 42 U.S.C. Sections 1801 et seq., the Federal Resource Conservation and Recovery Act as amended, 42 U.S.C. Sections 6901 et seq., the Superfund Amendments and Reauthorization Act, 42 U.S.C. Sections 9601 et seq., the Federal Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., the Federal Hazardous Material Transportation Act, 49 U.S.C. Sections 1801 et seq., the Federal Clean Air Act, 42 U.S.C. Sections 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq., the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. Section 4852d, the New Jersey Environmental Cleanup Responsibility Act, as amended, N.J.S.A. 13:1K-6 et seq., the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq., the Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11 et seq., the New Jersey Tank Registration Act, N.J.S.A. 58:10A-21 et seq., the New Jersey Water Pollution Control Act, as amended, N.J.S.A. 58:10A-1 et seq., and all rules and regulations adopted and publications promulgated thereto, or any other so-called "Superfund" or "Superlien" laws, or any other federal, State or local environmental law, ordinance, code, rule, or regulation, order or decree as any of the foregoing have been, or are hereafter amended.

"Environmental Report" means the Phase I Environmental Site Assessment prepared by Environmental Waste Management Associates, LLC EWMA Project No. 208210 dated July 2014 and updated by Ireland Brook Enterprises, LLC dated February 18, 2015.

"Event of Default" means any of the events set forth in Section 31 of this Agreement.

"Hazardous Materials" shall mean and include those elements, materials, compounds, mixtures or substances that are contained in any list of hazardous substances adopted by the United States Environmental Protection Agency (the "EPA") or any list of toxic pollutants designated by Congress, the EPA, or the New Jersey Department of Environmental Protection ("NJDEP"), or that are defined as hazardous, toxic, pollutant, infectious, flammable or radioactive by any of the Environmental Laws, and, whether or not included in such lists, shall be deemed to include all products or substances containing petroleum, asbestos, lead, and polychlorinated biphenyls.

"HUD" means the United States Department of Housing and Urban Development.

"Improvements" means the building together with all fixtures and utility improvements, easements and rights of way that are owned by the Owner and located on the Land.

"IRS Regulations" means the regulations promulgated or proposed by the United States Department of the Treasury or the Internal Revenue Service pursuant to the Code, and to the extent applicable, pursuant to the Internal Revenue Code of 1954, as both may be amended from time to time, including all rules, rulings, policies, and official statements issued by the United States Department of the Treasury or the Internal Revenue Service.

"Land" means the real property described in Exhibit A attached hereto, on which the Project is located.

"Loan Documents" means and includes this Agreement, the Mortgage Note, the Mortgage and Security Agreement the UCC-1 Financing Statement, and Assignment of Leases.

"Loan" means the Mortgage Loan.

"Low Income" means a gross annual household income equal to 50% or less of the median gross annual household income for the same size within the relevant housing region.

"Moderate Income" if applicable, means a gross annual household income equal to 60% or less of the area median income for the same size within the relevant housing region.

"Mortgage" means the mortgage of even date herewith that constitutes a third lien on a fee simple interest in the Project and Land, given by the Owner to the Agency to secure the Mortgage Loan.

"Mortgage Loan" means the loan made to the Owner by the Agency to finance a portion of the cost of the development and/or rehabilitation of the Project that will be located on the real property described in Exhibit A attached hereto, as evidenced by the Mortgage Note and secured by the Mortgage.

"Mortgage Note" or "Note" means the interest bearing non-recourse promissory note that contains the promise of the Owner to pay the sum of money stated therein at the times stated therein and that evidences the obligation of the Owner to repay the Mortgage Loan.

"Permitted Encumbrances" means any

(i) Utility, access and other easements and rights of way, restrictions and exceptions that do not, individually or in the aggregate, materially impair the utility or value of the Project or Land for the purposes for which it is intended;

(ii) Liens that are being contested in good faith and for which the Owner has provided security satisfactory to the Agency;

(iii) Liens subordinate to the Mortgage Loan arising due to any monies loaned in

connection with the Project or other monies loaned to the Owner, provided such liens are disclosed to and approved by the Agency in writing; and

(iv) Any other encumbrances approved by the Agency in writing.

"Plans" means all construction, architectural and design contracts and all architectural design plans and specifications.

"Program" means the Special Needs Housing Trust Fund pursuant to the Special Needs Housing Trust Fund Act, P.L. 2005, c.163.

"Program Guidelines" means the guidelines promulgated by the Agency pursuant to the Program and any policies or procedures issued by the Agency with respect to the housing projects financed by the Agency, all of the foregoing as they may be amended from time to time.

"Project" means the Improvements located on the Land that together with the Land is financed, in part, with the proceeds of the Loan.

"Project Construction Period", if applicable, means the period of time required to substantially complete construction of the Project plus any rent-up period. The Project Construction Period is estimated to be 24 months from the date of execution of this Agreement.

"Regulations" means the regulations promulgated or proposed by the United States Department of Housing and Urban Development.

"Repair and Replacement Reserve" means the escrow account established pursuant to Section 21 of this Agreement.

"Servicing Fee" if applicable, means the servicing fee that is due from the Owner to the Agency as set forth in the First Mortgage Note.

"Special Needs Project Escrow" means the escrow account established pursuant to Section 21 of this Agreement.

"State" means the State of New Jersey.

"Tax Credits" means low income housing tax credits that the Project may receive pursuant to the Code.

"UCC-1" means the UCC-1 Financing Statement(s) of even date herewith.

Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice-versa, when appropriate. This Agreement and all the terms and provisions thereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

Section 2. Background and Purpose. The Owner owns the land and proposes to construct and operate a Project to be located on the Land. The Project will carry a construction and permanent loan of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** at an interest rate of one percent (1%) during the construction and permanent term of thirty (30) years. To obtain financing for the Project, the Owner has applied to the Agency for the Agency Financing pursuant to the provisions of the Program. The Agency will hold a third mortgage lien on the Project during the term of the Mortgage Loan. Financing for the Project is derived in part from the Agency's Program funds, and, in addition to the Mortgage Loan, the Owner has obtained and the Agency has approved funding for the Project as follows:

(a) The Agency provided a loan in the amount of \$1,351,624 in construction and permanent financing..

(b) The Agency provided a loan in the amount of \$11,020,000 in construction and permanent financing from the Fund for Restoration of Multifamily Housing.

(c) The Owner anticipates the sale of 4% tax credits to generate equity in the approximate amount of \$6,371,279.

(d) The Owner received a commitment for a Township of Ocean Loan in the amount of \$300,000;

(e) The Owner received a commitment for a Monmouth County HOME Loan in the amount of \$349,910;

(f) The Owner shall receive a Seller Loan in the amount of \$1,350,000;

(g) The Owner will make an equity investment in the Project pursuant to Section 47 of this Agreement. In connection with the Mortgage, the Owner and the Agency have entered into this Agreement.

In connection with its application for the Loan, the Owner has furnished to the Agency various details as to the Project, including the description of Land on which it is to be situated, plans and specifications for the construction/rehabilitation of the Project, the tenant population that shall be housed in the Project, the number of units of each type to be included therein, the estimated costs of providing the Project, details as to the Project income and expenses of the Project once constructed and/or rehabilitated and placed in operation and arrangements for any tax abatement for the Project.

Section 3. Residential Rental Property. The Owner hereby represents, covenants, warrants and agrees that:

(a) The proposed project is located in the Township of Ocean in the County of Monmouth, in a residential neighborhood. The project involves the new construction of a one (1) four (4) story building with ten (10) two-bedroom units of approximately 850 square feet and eighty-two (82) one bedroom units of approximately 675 square feet with an additional unrestricted one (1) bedroom apartment for the project superintendent. The project will have 93 units. Of the 93 units of housing, 5 units will be set aside for homeless individuals who are consumers of mental health services or any other special needs population described under the Program Guidelines.

(b) The Project is to be utilized at all times in accordance with the types of use as permitted by the Act and the Program and as may be approved by the Agency. The Project shall be subject to use and occupancy and/or lease agreements between the Owner and the residents.

Section 4. Low Income Tenants and/or Moderate Income Tenants. The Owner hereby represents, warrants and covenants that 93 of the units shall be occupied or available for occupancy by Low or Moderate Income Tenants for a period of thirty (30) years from the date hereof. Of the 93 units of housing, 5 units will be set aside for homeless individuals who are consumers of mental health services or for any other special needs population described under the Program Guidelines.

Section 5. Additional Representations, Covenants and Warranties of the Owner. The Owner represents, warrants and covenants that:

(a) The Owner (i) is a limited liability company, duly organized, validly existing and in good standing under the laws of the State and duly authorized to transact business in the State; (ii) has filed with the Agency a true and complete copy of its Certificate of Formation with all amendments, if any, thereto; (iii) has the power and authority to own or lease its properties and assets, including the Project and the Land, and to carry on its business as now being conducted (and as now contemplated), and to borrow the proceeds of the Loans; and (iii) has the power to execute and perform all the undertakings of this Agreement and the other Loan Documents.

(b) All necessary legal action has been taken to authorize the execution, delivery and performance of the Loan Documents by the Owner.

(c) The Loan Documents have been duly executed and delivered by the Owner and constitute the valid and legally binding obligations of the Owner, enforceable against the Owner in accordance with their respective terms.

(d) To the best of the Owner's knowledge after due and diligent inquiry, the execution and performance of this Agreement, the Loan Documents and other instruments required pursuant to this Agreement by the Owner, (i) will not violate or, as applicable, have not violated, any provision of law, rule or regulations, any order of any court or other agency or government or any provision of any document to which the Owner is a party, and (ii) will not violate or, as applicable, have not violated, any provision of any indenture, agreement or other instrument to which the Owner is a party, or result in the creation or imposition of any lien, charge or encumbrance of any nature other than the Permitted Encumbrances.

(e) The Owner will, at the time of execution of this Agreement or at the time of the closing of the Loan and subject only to such exceptions as have been disclosed in writing to the Agency and which will not materially interfere with or impact the beneficial use of the Project and Land for purposes of the Project; have good and marketable title to fee simple interest in the premises constituting the Land and the Project free and clear of any lien or encumbrance (subject to Permitted Encumbrances and encumbrances created or contemplated pursuant to this Agreement).

(f) There is, after due and diligent inquiry, no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially

impair its right to carry on business substantially as now conducted, or as contemplated to be conducted under this Agreement, or would materially adversely affect its financial condition.

(g) To the best of the Owner's knowledge after due and diligent inquiry, the operation of the Project in the manner presently contemplated and as described in this Agreement will not conflict with any zoning, water or air pollution or other ordinance, order, law or regulation applicable thereto. The Owner has caused the Project to be designed in accordance with all applicable federal, state and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality and will proceed with due diligence to rehabilitate the Project pursuant to the Architectural Contract.

Further, the Owner has received or shall obtain all necessary governmental approvals and building permits for construction, rehabilitation and operation of the Project in accordance with the plans and specifications and the Architectural Contract, and shall obtain in a timely manner any and all required extensions of governmental approvals, including, but not limited to, site plan approval. The Owner will continue to retain ownership of the Project and Land during the term of the Mortgage, subject to the terms of this Agreement and the other Loan Documents, the Act, Agency Regulations, the Program, the Program Guidelines, and, if applicable, the Code.

(h) The Owner has filed, caused to be filed by it, or shall file all federal, state and local tax returns which are required to be filed by it, if any, and has paid or caused to be paid all taxes as shown on said return or on any assessment received by it, to the extent that such taxes have become due.

(i) To the best of the Owner's knowledge, after due and diligent inquiry, the Owner is not in material default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which it is a party that may materially affect this Project.

(j) The information contained in the Project description provided in the applications for the Loan is accurate in all material respects and does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(k) Except for Leases contemplated by the Project and Section 17 of this Agreement, the Owner shall not during the term of this Agreement sell, transfer or exchange, the Project or the Land (or any part thereof or any interest therein) at any time except in accordance with the terms of the Mortgage, this Agreement, the Act and the Agency Regulations promulgated pursuant to the Act, and the Program Guidelines and unless such sale, transfer or exchange shall have been approved by the Agency. The Owner shall notify in writing and obtain the agreement in writing of any buyer or successor or other person acquiring the Project or Land or any interest therein, in a form acceptable to the Agency that such acquisition is subject to the requirements of this Agreement. This provision shall not act to waive any other restriction on such sale, transfer or exchange.

(l) The Owner has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof and the Mortgage, and in any event, the requirements of this Agreement and the Mortgage are paramount and controlling as to the rights and obligations herein and in the Mortgage and such requirements shall supersede any other requirements in conflict herewith and therewith.

(m) All statements contained in all applications, correspondence or other materials delivered to the Agency by the Owner in connection with its consideration of the Loan to the Owner or relating to the Project are materially true and correct.

(n) The representations, covenants and warranties of the Owner contained in this Agreement on the date of its execution are true and shall continue to be true at all times during the term of this Agreement.

(o) No event has occurred and no condition exists which constitutes an Event of Default under this Agreement or the Mortgage or which, but for a requirement of notice or lapse of time, or both, would constitute such an Event of Default.

(p) As of the date of this Agreement, the Architectural Contract is in full force and effect and no default has occurred thereunder, and a true copy of the entire Architectural Contract with all modifications and addenda to date has been filed with the Agency

Section 6. Covenants to Run With the Land. The covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and, except as provided in Section 5 hereof, shall pass to and be binding upon the Owner's assigns and successors in title to the Land or the Project; provided, however, that upon the termination of this Agreement in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Land or the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Land or Project are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project and Land.

Section 7. Term. This Agreement shall remain in full force and effect until all indebtedness from the Owner to the Agency in respect to the Project shall have been paid in full in accordance with the provisions of this Agreement, the Mortgage Note and the other Loan Documents.

Section 8. Construction or Rehabilitation of Project. The Owner covenants and agrees to comply with all the provisions of the Architectural Contract and/or Construction Contract, as applicable. The Owner covenants and agrees diligently to pursue the construction or rehabilitation of the Project to completion in accordance with the plans and specifications set forth in the Owner's application for the Loan and the Architectural Contract and as approved by the Agency.

The Owner shall not approve or allow to occur any material change in the scope of plans and specifications for the Project without the express approval of the Agency. Construction or rehabilitation shall at all times be subject to the discretionary inspection, discretionary review, regulation and approval of the Agency and its duly authorized representatives. Any such inspection, regulation, review or approval of the Agency shall be solely for its benefit for the purpose of assuring that the programs and goals of the Project are being fulfilled.

The Owner shall not knowingly do any act which would cause the release, in whole or in part, of the surety bond or bonds issued in connection with the Architectural Contract or Construction Contract, as applicable, including, without limitation, deviation from the payment schedule, waiver of any material requirements imposed on the architect or any contractor or

subcontractor under the Architectural Contract or Construction Contract, as applicable, or consent to any major change in the in the scope of plans and specifications or scope of the work, unless such act would not cause any release because the surety has consented thereto.

Section 9. Funding and Conditions Precedent to Advance.

A. Funding of Construction or Rehabilitation:

Upon and subject to the terms and conditions of this Agreement, the Mortgage and Mortgage Note, the Agency agrees to advance and disburse the principal sum of **FIVE HUNDRED THOUSAND DOLLARS (\$500,000)** as follows:

The balance of the Principal Sum of \$500,000 remaining after disbursement of acquisition costs shall be made only after the Agency has received and approved, subject to its sole discretion, all items required for closing on the Agency Document Checklist for Construction and Permanent Financing.

B. Conditions Precedent to Advance:

The Agency's obligations to make the other disbursement under the Mortgage shall be subject to the satisfaction of the following conditions precedent, any of which may be waived in whole or part by the Agency.

1. Each of the Owner's covenants, agreements, representations and warranties contained in this Agreement shall continue to be true and shall not be breached.
2. If applicable, the full amount of the previous advance shall have been expended for Land acquisition, costs and discharge of any related lien.
3. All work performed and material furnished for the Project shall be in accordance with the plans and specifications for the Project and all work shall have been properly performed to the satisfaction of the Agency.
4. No event shall have occurred and no conditions shall exist that would prevent the advance from becoming a valid third mortgage lien on the Project and the Land or secured by a prior protected security interest on any other collateral mentioned in the Mortgage. If the Agency shall deem it necessary or desirable, all or part of the advance may be disbursed in escrow to a title insurance company licensed to do business in the State of New Jersey for the purpose of discharging any construction or other lien on the Project and Land or any other security mentioned in the Mortgage; and the Owner agrees to certify in writing that the foregoing conditions have been satisfied.

Section 10. Insurance; Condemnation.

During the term of the Agency Financing, the Owner shall cause all the buildings on the premises and the fixtures and articles of personal property covered by the Loan Documents to be insured against loss by fire and against loss by such other hazards as may be required by the Agency for the benefit of the Agency including, but not by way of limitation, flood insurance if any part of the Project is located in an area designated by or on behalf of the federal government as having specific flood hazard. Such insurance shall be written by companies, in forms as are satisfactory to

the Agency, and in amounts not less than the full replacement value of the Project. The Owner shall assign and deliver the policies to the Agency. All such insurance policies which are obtained by the Owner during the term of the loan shall fully comply with all Agency requirements for property and liability insurance, including but not limited to the Agency requirement that the insurer must meet certain rating standards. The Agency shall be listed as first mortgagee, loss payee and additional insured under such policies. Such policies shall provide that the insurer may not cancel the policy and will not refuse to renew the policy except after thirty (30) days written notice to the Agency. If the Owner does not provide the Agency with the evidence of insurance as required herein, the Agency may (but shall not be required to) obtain such coverage. The Owner shall reimburse the Agency on demand for any premiums paid for insurance procured by the Agency, and until so reimbursed, the amount of such premiums shall be added to the principal sum of the First Mortgage Note and shall bear interest at the same interest rate as in the First Mortgage Note.

In the event of substantial damage to the Project by the occurrence of an insured casualty or the taking of a substantial portion of the Project by condemnation, if, in the sole judgment of the Agency (which judgment shall be conclusive): (a) the Project can be replaced or restored in whole or in part, and (b) the Project as so replaced will produce sufficient income to meet the obligations of the Owner under the Loan Documents, the proceeds of insurance or condemnation, together with any other money available for such purpose, if sufficient, shall be made available to the Owner, subject to the approval of the Agency. To the extent the Project is not replaced or restored, the balance of such proceeds shall be applied to the indebtedness secured thereby. Nothing in this Section shall affect the lien of this Agreement and the obligation of the Owner under the Loan Documents to pay the entire balance of the Loan.

The Owner shall maintain continuously in effect such other insurance coverage of the types and in the amounts specified by the Agency, including workers' compensation insurance and other insurance required by law with respect to employees of the Owner, and liability insurance, protecting the Owner and the Agency against any loss or liability or damage for personal injury or property damage with respect to the Project. Owner shall also maintain use and occupancy insurance covering loss of revenues derived from the Project by reason of interruption, total or partial, of the use of the Project resulting from loss or physical damage thereto in an amount not less than one year's gross rental income. The Owner shall carry fidelity bond insurance covering all employees of the Owner authorized to handle the revenues derived from the Project in an amount equal to one-half times the maximum monthly rent roll.

Section 11. Taxes or Payments in Lieu of Taxes. Unless the Owner has received a full tax exemption for the taxes on the Project at the time the Owner takes title to the Project, the Owner covenants and agrees to pay any valid municipal taxes, payments in lieu of taxes, charges, assessments, water charges and/or sewer charges, and in default thereof the Agency may pay the same. Any such sum or sums so paid by the Agency shall be added to the principal sum secured by the Mortgage, as determined by the Agency, and shall bear interest at the then current rate being received by the Agency on its investment as determined in good faith by the Agency.

Section 12. Liens. The Owner covenants and agrees to maintain its right, title and interest in the Project and Land and all items enumerated in Section 7 of the Mortgage free and clear of all liens and security interests, except Permitted Encumbrances, those exceptions identified and set forth in title insurance commitments and title insurance commitment number 14-27698 issued by Stewart Title Guaranty Company dated February 23, 2015, and continued to the date of this Agreement, as accepted by the Agency. Except with the written consent of the Agency, the Owner will not install

any item of tangible personal property as part of the fixtures or furnishings of the Project, which is subject to a purchase money lien or security interest.

The Agency may, at its sole option, pay the amount necessary to discharge any such lien, and the Owner shall promptly reimburse the Agency for any amounts so paid. Until reimbursement of the Agency of any amounts so paid, such amount shall be added to the Principal Sum as defined in and secured by the Mortgage, as determined by the Agency, and shall bear interest at the then current rate being received by the Agency on its investments as determined in good faith by the Agency.

Section 13. Encumbrances - Sale of Project. The Owner covenants and agrees not to sell, lease or otherwise encumber the Project or the Land, or any part thereof, or the rents or revenues thereof without prior written consent of the Agency, except by leasing to eligible residential tenants as provided by the Mortgage and this Agreement.

Section 14. Maintenance, Repair and Replacement. The Owner covenants and agrees to maintain the Project and the appurtenant equipment and grounds in good repair and condition so as to provide decent, safe and sanitary housing accommodations.

Following completion of construction or rehabilitation, the Owner will not make any substantial alteration in the Project without the consent of the Agency, nor will the Owner permit the removal of any fixtures or articles of personal property except in connection with the replacement thereof with appropriate property of at least equal value and free of all liens or claims.

The Owner will not permit any waste with respect to the Project or any of its real or personal property without the consent of the Agency, or make any alteration which will increase the hazard of fire or other casualty.

Section 15. Advance Amortization Payments. The Owner shall not make any advance principal repayment except as allowed by the Program and Program Guidelines.

Section 16. Compliance with the Program, the Act, Agency's Regulations and Any Federal or State Subsidy Source. The Owner covenants and agrees to comply with the Program, the Act and any regulations promulgated pursuant thereto, and with any amendments or supplements to the Program, the Act or regulations. Throughout the term of this Agreement, the Owner further covenants and agrees to comply with any and all requirements imposed upon it as a condition of any federal or state grant, subsidy or loan.

Section 17. Use of Project - Leasing. Except as otherwise expressly provided in Sections 3 and 4 of this Agreement or as otherwise agreed to in writing by the Agency, and except for facilities approved by the Agency as normally appurtenant to residential projects for non-transients (such as laundry facilities), the Project shall be used (or as otherwise may be approved by the Agency) to provide affordable housing units for senior citizens.

Section 18. Consideration for Lease. The Owner covenants and agrees not to require as a condition of the occupancy or leasing of any dwelling unit in the Project and not to accept or allow any employee or agent to accept any consideration other than the prepayment of the first month's rent, plus a security deposit not in excess of one and a half (1.5) month's rent to guarantee the performance of the covenants of the rent agreement or lease.

Section 19. Security Deposit The Owner covenants and agrees to deposit all moneys paid to the Owner by any resident, if any, as a security deposit for the payment of rent or other allowable charges under any use and occupancy agreement and/or lease in a separate interest bearing bank account held and maintained in accordance with applicable law.

Section 20. Account for Project Revenues/Operating Account The Owner covenants and agrees to establish an account for Project Revenues specific to the Project. "Project Revenues" shall mean all rents and other revenues of any type whatsoever received in respect of the Project or the Owner, except for Loan disbursements. Project Revenues shall be deposited in such account and all operating expenses should be paid from this account.

Section 21. Reserve and Escrow Payments.

On the date of the execution of the First Mortgage Loan documents, the Owner will deposit with the Agency the amounts as shown on the closing budget for the Project ("Form 10") which will serve as a reserve against late payments and be available to pay expenses when due or be available to assist with project expenses.

All reserve and escrow payments required shall be held in accounts under the sole control of the Agency and shall be paid out for the benefit of the Project as needed on request of the Owner or on the Agency's own initiative. Any interest which may be earned on such reserves shall remain in the escrow account and shall be used for similar purposes unless the Owner and Agency mutually agree to apply the funds to some other Project purpose.

If the Agency determines that the payments specified herein are insufficient to ensure prompt payment of taxes, payments in lieu of taxes, insurance premiums, or to properly fund painting, decorating, repair and replacement needs with respect to the Project, then the Agency may require an increase in the minimum required escrow amounts necessary to assure proper funding.

Section 22. Inspection of Premises. The Owner covenants and agrees to permit the Agency, its agents or representatives, to inspect the Project at any and all reasonable times with or without notice, pursuant to the provisions of the Act and the Program.

Section 23. Books and Records. The Owner covenants and agrees to maintain adequate books and records of its transactions, including the social services provided to the Project's residents, with respect to the Project in the Owner's standard form. Such books and records shall be available for inspection and audit by the Agency or its agents at any time during business hours, with notice, pursuant to the provisions of the Act and the Program. The Owner further covenants and agrees to cause the financial affairs with respect to the Project to be audited by independent certified public accountants and shall furnish the Agency with its audit report of such accountants as may from time to time be required by the Agency.

The Owner shall furnish to the Agency such other information and reports respecting the Project as may from time to time be required by the Agency.

Section 24. Management Contract. The Owner may, and if the Agency so elects, shall contract for the services of a firm experienced in real estate management to act as the managing agent for the Project. The selection of any such managing agent, the scope of the agent's duties and the basis of the agent's compensation shall be the subject of a consultation between the Agency and

the Owner and any contract for the employment of any managing agent shall provide that such contract may be terminated by the Agency at any time by notice of such determination by the Agency given to the Owner and managing agent.

Section 25. Prohibited Actions. Except with the express approval of the Agency, which approval shall not be unreasonably withheld, the Owner shall not with Project Revenues (as defined in Section 20 hereof), Loan disbursements or grant advances:

1. incur any liabilities, except in connection with the acquisition, rehabilitation and rental of the Project and its operation and maintenance;
2. engage in any business activity except the ownership and operation of the Project;
3. pay more than fair market value thereof for goods or services; and
4. pay compensation to any officer, director or partner in such capacity or make any cash distribution to any of the foregoing.

Section 26. Transfers of Ownership Interests. The Owner shall not transfer or sell any interest in the Project, except in accordance with the Agency's regulations governing such transfers.

Section 27. Statutory Powers and Restrictions. The Mortgage shall be subject to the restrictions in the Act and the Program, and in connection therewith, the Agency shall have the powers set forth in the Act, the Program and the regulations now or hereafter promulgated pursuant to the Act and the Program and the Owner hereby consents to such restrictions and agrees to be bound thereby. Such powers and restrictions shall be in addition to and not in limitation of the rights of the Agency expressly set forth in this Agreement.

Section 28. Accounting in Event of Default; Estoppel. Upon the occurrence of an Event of Default and within ten (10) business days of demand therefore by the Agency, and otherwise within ten (10) business days of written demand by the Agency, the Owner will furnish to the Agency in writing a statement of the principal amount remaining due on the Loan, together with a statement of any known defenses which may exist as to any liability of the Owner on the Notes or otherwise thereunder.

Section 29. Financing Statements. The Owner hereby irrevocably authorizes the Agency to execute on its behalf one or more financing statements or renewals thereof in respect to any of the security interests granted by the Mortgage.

Section 30. Assignment by Agency. The Owner hereby consents to any assignment of any Loan Document by the Agency.

Section 31. Defaults. Each of the following shall be an Event of Default:

- (a) failure by the Owner to pay more than thirty (30) calendar days after the due date any installment of principal or interest on the Loan or any other payment required by the Owner to the Agency or any other person pursuant to the terms of this Agreement, the Mortgage or the other Loan Documents; provided, however, that interest shall accrue on any payment made beyond its due date;

(b) commission by the Owner of any act prohibited by the terms of this Agreement, the Mortgage or any other Loan Document, failure by the Owner to perform or observe in a timely fashion any action or covenant required by any of the terms of this Agreement, the Mortgage or any other Loan Document, or failure by the Owner to produce satisfactory evidence of compliance therewith;

(c) the filing by the Owner under any federal or state bankruptcy or insolvency law or other similar law of any petition in bankruptcy or for reorganization or composition with creditors or the making of an assignment for the benefit of creditors;

(d) the filing against the Owner of a petition seeking its adjudication as a bankrupt or the appointment of a receiver for the benefit of its creditors which shall not have been dismissed within sixty (60) calendar days of the filing thereof, or the adjudication of the Owner as a bankrupt or the appointment of a receiver for the benefit of its creditors; or the appointment by court order of a custodian (such as a receiver, liquidator or trustee) of the Owner or of any of its property or the taking of possession of the Owner or any of its property for the benefit of its creditors and such order remains in effect or such possession continues for more than sixty (60) calendar days;

(e) the occurrence of substantial destruction of the Project by an uninsured casualty or the inability to replace or restore the Project in accordance with Section 11, or failure to maintain insurance that fully complies with the Agency insurance requirements set forth at Section 11 or in Agency insurance specifications minimum requirements, or failure to provide, immediately or no later than 30 days from notice, replacement insurance to meet Agency insurance requirements as set forth in Section 10 during the term of the First Mortgage Loan;

(f) any representation in conjunction with the Loan and the Project by or on behalf of the Owner that is knowingly false or misleading in any respect or warranty of the Owner that is breached;

(g) any breach by the Owner of its obligations or any failure to observe its covenants under this Agreement, and the other Loan Documents; and

(h) failure to complete the Project.

(i) failure or refusal to acquire, rehabilitate, operate and/or maintain the Project in accordance with the Program.

The events set forth in the subsections (b) and (g) of this Section shall not constitute Events of Default until the prohibited acts, failure to perform or observe, or breaches shall remain uncured for a period of thirty (30) calendar days after the Agency's written notice to the Owner, specifying such prohibited act, failure or breach and requesting that it be remedied, unless the Agency shall agree in writing to an extension of such time prior to its expiration; provided, however, that after the Rehabilitation Period only, if the prohibited act, failure, or breach stated in each notice is correctable, but cannot be corrected within the 30-day period, the Agency may not unreasonably withhold its consent to an extension of up to 120 calendar days from the delivery of the written notice referred to herein if corrective action is instituted by the Owner, within the initial 30-day period and diligently pursued.

The failure of the Owner to comply with any of the provisions of Section 25 or 31 of this Agreement shall not be deemed an Event of Default hereunder unless such failure has not been corrected within a period of 60 calendar days, have actual or constructive knowledge of such failure or after the Agency's written notice to the owner, whichever is earlier.

The Agency will send, simultaneously with sending to the Owner any notices under this subsection, a copy of the aforementioned notices to the Owner's investor member. To the extent the Event of Default is curable, a cure tendered in full pursuant to the terms and conditions of this Agreement and the other Loan Documents by the Owner's investor member shall be honored by the Agency.

Section 32. Remedies. Upon the occurrence of any Event of Default, the Agency may at its option take any one or more of the following actions or remedies and no failure to exercise any remedy or take any action enumerated shall constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy:

(a) declare the entire principal sum of the Mortgage together with all other liabilities of the Owner under the Note to be immediately due and payable;

(b) cease making disbursements to the Owner of any funds under the Loan or from reserves held by the Agency;

(c) apply any reserves held by the Agency or the balance in the accounts for Project disbursements and revenues, or any combination of these monies, to the payment of the Owner's liabilities hereunder;

(d) foreclose the lien of the Mortgage on the Project and Land or a portion thereof, including without limitation all Improvements existing or hereafter placed in or on the Project and Land. In any action to foreclose, the Agency shall be entitled to the appointment of a receiver of the rents and profits of the Project as a matter of right and without notice, with power to collect the rents, uses and profits of said Project, due and becoming due during the pendency of such foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured by the Mortgage without regard to the value of the Project or the solvency of any person or persons liable for payment of the mortgaged indebtedness. The Owner for itself and any such subsequent owner hereby waives any and all defenses to the application for a receiver as above and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the holder of the Mortgage of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provisions for the appointment of a receiver of the rents and profits and the assignment of such rents and profits, is made an express condition upon which the Loan hereby secured are made. Upon such foreclosure the Agency shall have the right to have a receiver appointed for the Project and the rent from the Project;

(e) pursuant to its rights under the Act and the Program, remove the Project Manager(s) after consultation with the Owner, or, if the Agency, after consultation with the Owner, decides, it is in the best interest of the Project and Clients, hereinafter defined, the Owner shall deed the Project and Land to the Agency;

(f) take possession of the Project and Land or a portion thereof;

(g) without judicial process, collect all rents and other revenue including federal and State subsidies as the agent of the Owner (which upon the occurrence of any Event of Default the Agency is deemed to have been irrevocably appointed by the Owner), and apply the same at the Agency's option either to the operation and maintenance of the Project or to the liabilities of the Owner under the Mortgage;

(h) act as landlord of the Project and rent or lease the same on any terms approved by it, or dispossess by summary proceedings or other available means any tenant defaulting under the terms of the lease of a dwelling unit;

(i) take possession of equipment, appliances or other tangible personal property in which a security interest has been granted by this Agreement or the Mortgage and dispose of the same in any commercially reasonable manner. The Agency shall have the option to dispose of any such equipment and personal property either separately from the Project and Land or in conjunction with a sale of the Project and Land, and the Owner agrees that either method of disposition shall be commercially reasonable;

(j) make effective an assignment of the Architectural Contract by the Owner to the Agency, in which event the Agency is specifically empowered by the Owner to exercise any and all rights of the Owner under the Architectural Contract, and at the option of the Agency to proceed with the rehabilitation of the Project, in which event all payments by the Owner made with respect to the Architectural Contract shall be treated as disbursements on the Loan;

(k) subject to Section 40 hereof, sue the Owner for a mandatory injunction or other equitable relief requiring performance by the Owner of any of its obligations under this Agreement or the Mortgage or the other Loan Documents. The Owner agrees with the Agency that the Agency's remedy at law for the violation or nonperformance of the Owner's obligations under the Mortgage or this Agreement or the other Loan Documents is not adequate by reason, among other things, of the Agency's public purpose to provide adequate, safe and sanitary dwelling units;

(l) after consultation with the Owner, sue under the Architectural Contract or on a warranty to recover any amount payable to the Owner pursuant to the Architectural Contract or payable to the Owner pursuant to any such warranty and to settle any such claim or liability and release the same and apply the proceeds of any such suit, settlement or release to the liabilities of the Owner under this Agreement or the Mortgage;

(m) if the Owner commits a breach or threatens to commit a breach of any of the provisions of the Mortgages or other Loan Documents, the Agency shall have the right, without posting bond or other security, to seek injunctive relief or specific performance, it being acknowledged and agreed that any such breach, or threatened breach, will cause irreparable injury to the Agency and that money damages will not provide an adequate remedy; and/or

(n) to undertake reasonable maintenance and make reasonable repairs to the Project and to add the cost thereof to the principal balance of the Mortgages.

(o) notwithstanding the above enumeration of remedies, the Agency shall have available to it all other remedies provided at law or in equity or any other action permitted by law subject to the provisions of Section 40 of this Agreement;

Section 33. Expenses Due to Default. All expenses (including reasonable attorneys' fees and costs and allowances) incurred in connection with an action to foreclose the Mortgage or in exercising any other remedy provided by the Mortgage or this Agreement or the other Loan Documents, including the curing of any Event of Default, shall be paid by the Owner, together with interest at the then current rate being received by the Agency on its investments as determined in good faith by the Agency. Any such sum or sums and the interest thereon shall be a further lien on the Project, Land and Improvements, and shall be secured by this Agreement and the Mortgage.

Section 34. Burden and Benefit. The Agency and the Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the Land in that the Owner's legal interest in the Land and the Project is rendered less valuable thereby. The Agency and the Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the Land by enhancing and increasing the enjoyment and use of the Land and part of the Project as housing for persons with developmental disabilities.

Section 35. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project and Land.

Section 36. Remedies; Enforceability. The provisions hereof are imposed upon and made applicable to the Land and shall run with the Land and shall be enforceable against the Owner or any other person or entity that has or had an ownership interest in the Project at the time of such violation or attempted violation. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation hereof at any later time or times.

Section 37. Amendments; Notices; Waivers. This Agreement and the Mortgage may be amended only by an instrument in writing executed and acknowledged on behalf of the Agency and the Owner in such manner that the instrument may be recorded.

No waiver by the Agency in any particular instance of any Event of Default or required performance by the Owner and no course of conduct of the parties or failure by the Agency to enforce or insist upon performance of any of the obligations of the Owner under this Agreement, the Mortgage, or under the other Loan Documents at any time shall preclude enforcement of any of the terms of this Agreement, the Mortgage, the Note, or the other Loan documents thereafter.

Any provisions of this Agreement, the Mortgage or other Loan Documents requiring the consent or approval of the Agency for the taking of any action or the omission of any action requires such consent by the Agency in writing signed by a duly authorized officer of the Agency. Any such consent or approval, unless it expressly states otherwise, is limited to the particular action or omission referred to therein and does not apply to subsequent similar actions or omissions.

Notice provided for under this Agreement shall be given in writing signed by a duly authorized officer and any notice required to be given hereunder shall be given by recognized private carrier with acknowledgment of delivery or by confirmed facsimile, with a hard copy sent by certified mail, return receipt requested, or by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto.

Agency: New Jersey Housing and Mortgage Finance Agency
Attention: Executive Director
637 South Clinton Avenue, CN 18550
Trenton, NJ 08650-2085

Owner: Heritage Village at Oakhurst, LLC
Attention: Barbara K. Schoor
1970 Brunswick Avenue, Suite 100,
Lawrenceville, New Jersey 08648

Investor: Wincopin Circle LLP, its successors and assigns
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center Drive
11000 Broken Land Parkway, Suite 700
Columbia, MD 21044

All notices shall be deemed given when received.

Section 38. Severability. The invalidity of any part or provision hereof shall not affect the validity, legality and enforceability of the remaining portions hereof, and to this end the provisions of this Agreement shall be severable.

Section 39. Successors and Assigns. This Agreement and all rights, duties, obligations and interests arising hereunder shall bind and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

Section 40. Personal Liability. Notwithstanding any other provision contained in this Agreement, the other loan documents or any other document or instrument executed by the owner in connection herewith or therewith, the Agency agrees, on behalf of itself and any future holder of the Note, that the liability of the Owner, any general or limited partner, member or shareholder of the Owner, if applicable, and its respective heirs, representatives, successors and assigns, for the payment of its obligations hereunder and under the other loan documents, including, without limitation, the payment of principal, interest and other charges due hereunder and thereunder, shall be limited to the collateral pledged under the mortgage and the other loan documents, and that the Agency shall have no right to seek a personal judgment against the Owner, any general or limited partner, member or shareholder of the Owner, if applicable and its respective heirs, representatives, successors and assigns, individually, except to the extent necessary to subject the collateral (including the Project and Land) pledged under the Mortgage and the other loan documents to the satisfaction of the Mortgage debt, and provided, however, that the Agency shall retain the right to exercise any and all remedies granted to it under the Mortgage, this Agreement and the other loan documents, including without limitation the right to sue for injunctive or other equitable relief. The foregoing limitation of liability shall not apply to any party to the extent such party has committed fraudulent, criminal or other unlawful acts and shall not apply to such amounts due to the Lender pursuant to Sections 10, 11, 12, 13, 14, 33 and 47 of this Agreement.

Section 41. Reserved.

Section 42. Disclaimer of Warranties, Liability; Indemnification/Defense.

A. The Owner acknowledges and agrees that (i) the Agency has not heretofore and does not make any warranty or representation, either express or implied, as to the value, condition, or fitness for particular purposes of the Project or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Agency or its agents or employees be liable or responsible for any incidental, indirect, special or consequential damages in connection with or arising out of this Agreement or any of the other Loan Documents or the development of the Project or the existence, functioning or use of the Project or any items or services provided for in this Agreement or the other Loan Documents; and (iii) during the term of this Agreement and the other Loan Documents and to the fullest extent permitted by law, the Owner shall indemnify, defend and hold the Agency harmless against, damage, claims, judgments or expenses of any and all kinds or nature and however arising, imposed by law, which the Owner and the Agency including reasonable attorneys' fees and costs, may sustain, be subject to, or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contract entered into by the Owner, or arising out of the Owner's ownership of the Project or out of the construction, rehabilitation, operation or management of the Project.

B. It is mutually agreed by the Owner and the Agency that the Agency and its directors, officers, agents, servants and employees shall not be liable for any action performed under this Agreement, and that the Owner shall hold them harmless from any claim or suit of whatever nature.

C. Any claims asserted against the Agency shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. While this statute may not be applicable by its terms to claims arising under contracts with the Agency, the Owner agrees that it shall be applicable to any claims arising under the Loan Documents. It is acknowledged by the parties that the Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq.

Section 43. Recording. This Agreement shall be duly recorded in the Office of the Clerk for the county in which the Land is located within ten (10) days following its execution.

Section 44. Governing Law. This Agreement shall be governed by the laws of the State of New Jersey. The parties agree that any cause of action that may arise under this Agreement or the Loan Documents shall have jurisdiction and venue only in the Courts of the State of New Jersey in and for the County of Mercer.

Section 45. Equal Opportunity and Non-Discrimination. The Owner covenants and agrees that it will comply with the Agency guidelines with respect to equal opportunity and non-discrimination in its purchase of goods and services for the operation and maintenance of the Project throughout the term of this Agreement.

Section 46. Counterparts This Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original. A fax copy of a signature on this Agreement shall have the same effect as an original provided that an original is received by the other party hereto within two business days thereafter.

Section 47. Investment Funding and Return on Investment

The Owner agrees to make an investment in the Project and Land in an amount which is not less than 20% of the total Project cost as determined by the Agency pursuant to the Act and the Program. In the event the principal sum set forth in the Agency Financing that is advanced to the Owner is determined by the Agency to exceed 80% of the total Project cost, the Owner shall reimburse the Agency an amount that would reduce the Agency Financing to 80% of the total Project cost.

Owner will be eligible for a return on its investment, the rate of which will be reflected in the Agency construction and permanent loan documents.

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Not Certified Copy

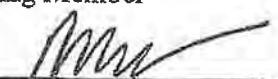
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

WITNESS/ATTEST

BORROWER:
HERITAGE VILLAGE AT OAKHURST LLC

By: CIS Oakhurst LLC, its Managing Member
By: Community Investment Strategies, Inc., its
Managing Member



Christopher M. Walrath

By: 
Barbara K. Schoor, Vice President

WITNESS/ATTEST

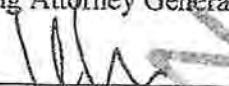
LENDER:
**NEW JERSEY HOUSING AND
MORTGAGE FINANCE AGENCY**


Jennifer H. Linetti
Assistant Secretary

By: 
James E. Robertson
Chief of Legal and Regulatory Affairs


This Agreement is approved as to form.

John J. Hoffman
Acting Attorney General of the State of New Jersey

By: 
William F. Hanna
Deputy Attorney General

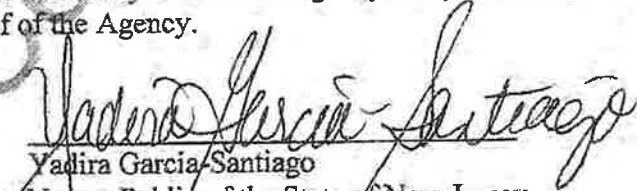
STATE OF NEW JERSEY)
) SS:
COUNTY OF MERCER)

I CERTIFY that on April 27, 2015, Barbara K. Schoor personally came before me, the subscriber, an Attorney at Law of the State of New Jersey, and acknowledged under oath, to my satisfaction that (a) she is the Vice President of Community Investment Strategies, Inc., which is the managing member of CIS Oakhurst, LLC, which is the managing member of Heritage Village of Oakhurst, LLC, the limited liability company named in this document; and (b) she executed and delivered this document as the voluntary act of the limited liability company duly authorized by the Members.


Christopher M. Walrath, Esquire
Attorney at law of New Jersey

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on April 27, 2015, **JAMES E. ROBERTSON** personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) he is the **Chief of Legal and Regulatory Affairs** of **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**, the Agency named in this document, and b) he executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.


Yadira Garcia-Santiago
Notary Public of the State of New Jersey
My Commission Expires on November 20, 2017

Stewart Title Guaranty Company

PRO FORMA LOAN POLICY

SCHEDULE A

LEGAL DESCRIPTION

Policy No.:

File No.: 14-27698

ALL that certain lot, piece or parcel of land, situate, lying and being in the Township of Ocean, in the County of Monmouth, State of New Jersey:

All that certain lot, tract or parcel of land situate, lying and being in the Township of Ocean in the County of Monmouth and the State of New Jersey, and being all of a Block 3 Lot 16.03 & 16.04 said lots as shown on a certain map entitled "ALTA/ACSM Land Title Survey for Block 3 Lots 16.03 & 16.04, Twp. of Ocean, Monmouth County, New Jersey" prepared by Maser Consulting, dated August 12, 2014, said lots also as shown on the Official Tax Map of the Township of Ocean and being more particularly bounded and described as follows, to wit:

BEGINNING at a point in the existing northerly line of Lot 16.01 Block 3, said point the following bearing and distance from the point of intersection formed by the existing northerly line of West Park Avenue, (Variable Width R.O.W.) with existing easterly line of Lot 16.01 Block 3, said adjoining lots as shown on the aforesaid map and plan,

A) North seven degrees three minutes thirty seconds West (N 07° 03' 30" W), one hundred ninety-five and twenty-five hundredths feet (195.25'), along the aforesaid existing easterly line of Lot 16.01 Block 3, to a point in the same, to a point in the existing northerly line of same, thence -

And from said point running, thence,

1. South eighty-two degrees fifty-six minutes thirty seconds West (S 82° 56' 30" W), eighty-one and sixty-seven hundredths feet (81.67') along the aforesaid existing northerly line of Lot 16.01 Block 3, to an angle point in the same, thence-

2. South sixty-two degrees zero minutes fifty-seven seconds West (S 62° 00' 57" W), one hundred sixty-one and twenty-six hundredths feet (161.26'), still along the aforesaid existing northerly line of Lot 16.01 Block 3, to a point in an existing westerly line of same, thence -

3. South nineteen degrees thirty-nine minutes forty-five seconds East (S 19° 39' 45" E), eight and ninety hundredths feet (8.90'), along an existing westerly line of Lot 16.01 Block 3, to a point in the northerly line of same, thence-

4. South fifty-two degrees thirty-seven minutes thirty-two seconds West (S 52° 37' 32" W), thirty-nine and three hundredths feet (39.03'), along the aforesaid existing northerly line of Lot 16.01 Block 3 to a point in the existing easterly line of Lot 16.02 Block 3, said adjoining lot as shown on the aforesaid map and plan, thence -

5. North thirty-seven degrees twenty-two minutes twenty-eight seconds West (N 37° 22' 28" W), forty-eight and thirty-five hundredths feet (48.35'), along the aforesaid easterly line of Lot 16.02 Block 3, to a point in the existing northerly line of same, thence-

6. North eighty-six degrees nine minutes thirty-seven seconds West (N 86° 09' 37" W), seventy-eight and sixty-six hundredths feet (78.66'), along the aforesaid existing northerly line of Lot 16.02 Block 3 to an angle point in the same, thence -

Continued...

Stewart Title Guaranty Company

7. South seventy-two degrees forty-seven minutes fifty-seven seconds West ($S 72^{\circ} 47' 57'' W$), seventy-one and two hundredths feet (71.02'), still along the aforesaid existing northerly line of Lot 16.02 Block 3 to a point in the existing easterly line of Lot 14 Block 3, said adjoining lots as shown on the aforesaid map and plan, thence-
8. North five degrees forty-four minutes thirty-seven seconds East ($N 05^{\circ} 44' 37'' E$), eighty-seven and fifty-one hundredths feet (87.51'), along the aforesaid existing easterly line of Lot 14 Block 3 and beyond, along the existing easterly line of Lot 13 Block 3, to a point in the existing southerly line of Lot 12.01 Block 3, said adjoining lots as shown on the aforesaid map and plan, thence -
9. South eighty-four degrees fifteen minutes twenty-three seconds East ($S 84^{\circ} 15' 23'' E$), forty and fifty-eight hundredths feet (40.58'), along the aforesaid southerly line of Lot 12.01 Block 3, to a in the existing easterly line of same, thence-
10. North five degrees forty-four minutes thirty-seven seconds East ($N 05^{\circ} 44' 37'' E$), one hundred eighteen and forty-six hundredths feet (118.46'), along the aforesaid existing easterly line of Lot 12.01 Block 3, to a point of non-tangent curvature in the existing northerly line of same, thence -
11. Northwestery, on a curve having a radius of 80.00', and curving to the left an arc length of 30.74' (central angle $22^{\circ} 00' 55''$), with a chord bearing of North seventy-three degrees seven minutes five seconds West ($N 73^{\circ} 07' 05'' W$), and a chord distance of thirty and fifty-five hundredths feet (30.55'), along the northerly line of Lot 12.01 Block 3, to a point of tangency in the same, thence -
12. North eighty-four degrees fifteen minutes twenty-three seconds West ($N 84^{\circ} 15' 23'' W$), ten and twenty-three hundredths feet (10.23'), along the aforesaid existing northerly line of Lot 12.01 Block 3, to a point in the existing easterly line of same, thence-
13. North five degrees forty-four minutes thirty-seven seconds East ($N 05^{\circ} 44' 37'' E$), seven hundred sixteen and eighty-three hundredths feet (716.83'), along the existing easterly line of Lots 12.01, 11 & 7.01 Block 3, to a point in the same, said adjoining lots as shown on the aforesaid map and plan, thence -
14. South eighty-three degrees thirty-six minutes nine seconds East ($S 83^{\circ} 36' 09'' E$), two hundred thirty-six and thirty hundredths feet (236.30'), along the existing southerly line of Lot 4 Block 3, to a point in the existing westerly line of same, said adjoining lot as shown on the aforesaid map and plan, thence -
15. South seven degrees three minutes thirty seconds East ($S 07^{\circ} 03' 30'' E$), eight hundred eight and seventy-five hundredths feet (808.75'), along the aforesaid existing westerly line of Lot 4 Block 3, to a point in the same, the Point and Place of BEGINNING.

The foregoing description was prepared by the undersigned Land Surveyor for the firm of Maser Consulting P.A., and is based upon a certain plan entitled "ALTA/ACSM Land Title Survey for Block 3 Lots 16.03 & 16.04, Twp. Of Ocean, Monmouth County, New Jersey" prepared by Maser Consulting, dated 3/10/2015 revised 3/23/2015.

SUBJECT TO: 15' wide NJ Bell and JCP&L easement as contained in Deed Book 4310 Page 270.

ALSO SUBJECT TO: 20 foot wide storm drainage easement to the Township of Ocean as well as a 12' wide storm sewer easement as shown on a certain map entitled "Township of Ocean, Major Subdivision Located at Lots 12 & 16 Block 3, Township of Ocean, Monmouth County, New Jersey", said Map being duly filed in the Monmouth is County Clerk's Office on March 21, 2012 as Case Number 311, Sheet 1.

FOR INFORMATION PURPOSES ONLY: BEING known as 777 West Park Ave, Tax Lot 16.03 and 16.04, Tax Block 3 on the Official Tax Map of Township of Ocean, NJ.

LIHTC # 1450



Prepared By:

Joyce Lim

DEED OF EASEMENT AND RESTRICTIVE COVENANT FOR EXTENDED LOW-INCOME OCCUPANCY

THIS DEED OF EASEMENT and RESTRICTIVE COVENANT (the "Covenant") dated as of November 10, 2014, shall run with the land and is granted by Heritage Village at Oakhurst LLC and its successors and assigns (the "Project Owner") whose principal address is 1970 Brunswick Avenue, Suite 100 Lawrenceville NJ, 08648, to the New Jersey Housing and Mortgage Finance Agency, its successors and assigns, (the "Agency") acting as the housing credit agency for the State of New Jersey as described in Section 42(h)(3) of the Internal Revenue Code as amended, and to income eligible members of the public as defined below. As conditioned below this Covenant restricts occupancy of the described premises to income eligible occupants for a specified period of time. This Covenant is made in satisfaction of the requirements of Section 42 of the Federal Tax Reform Act of 1986, P.L. 99-514, as amended, (the "Code").

As indicated on the Determination Letter or the IRS Form(s) 8609 for the building(s) described below, the Agency has determined the eligibility for and issued Low Income Housing Tax Credits ("LIHTC") authorized under the Code in an estimated annual amount of \$652,505 to be claimed by the Project Owner over a 10 or 15 year period pursuant to the Code. In consideration of the receipt of the benefit of the LIHTC, the Project Owner hereby agrees to the following restrictive covenants, which are made in satisfaction of the requirements contained in Section 42(h)(6) of the Code.

- (1) The one building, which consist of a total of 93 residential rental units, of which 92 are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section 42(g)(1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as Heritage Village at Oakhurst (the "Project"). The Project is located at 777 West Park Avenue, Ocean Township NJ, 07755, Municipal Tax Map Block No. 3, Lots No. 16.03 and 16.04 in the County of Monmouth, New Jersey, and title to which has been recorded in the County Clerk or Register's Office being more fully described as set forth in Attachment "A" hereto.
- (2) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code (the smaller of the low-income unit fraction or the low-income floor space fraction), and as provided by the Project Owner in its low income housing tax credit application (the "Application") is 100 percent. This fraction shall not be decreased during any taxable year of the compliance period or extended use period unless terminated in accordance with the provisions enumerated at Section 42(h)(6)(E) of the Code.

- (3) This Covenant and the Section 42 occupancy and rent restrictions shall commence on the first day of the compliance period as defined in section 42 of the Code, and shall end on the date which is fifteen (15) years after the close of the initial fifteen (15) year compliance period, unless terminated by foreclosure or instrument in lieu of foreclosure, pursuant to the provisions of the Code, and any regulations promulgated thereunder.
- (4) The extended use period shall terminate, subject to the provisions regarding low-income tenancy and gross rent restrictions, on the date the buildings are acquired by foreclosure (or an instrument in lieu of foreclosure), or on the last day of the one year period beginning on the date after the fourteenth (14th) year of the initial compliance period that the Project Owner submits a written request to the Agency to present a qualified contract (as defined at Section 42(h)(6)(F) of the Code) for the acquisition of the buildings, if, and only if, the Agency is unable to present within that year's time, a qualified contract from a purchaser who will continue to operate such buildings as a qualified low-income project.
- (5) The compliance period begins at the same time as the credit period. The Project Owner elects when to begin the credit period at the time the Project Owner's first tax return is filed with the Internal Revenue Service. It is expected that the Project Owner will begin the credit period in 2016.
- (6) The federal set-aside, as defined by section 42(g)(1) of the Tax Code, which was selected by the Project Owner in its Application requires that 40 percent or more of the residential units in the Project are both rent restricted and occupied by individuals whose income is 60 percent or less of area median gross income (AMGI) ("income eligible members of the public"). The selection of this federal set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.
- (7) ☐ If this box is checked, the Project is a Special Needs Project as defined in the _____ Qualified Allocation Plan, and as selected by the Project Owner in its Application and as such, the Project Owner must BOTH restrict 25% of the LIHTC units in the Project for occupancy by one or more special needs population through the end of the compliance period AND make available at a reasonable cost to all tenants with special needs a minimum of three appropriate and accessible social services throughout the compliance period. One of the social services must be a social service coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs. Notwithstanding the above, if after a period of sixty (60) days of a unit described in this paragraph becoming unoccupied the Project cannot identify an eligible person within the special needs population selected by the Project Owner in its Application to rent the unoccupied unit, such unit may be leased to any low income housing tax credit eligible person or family, with a preference given first to eligible persons in other special needs populations. The next unit of similar size in the Project that becomes unoccupied shall be rented to an eligible person within the

special needs population selected by the Project Owner in its Application on the same terms set forth herein.

- (8) Pursuant to section 42(h)(6)(B)(iii) of the Code, this Covenant prohibits the disposition to any person of any portion of a building to which this Covenant applies unless all of the building to which such Covenant applies is disposed of to such person.
- (9) Pursuant to Revenue Ruling 2004-82, this Covenant prohibits (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or (ii) any increase in the gross rent with respect to the unit not otherwise permitted under section 42 of the Code for the term of the extended use period and a period of three (3) years following any termination of this Covenant, including any termination by foreclosure or instrument in lieu of.
- (10) Pursuant to section 42(h)(6)(B)(iv) of the Code, this Covenant prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 of the status of the prospective tenant as such a holder.
- (11) This Covenant shall constitute an agreement between the Agency and the Project Owner which is enforceable in the courts of the State of New Jersey by the Agency or by individual(s), whether prospective, present, or former occupants of the Project, who meet the income limitations applicable to the Project under Section 42(g) of the Code, said individual(s) being express beneficiaries of this Covenant.
- (12) The Project Owner agrees to comply with the requirements of the federal Fair Housing Act as it may from time to time be amended.
- (13) The Project Owner agrees (i) to obtain the consent of any recorded lien holder on the Project to the terms and conditions of this Covenant and (ii) it will not grant to any lien holder an interest in the Project that is superior to the terms and conditions of this Covenant. Such consent and subordination of the interests of all recorded lien holders on the Project shall be conditions precedent to the issuance of IRS Form(s) 8609.
- (14) The Project Owner agrees to employ throughout the compliance period a staff person who has successfully completed a NJHMFA-approved tax credit certification program with a continuing education component prior to the project being placed in service. The staff person responsible for verification of tenant income must be the person to successfully pass the certification examination and maintain the certification for the term of the compliance and extended use periods.
- (15) This Covenant is binding on all successors in interest to the Project and shall run with the land until the end of the extended use period, unless terminated prior to said date in accordance with all provisions of the Code and the regulations promulgated thereunder.
- (16) These covenants may, from time to time, be amended only with the written consent of the

Agency, to reflect changes to the Code or regulations promulgated thereunder. Project Owner expressly agrees to enter into such amendments as may be necessary to maintain compliance under section 42 of the Code.

- (17) In order to enable the Agency to monitor the Project Owner's compliance with these use and occupancy restrictions pursuant to the Code, Project Owner covenants and agrees that the Agency and its agents or employees shall be allowed to enter and inspect the Project during business hours and to inspect and copy all books and records pertaining to the Project.
- (18) The Project Owner covenants and agrees to comply and cooperate with the Code and all Agency tax credit compliance monitoring procedures including but not limited to completing and sending to the Agency an annual status report, or, if requested by an authorized official of the Agency, more frequent reports, in form and content acceptable to the Agency, which shall demonstrate ongoing compliance with this Covenant.
- (19) The Project Owner covenants and agrees that in the event it files for bankruptcy, liquidates, sells or otherwise transfers ownership of the Project, it will notify the Agency in writing, and further, that as a condition precedent to any sale or transfer it will enter into such agreements with the purchaser or transferee as may be prescribed by the Agency, which have the effect of causing such purchaser or transferee to be bound by these use and occupancy restrictions, as they may be amended or supplemented.
- (20) The terms of this Covenant shall be interpreted, conditioned and supplemented in accordance with and by section 42 of the Code and regulations promulgated thereunder, all of which are incorporated herein by reference, whether or not such provisions of the Code or regulations are expressed or referenced herein. In the event of any conflict between this Covenant and the requirements of the Code, the Code shall prevail. The Agency reserves the right to set conditions for the allocation of LIHTC by regulation that may be more stringent than the Code.
- (21) The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining provisions.
- (22) This Covenant may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON NEXT PAGE]

Signatures: This Covenant is granted by the Project Owner whose duly authorized representative's signature appears below.

Sworn and subscribed to before
the undersigned Notary Public or
Attorney on the date appearing below:

WITNESS

(IF INDIVIDUAL, LLC, OR PARTNERSHIP)



PROJECT OWNER:

By:



Authorized Representative



Heritage Village at Oakhurst LLC

By: CIS Oakhurst LLC

By: Barbara K. Schoor, Vice President

Community Investment Strategies, Inc.

ATTEST (IF A CORPORATION)

PROJECT OWNER:

Secretary

By:

President (Corporation)

KRISTINE GIORDANO HANLON
ACTING COUNTY CLERK
MONMOUTH COUNTY, NJ

(Print Name)

INSTRUMENT NUMBER

2015040923

RECORDED ON

09 11 2015

10:49:32 AM

BOOK: OR-9112

PAGE: 3080

Total Pages: 6

COUNTY RECORDING \$80.00

FEES

TOTAL PAID \$80.00

ACKNOWLEDGEMENT FOR PARTNERSHIP
(who has a corporate entity as general partner)

STATE OF NEW JERSEY)
) SS:
COUNTY OF)

I CERTIFY that on _____, 2013,
_____ OF THE PARTNERSHIP personally came
before me, and this person acknowledged under oath, to my satisfaction, that (a) this person is the
President of _____ who is the general partner of
_____, the Owner named in this document (the "Partnership");
and (b) this document was signed and delivered by the Partnership as its voluntary act duly authorized
by a proper resolution of the Board of Directors of the General Partner.

SWORN TO AND SUBSCRIBED
before me, the date aforesaid.

Notary Public

ACKNOWLEDGEMENT FOR LIMITED LIABILITY COMPANY

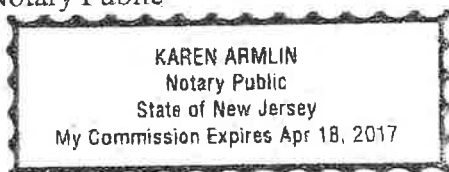
STATE OF NEW JERSEY)
) SS:
COUNTY OF Mercer)

I CERTIFY that on November 13, 2013, Barbara K. Schoor
personally came before me, and this person acknowledged under oath, to my satisfaction, that (a) this
person is the Managing Member of Community Investment Strategies Inc; d/b/a, the Owner named in this
document (the "LLC"); and (b) this document was signed and delivered by the Company as its voluntary
act duly authorized by a proper resolution of the Company.

*Member of CIS Council
JHC, Managing Member of
Heritage Village of Carmel LLC*

SWORN TO AND SUBSCRIBED
before me, the date aforesaid.

Karen Armlin
Notary Public





MONMOUTH COUNTY

HOME INVESTMENT PARTNERSHIPS PROGRAM

AFFORDABLE HOUSING DEED RESTRICTION

Effective Date April 27, 2015

LENDER:

COUNTY OF MONMOUTH, a municipal corporation of the State of New Jersey, having its principal offices located at the Office of Community Development, Monmouth County Division of Planning, 1 East Main Street, Freehold, NJ 07728

BORROWER/OWNER:

Heritage Village at Oakhurst LLC, a limited liability company organized under the laws of the State of New Jersey, having an address located at 1970 Brunswick Ave. Suite 100, Lawrenceville, New Jersey 08648.

PROJECT PROPERTY:

The Property mortgaged to Lender is located in the Township of Ocean, County of Monmouth, and State of New Jersey known on the tax map of Ocean Township Block 3, Lots 16.03 & 16.04, 777 West Park Avenue, Ocean Township, New Jersey 07755

PROJECT:

Construction of three (3) undesignated "floating" affordable rental units ("HOME Units") as part of a project for the construction of ninety-three (93) affordable residential affordable rental units, including one (1) superintendents unit.

LOAN AMOUNT:

\$349,910

LOAN TERM: Thirty (30) years

Affordability Compliance Term: For 20 Years Monmouth County will monitor for HUD compliance.

WHEREAS, the above named Lender has entered into a HOME Investment Partnership Agreement pursuant to Title II of the National Affordable Housing Act with United States Department of Housing and Urban Development (hereafter), "HUD", by which HUD provides funding for eligible projects; and

WHEREAS, the Lender has been designated to implement a HOME Investment Partnerships Program (hereafter referred to as the "HOME Program") in accordance with applicable regulations, including 24 CFR Part 92; and

WHEREAS, the Note is secured by that certain Mortgage dated April 27, 2015 from Borrower to Lender (the "Mortgage"), which Mortgage was recorded in the office of the Clerk of Monmouth County, New Jersey on; and

CHRISTINE GIORDANO HENLY
ACTING COUNTY CLERK
MONMOUTH COUNTY, N.J.

INSTRUMENT NUMBER

2015040938

RECORDED ON

MAY 11, 2015

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COUNTY RECORDING FEES

\$120.00

TOTAL PAID

\$120.00

WHEREAS, the Project is subject to the terms of that certain Home Investment Partnerships Program - Loan Agreement by and between the County of Monmouth and Heritage Village at Oakhurst LLC; and

WHEREAS, the Borrower has requested funding to undertake the above described Project; and

WHEREAS, the proposed Project is eligible for funding if carried out pursuant to HUD's rules and regulations; and

WHEREAS, the HOME Program requires eligible project properties be subject to a deed restriction, reflecting that said properties are for the purpose of providing housing for families of certain income levels as established by HUD; and

WHEREAS, Borrower has agreed to comply with this condition by signing and delivering this document.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions contained herein, the above-named Borrower/Owner grants to the above-named Lender, its successors and assigns the rights stated in this document on the above-described Project Property ("Premises"), which Property is described in Exhibit A attached hereto, for the purpose of ensuring retention of affordable rental housing for occupancy by low and very low-income persons and families.

1. Purpose. The purpose of this Affordable Housing Restriction is to assure that low and very low-income households will retain the Premises as affordable housing for occupancy.
2. Nature and Term of Covenants. The Borrower intends, declares and covenants, on behalf of itself and its successors and assigns, that the covenants and restrictions set forth in this Affordable Housing Restriction regulating and restricting the use, occupancy and transfer of the Premises (a) shall be and are covenants running with the land, encumbering the Premises for a term of THIRTY (30) YEARS from the date of execution hereof; (b) are binding upon the Borrower's successors in title and all subsequent owners of the Premises, (c) are not merely personal covenants of the Borrower, and (d) shall bind the Borrower and its successors and assigns and the benefits shall inure to the Lender and to any present or prospective tenant of the Premises. The Borrower acknowledges that it has received assistance from the Lender in developing the Premises as affordable rental housing, which assistance includes a loan from the Lender under the HOME Investments Partnership Program (the "HOME Program"). This Affordable Housing Restriction shall continue in force for its stated term regardless of the prior repayment of such loan.
3. Notice of Covenants. Each and every contract, deed or other instrument hereafter executed conveying the Premises or portion thereof shall expressly provide that such conveyance is subject to this Affordable Housing Restriction. The covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Premises or portion thereof actually provides that such conveyance is subject to this Affordable Housing Restriction.
4. Unit Standards. The Premises shall be used for up to ninety-three (93) units of rental housing, as described above. Each of the HOME Units shall contain complete facilities for

living, sleeping, eating, cooking and sanitation that are to be used on other than a transient basis. Each of the HOME Units shall meet the housing quality standards set forth in the regulations of the HOME Investment Partnership Program at 24 CFR Part 92, Section 92.251 or any successor thereto.

5. Discrimination Prohibited. The Borrower shall not discriminate on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin or any other basis prohibited by law in the lease, use and occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project. The Borrower shall not discriminate against, or refuse to lease, rent or otherwise make available units in the Project to a holder of a certificate of family participation under the Federal Rental Certificate Program (24 CFR Part 882) or a rental voucher under the Federal Rental Voucher Program (24 CFR Part 887) or a holder of a comparable document evidencing participation in a HOME Program, tenant-based assistance program because of the status of the prospective tenant as a holder of such certificate of family participation, rental voucher or comparable HOME Program tenant-based assistance document. Notwithstanding the above, the project shall be age restricted as per the regulations of the Housing for Older Persons Act.

5.1. Nondiscrimination Policies. The Borrower shall adopt and submit resident selection policies and criteria to Lender and Lender shall have the right of approval thereof. Said policies and criteria shall comply with the following requirements:

(a) They shall be consistent with the purpose of providing housing for "Low Income Families" and "Very Low Income Families", as defined below in Section 6 and required herein;

(b) They shall be reasonably related to HOME Program eligibility of prospective tenants and to the prospective tenants' ability to perform the obligations of the Borrower's form lease;

(c) They shall give reasonable consideration to the housing needs of families that would have preference under 24 CFR Part 960.211 (Federal selection preferences for admission to public housing); and

(d) They shall provide for (i) the selection of residents from a written waiting list in the chronological order of their application, insofar as practicable, and (ii) the prompt written notification to any related applicant of the grounds for any rejection.

Lender must approve any changes to these policies and criteria in writing. The Borrower shall also provide the Lender with an affirmative marketing plan acceptable to the Lender.

The approved marketing plan and the approved resident selection policies and criteria shall be adhered to in every respect.

6. Tenant Income Standards. During the term of this Affordable Housing Restriction the HOME Units shall be leased to Families or individuals whose annual incomes are at or less than SIXTY PERCENT (60%) of the median income for the Area (as defined below). A "Family" is defined as one or more individuals occupying a unit and satisfying the standards adopted by HUD for the so-called Section 8 Program under the United States

Housing Act of 1937 and promulgated at 24 CFR Part 812. The "Area" is defined as the Monmouth-NJ PMSA. A Family's annual income shall be the anticipated total income from all sources received by the Family head and spouse (even if temporarily absent) and by each additional member of the Family (other than children under the age of 18 years), including all net income derived from assets for the 12-month period following the effective date of certification of income. Annual Income specifically includes and excludes certain types of income as set forth in, and shall be determined in accordance with, 24 CFR Part 813.106 (or any successor regulations).

7. Rental Amount Limits. Rental amounts shall comply with the following:

a. The monthly rent charged for the HOME Units to be rented to families whose incomes are at or below sixty percent (60%) of median area income shall not be greater than thirty percent (30%) of the monthly gross income of a Family and less than the established Low Home Rent for that year (or such higher or lower percentage as may be established by HUD pursuant to applicable regulations under the HOME Program) of the median income for the Area, as determined by HUD, with adjustment for number of bedrooms in the unit using average occupancy per unit assumptions provided by HUD. The monthly rent charged for the HOME Units to be rented to families whose incomes are above sixty percent (60%) of median area income shall not be greater than the lesser of the Fair Market Rent for Monmouth County as established by HUD or thirty percent (30%) of the monthly gross income of a Family whose income equals sixty-five percent (65%) (or such higher or lower percentage as may be established by HUD pursuant to applicable regulations under the HOME Program) of the median income for the Area, as determined by HUD, with adjustment for number of bedrooms in the unit using average occupancy per unit assumptions provided by HUD. In determining the maximum monthly rent that may be charged for a unit under this clause the Borrower shall subtract from the above amount a monthly allowance for any utilities and services (excluding telephone) to be paid by the Family. Further, Annual Income shall be determined pursuant to 24 CFR part 92.203

b. Borrower shall make the determination of whether a Family meets the income requirements set forth herein at the time of leasing of a HOME Unit and thereafter at least annually on the basis of the current income of such Family.

8. Initial Proposed Rents. Prior to initial occupancy of a HOME Unit and annually thereafter as part of the annual reports required under Section 9 below, Borrower shall submit to Lender a proposed schedule of monthly rents and monthly allowances for utilities and services for all HOME Units in the Project. The rent schedule shall include both the maximum rents applicable to units as described above as well as the actual rents to be charged to over-income Families or Individuals. Such schedule shall be subject to the approval of Lender for compliance with the requirements of this Affordable Housing Restriction.

9. Records and Reporting to Lender. Borrower shall maintain as part of its Project records copies of all leases of the HOME Units and all initial and annual income certifications by tenants of the HOME Units. Within 60 days after the end of each calendar year of occupancy of any portion of the Project, the Borrower shall provide to the Lender annual reports consisting of certifications regarding the annual and monthly gross and adjusted income of each Family occupying any of the HOME Units. With respect to Families or Individuals who move to the HOME Units in the prior year, the annual report shall also

include certifications regarding the annual and monthly gross and adjusted incomes of such Families at the time of the initial occupancy of a HOME Unit. The annual report shall be in a form approved by the Lender and shall contain such supporting documentation as the Lender shall reasonably require. In addition to the foregoing, Borrower shall keep such additional records and prepare and submit to lender such additional reports as Lender may deem necessary to ensure compliance with the requirements of this Affordable Housing Restriction and of the HOME Program.

10. Increases in Rental Amounts. Rents for the HOME Units shall not be increased without the Lender's prior written approval of either (a) a specific request by Borrower for a rent increase or (b) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by Borrower to all affected tenants.

11. Prohibited Lease Provisions. The Borrower shall not include in any lease for a HOME Unit in the Project any of the following provisions:

a. Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the Borrower in a lawsuit brought in connection with the lease.

b. Agreement by the tenant that the Borrower may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the unit after the tenant has moved out of the unit. The Borrower may dispose of such personal property in accordance with New Jersey law.

c. Agreement by the tenant not to hold the Borrower or the Borrower's agents legally responsible for any action or failure to act, whether intentional or negligent.

d. Agreement of the tenant that the Borrower may institute a lawsuit without notice to the tenant.

e. Agreement by the tenant that the Borrower may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties.

f. Agreement by the tenant to waive any right to a trial by jury.

g. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.

h. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the Borrower against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

12. HOME Unit Lease Terms and Lease Terminations. All leases for HOME Units in the Project shall be for terms of not less than one (1) year, unless by mutual agreement between the tenant and the Borrower, and shall require tenants to provide information

required for the Borrower to meet its reporting requirements hereunder. Borrower may not terminate the tenancy or refuse to renew the lease of an occupant of the Project except for (a) for serious or repeated violations of the terms and conditions of the lease; (b) violations of applicable federal, state or local law or (c) other good cause. Any termination or refusal to renew must be preceded by not less than 90 days by Borrower's service on the tenant of a written notice specifying the grounds for the action. Lender must be copied on any such notice for units relating to this restriction.

13. Transfer or Sale of Project Property. The Borrower may not sell, transfer or exchange all or any portion of the Project without the Lender's prior written consent. Any sale, transfer or change of title shall require either full payment of the outstanding obligation under the mortgage or such other requirements as the Lender may specify.

14. Demolition or Reduction of Project Property. The Borrower shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project except in conjunction with renovation or rehabilitation of the Project or construction of a new project on the Premises, in either case subject to the prior written consent of the Lender, which consent may be granted or withheld in the Lender's reasonable judgment. The Borrower shall not permit the use of any residential unit for any purpose other than rental housing.

15. Destruction or Damage of Project Property. If the Project, or any part thereof, shall be damaged or destroyed, the Borrower shall use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, and the Borrower represents, warrants and agrees that the Project shall thereafter continue to operate in accordance with the terms of this Affordable Housing Restriction.

16. Use of Project Property. Any use of the HOME Units or activity thereon which is inconsistent with the express conditions or purpose of this Affordable Housing Restriction is expressly prohibited. Borrower shall carry out each activity provided for in this Affordable Housing Restriction in compliance with all applicable federal laws and regulations described in 24 CFR Part 92.251 (Property Standards), Part 92.252 (Qualifications as Affordable Housing: Rental Housing), Part 92.253 (Tenant and Participation Protections), Part 92.257 (Religious Organizations), Part 92.303 (Tenant Participation Plan), Part 92.350 (Equal Opportunity and Fair Housing), Part 92.351 (Affirmative Marketing), Part 92.352 (Environmental Review), Part 92.353 (Displacement, Relocation and Acquisition), Part 92.354 (Labor), Part 92.355 (Lead-based Paint), Part 92.356 (Conflict of Interest), Part 92.357 (Executive Order 12372). Lender and its duly authorized representatives shall have the right to enter the Premises at reasonable times and in a reasonable manner for the purpose of inspecting the Premises to determine compliance with this Affordable Housing Restriction.

17. Enforcement of Restrictions. Lender shall have the right to enforce this Affordable Housing Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations including, without limitation, relief requiring restoration of the Premises to its condition prior to any such violation, it being agreed that the Lender will have no adequate remedy at law, and shall be in addition to, and not in limitation of, any other rights and remedies available to the Lender. Borrower covenants and agrees to reimburse Lender all reasonable costs and expenses (including without

limitation reasonable counsel fees) incurred in enforcing this Affordable Housing Restriction or in taking reasonable measures to cure any violation hereof, provided that a violation of this Affordable Housing Restriction is acknowledged by Borrower or determined by a court of competent jurisdiction to have occurred. By its acceptance of this Affordable Housing Restriction, Lender does not undertake any liability or obligation relating to the condition of the Premises.

18. Notice of Restrictions. The Lender shall have the right to record or file any notices or instruments appropriate to assuring the enforceability of this Affordable Housing Restriction and the Borrower, on behalf of itself and its successors and assigns, appoints the Lender its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Borrower and its successors and assigns agree to execute any such instruments upon request.

19. Conditional Relief from Restrictions. Notwithstanding anything herein to the contrary, but subject to the next succeeding paragraph, if the holder of record of a first mortgage granted to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the property in lieu of foreclosure, and provided that the holder of such mortgage (a) has given Lender not less than 60 days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure and (b) agrees to recognize any contractual or legal rights of public agencies, non-profit sponsors, or others to take actions that would avoid termination of low-income affordability of the Project, then the rights and restrictions herein contained shall not apply to such holder upon such acquisition of the Property or to any purchaser of the Property from such holder, so long as the purchaser of the Property or holder of the Property repays from the proceeds of such sale 100% of the net proceeds after superior liens have been settled, if any, not to exceed the outstanding balance of the HOME loan, at such time such Property shall, subject to the next two succeeding sentences, thereafter be free from all such rights and restrictions.

20. No Relief from Restrictions on Certain Transfers. The rights and restrictions contained herein shall not lapse if any portion of the Project Property is acquired through foreclosure or deed in lieu of foreclosure by (a) Borrower, (b) any person with a direct or indirect financial interest in Borrower, (c) any person related to a person described in "b" by blood, adoption or marriage, (d) any person who is or at any time was a business partner of a person described in "b" and (e) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if all or a portion of the Premises is acquired by a Related Party during the period in which this Affordable Housing Restriction would be in effect but for provisions providing for its termination, this Affordable Housing Restriction shall be revived and shall apply to the Property as though it had never lapsed.

21. In the event a person having the right to do so pursues a foreclosure or other proceeding enforcing its rights under a mortgage or other instrument and the Property is sold for a price in excess of the sum of the outstanding principal balances of all notes secured by mortgages of the Property plus all future advances, accrued interest and all reasonable costs and expenses which the holders thereof are entitled to recover pursuant to the terms of such mortgages, such excess proceeds shall be shared equitably with the

Lender in consideration of the loss of the value and benefit of the rights and restrictions herein contained and released by the Lender pursuant to this Section in connection with such proceeding. In the event that such excess shall be so paid to the Lender, the Lender shall thereafter indemnify such holder against loss or damage to such holder resulting from any claim made by the mortgagor of such mortgage to the extent that such claim is based upon payment of such excess by such holder to the Lender in accordance herewith, provided that such holder shall give the prompt notice of any such claim and shall not object to intervention by the Lender in any proceeding relating thereto. To the extent the Borrower possesses any interest in any amount which would otherwise be payable to the Lender under this paragraph, to the full extent permissible by law, the Borrower hereby assigns its interest in such amount to said holder for payment to the Lender.

22. Notices. Any notice, request or other communication which either party hereto may be required or may desire to give hereunder shall be made in writing, and shall be deemed to have been properly given if hand delivered or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Lender:
County of Monmouth
Office of Community Development
Monmouth County Division of Planning
1 East Main Street
Freehold, NJ 07728

If to Borrower:
Heritage Village at Oakhurst LLC
1970 Brunswick Ave, Suite 100
Lawrenceville, NJ 08648

With a copy to:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, Maryland 21044

or such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by first class mail shall be deemed given two days after mailing; a notice delivered by hand shall be deemed given upon receipt.

23. Effective Date. The Borrower and the Lender intend that the restrictions arising hereunder take effect on the effective date as written above. HOME Units (3) shall be considered to be qualified HOME units when the units have been rented to Qualified Tenants and the project data is completed in the HUD Integrated Disbursement and Information System (IDIS) and is given an IDIS status code of complete or "CP".

24. Lender shall have the right to assign its interest in this Affordable Housing Restriction.

25. This Affordable Housing Restriction may not be amended, nor may any obligation hereunder be waived or released, without first obtaining the written consent of the Lender.

26. If any provision of this Affordable Housing Restriction shall be declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected.

Remainder of Page Intentionally Blank

In witness whereof and intending to be bound thereby, the Borrower and Lender have caused this Affordable Housing Deed Restriction to be executed by its duly authorized agent on the date reported.

ATTEST

BORROWER:

Heritage Village at Oakhurst LLC, a New Jersey limited liability company

By: CIS Oakhurst LLC, its Managing Member

By: Community Investment Strategies, Inc.
its Managing Member




ATTEST



Marion Masnick
Clerk of the Board

LENDER:


County of Monmouth

By: 
Gary J. Rich, Sr.
Director, Board of Chosen Freeholders

ACKNOWLEDGMENT

STATE OF NEW JERSEY)
) SS:
COUNTY OF MERCER)

I CERTIFY that on April 27, 2015 Barbara K. Schoor personally came before me, the subscriber, an Attorney at Law of the State of New Jersey, and acknowledged under oath, to my satisfaction that (a) she is the Vice President of Community Investment Strategies, Inc., which is the Managing Member of CIS Oakhurst LLC, which is the Managing Member of Heritage Village at Oakhurst LLC, the limited liability company named in this document; and (b) she executed and delivered this document as the voluntary act of the limited liability company duly authorized by the Members.


~~Edward McKenna, Esq.~~ Christopher M. Walcott
Attorney at law of New Jersey

12-18



Revised 3/9/2015

R+R

Lisa DiOrio, Senior Paralegal
New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085
(Stonebridge Title
Services Inc)

HERITAGE VILLAGE AT OAKHURST
HMFA # 2874
SNHTF # 322

CDBG LOAN AGREEMENT AND DEED RESTRICTION

between

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

and

HERITAGE VILLAGE AT OAKHURST LLC

Prepared by:

William F. Hanna
Deputy Attorney General

CHRISTINE GIORDANO HANLON
ACTING COUNTY CLERK
MONMOUTH COUNTY, NJ

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COUNTY RECORDING FEES \$490.00

TOTAL PAID \$490.00

CDBG LOAN AGREEMENT AND DEED RESTRICTION

BETWEEN

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

AND

HERITAGE VILLAGE AT OAKHURST LLC

THIS CDBG LOAN AGREEMENT AND DEED RESTRICTION (the "Loan Agreement") is hereby made on the 27th day of April 2015, by and between the **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the "Agency") and **HERITAGE VILLAGE AT OAKHURST LLC** and having its offices located at 1970 Brunswick Avenue, Suite 100, Lawrenceville, New Jersey, 08648 (hereinafter the "Sponsor" or "Borrower;" the Agency and the Sponsor are, collectively, the "Parties").

WITNESSETH:

WHEREAS, in the aftermath of Superstorm Sandy, the United States Congress enacted the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, approved January 29, 2013 (the "Act") to aid in the recovery of the State of New Jersey (the "State"); and

WHEREAS, on April 29, 2013, the Department of Housing and Urban Development ("HUD") approved the Action Plan of the State (the "Action Plan"), which demonstrated how the State intended to expend the disaster relief funds; and

WHEREAS, the New Jersey Department of Community Affairs ("DCA") received a grant of CDBG funds provided by HUD pursuant to the Act and DCA allocated a portion of such funds to the Agency; and

WHEREAS, on June __, 2013, the DCA and Agency executed a Subrecipient Agreement in respect to the implementation and administration of the Community Development Block Grant ("CDBG") program; and

WHEREAS, consistent with the Action Plan, the Agency created the Fund for Restoration of Multi-Family Housing, and the Sandy Special Needs Housing Assistance Fund ("CDBG-DR

Programs"); and

WHEREAS, the Agency approved, at its board meeting on April 25, 2013; the CDBG-DR Programs' guidelines, as subsequently amended (collectively the "Guidelines"); and

WHEREAS, the Borrower seeks to construct 93 rental units which includes an unrestricted unit for the Project's superintendent and related facilities for a project commonly known as **HERITAGE VILLAGE AT OAKHURST, NJHMFA # 2874 SNHTF #322** (the "Project") and has requested construction and permanent financing from the Agency, which will be administered by the Agency;

WHEREAS, the Borrower has met the eligibility requirements of the CDBG-DR Programs, in accordance with the requirements of the Guidelines; and

WHEREAS, contemporaneously herewith Borrower has executed a Note, Mortgage and other loan documents evidencing a CDBG loan from the Agency (hereinafter referred to as the "CDBG Loan"); and

WHEREAS, to evidence its understanding of the terms and conditions of the CDBG Loan and the CDBG Program requirements the Sponsor shall execute this Loan Agreement, a Mortgage and a Note in favor of the Agency that describe the terms and conditions of the CDBG Loan; and

WHEREAS, in consideration of the receipt of the CDBG financing, the Sponsor understands that the Project will be subject to tenant affordability restrictions and Agency oversight;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained the Parties do hereby covenant and agree each with the other as follows:

1. **Applicable Law:** This Loan Agreement shall be governed by and construed in accordance with the Disaster Relief Appropriations Act, 2013, Public Law 113-2 and any Treasury, HUD or DCA regulations, guidelines and applicable notices and bulletins thereto (the "Act") and the laws and regulations of the State of New Jersey including, but not limited to, the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. (the "Fair Housing Act"), New Jersey Administrative Code, and the CDBG Guidelines (the "Guidelines" or "CDBG Guidelines"), all as may be amended and supplemented from time to time. Collectively these authorities are the "Applicable Law". To the extent possible, these authorities shall be construed in such a manner as to complement one another and not conflict. However, in the event of a conflict, the most restrictive authority shall prevail.
2. **Superiority:** Should any of the terms and conditions of this Loan Agreement conflict with those of the Mortgage and/or the Note, the provisions of this Loan Agreement shall prevail, except with respect to the CDBG Loan Agreement Addendum attached hereto (the "CDBG Addendum," which shall prevail over this Loan Agreement in the event of direct conflict.

3. **Amendments:** The parties agree to make no changes, amendments and/or to seek suspension or termination of this Loan Agreement without the prior written approval of the Agency.
4. **Proceeds:** Proceeds from the CDBG Loan shall be paid to the Sponsor at such times and in such manner as such funds are advanced by the Agency in accordance with payment procedures outlined in this Loan Agreement.
5. **Definitions:** Capitalized terms used herein shall have the following meanings:

"Act" means the Disaster Relief Appropriations Act, 2013 (Public Law 113-2, as amended from time to time, and the regulations, guidelines and notices promulgated by HUD thereunder.

"Affordable" means the rents for units at the Project complies with the requirements of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301, and the regulations promulgated thereunder, including but not limited to the standards set forth in N.J.A.C. 5:80-26.12.

"Agency" means the New Jersey Housing and Mortgage Finance Agency or its authorized officer or representative.

"Agency Financing" means the construction and/or permanent mortgage loan(s) authorized by the Agency Board of Trustees for the Project.

"Architect" means the Architect of Record as designated by the Construction Contract.

"Borrower" means HERITAGE VILLAGE AT OAKHURST LLC, a New Jersey limited liability company.

"Code" means the Internal Revenue Service Code of 1986, as it may, from time to time, be amended.

"Commissioner" means the Commissioner of the DCA.

"Construction Completion Date" means the date specified for completion of all stages of the work under the Construction Contract, which is fifteen (15) months from the Notice to Proceed unless otherwise modified pursuant to the terms of the Construction Contract.

"Construction Contract" means the contract between the Borrower and the Contractor, for the construction /rehabilitation of the Project.

"Construction Lender" means the Agency in its role as Lender of \$11,351,624 to the Borrower for the acquisition, and/or construction/rehabilitation of the Project, which construction loan is secured by a first mortgage.

"Construction Loan" means the construction loan made to the Borrower by the Agency as construction lender to finance a portion of the cost of the acquisition and construction/rehabilitation of the Project as evidenced by a Note and secured by a Mortgage.

"Construction Period" means the time period prior to the issuance of a Certificate of Occupancy for all of the units constructed on the premises.

"Contractor" means R. Stone and Co., a New Jersey corporation.

"Day" means calendar day unless otherwise indicated.

"Draw Schedule" means the schedule of all sources and uses of funding for the project to which this CDBG financing is provided.

"Energy Star" means the United States Environmental Protection Agency's Energy Star program.

"Event of Default" means any of the events set forth in Section 24 of this Loan Agreement.

"Land" means the real property of the Project, described in Schedule "A" attached hereto.

"Loan Documents" means this Loan Agreement, the Mortgage, the Note and any other documents executed by Borrower related to the CDBG Loan.

"Mortgage" means the CDBG Mortgage and Security Agreement that secures the CDBG Loan and the CDBG Note and the terms of which, by reference hereto, are incorporated herein.

"Mortgaged Premises" means the Project and the Land that secure the CDBG Loan and Note.

"NJAG" means New Jersey Affordable Green Homes program and its requirements.

"Note" means the interest-bearing, conditional, non-recourse promissory note that contains the promise of the Borrower to pay the sum of money stated therein at the times stated therein, evidences the obligation of the Borrower to repay the CDBG Loan, and the terms of which, by reference hereto, are incorporated herein.

"Payment and Performance Bonds" mean the bond or bonds securing the payment of the Contractor's obligations to subcontractors and workers relating to the construction of the Project and the performance of the Work pursuant to this Loan Agreement and the Construction Contract. This definition shall also include any letter of credit, maintenance or warranty bond or other form of performance guarantee acceptable to the Agency.

"Placed in Service Date", if applicable, means the date that the first unit is made available to the public for occupancy.

"Plans and Specifications" means the plans and specifications for the Project submitted by the Architect.

"Project" means the real property as more specifically described in Schedule "A" attached hereto, and all improvements constructed thereon and personal property and fixtures located thereon pursuant to the Construction Contract.

"Qualified Project Period" means the period beginning on the first day on which 10 percent of the residential units in the Project are occupied and ending on the latest of--

- (i) the date which is 15 years after the date on which 50 percent of the residential units in the Project are occupied,
- (ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or
- (iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates, if applicable.

"Recapture" means the Project's loss of CDBG Funds not yet disbursed to it for failure to comply with the date that is the later of two years from the date of closing or repayment of the First Mortgage Note II expenditure requirement as set forth at Section 11 hereof.

"Recapture Date" means the specific date or dates by which all of the CDBG Funds must be expended pursuant to the Act. Any CDBG Funds not expended by the Recapture Date will be recaptured and no longer available for use by the Project and may result in rescission of all CDBG Funds previously disbursed to the Project. For this Project, all CDBG Funds must be expended by two years from the date of closing or repayment of the First Mortgage Note II.

"Rules and Guidelines" includes all administrative rules, criteria, notices and program guidelines promulgated by the Agency to implement the CDBG Loan Program.

"Specifications" means the Project Specifications and all additions hereafter issued by the Architect as provided in the Loan Documents, together with such other addenda as may be agreed upon by the parties.

"Subcontractor" means those who directly contract with the Contractor to perform any part of the Work (as hereinafter defined), including those who furnish substantial on-site labor, or substantial on-site labor and materials, but shall not include anyone furnishing materials without furnishing on-site labor.

"Tax Credits" means low income housing tax credits that the Project may receive pursuant to the Code, if applicable.

"Title Company" means the New Jersey licensed title insurance firm that provides title insurance to the Agency for the CDBG Loan.

6. **The Act/Rules:** In addition to complying with any other laws, rules, regulations and other authorities that may be applicable to the performance of this Loan Agreement, the Sponsor shall comply with all applicable provisions of the Act, the Rules and Guidelines.
7. **Federal Low Income Housing Tax Credits:** In addition to complying with any other laws, rules and regulations that may be applicable to the performance of this Loan Agreement, the Sponsor shall comply with all applicable provisions of the statutes, regulations, rules, and other authorities governing federal low income housing tax credits ("Tax Credits"), including but not limited to, 26 U.S.C.A. § 42, 26 C.F.R. §§1.42-1 et seq., and N.J.A.C. 5:80-33.1 et seq.
8. **Agency Financing:** In addition to complying with any other laws, rules and regulations that may be applicable to the performance of this Loan Agreement, in the event the Project is receiving Agency Financing, the Sponsor shall comply with all applicable provisions of all statutes, rules, guidelines, policies, procedures and other authorities governing and regulating such Agency construction and/or permanent financing, including, but not limited to, N.J.S.A. 55:14K-1 et seq., N.J.A.C. 5:80-1.1 et seq., and the Agency Multifamily Underwriting Guidelines as currently in effect.
9. **Affordable Units:** The Sponsor will acquire/construct/rehabilitate 93 units, which includes an unrestricted unit for the Project's superintendent, of which the Sponsor agrees to rent forty percent (40%) of the units at the Project to tenants whose income does not exceed sixty (60%) percent of the area's median income ("AMI") adjusted for family size as median income is defined by the United States Department of Housing and Urban Development, from time to time.
10. **Affordability Period; Advance Amortization Payments:** The Parties agree that this Project shall be primarily subject to the affordability restrictions governing and elected by the Sponsor with respect to any Tax Credits and Agency construction and/or permanent financing that this Project is receiving. Additionally, this Project shall be subject to the following affordability requirements:
 - a. The units funded by the CDBG Loan ("Project Units") shall remain affordable for a period of 30 years ("Affordability Period"). The Affordability Period shall commence simultaneously with that of the Agency Financing.
 - b. Because the public purposes of the Agency include maximizing the period during which the residential units in the Project are available to persons of low and moderate income, any advance principal repayment shall not release the Borrower from any obligation incurred under the Note or under any agreement with the Agency that contains obligations that provide that a percentage of the units remain affordable to persons of low- and moderate-income for the Project's full Affordability Period. Such obligations shall remain whether or not Borrower has tendered to or deposited with the Agency an amount otherwise sufficient to pay the CDBG Loan, including interest accrued and payable, in full.

- c. In addition, CDBG Loan requirements include the obligation of the Borrower to allocate 5% of units to be accessible for persons with mobility impairments, and an additional 2% of units to be accessible for persons with hearing and/or vision impairments.

11. Timetable: The timetable for this Project is as follows:

Financing closing date(s): April 27, 2015

Construction start date: April 28, 2015

Construction completion date: August 1, 2016

THE PARTIES AGREE THAT TIME IS OF THE ESSENCE AND THAT ALL CDBG PROCEEDS MUST BE EXPENDED NO LATER THAN TWO YEARS FROM THE DATE OF CLOSING. OR REPAYMENT OF THE FIRST MORTGAGE NOTE II. THE BORROWER SHALL IMMEDIATELY NOTIFY THE AGENCY IN WRITING WITHIN TEN DAYS OF ANY EVENT AFFECTING THE PROJECT'S IMPROVEMENTS COMPLETION, TIMETABLE, AND/OR FINANCING. FAILURE TO MEET THE ABOVE TIMETABLE MAY RESULT IN AN EVENT OF DEFAULT AS SET FORTH IN SECTION 24 HEREIN AND THE AGENCY'S EXERCISE OF ITS REMEDIES SET FORTH IN SECTION 25 OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, RECAPTURE OF ALL CDBG FUNDS COMMITTED TO THE PROJECT.

12. Construction of Project and Determination of Actual Project Cost. The Borrower covenants, warrants and agrees to diligently proceed with the construction/rehabilitation of the Project in accordance with the Plans and Specifications for the Project as approved by the Agency.

No substantial revision of the approved Plans and Specifications, which revision would either (a) affect the nature of the Project as described in Section 3 of the Mortgage, or (b) in the aggregate increase the cost of the Project as shown on the Project Development Budget, may be made without the prior express written consent of the Agency. Construction of the Project shall at all times be subject to the inspection, review and approval of the Agency or its duly authorized representatives. Any such inspection, review or approval of the Agency shall be solely for its benefit for the purpose of assuring that the programs and goals of the Agency and the CDBG Program are being fulfilled and shall not be construed as making the Agency a party to any contract to which it is not already in connection with the construction of the Project, nor shall it relieve the Borrower of any of its obligations under this Loan Agreement, the Mortgage or the Note.

Upon completion of the Project, the Borrower shall certify to the Agency or its designee, successor and/or assign the actual cost of the Project. This cost certification shall be performed by a Certified Public Accountant chosen by the Borrower and approved by the Agency. The cost certification must be independent as defined by the American Institute of Certified Public

Accountants. The Borrower shall, promptly upon completion of the cost certification, forward it to the Agency, its designee, successor and/or assign. Costs associated with the preparation of the cost certification shall be borne by the Borrower.

- 13. Termination:** In the event of termination of this Loan Agreement and the other Loan Documents due to an Event of Default of the Sponsor, the Agency, at its sole discretion, may require part or all of the CDBG Loan funds advanced to be returned to the Agency within 90 days of the date of termination or as otherwise required by HUD; however, the Sponsor agrees that even in the event of such termination, all affordability restrictions created hereunder shall continue in full force and effect for the full Affordability Period as set forth in Section 10 hereof.
- 14. Use of Funds and Method of Payment:** Funds provided for under this Loan Agreement will be used only for the purposes described in the Agency form 10, or as otherwise approved by the Agency.

The following items must be submitted to the Agency to begin drawdowns:

- 1) Original, executed Note;
- 2) Copy of the executed Mortgage;
- 3) Copy of this executed Loan Agreement;
- 4) Proof from the Sponsor of all required insurances as outlined in this Loan Agreement, the Mortgage and the Note and as further required by the Agency and/or the Department;
- 5) Completed requisition AIA G702/G703 forms for CDBG funds, with continuation sheets, to be signed by the Architect of record unless otherwise approved by the Agency;
- 6) Certification of compliance with the provisions of the CDBG Addendum.

Approved draws on CDBG Loan proceeds [and NJAG funds] under this Loan Agreement are to be paid by the Agency within fifteen (15) business days of the Agency's receipt of each requisition and shall be paid in accordance with the following process, or as may be otherwise authorized, in writing, by the Agency:

- 1) Draws should be made in accordance with the attached Draw Schedule, and in accordance with the Schedule of Values or Trade Payment Breakdowns, unless otherwise approved by the Agency.
- 2) For each draw, the Agency shall require a completed CDBG Form of Requisition, along with any back-up documentation, as required. Additionally, a copy of the CDBG Requisition Form shall be sent to the Construction Lender or Lead Lender simultaneously with the submission to the Agency. A copy of any requisition submitted to the Construction Lender or Lead Lender shall also be sent simultaneously to the Agency.
- 3) For each draw, the Agency shall request a construction rundown search from the Title Company retained on behalf of the Project. Upon notice from the Title Company that there are no encumbrances against the title except as may be expressly approved by the Agency and review of such rundown by the Agency, checks shall be issued to the designated vendors as authorized by the Sponsor, unless otherwise agreed upon, in writing.

by the Agency and the Sponsor.

- 4) The Sponsor will submit to the Agency the final development cost audit and a certificate of occupancy for all of the units constructed/rehabilitated on the Mortgaged Premises, along with satisfying the Agency's document checklist requirements for final mortgage close-out.

- 5) Additionally, the following items are required to be submitted to the New Jersey Green Homes Office in connection with the Energy Star program, if applicable:

- Job/Site meeting minutes to date;
- Final Energy Star inspection reports;
- Proof of Energy Star certification (Energy Star certificate);
- Developer/Architect to submit a one-page narrative describing experiences and lessons learned as it relates to the green high performance features
- Upon request, Sponsor to provide copies of invoices for Energy Star funded materials or systems and copies of any certifications such as FSC or Smartwood chain of custody certificates;
- New Jersey Green Homes Office Fuel Release form from each tenant household.

15. **Use of Insurance Proceeds:** The Sponsor covenants and agrees to cause the buildings on the Land and any improvements thereto and the fixtures and articles on the Land and any improvements thereto and the fixtures and articles of personal property covered by the Mortgage to be insured against loss by fire and by such other hazards as may be required by the Agency or its successors and/or assigns for the benefit of the Agency, as approved by the Agency and in accordance with the current Agency insurance requirements. Such insurance shall be written by such companies, in such amounts and in forms as are satisfactory to the Agency. The Sponsor will assign and deliver the certificates of insurance along with the insurance policies to the Agency. Such policies shall provide that the insurer may not cancel the policy and will not refuse to renew the policy except after thirty (30) days written notice to the Agency. If the Agency shall not receive evidence satisfactory to it of the existence of effective insurance coverage as required by the Agency, the Agency may (but shall not be required to) obtain such coverage, and the Sponsor will reimburse the Agency, on demand for any premiums paid for insurance procured by the Agency, and until so reimbursed, the amount of such premiums shall be added to the principal of the Note and bear interest at a rate equal to the yield rate on a 30-year U.S. Treasury bond at the time of making of such payment(s) by the Agency.

In the event of substantial damage to the Project by the occurrence of an insured casualty or the taking of a substantial portion of the Project by condemnation, if, in the sole judgment of the Agency (which judgment shall be conclusive), (a) the Project can be replaced or restored in whole or in part to a condition at least comparable to that of the Project immediately prior to the insured casualty or taking, and (b) the Project as so replaced will produce sufficient income to meet the then obligations of the Sponsor under the Mortgage and the Note, the proceeds of insurance or condemnation, if sufficient, to the

extent necessary for the purpose, shall be made available to the Sponsor upon satisfaction by the Sponsor of the conditions precedent to disbursements, for such replacement or restoration. To the extent the Project is not replaced or restored, such proceeds shall be applied to the indebtedness secured hereby after payment of fees and charges due and payable (as defined and provided for in the Mortgage). Nothing in this Section shall affect the lien of the Mortgage or the liability of the Sponsor for payment of the entire balance of the Mortgage indebtedness.

16. **Liens:** The Sponsor covenants, warrants and agrees to maintain its right, title and interest in the Mortgaged Premises (including the Project and Land) and all items enumerated in Section 5 of the Mortgage free and clear of all liens and security interests except the liens of the Mortgage, and the liens of other mortgagees described in Section 3 of the Mortgage and those exceptions identified and set forth in a certain title commitment issued by Stewart Title Guaranty Company numbered 14-27698 and dated February 23, 2015, as approved by the Agency. The Agency shall be furnished with a current standard ALTA form of title insurance policy with extended coverage, insuring that the Mortgage is a valid second lien on the Land and Project. Prior to any disbursement under this Loan Agreement and the Mortgage, the Sponsor shall provide evidence satisfactory to the Agency of the recording of the Mortgage. Except with the written consent of the Agency, the Sponsor will not install any item of tangible personal property as a part of the fixtures or furnishings of the Project that is subject to a purchase money lien or security interest.
17. **Encumbrances and Sale of Project:**
 - a. The Sponsor covenants, warrants and agrees not to sell, lease or otherwise encumber the Mortgaged Premises, or any part thereof, or the rents or revenues thereof without the prior written consent of the Agency, except by leasing to eligible residential tenants.
 - b. The Agency may allow certain "permitted encumbrances" on the Mortgaged Premises, which means (i) utility, access and other easements and rights of way, restrictions and exceptions that do not, individually or in the aggregate, materially impair the utility or value of the property affected thereby for the purposes for which it is intended; (ii) liens for taxes at the time not delinquent, (iii) liens for taxes which, if delinquent, are being contested in good faith and for which the Sponsor has provided security satisfactory to the Agency, (iv) liens superior to or subordinate to the lien of the Mortgage securing any monies loaned in connection with the Project or other monies loaned to the Sponsor by the Agency and any department, agency, public corporation or commission of the United States, the State of New Jersey or a political subdivision of the State of New Jersey.
 - c. The Sponsor acknowledges and agrees that failure by the Sponsor to comply with Loan Agreement stipulations, standards, or conditions may give the Agency just cause to suspend this Loan Agreement and withhold further payments, prohibit additional obligations of Project funds pending corrective action, disallow all or part of the cost associated with the noncompliance, terminate this Loan Agreement or seek any other remedies that may be legally available.

18. **Inspection:** The Sponsor covenants, warrants and agrees to permit the Agency, its agents or representatives, to inspect the Mortgaged Premises at any and all reasonable times with or without notice.
19. **Statutory Powers and Restrictions:** The CDBG Loan provided for herein shall be subject to statutory and regulatory restrictions contained in the Act and accompanying regulations and guidelines, and in connection therewith the Agency shall have the powers set forth in the Act as have been delegated by the Department, and the Sponsor hereby consents to such restrictions and powers and agrees to be bound thereby. Such powers and restrictions shall be in addition to and not in limitation of the rights of the Agency expressly set forth in the Loan Documents and in the statutes and regulations of the Agency. The Borrower covenants and agrees to comply with the CDBG rules, regulations, and guidelines. If any provision of this Loan Agreement shall be determined to be inconsistent with the CDBG Program rules, regulations and guidelines that have not been waived, the CDBG Program rules shall govern. The CDBG Program specifically requires that the Sponsor adhere to the requirements set forth in the CDBG Addendum for the improvement work to be done at the Project, and such provisions are incorporated herein. In addition, the Parties confirm the following understandings:
- (a) The Agency and the Sponsor hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth in this Agreement touch and concern the Land in that the Sponsor's legal interest in the Project and Land is rendered less valuable thereby. The Agency and the Sponsor hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the Project and Land by enhancing and increasing the enjoyment and use of the Project and the Land by the tenants, contemplated under this Agreement and by furthering the public purposes for which the CDBG Loan is made. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project and Land. Except as provided in subsection (b) below, the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and hereof and shall pass to and be binding upon the Sponsor's assigns and successors in title to the Land or Project. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or the Land or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project or Land are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project and Land.
 - (b) Upon termination of the "Affordability Period" set forth in Section 10 of this Agreement, the said covenants, reservations and restrictions shall expire and in such event, the Agency shall, at the expense of the Sponsor, execute any and

all instruments reasonably required to evidence the record of cancellation or discharge of the aforesaid covenants, reservations and restrictions.

- (c) All terms and conditions of the attached CDBG Addendum are true and correct, and Borrower, its agents, licensees, invitees, contractors, architects, subcontractors and all other parties involved with the Project shall comply with the terms in the Addendum before, during and after completion of the Project. A violation of the Addendum shall constitute a default under the Loan Documents and shall entitle the Agency to immediately declare the Mortgage due and payable.
- 20. **Energy Star:** All project owners must participate in the Energy Star program.
 - 21. **Accounting in Event of Default:** Upon the occurrence of an Event of Default and within five (5) business days of demand therefor by the Agency, the Sponsor will furnish to the Agency in writing a statement of the principal amount remaining due on the Note together with a statement of any defenses which may exist as to any liability of the Sponsor under the Loan Documents.
 - 22. **Personal Liability:** The Agency agrees, on behalf of itself and any future holder of this Loan Agreement, the Note and the Mortgage, that the liability of the Sponsor, any general or limited partner, member or shareholder of the Sponsor and their respective heirs, representatives, successors and assigns, for the payment and performance of its obligations hereunder and under the Note and the Mortgage, shall be limited to the collateral pledged under the Mortgage and that the Agency shall have no right to seek a personal judgment against the Sponsor, any general or limited partner, member or shareholder of the Sponsor or their respective heirs, representatives, successors and assigns, individually, but shall look only to such collateral for the payment and performance of such obligations; provided, however, that the Agency shall retain the right to exercise any and all remedies granted to it under the Loan Documents. The foregoing limitation of liability shall not apply to any party to the extent such party has committed fraudulent, criminal or other unlawful acts.
 - 23. **Assignment by the Agency:** The Sponsor hereby consents to any assignment of the CDBG Loan and the Loan Documents by the Agency.
 - 24. **Defaults:** Each of the following shall be an Event of Default:
 - (a) failure of the Sponsor to pay when due any installment of principal or interest on the CDBG Loan or any other payment required by the Sponsor to the Agency or any other person pursuant to the terms of the Loan Documents;
 - (b) commission by the Sponsor of any act prohibited by the terms of the Loan Documents, failure by the Sponsor to perform or observe in timely fashion any action or covenant required by any of the terms of the Loan Documents, or failure by the Sponsor to produce satisfactory evidence of compliance therewith;
 - (c) the filing by the Sponsor under any federal or state bankruptcy or insolvency law or

other similar law of any petition in bankruptcy or for reorganization or composition with creditors or the making of an assignment for the benefit of creditors;

- (d) the filing against the Sponsor under any federal or state bankruptcy or insolvency law or other similar law of a petition seeking the Sponsor's adjudication as a bankrupt or the appointment of a receiver or other custodian for the benefit of its creditors which shall not be dismissed within thirty (30) days of the filing thereof, or the adjudication of the Sponsor as a bankrupt, or the appointment by court order of a custodian (such as a receiver, liquidator or trustee) of possession of the Sponsor or any of its property for the benefit of its creditors and such order remains in effect or such possession continues for more than thirty (30) days;
- (e) the occurrence of substantial destruction of the Project by an uninsured casualty;
- (f) any representation in conjunction with the CDBG Loan, the Loan Documents or the Project by or on behalf of the Sponsor that is false or misleading in any material respect or any covenant or warranty of the Sponsor that is breached;
- (g) any breach by the Sponsor of its obligations or any failure to observe its covenants under any superior mortgage or note that results in an event of default thereunder, or the Sponsor's failure to observe the covenants as contained in any deed restriction associated with such superior mortgage or note, if applicable;
- (h) failure to obtain or retain the Agency Financing, if applicable;
- (i) failure to obtain or retain Tax Credits, if applicable;
- (j) failure to expend CDBG funds by two years from the date of closing or repayment of the First Mortgage Note II; or
- (k) use of CDBG funds for a use not permitted by Act, Rules and Guidelines; or
- (l) violation of the provisions of the CDBG Addendum.

An event set forth in subsection(g) of this Section shall not constitute an Event of Default until the prohibited act, failure to perform or observe, or breach shall remain uncured for a period of thirty (30) days after Agency's written notice to Sponsor, specifying such prohibited act, failure or breach and requesting that it be remedied, unless the Agency shall agree in writing to an extension of such time prior to its expiration, and further so long as the event does not trigger a breach of the CDBG Program. If the prohibited act, failure, or breach stated in each notice is correctable but cannot be corrected within the 30 day period, the Agency may consent to an extension of up to 120 days from the delivery of the written notice referred to herein if corrective action is instituted by the Sponsor within the initial 30 day period and diligently pursued. The Agency will, simultaneously with sending to the Sponsor any notices under this Section send a copy of the aforementioned notices to the Sponsor's investor member. To the extent the Event of Default is curable, a cure tendered in full, pursuant to the terms and conditions of this Loan Agreement and the other Loan Documents,

by the Sponsor's investor member shall be honored by the Agency.

Within five (5) business days of receiving notice from the Agency that it believes an Event of Default has occurred with respect to the Project, time being of the essence, the Sponsor shall furnish to the Agency, HUD and DCA, in writing, a statement of any defenses which it claims may exist as to any liability of the Borrower hereunder.

25. **Remedies:** Upon the occurrence of any Event of Default, the Agency, subject to any superior mortgages(s), may, at its option, take any one or more of the following actions or remedies and failure to exercise any remedy or take any action enumerated shall not constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy:

- a. Rescind any CDBG Funds if not expended by the Construction Completion Date as described in Section 11 hereof;
- b. declare the entire principal sum of the CDBG Loan, together with all other liabilities of the Sponsor under the Note and the Mortgage, to be immediately due and payable;
- c. cease making disbursements to the Sponsor or withhold or suspend, in whole or in part, funds awarded under the program or recover misspent funds following an audit;
- d. apply any reserves held by the Agency or the balance in the accounts for Project disbursements and revenues, or any combination of these moneys, to the payment of the Sponsor's liabilities hereunder;
- e. foreclose the lien of the Mortgage on the Mortgaged Premises. In any action to foreclose, the Agency shall be entitled to the appointment of a receiver of the rents and profits of the Project as a matter of right and without notice, with power to collect the rents, uses, and profits of the Project, due and becoming due during the pending of the foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured and evidenced by the Loan Documents without regard to the value of the Project or the solvency of any person or persons liable for the payment of the mortgaged indebtedness. The Sponsor, for itself and any subsequent owner, hereby waives any and all defenses to the application for a receiver as set forth above and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the holder of the Mortgage of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provisions for the appointment of a receiver of the rents and profits and the assignment of such rents and profits, is made an express condition upon which the CDBG Loan hereby secured is made. Upon such foreclosure, the Agency shall have the right to have a receiver appointed for the Project and the rentals from the Project;
- f. take possession of all or part of the Mortgaged Premises, subject to rights of

permitted superior lienholders;

- g. without judicial process, collect all rents and other revenue including federal and state subsidies as the agent of the Sponsor (which upon the occurrence of any Event of Default the Agency is deemed to have been irrevocably appointed by the Sponsor), and apply them at the Agency's option to the liabilities of the Sponsor under this Loan Agreement;
- h. take possession of equipment, appliances and other tangible personal property in which a security interest has been granted by the Loan Documents and dispose of the same in any commercially reasonable manner. The Agency shall have the option to dispose of any such equipment and personal property either separately from the Mortgaged Premises or in conjunction with a sale of the Mortgaged Premises, and the Sponsor agrees that either method of disposition shall be commercially reasonable; and/or
- i. sue the Sponsor for a mandatory injunction or other equitable relief requiring performance by the Sponsor of any of its obligations under the Loan Documents. The Sponsor agrees with the Agency that the Agency's remedy at law for the violation or the nonperformance of the Sponsor's obligations under the Loan Documents is not adequate by reason, among other things, of the Agency's public purpose to provide adequate, safe and sanitary dwelling units for families of low and moderate income; and/or
- j. If the event constitutes a violation of the CDBG Program to the extent that the Agency is required to refund monies disbursed to the Borrower back to DCA/HUD/the Federal Government, then the Borrower shall be responsible for refunding such monies to the Agency.

Notwithstanding the above enumeration of remedies, the Agency shall have available to it any remedies provided to it by law.

26. **Expenses Due to Default:** All reasonable expenses (including reasonable attorney's fees, costs and allowances) incurred in connection with an action to foreclose the Mortgage or in exercising any other remedy provided by the Loan Documents, including the curing of any Event of Default, shall be paid by the Sponsor, together with interest at a rate equal to the yield rate on a 30-year U.S. Treasury bond at the time of making of such payment(s) by the Agency. Any such sum or sums and the interest thereon shall be a further lien on the Mortgaged Premises and shall be secured by the Mortgage.

27. **Amendments, Notices, Waivers:**

- a. This Loan Agreement may be amended only by an instrument in writing executed and acknowledged on behalf of the Agency and the Sponsor in such manner that the instrument may be recorded. No waiver by the Agency in any particular instance of any Event of Default or required performance by the Sponsor and no course of conduct of the Parties or failure by the Agency to enforce or insist upon

performance of any of the obligations of the Sponsor under this Loan Agreement or the other Loan Documents at any time shall preclude enforcement of any of the terms of this Loan Agreement or the other Loan Documents thereafter.

- b. Any provision of this Loan Agreement and the other Loan Documents requiring the consent or approval of the Agency prior to the taking of any action or the omission of any action requires such consent by the Agency in writing signed by a duly authorized officer of the Agency. Any such consent or approval, unless it expressly states otherwise, is limited to the particular action or omission referred to therein and does not apply to subsequent similar actions or omissions.
- c. Notice provided for under this Loan Agreement and the other Loan Documents shall be given in writing signed by a duly authorized officer and any notice required to be given hereunder shall be given by courier, regular mail, or by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the Parties hereto:

Borrower: Heritage Village at Oakhurst LLC
Attention: Barbara K. Schoor
1970 Brunswick Avenue, Suite 100
Lawrenceville, New Jersey, 08648

Investor: Wincopin Circle LLLP, its successors and assigns
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, MD 21044

Borrower's Attorney: Gluck Walrath, LLP
Attention: Christopher M. Walrath, Esquire
11 Wharf Avenue, Suite 4
Red Bank, NJ 07701

Agency: New Jersey Housing and Mortgage Finance Agency
637 S. Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085
Attention: Director of Finance

- 28. **Severability:** The invalidity of any part or provision of this Loan Agreement shall not affect the validity of the remaining portions thereof.
- 29. **Disclaimer of Warranties, Liability, Indemnification:**

- a. The Sponsor acknowledges and agrees that (i) the Agency has not heretofore and

does not make any warranty or representation, either express or implied as to the value, condition, or fitness for particular purpose or fitness for any use of the Mortgaged Premises or any portion thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Agency or its agents or employees be liable or responsible for any incidental, indirect, special, consequential, or punitive damages in connection with or arising out of this Loan Agreement, the Loan Documents or the development of the Project or the existence, functioning or use of the Project or any items or services provided for in the Mortgage; and (iii) during the term of this Loan Agreement and to the fullest extent permitted by law, the Sponsor shall indemnify and hold the Agency harmless against, and the Sponsor shall pay any and all liability, loss, cost, damage, claims, judgments or expense of any and all kinds or nature and however arising, imposed by law, which the Sponsor and the Agency may sustain, be subject to, or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contracts entered into by the Sponsor, or arising out of the Sponsor's ownership of the Project or out of the development, or management of the Project.

- b. It is mutually agreed by the Sponsor and the Agency that the Agency and its directors, officers, agents, servants and employees shall not be liable for any action performed under this Loan Agreement or the other Loan Documents, and that the Sponsor shall hold them harmless from any claim or suit of whatever nature.
- c. Any claims asserted against the Agency shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. (except for N.J.S.A. 59:13-9 thereof) and the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

- 30. **Counterparts:** This Loan Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- 31. **Venue:** If any legal action should be filed by the Borrower against the Agency in connection with the CDBG Loan, this Loan Agreement, or the other Loan Documents, the venue and forum for such action shall be the Superior Court of New Jersey, Mercer County.
- 32. **Filing:** This Loan Agreement shall be duly recorded in the Office of the Clerk for the county in which the Land is located at the sole cost and expense of the Borrower.
- 33. **Equal Opportunity and Non-Discrimination:** The Sponsor covenants, warrants and agrees that it will comply with the Agency guidelines with respect to equal opportunity and non-discrimination in its purchase of goods and services for the operation and maintenance of the Project throughout the term of this Loan Agreement.
- 34. **Applicability and Conflict of Terms and Conditions:** The terms and conditions of this Loan Agreement are applicable for the entire term of this Loan Agreement (as set forth in Section 10 hereof) unless otherwise set forth in this Loan Agreement. In the event of any conflict or inconsistency between the terms and conditions of any of the Loan Documents

and this Agreement, the terms and conditions of this Loan Agreement shall prevail, except with respect to the terms contained in the CDBG Addendum. Notwithstanding the foregoing, the Sponsor agrees that the Agency may render a decision concerning the intent and/or applicability of any term or condition of the Loan Documents and unless such decision is found to be arbitrary or capricious by a court of competent jurisdiction, the Agency decision shall be final.

35. **Miscellaneous:** Unless the context clearly requires otherwise, as used in this Loan Agreement and the other Loan Documents, words of the masculine, feminine or neutral gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. The Loan Documents and all the terms and provisions thereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Loan Agreement and the other Loan Documents have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing the Loan Documents or any provisions thereof or in ascertaining intent, if any question of intent shall arise.

SEE CDBG LOAN AGREEMENT ADDENDUM ANNEXED HERETO AND MADE A PART HEREOF.

IN WITNESS WHEREOF, this Loan Agreement is duly executed by the Sponsor and Agency on the date first set forth above and, by signing below, the Sponsor acknowledges that it has received a true copy of this Loan Agreement, without charge.

WITNESS/ATTEST

BORROWER:

HERITAGE VILLAGE AT OAKHURST LLC

By: CIS Oakhurst LLC, its Managing Member

By: Community Investment Strategies, Inc., its
Managing Member


Christopher M. Walrath

By: 
Barbara K. School, Vice President

(SEAL)
ATTEST

**NEW JERSEY HOUSING & MORTGAGE
FINANCE AGENCY on behalf of the
CDBG PROGRAM**


Name: Jennifer H. Linen
Title: Assistant Secretary

By: 
Name: James E. Robertson
Title: Chief of Legal and Regulatory Affairs


This Loan Agreement has been reviewed and Approved as to form only.

JOHN J. HOFFMAN
Acting Attorney General of the State of New Jersey

By: 
William F. Hanna
Deputy Attorney General

STATE OF NEW JERSEY)
) SS:
COUNTY OF MERCER)

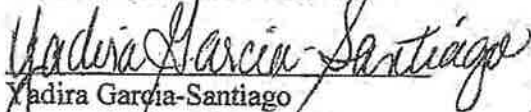
I CERTIFY that on April 27th, 2015, Barbara K. Schoor personally came before me, the subscriber, an Attorney at Law of the State of New Jersey, and acknowledged under oath, to my satisfaction that (a) she is the Vice President of Community Investment Strategies, Inc., which is the managing member of CIS Oakhurst, LLC, which is the managing member of Heritage Village of Oakhurst, LLC, the limited liability company named in this document; and (b) she executed and delivered this document as the voluntary act of the limited liability company duly authorized by the Members.


Christopher M. Walrath, Esquire
Attorney at law of New Jersey

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on April 27, 2015, Jennifer H. Linett, personally came before me, a notary public of New Jersey, and acknowledged under oath, to my satisfaction, that (a) she is the Assistant Secretary of NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY acting on behalf of the COMMUNITY DEVELOPMENT BLOCK GRANT DIASTER RECOVERY PROGRAM, the Agency named in this document; (b) she is the attesting witness to the signing of this document by the proper Agency officer, who is James E. Robertson, Chief of Legal and Regulatory Affairs of the Agency; (c) this document was signed and delivered by the Agency as its voluntary act duly authorized by a proper resolution of its Board of Directors; and (d) he signed this proof to attest to the truth of these facts.

SWORN TO AND SUBSCRIBED
before me, the date aforesaid.



Yadira Garcia-Santiago
Notary Public of New Jersey

My commission expires: November 20, 2017

Stewart Title Guaranty Company

PRO FORMA LOAN POLICY

SCHEDULE A

LEGAL DESCRIPTION

Policy No.:

File No.: 14-27698

ALL that certain lot, piece or parcel of land, situate, lying and being in the Township of Ocean, in the County of Monmouth, State of New Jersey:

All that certain lot, tract or parcel of land situate, lying and being in the Township of Ocean in the County of Monmouth and the State of New Jersey, and being all of a Block 3 Lot 16.03 & 16.04 said lots as shown on a certain map entitled "ALTA/ACSM Land Title Survey for Block 3 Lots 16.03 & 16.04, Twp. of Ocean, Monmouth County, New Jersey" prepared by Maser Consulting, dated August 12, 2014, said lots also as shown on the Official Tax Map of the Township of Ocean and being more particularly bounded and described as follows, to wit:

BEGINNING at a point in the existing northerly line of Lot 16.01 Block 3, said point the following bearing and distance from the point of intersection formed by the existing northerly line of West Park Avenue, (Variable Width R.O.W.) with existing easterly line of Lot 16.01 Block 3, said adjoining lots as shown on the aforesaid map and plan,

A) North seven degrees three minutes thirty seconds West (N 07° 03' 30" W), one hundred ninety-five and twenty-five hundredths feet (195.25'), along the aforesaid existing easterly line of Lot 16.01 Block 3, to a point in the same, to a point in the existing northerly line of same, thence -

And from said point running, thence,

1. South eighty-two degrees fifty-six minutes thirty seconds West (S 82° 56' 30" W), eighty-one and sixty-seven hundredths feet (81.67') along the aforesaid existing northerly line of Lot 16.01 Block 3, to an angle point in the same, thence-

2. South sixty-two degrees zero minutes fifty-seven seconds West (S 62° 00' 57" W), one hundred sixty-one and twenty-six hundredths feet (161.26'), still along the aforesaid existing northerly line of Lot 16.01 Block 3, to a point in an existing westerly line of same, thence -

3. South nineteen degrees thirty-nine minutes forty-five seconds East (S 19° 39' 45" E), eight and ninety hundredths feet (8.90'), along an existing westerly line of Lot 16.01 Block 3, to a point in the northerly line of same, thence-

4. South fifty-two degrees thirty-seven minutes thirty-two seconds West (S 52° 37' 32" W), thirty-nine and three hundredths feet (39.03'), along the aforesaid existing northerly line of Lot 16.01 Block 3 to a point in the existing easterly line of Lot 16.02 Block 3, said adjoining lot as shown on the aforesaid map and plan, thence -

5. North thirty-seven degrees twenty-two minutes twenty-eight seconds West (N 37° 22' 28" W), forty-eight and thirty-five hundredths feet (48.35'), along the aforesaid easterly line of Lot 16.02 Block 3, to a point in the existing northerly line of same, thence-

6. North eighty-six degrees nine minutes thirty-seven seconds West (N 86° 09' 37" W), seventy-eight and sixty-six hundredths feet (78.66'), along the aforesaid existing northerly line of Lot 16.02 Block 3 to an angle point in the same, thence -

Continued...

Stewart Title Guaranty Company

7. South seventy-two degrees forty-seven minutes fifty-seven seconds West (S 72° 47' 57" W), seventy-one and two hundredths feet (71.02'), still along the aforesaid existing northerly line of Lot 16.02 Block 3 to a point in the existing easterly line of Lot 14 Block 3, said adjoining lots as shown on the aforesaid map and plan, thence-
8. North five degrees forty-four minutes thirty-seven seconds East (N 05° 44' 37" E), eighty-seven and fifty-one hundredths feet (87.51'), along the aforesaid existing easterly line of Lot 14 Block 3 and beyond, along the existing easterly line of Lot 13 Block 3, to a point in the existing southerly line of Lot 12.01 Block 3, said adjoining lots as shown on the aforesaid map and plan, thence -
9. South eighty-four degrees fifteen minutes twenty-three seconds East (S 84° 15' 23" E), forty and fifty-eight hundredths feet (40.58'), along the aforesaid southerly line of Lot 12.01 Block 3, to a in the existing easterly line of same, thence-
10. North five degrees forty-four minutes thirty-seven seconds East (N 05° 44' 37" E), one hundred eighteen and forty-six hundredths feet (118.46'), along the aforesaid existing easterly line of Lot 12.01 Block 3, to a point of non-tangent curvature in the existing northerly line of same, thence -
11. Northwestery, on a curve having a radius of 80.00', and curving to the left an arc length of 30.74' (central angle 22° 00' 55"), with a chord bearing of North seventy-three degrees seven minutes five seconds West (N 73° 07' 05" W), and a chord distance of thirty and fifty-five hundredths feet (30.55'), along the northerly line of Lot 12.01 Block 3, to a point of tangency in the same, thence -
12. North eighty-four degrees fifteen minutes twenty-three seconds West (N 84° 15' 23" W), ten and twenty-three hundredths feet (10.23'), along the aforesaid existing northerly line of Lot 12.01 Block 3, to a point in the existing easterly line of same, thence-
13. North five degrees forty-four minutes thirty-seven seconds East (N 05° 44' 37" E), seven hundred sixteen and eighty-three hundredths feet (716.83'), along the existing easterly line of Lots 12.01, 11 & 7.01 Block 3, to a point in the same, said adjoining lots as shown on the aforesaid map and plan, thence -
14. South eighty-three degrees thirty-six minutes nine seconds East (S 83° 36' 09" E), two hundred thirty-six and thirty hundredths feet (236.30'), along the existing southerly line of Lot 4 Block 3, to a point in the existing westerly line of same, said adjoining lot as shown on the aforesaid map and plan, thence -
15. South seven degrees three minutes thirty seconds East (S 07° 03' 30" E), eight hundred eight and seventy-five hundredths feet (808.75'), along the aforesaid existing westerly line of Lot 4 Block 3, to a point in the same, the Point and Place of BEGINNING.

The foregoing description was prepared by the undersigned Land Surveyor for the firm of Maser Consulting P.A., and is based upon a certain plan entitled "ALTA/ACSM Land Title Survey for Block 3 Lots 16.03 & 16.04, Twp. Of Ocean, Monmouth County, New Jersey," prepared by Maser Consulting, dated 3/10/2015 revised 3/23/2015.

SUBJECT TO: 15' wide NJ Bell and JCP&L easement as contained in Deed Book 4310 Page 270.

ALSO SUBJECT TO: 20 foot wide storm drainage easement to the Township of Ocean as well as a 12' wide storm sewer easement as shown on a certain map entitled "Township of Ocean, Major Subdivision Located at Lots 12 & 16 Block 3, Township of Ocean, Monmouth County, New Jersey", said Map being duly filed in the Monmouth is County Clerk's Office on March 21, 2012 as Case Number 311, Sheet 1.

FOR INFORMATION PURPOSES ONLY: BEING known as 777 West Park Ave, Tax Lot 16.03 and 16.04, Tax Block 3 on the Official Tax Map of Township of Ocean, NJ.

CDBG LOAN AGREEMENT ADDENDUM

WHEREAS, the Borrower, Heritage Village at Oakhurst LLC, seeks to construct 93 rental units, which includes an unrestricted unit for the Project's superintendent and related facilities for a project commonly known as Heritage Village at Oakhurst, NJHMFA # 2874 SNHTF #322 (the "Project") and has requested construction and permanent financing from the New Jersey Housing and Mortgage Finance Agency (the "Agency"), which will be administered by the Agency; and

WHEREAS, contemporaneously herewith Borrower has executed a Note, Mortgage, Loan Agreement and other loan documents evidencing a CDBG loan from the Agency (hereinafter referred to as the "CDBG Loan"); and

WHEREAS, in the aftermath of Superstorm Sandy, the United States Congress enacted the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, approved January 29, 2013) to aid in the recovery of the State of New Jersey (the "State"); and

WHEREAS, on April 29, 2013, the Department of Housing and Urban Development ("HUD") approved the Action Plan of the State (the "Action Plan"), which demonstrated how the State intended to expend the disaster relief funds ("Action Plan"); and

WHEREAS, consistent with the Action Plan, the Agency created the Fund for Restoration of Multi-Family Housing, and the Sandy Special Needs Housing Assistance Fund ("CDBG-DR Programs"); and

WHEREAS, the Agency approved, at its board meeting of April 25, 2013, the CDBG-DR Programs' guidelines as subsequently amended (collectively the "Guidelines"); and

WHEREAS, the Borrower has met the eligibility requirements of the CDBG-DR Programs, in accordance with the requirements of the Guidelines and in accordance with the terms and conditions of this Addendum; and

WHEREAS, in order for the Borrower to be eligible to receive and utilize the CDBG Loan, it must also certify that it will comply with certain provisions of the Guidelines as are set forth below;

NOW, THEREFORE, Borrower, for and in consideration of the CDBG Loan, and

intending to be legally bound hereby, agrees that the Mortgage shall be amended to include the following provisions and that these provisions shall be paramount and controlling as to the rights and obligations of the Borrower and the Agency and shall supersede any other provisions of the Mortgage and other Loan Documents to the contrary:

STANDARD PROVISIONS

GENERAL

1. Borrower's Representations

- (i) Borrower has been duly organized and validly exists, has power to enter into the Mortgage, Loan Agreement and other Loan Documents and this Addendum and has authorized the signing of the Loan Documents and this Addendum and taking the actions contemplated by this Addendum.
- (ii) To the best of the Borrower's knowledge, and upon due inquiry, there is no action or proceeding, pending or threatened, against the Borrower before any court or administrative agency that might adversely affect the ability of the to perform its obligations under the Loan Documents and this Addendum and all consents, authorizations, and approvals of governmental bodies or agencies required in connection with the performance of the Borrower's obligations under the Loan Documents and this Addendum have been obtained and will be obtained whenever required hereunder or by law.
- (iii) Neither the execution and delivery of the Loan Documents nor this Addendum and the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of the Loan Documents and this Addendum is prevented, limited by, or conflicts with or results in a breach of, the terms, conditions, or provisions of any corporate restrictions or any evidence of indebtedness, agreement, or instrument of whatever nature to which the is bound, or constitutes a default under any of the foregoing.
- (iv) All statements, representations and warranties made by Borrower in the Loan Documents were true when made, are true, in all material respects, as of the date hereof, and shall remain and be true and correct during the term of the Loan Documents, it being understood by Borrower that all such statements, representations and warranties have been relied upon by the Agency as an inducement to make the Agency funding and shall continue to be relied upon by the Agency in administering the Agency funding. Borrower further understands and agrees that, if, during the term of the Mortgage and other Loan Documents, any such statements, representations and warranties become untrue or false, it shall have a duty to immediately notify the Agency in writing of such fact.
- (v) Borrower represents that it has at all times relevant to the CDBG Loan been represented by advisors of its own selection, including, but not limited to, attorneys at law and/or certified public accountants; that it has not relied upon any statement, representation, warranty, agreement or information provided by the

Agency; that it acknowledges that it is informed by its advisors of its respective rights, duties, and obligations with respect to the transaction which is the subject of the Loan Documents under all applicable laws, and that it has no set-offs, defenses or counterclaims against the Agency with respect to the transaction.

- (vi) The representations and warranties made in this Paragraph shall survive the expiration or earlier termination of the Loan Documents.
- (vii) If during the duration of the Loan Documents the Borrower becomes aware of any facts, occurrences, information, statements, or events that render any of the foregoing representations or warranties herein untrue or materially misleading or incomplete, it shall immediately notify the Agency in writing of such facts, occurrences, information, statements or events.

2. WARRANTIES AND COVENANTS

- (i) Borrower shall use the Agency funding solely in connection with funding the Project. The Agency funding may be used solely for the purposes contemplated by the Mortgage and other Loan Documents.
- (ii) In relation to the Project, Borrower shall comply with all Federal, State and municipal laws, rules and regulations applicable to all activities it performs and those that are performed on its behalf.
- (iii) Borrower acknowledge that the use of small businesses, minority owned firms and women's business enterprises for contractors, suppliers, labor and products is preferred and agrees that, to the extent feasible and as represented in its Proposal, it shall use such businesses in connection with the Project.
- (iv) Borrower agrees that all hired Contractors and Sub-contractors are not on the Federal excluded parties list.
- (v) Borrower shall execute an agreement with each Contractor containing labor standards and other required provisions, such as equal opportunity and general conditions. This may be accomplished by the execution of a CDBG Contractor's Addendum as provided to Borrower by the Agency.
- (vi) Borrower acknowledges that all construction work will have received environmental approval from the New Jersey Department of Environmental Protection ("DEP") and/or the Agency prior to the commencement of any construction.

3. ASSIGNMENTS

Borrower shall not assign its interests in the Loan Documents to another without the prior written consent of the Agency. Unless otherwise indicated by the Agency in writing, any obligations hereunder shall become the obligations of any assignee or successor of the Borrower.

4. MISCELLANEOUS

- (i) **Forum and Venue.** Unless otherwise provided, all actions related to the matters which are the subject of this Addendum shall be formed and venue in a court of competent jurisdiction in Mercer County New Jersey.

- (ii) **Entire Agreement.** This Addendum along with the Loan Documents and any documents referred to herein constitute the complete understanding of the Agency and the Borrower (hereinafter, collectively referred to as the "Parties") and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter of this Addendum.
- (iii) **Severability.** Whenever possible, each provision of this Addendum shall be interpreted in such manner as to be effective and valid pursuant to applicable law, but if any provision of the Loan Documents or this Addendum is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Addendum, unless the Agency shall in its sole and absolute discretion deem the invalidated provision essential to the accomplishment of the public purposes served by the Loan Documents and this Addendum, in which case the Agency has the right to terminate the Loan/Loan Documents and all benefits provided to Borrower hereunder upon the giving of sixty (60) days prior notice.
- (iv) **Compliance with All Applicable Law.** Failure to expressly reference any applicable federal or State regulation, statute, public law, Executive order, agency directive or OMB Circular will not exempt Borrower from compliance with such applicable law or regulation, and all applicable provisions not included will be deemed as inserted herein.
- (v) **Amendments or Modifications.** The Loan Documents and this Addendum may only be amended in writing executed by both Parties. Such Amendments or Modifications shall become effective only upon execution of same by both Parties.
- (vi) **Notices.** All notices, requests and other communications shall be in writing and shall be deemed duly given [when personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid] to the addresses set forth hereunder.

Agency: New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue
PO Box 18550
Trenton, New Jersey 08550-2085
Attention: Director, Multifamily Lending

Borrower: Heritage Village at Oakhurst LLC
1970 Brunswick Avenue, Suite 100
Lawrenceville, New Jersey, 08648
Attention: Barbara K. Schoor, Vice President

Investor: Wincopin Circle LLLP, its successors and assigns
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, MD 21044

- (vii) **Contractual Liability Act.** The rights and remedies of the under the Loan Documents and this Addendum shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., the provisions of which are incorporated herein by reference. While this statute is not applicable by its terms to claims arising under the Loan Documents Borrower agrees that it shall be applicable to claims arising under this Addendum or any other documents associated with this Project. Further, it is acknowledged by the parties that the Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

UNIFORM ADMINISTRATIVE REQUIREMENTS

Borrower shall adhere to the following administrative requirements:

1. DUPLICATION OF BENEFITS

Borrower will adhere to 76 FR 71060 (published November 16, 2011) regarding duplication of benefit requirements applicable to the Community Development Block Grant-Disaster Recovery ("CDBG-DR") program.

2. CONFLICT OF INTEREST

Borrower has reviewed and shall adhere to the Agency's Conflict of Interest policy, which incorporates both the State Conflict of Interest Law, N.J.S.A. 52:13D-1 et seq. and applicable federal law. It will abide by and enforce the conflict of interest requirement set forth in 24 CFR §570.611, 24 CFR §85.36 and 24 CFR §84.42. No one who exercises any functions or responsibilities, or who is in a position to participate in a decision-making process or gain inside information, may obtain a financial interest or benefit from a CDBG-assisted activity (or have a financial interest in any Loan, contract, sub-contract, or agreement with respect to a CDBG assisted facility.)

3. HATCH ACT

Borrower covenants that no Agency funding shall be used to finance the use of facilities or equipment for political purposes, or engage in other partisan activities (e.g. candidate forums, voter transportation, or voter registration). It will comply with the provisions of the Hatch Act that limit the political activity of employees and the HUD regulations governing political activity at 24 CFR §570.207.

4. RELIGIOUS ACTIVITY

Borrower will comply with HUD rules prohibiting the use of CDBG funds for inherently religious activities, as set forth in 24 CFR §570.200(j), except for circumstances specified in the HUD Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response (March 5, 2013). Funding for rehabilitating or

reconstructing a storm-damaged or destroyed building may be appropriate where a facility is not used exclusively for the benefit of the religious congregation (i.e., a homeless shelter, food pantry, adult literacy or child care center). When used for both religious and secular purposes, CDBG-DR funds may pay the portion of eligible rehabilitation or construction costs attributable to the non-religious use.

5. RECORDS

- (i) Borrower will give the State and HUD, and any of their representatives or agents, access to and the right to examine all records, books, papers, or documents related to the Agency funding.
- (ii) All records required by the Loan Documents and this Addendum, including financial records, ledgers, bank statements, contracts, invoices and receipts related to the Agency funding must be retained for five years from Project Closeout, which is deemed after the affordability period has expired. However, if any litigation, claim, or audit is started before the expiration of the five (5) year period, then records must be retained for five (5) years after the litigation, claim, or audit is resolved. All of Borrower's books and records relating to the Agency funding will be located at 1970 Brunswick Avenue, Suite 100, Lawrenceville, New Jersey 08648.
- (iii) Borrower will notify the Agency in writing of any change in the location of such books and records prior to any such relocation. Borrower agrees to grant access to inspect, copy, audit and examine at all reasonable times these records to any representative of the Agency, State, Inspector General, HUD and General Accounting Office of the United States.

6. LOBBYING

Borrower certifies that no federally appointed funds will be used for lobbying purposes regardless of level of government.

7. DRUG FREE WORKPLACE

Borrower will comply with the drug-free workplace requirements contained at 24 CFR, Part 24, and Subpart F and established by the Drug-Free Workplace Act

8. COMPLIANCE WITH LAW

Borrower agrees to comply with the following requirements:

- a. Borrower agrees to comply with all applicable federal, State and local laws, regulations and policies governing the Agency funding available under the Loan Documents and this Addendum to supplement rather than supplant funds otherwise available.
- b. Borrower agrees that its Contractor and Sub-Contractors are not and will not be on the list of excluded from Federal Procurement or Non-procurement Programs promulgated in accordance with Executive

Orders 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24 (CDBG funds may not be provided to excluded or disqualified persons).

c. Borrower shall comply with the following mandatory provisions relating to **FINANCIAL MANAGEMENT AND PROCUREMENT**:

1. If you are a non-profit, guidelines for financial and compliance audits of federally assisted programs which are OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), revised, and administrative requirements for non-profits, 24 C.F.R. Part 84.
2. 24 CFR 570.490: Recordkeeping requirements, which requires that all records be kept for a minimum of five years after grant close-out ; and
3. Borrower will comply with all requirements imposed by the State concerning special requirements of law, program requirements, and other administrative requirements.

d. Borrower will adhere to 24 CFR Section 570.489(j) regarding change of use of real property. These standards apply to real property within Owner's control which was acquired in whole or in part using CDBG-DR funds in excess of the small purchase procurement threshold in 24 CFR 85.36. These standards apply from the date CDBG-DR funds are first spent until five years after the closeout of the Program.

Borrower may not change the use or planned use of any property (including the beneficiaries of such use) from that for which the acquisition or improvement was made, without first providing citizen review and comment and either:

1. The new use meets one of the national objectives and is not a building for the general conduct of government;
2. The requirement of 24 CFR Section 570.489(j) are met.

9. ENVIRONMENTAL IMPACT

Borrower may not begin any Project Activities without prior written consent of the Agency, as follows.

For all activities undertaken, Borrower agrees to provide information as needed to the DEP and/or the Agency for site-specific activities.

This will include, but is not limited to:

- a. Providing the names of all facilities receiving federal assistance so that the DEP

and/or the Agency can ensure that the facilities are not listed on the United States Environmental Protection Agency's (EPA) list of violating;

- b. Providing site-specific information regarding the age, location and prior ground disturbance of all facilities assisted, to determine compliance requirements with Section 106 of the National Historic Preservation Act of 1966, and the Preservation of Archaeological and Historical Data Act of 1966. And the provisions of 24 CFR Part 55 and Executive Order 11988, as amended by Executive Order 12148, relating to evaluation of flood hazards;
- c. Complying with the flood insurance purchase requirement of Section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. §4001 et seq., which requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of HUD as an area having special flood hazards. For purposes herein, the phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal funding. Additionally:
 - I. *Flood insurance purchase requirements.* HUD does not prohibit the use of CDBG-DR funds for [existing residential buildings] in the Special Flood Hazard Area (SFHA) (or "100-year" floodplain). With respect to flood insurance, a HUD-assisted [homeowner] for a property located in the SFHA must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program. Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) mandates the purchase of flood insurance protection for any HUD assisted property within the SFHA.
 - II. *Future Federal assistance to Borrowers remaining in a floodplain.* (1) Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) prohibits flood disaster assistance in certain circumstances. No Federal disaster relief assistance may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance and the person has subsequently failed to obtain and maintain flood insurance. Borrower may not receive CDBG disaster assistance for the repair, replacement, or restoration if it has failed to meet this requirement.
 - III. In the event of transfer of any property having received CDBG-DR assistance, the Borrower will notify the transferee in writing of the requirements to 1) Obtain flood insurance, if the property is not insured as of the date of transfer; 2) Maintain flood insurance; 3) Require the transferor, if there is failure to notify the transferee, to reimburse the federal government in the amount of any subsequent disaster relief

assistance if such funds are expended on the property after the date of transfer.

IV. Borrower will cooperate with the DEP and/or the Agency so that all assisted properties will be elevated, repaired, reconstructed or newly-constructed (including both commercial and residential properties) in accordance with the newly-released FEMA Base Flood Elevation Maps (reference table 2-6 in the state's Action Plan).

V. In accordance with 24 CFR 58.6(b), Borrower acknowledges that the Agency will not provide any Agency funding to a small business that had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance and the small business failed to obtain and maintain such insurance.

VI. The Borrower acknowledges that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities, issued by the EPA pursuant to 40 CFR 15.20.

VII. Prompt notice must be given of any notification received from the Director, Office of Federal Activities, and EPA, indicating that a facility utilized or to be utilized for the Loan under consideration is to be listed on the EPA list of Violating Facilities.

VIII. In no event shall any amount of assistance provided under this ADDENDUM be utilized with respect to a facility which has given rise to a conviction under section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

IX. The Borrower agrees to comply with all the requirements of section 114 of the Clean Air Act, as amended (42 USC 1857c-8-0 and section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said section 114 and 308, and all regulations and guidelines issued thereunder.

X. The Borrower acknowledges that all work has ceased on the Project pending final DEP and/or Agency environmental review approval.

XI. Borrower will comply with:

1. Executive Order 11990, Protection of Wetlands;

2. the Coastal Zone Management Act Sections 307(c)(d);

3. In relation to water quality:

a. Executive Order 12088, as amended by Executive Order 12580, relating to the prevention, control and abatement of water pollution;

b. The Safe Drinking Water Act of 1974 (42 U.S.C. §§ 201, 300(f) et seq. and U.S.C. §349), as amended, particularly Section 1424(e) (42 U.S.C. §§ 300h-303(e)), which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered

into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and

- c. Executive Order 12088, as amended by Executive Order 12580, relating to the prevention, control and abatement of water pollution; The Federal Water Pollution Control Act of 1972, as amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. §1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.

- 4. The Endangered Species Act of 1973 (50 CFR 402), as amended;
- 5. The Fish and Wildlife Coordination Act of 1958, as amended;
- 6. Wild and Scenic Rivers Act of 1968 {Sections 7(b) and (c)}, as amended;
- 7. Executive Order 11738, providing for administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans, and EPA regulations (40 CFR part 15);
- 8. The Clean Air Act of 1970 (Sections 176(c), (d), and 40 CFR 6, 51, 93), which prohibits engaging in, supporting in any way, or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards;
- 9. The Farmland Protection Policy Act, 7 U.S.C.A. §4201 et seq., which requires recipients of federal assistance to minimize the extent to which their projects contribute to the unnecessary and irreversible commitment of farmland to nonagricultural uses;
- 10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994;
- 11. Noise abatement and control requirement found at 24 CFR 51B;
- 12. Provisions of 24 CFR 51C, explosive and flammable operations;
- 13. Provisions of 24 CFR 58.5(i) relating to toxic chemicals and radioactive materials;

14. [Sections 1012 and 1013 of Title X of the Housing and Community Development Act of 1992 (Public Law 102-550, as amended). The regulation appears within Title 24 of the Code of Federal Regulation as part 35 (codified in 24 CFR 35). The purpose of this regulation is to protect young children from lead-based paint hazards in housing that is financially assisted by the Federal government or sold by the government. This regulation applies only to structures built prior to 1978. It will also comply with the Lead Safety Housing Regulation covering prohibited methods of paint removal (24 CFR Part 35.140) and occupant protection (24 CFR Part 35.1345);]
15. Borrower will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901, et seq.);
16. Borrower will comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).
- XII. Borrower agrees that the use of lead-based paint, that is any paint containing more than 1% lead by weight, is strictly prohibited from use on any interior surface or exterior surface in any building being rehabilitated. Additionally, any evidence of a health hazard, which is, defined as cracking, scaling, peeling and loose lead-based paint must be treated to prevent the ingestion of the contaminated paint. It is further necessary to assume that any of the above conditions constitute an immediate or potential hazard and must be corrected using appropriate methods as detailed in Title IV of the Lead Based Paint Poisoning Prevention Act.

10. LABOR STANDARDS

1. Borrower will adhere to the labor standards requirement set forth in 24 CFR §570.603 and any other regulations issued to implement such requirements;
2. Borrower will comply with Section 110 of the Housing and Community Development Act of 1974, as amended and as set forth in 24 CFR §570.603;
3. Borrower will comply with the Davis-Bacon Act, as amended (40 U.S.C. §3141 et seq.);
4. Borrower acknowledges that the prevailing wage rate shall be determined by the Davis-Bacon Act and not State prevailing wage pursuant to N.J.S.A. 55:14K-42.

5. Borrower will comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §327 et seq.), requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work-week;
6. Borrower will comply with the Federal Fair Labor Standards Act (29 U.S.C. §201 et seq.), requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week;
7. Borrower will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3);
8. Borrower will comply with the following HUD regulations and/or guidance:
 - 24 CFR 570.489(l): Debarment and suspension.
 - 24 CFR 570.603: Labor standards.
 - 24 CFR 570.609: Use of debarred, suspended, or ineligible contractors or sub-recipients.
 - Form HUD 4010 Federal Labor Standards Provisions
9. Borrower will comply with the following United States Department of Labor regulations in parallel with HUD requirements above:
 - 29 CFR Part 1: Procedures for Predetermination of Wage Rates.
 - 29 CFR Part 3: Contractors and Sub-contractors on Public Building or Public Work Financed In Whole or In Part by Loans or Grants from the United States.
 - 29 CFR Part 5: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also, Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contracts Work Hours and Safety Standards Act).
 - 29 CFR Part 5: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also, Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contracts Work Hours and Safety Standards Act).
 - 29 CFR Part 6: Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal and Federally Assisted Construction Contracts and Federal Service Contracts.
 - 29 CFR Part 7: Practice before the Administrative Review Board With Regard to Federal and Federally Assisted Construction Contracts.

11. EQUAL OPPORTUNITY

For Contracts above \$10,000:

- I. During the Agency funding term, the Borrower agrees as follows:
 - a) It will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. It will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. It agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.
 - b) It will, in all solicitations or advertisements for employees, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - c) It will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding, a notice to be provided advising the said labor union or workers' representatives of their commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d) It will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - e) It will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - f) In the event of the Borrower's noncompliance with the nondiscrimination clauses of this Addendum or with any of the said rules, regulations, or orders, this Loan may be canceled, terminated, or suspended in whole or in part and the Borrower may be declared ineligible for further Government Contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - g) It agrees to include the provisions a through f in this Equal Opportunity Section in every contract, sub-contract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, sub-contractor or vendor.
 - h) It agrees to comply with Executive Order 11246 as to maintaining non-segregated facilities and establishments and does not permit employees to

perform services at any location under their control where segregated facilities are maintained.

For Loans \$10,000 and below:

- a) Borrower shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. It shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) It shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. They shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- c) The Borrower and all contractors and sub-contractors shall incorporate the foregoing requirements in all contracts.

12. ACQUISITION AND RELOCATION

Borrower agrees to comply with the following statutes and regulations:

- 1. Title II (Uniform Relocation Assistance) and Sections 301-304 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Chapter 61), and HUD implementing instructions at 24 CFR Part 42 and 24 CFR §570.606;
- 2. Section 104(d) of the Housing and Community Development Act of 1974, as amended;
- 3. It will comply with 42 U.S.C. 3537c (Prohibition of Lump Sum Payments);
- 4. It will comply with 49 CFR Part 24 (Uniform Relocation and Real Property Acquisition ("URA") for Federal and Federally-Assisted Programs);
- 5. URA Fixed Residential Moving Cost Schedule;
- 6. 24 CFR Part 42 (Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs); and
- 7. 24 CFR 570.606 (Displacement, Relocation, Acquisition and Replacement of Housing).

Borrower agrees to provide relocation assistance to those that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-DR assisted project, with the exception of:

1. The one-for-one replacement requirements at Section 104(d)(2)(A)(i)-(ii) and (d)(3) and 24 CFR 42.375 which have been waived by HUD;
2. The relocation assistance requirements at section 104(d)(2)(A) and 24 CFR 42.350 to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR part 24, as modified by the Act for activities related to disaster recovery;
3. Arms-length voluntary purchase requirements at 49 CFR 24.101(b)(2)(i)-(ii) are waived to the extent that they apply to an arm's length voluntary purchase carried out by a person who uses funds allocated under this Addendum and does not have the power of eminent domain;
4. Rental assistance to a displaced person: The requirements at sections 204(a) and 206 of the URA, and 49 CFR 24.2(a)(6)(viii), 24.402(b)(2), and 24.404 are waived to the extent that they require the Borrower to use 30 percent of a low-income displaced person's household income in computing a rental assistance payment if the person had been paying more than 30 percent of household income in rent/utilities without "demonstrable hardship" before the project;
5. Tenant-based rental assistance requirements of sections 204 and 205 of the URA, and 49 CFR 24.2(a)(6)(ix) and 24.402(b) are waived to the extent necessary to permit a Borrower to meet all or a portion of a Borrower's replacement housing financial assistance obligation to a displaced tenant by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy, provided that the tenant is provided referrals to comparable replacement dwellings in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months;
6. Moving expense requirements at section 202(b) of the URA and 49 CFR 24.302; the Borrower may instead choose to establish a "moving expense and dislocation allowance" under a schedule of allowances that is reasonable takes into account the number of rooms in the displacement dwelling; and

The regulation at 24 CFR 570.606(d) is waived to the extent that it requires optional relocation policies to be established; units of local government receiving CDBG-DR funds may establish separate optional policies.

13. FAIR HOUSING AND NON-DISCRIMINATION

Any act of unlawful discrimination committed by Borrower or failure to comply with the following statutory and regulatory obligations when applicable shall be grounds for

termination of the Loan and this Addendum or other enforcement action; and Borrower agrees to comply with:

1. Title VI of the Civil Rights Act of 1964 and as amended in 1988, 42 U.S.C. §200d et seq., as amended, and the regulations issued pursuant thereto (24 CFR Part1), which provide that no person in the United States shall on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Project receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended to the Borrower, this assurance shall obligate the Borrower, or in the case of any transfer of such property, and transferee, for the period during which the property or structure is used for another purpose involving the provision of similar services or benefits.
2. Architectural Barriers Act of 1968, as amended 42 U.S.C. § 4151 et seq.
3. Title IX of the Education Amendments Act of 1972, as amended 20 U.S.C. §1681 et seq.
4. Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. §701, which provides that no otherwise qualified individual shall, solely by reason of his or her handicap be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program receiving federal funding assistance, with special provisions for Grantees with 15 or more employees requiring a formal, written grievance procedure for resolution of complaints.
5. Section 508 of the Rehabilitation Act of 1973 as amended 29 U.S.C. §794, requiring that electronic and information technology be accessible to people with disabilities, including employees and members of the public.
6. Section 109 of Title I of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part §570.602), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under that Part. Section 109 further prohibits discrimination to an otherwise qualified individual with a handicap, as provided under Section 504 of the Rehabilitation Act of 1973, as amended, and prohibits discrimination based on age as provided under the Age Discrimination Act of 1975. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR Part 6.
7. Section 104(b) (2) of the Housing Community Development Act of 1974, implementing Section 109.
8. Age Discrimination Act of 1975 (42 U.S.C. 1601 et seq.), prohibiting discrimination on the basis of age.

9. Title II of the Americans with Disabilities Act of 1990, prohibiting discrimination and ensuring equal opportunity for persons with disabilities in employment, and commercial facilities.
10. Title III of the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12101 et seq.).
11. Borrower must use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of the Loan Documents. As used in this Addendum, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Borrower may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
12. Section 3, Housing and Urban Development Act of 1968. Section 3 requirements will apply to all individual properties assisted with these funds if amounts exceed \$100,000, regardless of the actual amount spent on each individual unit/property. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Addendum, shall be a condition of the Federal financial assistance provided under the Loan Documents and binding upon the Borrower and third-party entities. The Borrower certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

These responsibilities include:

- a. Making efforts to meet the minimum numerical goals found at 24 CFR Part 135.30;
- b. Complying with the specific responsibilities at 24 CFR Part 135.32; and
- c. Submitting Annual Summary reports in accordance with 24 CFR Part 135.90.

The following language must be included in all contracts and sub-contracts if the award exceeds \$100,000:

- a. The work to be performed under the contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by

HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- b. Borrower will comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by its execution of this Addendum Borrower certifies that it is under no contractual or other impediment that would prevent it from complying with the part 135 regulations.
- c. The Borrower agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Borrower's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- d. The Borrower agrees to include this section 3 clause in every sub-contract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the contract or in this section 3 clause, upon a finding that the contractor is in violation of the regulations in 24 CFR part 135. The Borrower will not sub-contract with any sub-contractor where the Borrower has notice or knowledge that the sub-contractor has been found in violation of the regulations in 24 CFR part 135.
- e. The Borrower will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor or sub-contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Borrower's obligations under 24 CFR part 135.
- f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of the Loan, and debarment or suspension from future HUD assisted contracts and loans.

Borrower will further comply with:

- a. Executive Order 11246: EEO and Affirmative Action Guidelines for Federal Contracts Regarding Race, Color, Gender, Religion, and National Origin, September 25, 1965 and Executive Order 11375: Amending

Executive Order No. 11246, October 13, 1967, which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted construction contracts. Further contractors and sub-contractors on federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training and apprenticeship.

During the performance of the Loan Documents, the Borrower agrees as follows:

- i. It will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. It will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. It agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- ii. It will, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- iii. It will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Agency contracting officer, advising the labor union or workers' representative of the Borrower's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- iv. It will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- v. It will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vi. In the event of the Borrower's noncompliance with the nondiscrimination clauses of this Addendum or with any of such rules, regulations, or orders, the Loan cancelled, terminated, accelerated or suspended in whole or in part and the Borrower may be declared ineligible for further Government loans and/or contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- vii. It will include the provisions of paragraphs (1) through (7) in every contract and sub-contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, sub-contractor or vendor. It will take such action with respect to any contract or sub-contract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the Borrower becomes involved in, or is threatened with, litigation with a contractor, sub-contractor or vendor as a result of such direction, it may request the United States to enter into such litigation to protect the interests of the United States.
- b. Executive Order 12086: Consolidation of Contracts compliance functions for equal employment opportunity, October 5, 1978.
- c. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994.
- d. Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, August 11, 2000.

And Borrower affirms it will comply with implementing regulations for the above:

- I. 24 Code of Federal Regulations Part 1: Nondiscrimination in Federally Assisted Programs of HUD.
- II. 24 Code of Federal Regulations Part 5.105: Other Federal Requirements.
- III. 24 Code of Federal Regulations Part 6: Nondiscrimination in Programs, Activities Receiving Assistance under Title I of the Housing and Development Act of 1974.
- IV. 24 Code of Federal Regulations Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the HUD.
- V. 24 CFR Code of Federal Regulations Parts 50.4 (l) and 58.5 (j): Environmental Justice.
- VI. 24 Code of Federal Regulations Part 91.325(b) (5): Compliance with Anti-discrimination laws.
- VII. 24 Code of Federal Regulations Part 91.520: Performance Reports.
- VIII. 24 CFR Part 121: Collection of Data.
- IX. 24 CFR Part 135: Economic Opportunities for Low- and Very Low-Income Persons.
- X. 24 CFR Part 146: Non-discrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.
- XI. 24 Code of Federal Regulations Part 570.487(e): Contractual Barriers Act and Americans with Disabilities Act (State Community Development Block Grant grantees).
- XII. 24 Code of Federal Regulations Part 570.490(a) (b): Recordkeeping requirements.
- XIII. 24 Code of Federal Regulations 570.491: Performance Reviews and Audits.
- XIV. 24 Code of Federal Regulations Part 570.495(b): HCDA Section 109 nondiscrimination.
- XV. 24 Code of Federal Regulations Part 570.506(g): Fair Housing and equal opportunity records.

- XVI. 24 Code of Federal Regulations Part 570.608 and Part 35: Lead-Based Paint.
 - XVII. 24 Code of Federal Regulations Part 570.614: Contractual Barriers Act and Americans with Disabilities Act.
 - XVIII. 24 Code of Federal Regulations Part 570.904: Equal Opportunity and Fair Housing Review.
 - XIX. 24 Code of Federal Regulations Part 570.912: Nondiscrimination compliance.
13. Section 503 of the Rehabilitation Act of 1973 requires the following clauses in all contracts and sub-contracts involving federal funds of \$10,000 or more.
- 1. Borrower will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Borrower agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 - 2. Borrower agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
 - 3. In the event of the Borrower's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the Act.
 - 4. Borrower agrees to post in conspicuous places, available to employees and applicants for employment, notices stating the Borrower's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
 - 5. Borrower will notify each labor union or representative of workers with which it has a collective bargaining agreement or other Loan Documents understanding, that the Borrower is bound by the terms of Section 503 of the Rehabilitation of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

6. Borrower will include the provisions of this clause in every contract, sub-contract or purchase order of \$10,000 or more of federal funding unless exempted by rules, regulations, or orders of the (federal) secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each contractor, sub-contractor or vendor. The Borrower will take such action with respect to any contract, sub-contract and purchase order as the director of the Office of Federal Loan Documents Compliance Programs may direct to enforce such provisions, including action for non-compliance (41 CFR 60-741.4.4).

BORROWER:
HERITAGE VILLAGE AT OAKHURST
LLC


Christopher W. Wabash

By: CIS Oakhurst LLC, its Managing Member
By: Community Investment Strategies, Inc., its
Managing Member

By: 
Barbara K. Schoor, Vice President

LIHTC # 1450



004DYN

Prepared By:

Joyce Lini

DEED OF EASEMENT AND RESTRICTIVE COVENANT FOR EXTENDED LOW-INCOME OCCUPANCY

THIS DEED OF EASEMENT and RESTRICTIVE COVENANT (the "Covenant") dated as of November 10, 2014, shall run with the land and is granted by Heritage Village at Oakhurst LLC and its successors and assigns (the "Project Owner") whose principal address is 1970 Brunswick Avenue, Suite 100 Lawrenceville NJ, 08648, to the New Jersey Housing and Mortgage Finance Agency, its successors and assigns, (the "Agency") acting as the housing credit agency for the State of New Jersey as described in Section 42(h)(3) of the Internal Revenue Code as amended, and to income eligible members of the public as defined below. As conditioned below this Covenant restricts occupancy of the described premises to income eligible occupants for a specified period of time. This Covenant is made in satisfaction of the requirements of Section 42 of the Federal Tax Reform Act of 1986, P.L. 99-514, as amended, (the "Code").

As indicated on the Determination Letter or the IRS Form(s) 8609 for the building(s) described below, the Agency has determined the eligibility for and issued Low Income Housing Tax Credits ("LIHTC") authorized under the Code in an estimated annual amount of \$652,505 to be claimed by the Project Owner over a 10 or 15 year period pursuant to the Code. In consideration of the receipt of the benefit of the LIHTC, the Project Owner hereby agrees to the following restrictive covenants, which are made in satisfaction of the requirements contained in Section 42(h)(6) of the Code.

- (1) The one building, which consist of a total of 93 residential rental units, of which 92 are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section 42(g)(1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as Heritage Village at Oakhurst (the "Project"). The Project is located at 777 West Park Avenue, Ocean Township NJ, 07755, Municipal Tax Map Block No. 3, Lots No. 16.03 and 16.04 in the County of Monmouth, New Jersey, and title to which has been recorded in the County Clerk or Register's Office being more fully described as set forth in Attachment "A" hereto.
- (2) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code (the smaller of the low-income unit fraction or the low-income floor space fraction), and as provided by the Project Owner in its low income housing tax credit application (the "Application") is 100 percent. This fraction shall not be decreased during any taxable year of the compliance period or extended use period unless terminated in accordance with the provisions enumerated at Section 42(h)(6)(E) of the Code.

- (3) This Covenant and the Section 42 occupancy and rent restrictions shall commence on the first day of the compliance period as defined in section 42 of the Code, and shall end on the date which is fifteen (15) years after the close of the initial fifteen (15) year compliance period, unless terminated by foreclosure or instrument in lieu of foreclosure, pursuant to the provisions of the Code, and any regulations promulgated thereunder.
- (4) The extended use period shall terminate, subject to the provisions regarding low-income tenancy and gross rent restrictions, on the date the buildings are acquired by foreclosure (or an instrument in lieu of foreclosure), or on the last day of the one year period beginning on the date after the fourteenth (14th) year of the initial compliance period that the Project Owner submits a written request to the Agency to present a qualified contract (as defined at Section 42(h)(6)(F) of the Code) for the acquisition of the buildings, if, and only if, the Agency is unable to present within that year's time, a qualified contract from a purchaser who will continue to operate such buildings as a qualified low-income project.
- (5) The compliance period begins at the same time as the credit period. The Project Owner elects when to begin the credit period at the time the Project Owner's first tax return is filed with the Internal Revenue Service. It is expected that the Project Owner will begin the credit period in 2016.
- (6) The federal set-aside, as defined by section 42(g)(1) of the Tax Code, which was selected by the Project Owner in its Application requires that 40 percent or more of the residential units in the Project are both rent restricted and occupied by individuals whose income is 60 percent or less of area median gross income (AMGI) ("income eligible members of the public"). The selection of this federal set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.
- (7) ☐ If this box is checked, the Project is a Special Needs Project as defined in the _____ Qualified Allocation Plan, and as selected by the Project Owner in its Application and as such, the Project Owner must BOTH restrict 25% of the LIHTC units in the Project for occupancy by one or more special needs population through the end of the compliance period AND make available at a reasonable cost to all tenants with special needs a minimum of three appropriate and accessible social services throughout the compliance period. One of the social services must be a social service coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs. Notwithstanding the above, if after a period of sixty (60) days of a unit described in this paragraph becoming unoccupied the Project cannot identify an eligible person within the special needs population selected by the Project Owner in its Application to rent the unoccupied unit, such unit may be leased to any low income housing tax credit eligible person or family, with a preference given first to eligible persons in other special needs populations. The next unit of similar size in the Project that becomes unoccupied shall be rented to an eligible person within the

special needs population selected by the Project Owner in its Application on the same terms set forth herein.

- (8) Pursuant to section 42(h)(6)(B)(iii) of the Code, this Covenant prohibits the disposition to any person of any portion of a building to which this Covenant applies unless all of the building to which such Covenant applies is disposed of to such person.
- (9) Pursuant to Revenue Ruling 2004-82, this Covenant prohibits (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or (ii) any increase in the gross rent with respect to the unit not otherwise permitted under section 42 of the Code for the term of the extended use period and a period of three (3) years following any termination of this Covenant, including any termination by foreclosure or instrument in lieu of.
- (10) Pursuant to section 42(h)(6)(B)(iv) of the Code, this Covenant prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 of the status of the prospective tenant as such a holder.
- (11) This Covenant shall constitute an agreement between the Agency and the Project Owner which is enforceable in the courts of the State of New Jersey by the Agency or by individual(s), whether prospective, present, or former occupants of the Project, who meet the income limitations applicable to the Project under Section 42(g) of the Code, said individual(s) being express beneficiaries of this Covenant.
- (12) The Project Owner agrees to comply with the requirements of the federal Fair Housing Act as it may from time to time be amended.
- (13) The Project Owner agrees (i) to obtain the consent of any recorded lien holder on the Project to the terms and conditions of this Covenant and (ii) it will not grant to any lien holder an interest in the Project that is superior to the terms and conditions of this Covenant. Such consent and subordination of the interests of all recorded lien holders on the Project shall be conditions precedent to the issuance of IRS Form(s) 8609.
- (14) The Project Owner agrees to employ throughout the compliance period a staff person who has successfully completed a NJHMFA-approved tax credit certification program with a continuing education component prior to the project being placed in service. The staff person responsible for verification of tenant income must be the person to successfully pass the certification examination and maintain the certification for the term of the compliance and extended use periods.
- (15) This Covenant is binding on all successors in interest to the Project and shall run with the land until the end of the extended use period, unless terminated prior to said date in accordance with all provisions of the Code and the regulations promulgated thereunder.
- (16) These covenants may, from time to time, be amended only with the written consent of the

Agency, to reflect changes to the Code or regulations promulgated thereunder. Project Owner expressly agrees to enter into such amendments as may be necessary to maintain compliance under section 42 of the Code.

- (17) In order to enable the Agency to monitor the Project Owner's compliance with these use and occupancy restrictions pursuant to the Code, Project Owner covenants and agrees that the Agency and its agents or employees shall be allowed to enter and inspect the Project during business hours and to inspect and copy all books and records pertaining to the Project.
- (18) The Project Owner covenants and agrees to comply and cooperate with the Code and all Agency tax credit compliance monitoring procedures including but not limited to completing and sending to the Agency an annual status report, or, if requested by an authorized official of the Agency, more frequent reports, in form and content acceptable to the Agency, which shall demonstrate ongoing compliance with this Covenant.
- (19) The Project Owner covenants and agrees that in the event it files for bankruptcy, liquidates, sells or otherwise transfers ownership of the Project, it will notify the Agency in writing, and further, that as a condition precedent to any sale or transfer it will enter into such agreements with the purchaser or transferee as may be prescribed by the Agency, which have the effect of causing such purchaser or transferee to be bound by these use and occupancy restrictions, as they may be amended or supplemented.
- (20) The terms of this Covenant shall be interpreted, conditioned and supplemented in accordance with and by section 42 of the Code and regulations promulgated thereunder, all of which are incorporated herein by reference, whether or not such provisions of the Code or regulations are expressed or referenced herein. In the event of any conflict between this Covenant and the requirements of the Code, the Code shall prevail. The Agency reserves the right to set conditions for the allocation of LIHTC by regulation that may be more stringent than the Code.
- (21) The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining provisions.
- (22) This Covenant may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.


[SIGNATURES ON NEXT PAGE]

Signatures: This Covenant is granted by the Project Owner whose duly authorized representative's signature appears below.

Sworn and subscribed to before
the undersigned Notary Public or
Attorney on the date appearing below:


WITNESS

(IF INDIVIDUAL, LLC, OR PARTNERSHIP)



PROJECT OWNER:

By:


Authorized Representative

Heritage Village at Oakhurst LLC

By: CIS Oakhurst LLC

By: Barbara K. Schoor, Vice President

Community Investment Strategies, Inc.

ATTEST (IF A CORPORATION)

PROJECT OWNER:

By:

President (Corporation)

Secretary

(Print Name)

KRISTINE GIORDANO HANLON
ACTING COUNTY CLERK
MONMOUTH COUNTY, N.J.

INSTRUMENT NUMBER

2015040923

RECORDED ON

May 11, 2015

10:49:32 AM

BOOK: DR-9112

PAGE: 3080

Total Pages: 6

COUNTY RECORDING \$80.00

FEES

TOTAL PAID \$80.00

ACKNOWLEDGEMENT FOR PARTNERSHIP
(who has a corporate entity as general partner)

STATE OF NEW JERSEY)
) SS:
COUNTY OF)

I CERTIFY that on _____, 2013,
_____ OF THE PARTNERSHIP personally came
before me, and this person acknowledged under oath, to my satisfaction, that (a) this person is the
President of _____ who is the general partner of
_____, the Owner named in this document (the "Partnership");
and (b) this document was signed and delivered by the Partnership as its voluntary act duly authorized
by a proper resolution of the Board of Directors of the General Partner.

SWORN TO AND SUBSCRIBED
before me, the date aforesaid.

Notary Public

ACKNOWLEDGEMENT FOR LIMITED LIABILITY COMPANY

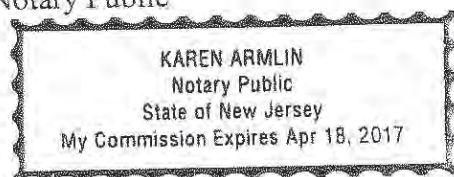
STATE OF NEW JERSEY)
) SS:
COUNTY OF Mercer)

I CERTIFY that on November 15, 2013, Barbara K. Schoor
personally came before me, and this person acknowledged under oath, to my satisfaction, that (a) this
person is the Managing Member of Community Investment Strategies Inc; Managing, the Owner named in this
document (the "LLC"); and (b) this document was signed and delivered by the Company as its voluntary
act duly authorized by a proper resolution of the Company.

*member of CIS owned first
LLC, Managing Member of
Heritage Village of Camden LLC*

SWORN TO AND SUBSCRIBED
before me, the date aforesaid.

Karen Armlin
Notary Public



16 of 18

8

PREPARED BY/RECORD & RETURN TO:



RIF

Christopher M. Walrath, Esq.
GluckWalrath LLP
11 Wharf Avenue, Suite 4
Red Bank, New Jersey 07701
CStonebridge Title

THIS MORTGAGE AND THE RIGHTS OF THE LENDER HEREUNDER ARE SUBJECT AND SUBORDINATE TO CERTAIN MORTGAGES AND RIGHTS OF OTHERS AS IS SET FORTH HEREIN WHETHER EXISTING OR HEREAFTER GRANTED.

MORTGAGE

This mortgage is entered into on April 27, 2015, between the Borrower, **HERITAGE VILLAGE AT OAKHURST LLC**, a New Jersey limited liability company (the "Borrower"), whose address is 1970 Brunswick Avenue, Suite 100, Lawrenceville, New Jersey 08648; and the Lender, **TOWNSHIP OF OCEAN**, (the "Lender"), whose address is 399 Monmouth Road, Oakhurst, New Jersey 07755-1589.

If more than one Borrower signs this Mortgage, the word "Borrower" shall mean each Borrower named above. The word "Lender" means the original Lender and anyone else who takes this Mortgage by transfer. The term "Loan Documents" means, collectively, this Mortgage and the Note.

1. **Mortgage Note.** Borrower agrees to pay Three Hundred Thousand Dollars (\$300,000.00), or so much thereof as shall have been advanced to Borrower (called "Principal") plus interest in accordance with the terms of a Mortgage Note between the parties dated April 27, 2015 (referred as the "Note"). To the extent that interest and principal are not covered by Cash Flow (as defined in the First Amended and Restated Operating Agreement of the Borrower dated April 27, 2015) payments, the payment of principal and interest will be deferred until the end of this Mortgage term on April 27, 2045. All terms of the Note are made part of this Mortgage.

2. **Property Mortgaged.** The property mortgaged to the Lender (called the "Property") is described in Schedule "A" annexed hereto. The Property includes: (a) the land; (b) all buildings that are now, or will be, located on the land; (c) all fixtures that are now, or will be, attached to the land or building(s); (d) all condemnation awards and insurance proceeds relating to the land and building(s); and (e) all other rights that Borrower has, or will have, as owner of the Property.

3. **Rights Given to Lender; Subordination.** Borrower mortgages the Property to the Lender. Notwithstanding anything to the contrary in this Mortgage or the Note, this Mortgage, and all rights of Lender herein, are expressly subordinate to the liens, covenants and conditions

of the following mortgages encumbering or to be encumbering Borrower's interest in the Property: (a) made by Borrower to the New Jersey Housing Mortgage and Finance Agency (the "NJHMFA") of even date herewith in the principal amount of \$11,351,624 (the "Construction/Permanent Mortgage"), (b) made by Borrower to the Agency of even date herewith in the principal amount of \$11,020,000 (the "CDBG Mortgage"), (c) made by Borrower to the Agency of even date herewith in the principal amount of \$500,000 ("Special Needs Mortgage"); (d) to be made by Borrower to other such lenders, agencies or other funding sources as may be later identified by the Borrower in its sole discretion and collectively with the Construction/Permanent Mortgage, the CDBG Mortgage and the Special Needs Mortgage (the "Superior Mortgages") and to any modifications, extensions, renewals or substitutions for any of the Superior Mortgages provided the foregoing shall be limited to securing an aggregate outstanding stated principal balance of \$25,000,000, together with interest, costs, fees and advances as therein provided from time to time. The Lender further subordinates its mortgage to the payment of Deferred Developer Fee.

To the extent that any Superior Mortgages do not close prior to this Mortgage, Lender shall permit Borrower or its agents, affiliates, and/or assigns to advance funds for the benefit of the Property, which shall be considered a Superior Mortgage to this Mortgage.

To the extent further documentation is necessary or required to reflect such subordination the Lender shall execute the same in a timely fashion.

Notwithstanding anything to the contrary contained herein, for as long as any of the Superior Mortgages are outstanding, Lender will not (i) commence foreclosure proceedings with respect to the Property under the Note and the Mortgage and the other loan documents, including, but not limited to accelerating sums due under the Note, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder, (ii) join with any other creditor in commencing any bankruptcy reorganization arrangement, insolvency or liquidation proceedings with respect to Borrower, (iii) otherwise exercise any other rights or remedies under or in respect of this Mortgage or the Note secured hereby (whether relating to a default or an event of default thereunder) or (iv) modify the terms hereof, without the prior written consent of the holders of the Superior Mortgages, which may be withheld in their sole and absolute discretion. The Lender agrees to give the Borrower and Wincopin Circle LLLP (the "Tax Credit Investor") prompt written notice of any default of the Borrower under this Mortgage and shall permit the Tax Credit Investor, as well as the Borrower, the opportunity to cure all defaults.

4. Promises. Borrower makes the following promises to Lender:

a. **Note and Mortgage.** Borrower shall comply with all of the terms of the Note and this Mortgage.

b. **Payments.** Borrower will make all payments required by the Note and this Mortgage.

c. **Ownership.** Borrower warrants title to the Property and will defend its ownership against all claims.

d. **Liens and Taxes.** Borrower will pay all liens, taxes, assessments and other government charges made against the Property when due.

e. **Insurance.** Borrower shall maintain insurance coverage as may be reasonably required by the Lender. Lender shall not impose any insurance requirements as long as the Superior Mortgages are outstanding.

f. **Repairs.** Borrower will keep the Property in good repair, neither damaging nor abandoning it. Borrower will allow Lender to inspect the Property upon reasonable notice to Borrower.

g. **Statement of Amount Due.** Upon request of the Lender, Borrower will certify to the Lender in writing: (a) the amount due on the Note and this Mortgage; and (b) whether or not Borrower has any defense to Lender's obligations under the Note and this Mortgage.

h. **Rent.** Borrower will not accept rent from any tenant for more than one month in advance.

i. **Lawful Use.** Borrower will use the Property in compliance with all laws, ordinances and other requirements of any governmental authority.

5. **Eminent Domain.** All or part of the Property may be taken by a government entity for public use. If this occurs, Borrower agrees that, subject to the Superior Mortgages, any compensation be given to the Lender. The Lender may use this to repair and restore the Property or to reduce the amount owed on the Note and this Mortgage. This will not delay the due date for any further payment under the Note and this Mortgage. Any remaining balance will be paid to Borrower.

6. **Payments Made for Borrower.** If Borrower does not make all of the repairs or payments agreed to in this Mortgage, the Lender may do so for Borrower. The costs of these repairs and payments will be added to the Principal, will bear interest at the same rate as provided in the Note and will be repaid to the Lender upon demand.

7. **Notices.** All notices under this Mortgage shall be deemed given upon personal delivery (including by overnight delivery service) two (2) days after posting by United States certified mail with return receipt requested; or three (3) days after posting by United States first class mail. All notices shall be given in writing, postage prepaid, and properly addressed to the party receiving notice at the addresses set forth herein (or such other address as may be provided by notice hereunder to the other party).

A copy of all notices hereunder shall be sent to the Borrower and the Lender at the addresses set forth above and to each of the following parties:

GluckWalrath LLP
11 Wharf Avenue, Suite 4
Red Bank, New Jersey 07701
Attention: Chris Walrath, Esq.

New Jersey Housing and
Mortgage Finance Agency
637 South Clinton Avenue
Trenton, New Jersey 08650
Attention: Executive Director

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, Maryland 21044

8. **Nonrecourse Liability.** No member of the Borrower, including a managing member, shall be held personally liable hereunder and, in the event of default, Lender's sole recourse shall be limited to the Property.

9. **No Waiver by Lender.** Lender may exercise any right under this Mortgage or under any law, even if Lender has delayed in exercising that right or has agreed in an earlier instances not to exercise that right. Lender does not waive its right to declare that Borrower is in default by making payments or incurring expenses on Borrower's behalf.

10. **Miscellaneous.** This Mortgage is binding upon the Borrower, its assigns, legal representatives, personal representatives, and/or successors. This Mortgage may be assigned by the Lender by providing thirty (30) days prior written notice to the Borrower. This Mortgage shall be governed and construed in accordance with the laws of the State of New Jersey. If any provision of this Mortgage shall be invalid, illegal, or unenforceable to any extent, the remainder of the Mortgage shall not be affected. The remedies granted to the Lender herein are cumulative, and Lender may realize upon any other security or exercise any other remedies available to it without waiver of any other rights. This instrument is severable, such that the invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of the remaining provisions. Whenever used herein, singular, plural, neutral, masculine or feminine terms shall have the meaning required by its context. By the signature of its duly authorized officer below, Borrower acknowledges its receipt of a conformed copy of this instrument without charge.

IN WITNESS WHEREOF, the undersigned duly authorized officer of the Borrower has set his/her hand on the date first above mentioned.

Witnessed by:



BORROWER
HERITAGE VILLAGE AT OAKHURST LLC

By: CIS Oakhurst LLC
Its Managing Member
By: Community Investment Strategies, Inc.
Its Managing Member

By: 
Christiana Foglio, CEO/President

CHRISTINE GIORDANO HANLON
ACTING COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER
2015040936

RECORDED ON
May 11, 2015
10:49:45 AM
BOOK: DR-9112
PAGE: 3286

Total Pages: 8

COUNTY RECORDING FEES \$100.00
TOTAL PAID \$100.00

Not Certified

Acknowledgment

State of New Jersey)
County of Mercer) ss:

Christiana Foglio personally came before me and stated to my satisfaction that she: (a) was the maker of the attached instrument; (b) was authorized to and did execute this instrument as President of Community Investment Strategies, Inc., the Managing Member of CIS Oakhurst LLC, the Managing Member of Heritage Village at Oakhurst LLC, the entity named in this instrument; and (c) executed this instrument as the act of the entity named in this instrument.





Not Certified Copy

Stewart Title Guaranty Company

SCHEDULE A

LEGAL DESCRIPTION

Policy No.:

File No.: 14-27698

ALL that certain lot, piece or parcel of land, situate, lying and being in the Township of Ocean, in the County of Monmouth, State of New Jersey:

All that certain lot, tract or parcel of land situate, lying and being in the Township of Ocean in the County of Monmouth and the State of New Jersey, and being all of a Block 3 Lot 16.03 & 16.04 said lots as shown on a certain map entitled "ALTA/ACSM Land Title Survey for Block 3 Lots 16.03 & 16.04, Twp. of Ocean, Monmouth County, New Jersey" prepared by Maser Consulting, dated August 12, 2014, said lots also as shown on the Official Tax Map of the Township of Ocean and being more particularly bounded and described as follows, to wit:

BEGINNING at a point in the existing northerly line of Lot 16.01 Block 3, said point the following bearing and distance from the point of intersection formed by the existing northerly line of West Park Avenue, (Variable Width R.O.W.) with existing easterly line of Lot 16.01 Block 3, said adjoining lots as shown on the aforesaid map and plan,

A) North seven degrees three minutes thirty seconds West (N 07° 03' 30" W), one hundred ninety-five and twenty-five hundredths feet (195.25'), along the aforesaid existing easterly line of Lot 16.01 Block 3, to a point in the same, to a point in the existing northerly line of same, thence -

And from said point running, thence,

1. South eighty-two degrees fifty-six minutes thirty seconds West (S 82° 56' 30" W), eighty-one and sixty-seven hundredths feet (81.67') along the aforesaid existing northerly line of Lot 16.01 Block 3, to an angle point in the same, thence-

2. South sixty-two degrees zero minutes fifty-seven seconds West (S 62° 00' 57" W), one hundred sixty-one and twenty-six hundredths feet (161.26'), still along the aforesaid existing northerly line of Lot 16.01 Block 3, to a point in an existing westerly line of same, thence -

3. South nineteen degrees thirty-nine minutes forty-five seconds East (S 19° 39' 45" E), eight and ninety hundredths feet (8.90'), along an existing westerly line of Lot 16.01 Block 3, to a point in the northerly line of same, thence-

4. South fifty-two degrees thirty-seven minutes thirty-two seconds West (S 52° 37' 32" W), thirty-nine and three hundredths feet (39.03'), along the aforesaid existing northerly line of Lot 16.01 Block 3 to a point in the existing easterly line of Lot 16.02 Block 3, said adjoining lot as shown on the aforesaid map and plan, thence -

5. North thirty-seven degrees twenty-two minutes twenty-eight seconds West (N 37° 22' 28" W), forty-eight and thirty-five hundredths feet (48.35'), along the aforesaid easterly line of Lot 16.02 Block 3, to a point in the existing northerly line of same, thence-

6. North eighty-six degrees nine minutes thirty-seven seconds West (N 86° 09' 37" W), seventy-eight and sixty-six hundredths feet (78.66'), along the aforesaid existing northerly line of Lot 16.02 Block 3 to an angle point in the same, thence -

Continued...

Stewart Title Guaranty Company

7. South seventy-two degrees forty-seven minutes fifty-seven seconds West ($S 72^{\circ} 47' 57'' W$), seventy-one and two hundredths feet (71.02'), still along the aforesaid existing northerly line of Lot 16.02 Block 3 to a point in the existing easterly line of Lot 14 Block 3, said adjoining lots as shown on the aforesaid map and plan, thence-
8. North five degrees forty-four minutes thirty-seven seconds East ($N 05^{\circ} 44' 37'' E$), eighty-seven and fifty-one hundredths feet (87.51'), along the aforesaid existing easterly line of Lot 14 Block 3 and beyond, along the existing easterly line of Lot 13 Block 3, to a point in the existing southerly line of Lot 12.01 Block 3, said adjoining lots as shown on the aforesaid map and plan, thence -
9. South eighty-four degrees fifteen minutes twenty-three seconds East ($S 84^{\circ} 15' 23'' E$), forty and fifty-eight hundredths feet (40.58'), along the aforesaid southerly line of Lot 12.01 Block 3, to a in the existing easterly line of same, thence-
10. North five degrees forty-four minutes thirty-seven seconds East ($N 05^{\circ} 44' 37'' E$), one hundred eighteen and forty-six hundredths feet (118.46'), along the aforesaid existing easterly line of Lot 12.01 Block 3, to a point of non-tangent curvature in the existing northerly line of same, thence -
11. Northwestery, on a curve having a radius of 80.00', and curving to the left an arc length of 30.74' (central angle $22^{\circ} 00' 55''$), with a chord bearing of North seventy-three degrees seven minutes five seconds West ($N 73^{\circ} 07' 05'' W$), and a chord distance of thirty and fifty-five hundredths feet (30.55'), along the northerly line of Lot 12.01 Block 3, to a point of tangency in the same, thence -
12. North eighty-four degrees fifteen minutes twenty-three seconds West ($N 84^{\circ} 15' 23'' W$), ten and twenty-three hundredths feet (10.23'), along the aforesaid existing northerly line of Lot 12.01 Block 3, to a point in the existing easterly line of same, thence-
13. North five degrees forty-four minutes thirty-seven seconds East ($N 05^{\circ} 44' 37'' E$), seven hundred sixteen and eighty-three hundredths feet (716.83'), along the existing easterly line of Lots 12.01, 11 & 7.01 Block 3, to a point in the same, said adjoining lots as shown on the aforesaid map and plan, thence -
14. South eighty-three degrees thirty-six minutes nine seconds East ($S 83^{\circ} 36' 09'' E$), two hundred thirty-six and thirty hundredths feet (236.30'), along the existing southerly line of Lot 4 Block 3, to a point in the existing westerly line of same, said adjoining lot as shown on the aforesaid map and plan, thence -
15. South seven degrees three minutes thirty seconds East ($S 07^{\circ} 03' 30'' E$), eight hundred eight and seventy-five hundredths feet (808.75'), along the aforesaid existing westerly line of Lot 4 Block 3, to a point in the same, the Point and Place of BEGINNING.

The foregoing description was prepared by the undersigned Land Surveyor for the firm of Maser Consulting P.A., and is based upon a certain plan entitled "ALTA/ACSM Land Title Survey for Block 3 Lots 16.03 & 16.04, Twp. Of Ocean, Monmouth County, New Jersey" prepared by Maser Consulting, dated 3/10/2015 revised 3/23/2015.

SUBJECT TO: 15' wide NJ Bell and JCP&L easement as contained in Deed Book 4310 Page 270.

ALSO SUBJECT TO: 20 foot wide storm drainage easement to the Township of Ocean as well as a 12' wide storm sewer easement as shown on a certain map entitled "Township of Ocean, Major Subdivision Located at Lots 12 & 16 Block 3, Township of Ocean, Monmouth County, New Jersey", said Map being duly filed in the Monmouth County Clerk's Office on March 21, 2012 as Case Number 311, Sheet 1.

FOR INFORMATION PURPOSES ONLY: BEING known as 777 West Park Ave, Tax Lot 16.03 and 16.04, Tax Block 3 on the Official Tax Map of Township of Ocean, NJ.



K. CINDY LANE DOCUMENTATION

430
Record and Return to:

Kathleen Mount, Paralegal
Division of Loan Closings
New Jersey Housing and Mortgage
Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085

RR
Chicago Title Company, LLC
2446 Church Road
3rd floor
Toms River, N.J. 08753
2016-01005

DEC 06 2017^{NG}

349



501BJ7

Ocean Family Apartments
HMFA # 03176

FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT

between

CHRISTINE GIORDANO HANLON
COUNTY CLERK
MONMOUTH COUNTY, NJ

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

and

CINDY LANE FAMILY VENTURES, LLC

INSTRUMENT NUMBER

2017122972

RECORDED ON

Dec 20, 2017

11:44:02 AM

BOOK:OR-9264

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Construction and Permanent Financing
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Schedule A. Legal Description

Not Certified Copy

THIS FINANCING, DEED RESTRICTION AND REGULATORY AGREEMENT (this "Agreement") is made and entered into as of November 15, 2017, between the **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the "Agency"), a body politic and corporate and an instrumentality exercising public and essential governmental functions of the State of New Jersey, created pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 et seq. (the "Act"), and **CINDY LANE FAMILY VENTURES, LLC**, (together with its successors and assigns, the "Owner"), a limited liability company organized and existing pursuant to the laws of the State of New Jersey, duly authorized to transact business in the State of New Jersey, and a qualified housing sponsor within the meaning of the Act.

WITNESSETH:

In consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Agency and the Owner hereby agree as follows:

Section 1. Definitions and Interpretation

The following terms shall have the respective meanings set forth below:

"Act" means the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended from time to time, P.L. 1983, c. 530, N.J.S.A. 55:14K-1 et seq.

"Agency Financing" means the First Mortgage Loan.

"Agency Regulations" means the regulations promulgated by the Agency pursuant to the Act and any policies, procedures or guidelines issued by the Agency with respect to the housing projects financed by the Agency under the Act, all of the foregoing as they may be amended from time to time.

"Approvals" means all federal, state, county, municipal and other governmental permits, licenses, and approvals for the construction of the Project.

"Assignment of Leases" means the Assignment of Leases between the Owner and Agency given by the Owner to the Agency as additional security for the repayment of the First Mortgage Loan.

"Bonds" means the New Jersey Housing and Mortgage Finance Agency Multi-Family Housing Revenue Bonds, issued under the Resolution.

"Code" means the Internal Revenue Code of 1986, as amended.

"Construction Contract" means the agreement between the Owner and A.J.D. Construction Co., Inc., or any other agreement executed by the Owner and approved by the Agency, for the construction of the Project in accordance with the plans and specifications for the Project approved by the Agency.

"Continuing Disclosure Agreement" means the Continuing Disclosure Agreement between the Agency and the Trustee pertaining to the Bonds as the same may hereafter be modified, supplemented or amended.

"Day" or "Days," whether or not the word is a capitalized term, shall mean calendar day or day(s) unless otherwise specified.

"Disbursement Agreement" means the agreement whereby the Owner and other parties thereto agree that the Agency shall hold and disburse all funds other than the Bond proceeds required for construction of the project.

"Environmental Laws" shall mean and include any federal, State, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, element, compound, mixture or material, as now or at any time hereafter in effect including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C. Sections 9601 et seq., the Federal Hazardous Materials Transportation Act, as amended 42 U.S.C. Sections 1801 et seq., the Federal Resource Conservation and Recovery Act as amended, 42 U.S.C. Sections 6901 et seq., the Superfund Amendments and Reauthorization Act, 42 U.S.C. Sections 9601 et seq., the Federal Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., the Federal Hazardous Material Transportation Act, 49 U.S.C. Sections 1801 et seq., the Federal Clean Air Act, 42 U.S.C. Sections 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq., the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. Section 4852d, the New Jersey Environmental Cleanup Responsibility Act, as amended, N.J.S.A. 13:1K-6 et seq., the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq., the Spill Compensation and Control Act, as amended, N.J.S.A. 58:10-23.11 et seq., the New Jersey Tank Registration Act, N.J.S.A. 58:10A-21 et seq., the New Jersey Water Pollution Control Act, as amended, N.J.S.A. 58:10A-1 et seq., and all rules and regulations adopted and publications promulgated thereto, or any other so-called "Superfund" or "Superlien" laws, or any other federal, State or local environmental law, ordinance, code, rule, or regulation, order or decree as any of the foregoing have been, or are hereafter amended.

"Environmental Report" means the Phase I Environmental Site Assessment prepared by MidAtlantic Engineering Partners, dated April 7, 2016, Project #ALP-153.

"Event of Default" means any of the events set forth in Section 30 of this Agreement.

"First Mortgage" means that first mortgage and security agreement of even date herewith

given by the Owner to the Agency to secure the payment of the First Mortgage Note I and II and that constitutes a valid first lien on the Project and the Land.

"First Mortgage Loan" means the first mortgage loan made to the Owner by the Agency to finance or refinance a portion of the cost of the development, construction, rehabilitation and/or acquisition of the Project, which is evidenced by the First Mortgage Note I and II and secured by the First Mortgage.

"First Mortgage Note" means the interest bearing, non-recourse promissory note, made by the Owner to the Agency, that contains the promise of the Owner to pay the sum of money stated therein at the times stated therein and that evidences the obligation of the Owner to repay the First Mortgage Loan.

"Hazardous Materials" shall mean and include those elements, materials, compounds, mixtures or substances that are contained in any list of hazardous substances adopted by the United States Environmental Protection Agency (the "EPA") or any list of toxic pollutants designated by Congress, the EPA, or the New Jersey Department of Environmental Protection ("NJDEP"), or that are defined as hazardous, toxic, pollutant, infectious, flammable or radioactive by any of the Environmental Laws, and, whether or not included in such lists, shall be deemed to include all products or substances containing petroleum, asbestos, lead, and polychlorinated biphenyls.

"HUD" means the United States Department of Housing and Urban Development.

"IRS Regulations" means the regulations promulgated or proposed by the United States Department of the Treasury or the Internal Revenue Service pursuant to the Code, and to the extent applicable, pursuant to the Internal Revenue Code of 1954, as both may be amended from time to time, including all rules, rulings, policies, and official statements issued by the United States Department of the Treasury or the Internal Revenue Service.

"Land" means the real property described in Schedule "A" attached hereto and made a part hereof.

"Loan Documents" means and includes but is not limited to, this Agreement, the First Mortgage and Security Agreement, the First Mortgage Note, the Assignment of Leases, the UCC-1 Financing Statements, the Assignment of Syndication Proceeds, Disbursement Agreement, and in the event the Project is receiving Tax-Exempt Financing, the Tax Certificate.

"Low Income Tenants" means occupants of the Project who have income of 60 percent or less of the area median gross income, adjusted for family size, as determined under Section 142(d) and 42(g) of the Code, as applicable to the Project's financing structure.

"Mortgage(s)" shall mean any and all mortgages securing the Agency Financing.

"Permitted Encumbrances" means any

(i) Utility, access and other easements and rights of way, restrictions and exceptions that do not, individually or in the aggregate, materially impair the utility or value of the Project or Land for the purposes for which it is intended;

(ii) Liens that are being contested in good faith and for which the Owner has provided security satisfactory to the Agency;

(iii) Liens subordinate to the First Mortgage Loan arising due to any monies loaned in connection with the Project or other monies loaned to the Owner, provided such liens are disclosed to and approved by the Agency in writing; and

(iv) Any other encumbrances approved by the Agency in writing.

"Plans" means all construction, architectural and design contracts and all architectural design plans and specifications.

"Project" means the multifamily residential rental project constructed or otherwise financed with the proceeds of the Agency Financing and all other improvements to be constructed or located on the Land.

"Project Revenues" means all rents and other revenues of any type whatsoever received with respect to the Project or Owner, except for advances of the Agency Financing.

"Qualified Bond Counsel" means an attorney or law firm acceptable to the Agency with respect to the issuance of bonds by states and their political subdivisions for the purpose of financing housing projects.

"Qualified Project Period" means the period beginning on the first day on which 10 percent of the residential units in the Project are occupied and ending on the latest of:

(i) the date which is 15 years after the date on which 50 percent of the residential units in the Project are occupied,

(ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or

(iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates.

"Residential Rental Project" means a qualified residential rental project as defined in Section 142(d) and 42(g) of the Code, as applicable to the Project's financing structure.

"Resolution" means the General and Series Resolutions and/or supplemental Resolutions of

the Agency authorizing the sale and issuance of the Agency's Bonds, in connection with the financing or refinancing of the Project.

"Servicing Fee" means the servicing fee that is due from the Owner to the Agency as set forth in the First Mortgage Note.

"State" means the State of New Jersey.

"Tax Certificate" means the Tax Certificate for Borrowers of Tax-Exempt Bond Proceeds, if the Project is receiving Tax-Exempt Financing.

"Tax Credits" means low income housing tax credits that the Project may receive pursuant to the Code.

"Tax-Exempt Financing" means financing received by the Owner from the proceeds of the tax-exempt Bonds issued by the Agency, the interest on which is excludable from gross income for purposes of federal or State income taxation.

"Trustee" means the institution named under the Resolution and designated to act as trustee thereunder with respect to the Bonds, and its successors.

"UCC-1 Financing Statements" means the UCC-1 financing statements between the Owner and Agency given by the Owner to the Agency as additional security for the repayment of the Agency Financing.

Section 2. Background and Purpose

The Owner will construct and/or rehabilitate and shall own, maintain, and operate the Project and the Land. The Project consists of 48 units of housing in the Township of Ocean, County of Monmouth, State of New Jersey. To obtain financing for the Project, the Owner has applied to the Agency for the Agency Financing pursuant to the provisions of the Act. The Project and the Land constitute a "housing project" as defined in the Act.

In connection with its application for the First Mortgage Loan, the Owner has furnished to the Agency Project information, including the description of the Land on which the Project is to be situated, plans and specifications for the construction and/or rehabilitation of the Project, the tenant population that is to be housed in the Project, the number of units of each type to be included therein, the estimated cost of providing the Project, information as to the projected income and expenses of the Project once completed and placed in operation and arrangements for the payments in lieu of taxes with respect to the Project. In approving the application and as a basis for providing the Agency Financing, the Agency has relied upon all of the foregoing Project information.

The First Mortgage Loan is an "eligible loan," as defined in the Act. The Agency intends to make the First Mortgage Loan from funds obtained or to be obtained through the issuance of Bonds.

To secure payment of the Bonds, if issued, the Agency will pledge payments due from the Owner from its repayment of the First Mortgage Loan, when made. As a condition of the Agency's approval of the Owner's application for the First Mortgage Loan, the Owner and the Agency have entered into the Loan Documents.

In addition to the First Mortgage Loan, the Owner has obtained and the Agency has approved funding for the Project as follows:

1. The Borrower has received a commitment for financing from the Fund for Restoration of Multi-Family Housing in the amount of **\$8,099,204**;
2. The Borrower anticipates the sale of **4% Tax Credits** to generate equity in the approximate amount of **\$3,221,185** from Enterprise Housing Partners XXVI Limited Partnership (the "Investor Member"); and
3. The Owner will make an investment in the Project as provided in Section 42 of this Agreement.

Section 3. Residential Rental Property

The Owner hereby represents, covenants, warrants and agrees that:

(a) The Project shall be owned, managed, and operated exclusively as a multi-family residential rental property and, in the event the Project receives Tax-Exempt Financing, as a Residential Rental Project. The Project shall be comprised of a building or structure or several buildings or structures containing similarly constructed dwelling units, together with any functionally related and subordinate facilities and such other non-dwelling units as approved by the Agency, except that in the event the Project receives Tax-Exempt Financing or Tax Credits, the Project shall consist solely of a Residential Rental Project and no commercial or other facilities may be part of the Project unless permitted by the Agency, the Code or IRS Regulations.

(b) The Project shall contain one or more similarly constructed dwelling units, each of which will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or a family including a living area, a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the units in the Project will be utilized at any time for an initial lease term of less than six months or as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, life care facility, trailer court or park.

(d) All of the units shall be rented or available for rent on a continuous basis to members of the general public and the Owner will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent that dwelling units are required to be leased or rented to tenants as provided under Section 4 of this Agreement.

(e) In the event the Project receives Tax-Exempt Financing or Tax Credits, the Project shall comply with any additional requirements of the Code or IRS Regulations dealing with the residential character of the Project.

(f) All dwelling units have been and shall be occupied by or held available for rental only to members of the general public, without regard to race, creed, religion, national origin or sex.

Section 4. Occupancy Restrictions Governing Tenant Income

The Owner acknowledges that as a condition of receiving financing pursuant to the Act, there are limits on the maximum income that tenants may earn in order to be eligible to lease, occupy, and/or reside in a unit at the Project. The Owner agrees to comply with the income restrictions as set forth in the Act and the Agency Regulations promulgated under the Act governing income restrictions.

The Owner also acknowledges that, in the event the Project receives Tax-Exempt Financing or Tax Credits, there are additional limits on the maximum income that tenants may earn in order to be eligible to lease, occupy and/or reside in a unit at the Project. In such event, the Owner agrees to comply with the income restrictions as set forth in the Code or IRS Regulations governing income restrictions.

In compliance with the foregoing income restrictions, the Owner agrees to rent 40 percent of the units at the Project to tenants whose income does not exceed 60 percent of the area's median income adjusted for family size, as median income is defined by the United States Department of Housing and Urban Development, from time to time. The Owner acknowledges that if the income restrictions set forth in this paragraph are more restrictive than the restrictions prescribed under the Act and/or the Code that the Owner will abide by the most stringent restrictions as an inducement for and part of the consideration for the Agency to make the Agency Financing.

In the event the Project is receiving Tax-Exempt Financing, the Owner hereby represents, warrants and covenants that at all times throughout the Qualified Project Period, not less than 40 percent of the units shall be leased to qualified Low-Income Tenants. For purposes of complying with these requirements, any dwelling unit occupied by an individual or family who is a Low Income Tenant at the commencement of occupancy shall continue to be treated as if occupied by a Low Income Tenant even though such individual or family subsequently ceases to be a Low Income Tenant. The preceding sentence shall not apply to any resident whose income as of the most recent income determination exceeds 140 percent of the income limit applicable to such resident, if after such determination, but before the next determination, any residential unit of comparable or smaller size in the Project is occupied by a new resident whose income exceeds the applicable income limit. If a unit is vacated by an individual or family who qualified as a Low Income Tenant, such dwelling unit shall be treated as occupied by a Low Income Tenant until reoccupied (other than for a temporary period of not more than 31 days), at which time the character of the unit shall be redetermined.

In addition, if the Project is receiving Tax-Exempt Financing, the Owner hereby represents, warrants and covenants that at all times throughout the Qualified Project Period, the Owner shall comply with its representations, warranties and covenants in the Tax Certificate.

Section 5. Representations, Warranties and Covenants of the Owner

The Owner represents, warrants and covenants that:

(a) The Owner (i) is a limited liability company duly organized and validly existing under the laws of the State, duly authorized to transact business in the State and a qualified housing sponsor within the meaning of the Act, (ii) has provided the Agency with a true and complete filed copy of its certificate of formation and amended and restated operating agreement, with all amendments to any such documents, (iii) has the power and authority to own its properties and assets including the Project and Land and to carry on its business as now being conducted (and as now contemplated), and (iv) has the power to execute and perform all the undertakings of this Agreement and the other Loan Documents.

(b) To the best of the Owner's knowledge after due and diligent inquiry, the execution and performance of this Agreement, the other Loan Documents and other instruments required pursuant to this Agreement by the Owner (i) shall not violate or, as applicable, have not violated, any provision of law, rule or regulations, any order of any court or other agency or government or any provision of any document to which the Owner is a party, and (ii) will not violate or, as applicable, have not violated, any provision of any indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature other than the liens created hereby or permitted hereunder.

(c) All necessary action has been taken by the Owner to authorize the Owner's execution, delivery and performance of the Loan Documents.

(d) The Loan Documents have been duly executed and delivered by the Owner and constitute the valid and legally binding obligations of the Owner, enforceable against the Owner in accordance with their respective terms.

(e) The Owner has, at the time of execution of this Agreement, good and marketable fee simple title to the Project and Land free and clear of any lien or encumbrance, except for Permitted Encumbrances. It will continue to retain ownership of the Project and Land during the term of the Mortgage(s), subject to the terms of this Agreement and the other Loan Documents, the Act, the Agency Regulations, and if applicable, the Code or IRS Regulations.

(f) There is no arbitration, mediation or other dispute resolution proceeding now pending or, to the knowledge of the Owner after due and diligent inquiry, threatened against or affecting it, or any of its properties or rights, which would impair its right to carry on business as now

conducted, or as contemplated to be conducted under this Agreement, or would materially adversely affect its financial condition.

(g) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Owner after due and diligent inquiry, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would impair its right to carry on business substantially as now conducted, or as contemplated to be conducted under this Agreement, or would materially adversely affect its financial condition.

(h) The operation of the Project in the manner presently contemplated and as described in this Agreement will not conflict with any zoning, water or air pollution or other ordinance, order, law or regulation applicable thereto. The Owner has caused the Project to be designed in accordance with all federal, State and local statutes, laws, ordinances, code, rule, order, regulation or decree relating to zoning, building, safety and environmental quality. Further, the Owner has or will receive all necessary governmental approvals and building permits for the Project.

(i) The Owner has filed or caused to be filed by it all federal, State and local tax returns which are required to be filed by it, and has paid or caused to be paid all taxes as shown on said return(s) or on any assessment received by it, to the extent that such taxes have become due.

(j) The Owner is not in material default in the performance, observance or fulfillment of any other obligations, covenants or conditions contained in any material agreement or instrument to which it is a party.

(k) To the best of its knowledge after due and diligent inquiry, the information contained in the legal description of the Land as set forth in Schedule "A" is accurate in all material respects and does not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(l) If the Agency issues Bonds to finance the Project, all information contained in the Preliminary Official Statement and Official Statement as it relates to the Owner, the Project and the Land, as of the date on which the Preliminary Official Statement and Official Statement are furnished to the underwriter, did not and will not contain any untrue statement of a material fact and did not and will not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading. If the Project receives Tax-Exempt Financing, the Owner shall not take or permit any action to be taken which would have the effect, directly or indirectly, of causing interest on any Bonds to be included in gross income for purposes of federal or State income taxation.

(m) The Owner has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof or the Loan Documents and in any event the Owner acknowledges that the requirements of this Agreement and the other Loan Documents are

paramount and controlling as to the rights and obligations therein and shall supersede any other requirements in conflict therewith.

(n) All statements contained in all applications, correspondence or other materials as amended from time to time and delivered to the Agency by the Owner in connection with the Agency Financing or relating to the Project and/or the Land are accurate in all material respects and do not contain any untrue statements of a material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(o) The Owner will not permit any modification or amendment of the Owner's charter, articles of incorporation or association, by-laws or partnership agreement or other governing instrument or instruments, or a transfer of any stock or ownership interest, which would impair its right to carry on business as now conducted, or as contemplated to be conducted under this Agreement.

(p) The representations, covenants and warranties of the Owner contained in this Agreement on the date of its execution are true and shall continue to be true at all times during the term of this Agreement. The Owner has a continuing obligation to notify the Agency if any of the representations, covenants and warranties contained in this Agreement is no longer true.

(q) No event has occurred and no condition exists which constitutes an Event of Default under this Agreement or the other Loan Documents or which, but for a requirement of notice or lapse of time, or both, would constitute such an Event of Default.

(r) A true copy of the entire contract for construction of the Project, with all modifications and addenda to date, has been delivered to the Agency and no default exists under such contract.

(s) The Owner has entered into an agreement with the municipality in which the Land is situated providing for real property tax abatement or payments in lieu of taxes by the Owner with respect to the Project and Land. A true copy of such agreement and all amendments thereto have been furnished to the Agency, are in full force and effect, and no proceedings questioning its validity are pending or threatened.

(t) The Owner has provided the Agency with a 100% payment and performance bond in a form acceptable to the Agency to ensure that the Project shall be properly completed in accordance with the plans and specifications and that all contractors, subcontractors, suppliers, materialmen, and vendors performing work on the Project have been paid.

(u) At the time of completion of the construction of the Project, the Owner shall obtain valid releases acceptable to the Agency from all contractors and subcontractors who have performed work on the Project.

Section 6. Environmental Representations, Warranties and Covenants of the Owner

Except as disclosed in the Environmental Report, a copy of which was provided to and approved by the Agency, the Owner represents, warrants and covenants as follows:

(a) Neither Owner nor, to the best of the Owner's knowledge, information and belief, any prior owner or any current or prior tenant, subtenant, or other occupant of all or any part of the Project or Land has used or is using Hazardous Materials on, from or affecting the Project or Land in any manner that violates any Environmental Laws, and no Hazardous Materials have been or will be disposed of or stored on the Project or Land intentionally or unintentionally, directly or indirectly, or by any person whether related or unrelated to Owner.

(b) The Owner has received no notice from any person or entity, public or private, claiming any violation of any Environmental Laws with regard to the Project or Land. There have been no claims, litigation, administrative proceedings, whether actual or threatened, or judgments or order relating to any Hazardous Materials, hazardous wastes, discharges, emissions, or other forms of pollution relating to the Project and/or Land.

(c) The Project and Land do not contain any asbestos-containing material in friable form, and there is no current and will be no future airborne contamination of the Project or Land by asbestos fiber, including any potential contamination that would be caused by maintenance or tenant activities in the Project.

(d) To the best of the Owner's knowledge, information and belief, there have been no Hazardous Materials, hazardous substances or hazardous wastes, as defined by the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. (P.L. 1993, C.112), Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.), CERCLA as amended (42 U.S.C. Subsection 9601 et seq.), or any other applicable Environmental Laws generated, manufactured, refined, transported, treated, stored, handled, discharged, spilled or disposed of on the Project and/or Land.

(e) There are no underground storage tanks in the Project or on the Land except as disclosed to the Agency in the Environmental Report. The Owner agrees to maintain, operate, monitor or close all underground storage tanks strictly in compliance with the applicable Environmental Laws.

(f) There is no lead-based paint hazard at the Project and no lead-contaminated soil on the Land except as disclosed to the Agency in the Environmental Report. The Owner agrees to perform any lead-hazard abatement or remediation activities with the approval of the Agency and strictly in compliance with applicable federal and State laws and regulations. The Owner of any housing constructed prior to 1978 ("Target Housing") agrees to provide lead warning statements and to disclose known lead-based paint hazards to all tenants and prospective tenants in Target Housing as required by 42 U.S.C. Section 4852d and the federal regulations promulgated thereunder.

(g) The Project is not located within "freshwater wetlands" or a "transition area," each as defined by N.J.S.A. 13:9B-3, and will be or has been constructed in compliance with the New Jersey Freshwater Wetlands Protection Act, as amended, N.J.S.A. 13:9B-1 et seq., and the rules and regulations promulgated thereunder.

(h) The Owner will construct, maintain, and operate the Project and Land, and will cause its tenants to use and operate the Project and Land, in compliance with all Environmental Laws.

Section 7. Reporting Requirements

The Owner agrees to comply with the following reporting requirements:

(a) The Owner shall obtain from each tenant, prior to the date of such tenant's initial occupancy in the Project, an income certification in the form required by the Agency, or in the event the Project receives Tax-Exempt Financing and/or Tax Credits, the Owner shall obtain the certification in the form required by the Code or IRS Regulations. The Owner shall obtain income recertifications from each tenant at such times as required by the Act or the Agency Regulations or, if applicable, the Code or IRS Regulations.

(b) The Owner shall file with the Agency, (i) on the fifth day of each month, copies of the initial occupancy income certifications specified in Section 7(a) hereof obtained by the Owner during the previous month and (ii) within 45 days of the end of each calendar year copies of the recertifications specified in Section 7(a) hereof, or at such other times as required by the Act or the Agency Regulations or, if applicable, the Code or IRS Regulations.

(c) The Owner shall maintain complete and accurate records beginning with the date of initial occupancy pertaining to the income of each tenant and rent charged to tenants residing in the Project, and shall permit, with or without notice to the Owner, any duly authorized representative of the Agency to inspect the books and records of the Owner pertaining to the incomes of and rent charged to all tenants residing in the Project.

(d) The Owner shall maintain and/or provide to the Agency such other reports, records and information as required by the Act, the Agency Regulations or, if applicable, the Code or IRS Regulations.

(e) In the event the Project is receiving Tax-Exempt Financing, the Owner shall submit to the Secretary of the United States Department of the Treasury, at such time and in such manner as the Secretary shall prescribe, an annual certification as to whether the Project continues to meet the requirements of Section 142(d) of the Code. A copy of such certification shall be sent to the Agency.

(f) In the event the Project is receiving a subsidy or subsidies from HUD, the Owner shall comply with the reporting requirements imposed by HUD therefor.

Section 8. Covenants to Run With the Land

(a) The Agency and the Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth in this Agreement touch and concern the Land in that the Owner's legal interest in the Project and Land is rendered less valuable thereby. The Agency and the Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the Project and Land by enhancing and increasing the enjoyment and use of the Project and the Land by the tenants, contemplated under this Agreement and by furthering the public purposes for which the First Mortgage Loan is made and the Bonds, if any, are to be issued. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project and Land. Except as provided in subsection (b) below, the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and hereof and shall pass to and be binding upon the Owner's assigns and successors in title to the Land or Project. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or the Land or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project or Land are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project and Land.

(b) Upon termination of this Agreement in accordance with Section 9 hereof, said covenants, reservations and restrictions shall expire and in such event, the Agency shall, at the expense of the Owner, execute any and all instruments reasonably required to evidence of record the satisfaction, cancellation and discharge of this Agreement.

Section 9. Term

This Agreement shall remain in full force and effect until all indebtedness from the Owner to the Agency with respect to the Project shall have been paid in full in accordance with the provisions of this Agreement, the First Mortgage Note and the other Loan Documents, provided however that (a) if the First Mortgage Loan is prepaid, this Agreement shall remain in effect as provided in the Agency Regulations governing prepayment, and (b) if the Project is receiving Tax-Exempt Financing, this Agreement shall remain in full force and effect for a period not less than the Qualified Project Period.

Section 10. Construction and Funding

A. Construction of Project

The Owner covenants and agrees to comply with all the provisions of the Construction Contract. The Owner covenants and agrees to diligently pursue the construction of the Project to

completion by the date of completion in the Construction Contract, time being of the essence, in accordance with the plans and specifications for the Project approved by the Agency.

The Owner shall not approve or allow to occur any change in the plans and specifications for the Project or any change order under the Construction Contract except with the prior express approval of the Agency in the manner provided in the Construction Contract. Construction of the Project shall at all times be subject to the inspection, review, regulation and approval of the Agency and its duly authorized representatives as provided in the Construction Contract. Any such inspection, review, regulation and approval of the Agency shall be solely for its benefit for the purpose of assuring that the programs and goals of the Agency are being fulfilled and, when applicable, for the benefit of the holders of Bonds under the Resolution and in furtherance of its obligations under the Act and shall not be construed as making the Agency a party to the Construction Contract, nor shall it relieve the Owner of any of its obligations under this Agreement, the Construction Contract or Loan Documents.

Pursuant to the Act, the Owner agrees that it will not pay nor will it permit any contractor or subcontractor engaged in the construction of the Project to pay any workers employed on the construction of the Project less than the prevailing wage rate as determined by the Commissioner of Labor and Industry pursuant to, and in accordance with, the New Jersey Prevailing Wage Rate Act, N.J.S.A. 34:11 et seq., or, should the Project or the tenants of the Project be subject to federal assistance, then as determined by the Secretary of the United States Department of Labor in accordance with the Davis-Bacon Act, as amended, 40 U.S.C. Sections 276a to 276a-5, to the extent applicable. The Owner shall cause the Construction Contract to include the provisions of this paragraph.

The Construction Contract provides for performance and payment bonds in favor of the Agency and the Owner. The Owner shall not do any act that would cause the release, in whole or in part, of the surety bond or bonds issued in connection with the Construction Contract, including, without limitation, deviation from the payment schedule, waiver of any requirements imposed on the general contractor or any subcontractor under the Construction Contract or consent to any change in the plans and specifications or scope of the work, unless such act would not cause any release because the surety has consented thereto.

The Owner covenants and agrees to notify the Agency in writing within three (3) business days of the occurrence of any default under the Construction Contract or the Loan Documents.

B. Funding of Construction

Upon and subject to the terms and conditions of the Loan Documents, the Agency agrees to advance to the Owner in successive advances as described herein the lesser of: (1) \$7,574,500 or (2) 90% of the cost of the Project as established by the Agency in accordance with its normal procedures for auditing or otherwise verifying Project cost.

The Owner agrees to contribute equity toward the construction of the Project as may be

required pursuant to Section 42 of this Agreement and to pay all cost overruns related to the construction and completion of the Project.

The Owner covenants and agrees, upon completion of the Project, to certify to the Agency the actual cost of the Project. This cost as certified by the Owner shall be audited and verified by the Agency in accordance with its normal procedures. In the event that the amount advanced on the Agency Financing shall exceed 90% of the cost of the Project, the Owner shall pay forthwith to the Agency the amount of such excess, as determined by the Agency, notwithstanding any prepayment restrictions otherwise applicable, as an allowed partial prepayment of the Agency Financing. . When the Agency has completed its audit and verification, it shall promptly notify the Owner in writing of the actual Project cost as finally determined by the Agency.

C. Procedures for Advances

The Owner shall establish a Project construction account with a bank or trust company in the State of New Jersey approved by the Agency that is a member of the Federal Deposit Insurance Corporation. The account shall be under the joint control of the Owner and the Agency, and shall also allow the Agency to unilaterally withdraw funds for:

1. payment back to the Trustee or the Agency, including, without limitation, payments back to the Agency to prevent funds remaining in the account for more than ninety (90) days;
2. payment to the Agency for construction interest payments, debt service payments, escrow requirements, and Servicing Fees; and
3. payment of other costs for construction of the Project.

The Agency will provide written notice to the Owner of its actions. Advances shall be deposited directly to such Project construction account.

D. Conditions Precedent to Advances

The Agency's obligation to make each advance under the Agency Financing shall be subject to the requirements of the Resolution, and to the satisfaction of the following conditions precedent, any of which may be waived in whole or in part by the Agency:

1. each of the Owner's covenants, agreements, representations and warranties contained in this Agreement shall continue to be true and shall not have been breached as of the date of each advance;
2. the full amount of all previous advances shall have been expended for Project costs approved by the Agency;

3. all work performed and material furnished for the Project shall be in accordance with the plans and specifications for the Project and all work shall have been properly performed to the satisfaction of the Agency;
4. no event shall have occurred and no conditions shall exist that would prevent the advance from becoming a valid mortgage lien on the Project and Land or secured by a prior perfected security interest on all other collateral mentioned in the Mortgage(s). If the Agency shall deem it necessary or desirable, all or part of any advance may be disbursed in escrow to a title insurance company licensed to do business in the State of New Jersey for the purposes of discharging any construction or other lien on the Project and Land or on any other security mentioned in the Mortgage(s); and
5. the Agency shall have received a currently dated, certified survey of the Land showing that the Project construction is within the Land (and any required setbacks) and does not encroach on the property of others, which survey shall only be required as a condition precedent to the first and final advances.

Advances during construction will be made once a month in an amount sufficient to pay the applicable percentage of Contractor's and/or Owner's requisitions (less retainage) for the cost of construction of the Project then due and payable under the terms of the Construction Contract and approved by the Agency. Advances may be made at such other times or intervals as may be determined by the Agency.

The final advance shall be made only after the Agency has completed its cost certification for the Project and only after the Agency has received a Certificate of Occupancy from the Owner for all dwelling units in the Project.

Section 11. Insurance; Condemnation

During the term of the Agency Financing, the Owner shall cause all the buildings on the premises and the fixtures and articles of personal property covered by the Loan Documents to be insured against loss by fire and against loss by such other hazards as may be required by the Agency for the benefit of the Agency including, but not by way of limitation, flood insurance if any part of the Project is located in an area designated by or on behalf of the federal government as having specific flood hazard. Such insurance shall be written by companies, in forms as are satisfactory to the Agency, and in amounts not less than the full replacement value of the Project. The Owner shall assign and deliver the policies to the Agency. All such insurance policies which are obtained by the Owner during the term of the loan shall fully comply with all Agency requirements for property and liability insurance, including but not limited to the Agency requirement that the insurer must meet certain rating standards. The Agency shall be listed as first mortgagee, loss payee and additional insured under such policies. Such policies shall provide that the insurer may not cancel the policy and will not refuse to renew the policy except after thirty (30) days written notice to the Agency. If the Owner does not provide the Agency with the evidence of insurance as required herein, the

Agency may (but shall not be required to) obtain such coverage. The Owner shall reimburse the Agency on demand for any premiums paid for insurance procured by the Agency, and until so reimbursed, the amount of such premiums shall be added to the principal sum of the First Mortgage Note and shall bear interest at the same interest rate as in the First Mortgage Note.

If the Project shall be damaged, destroyed or taken by condemnation (in whole or in part), the Agency shall direct the Owner to promptly reconstruct the Project to substantially the same condition as existed prior to such damage, destruction or condemnation, with such changes, alterations and modifications as may be desired by the Owner and approved by the Agency, provided that the plans and specifications for reconstruction of the Project are approved by the Agency and, in the Agency's determination, the proceeds of the insurance or of the damages or award received as a consequence of such damage, destruction or condemnation, together with any other money available for such purpose, are sufficient to pay the cost of such reconstruction and upon completion of the reconstruction of the Project it shall be financially feasible.

In the event of reconstruction of the Project, the Agency, upon receipt of a written request by the Owner that payments are required for such purpose, shall apply so much as may be necessary of such proceeds of the insurance and any investment income earned thereon to the payment of the costs of such reconstruction as such work progresses.

No money shall be disbursed to pay the costs of reconstruction unless no Event of Default exists hereunder and unless the Agency first shall have received all of the following:

- (a) a certification from the Owner stating that:
 - (1) the full amount of such disbursement and all of the prior disbursements constitute proper and reasonable costs of reconstruction work performed or materials delivered to the site of the Project;
 - (2) all work performed and material furnished for the reconstruction of the Project have been in accordance with plans and specifications;
 - (3) all such work has been performed to the satisfaction of the architect retained to prepare the plans and specifications for reconstruction of the Project; and
 - (4) the Project remains financially feasible;
- (b) appropriate insurance from a title insurance company, licensed to do business in the State and acceptable to the Agency, insuring that there are no liens or encumbrances on the Project other than Permitted Encumbrances; and
- (c) if the location of any improvement is to be altered, a currently dated, certified survey showing that all improvements are on the Land within any required set-backs and do not encroach on the real property of others.

If, in the Agency's determination, the proceeds of the insurance or of the damages or award received as a result of damage, destruction or condemnation, together with any other money available for such purpose, are not sufficient to pay the cost of reconstruction or if the Project will not be financially feasible upon such reconstruction, then the proceeds of such insurance, damages or award shall be applied to the indebtedness on the First Mortgage Loan. Nothing in this Section shall affect the liens of this Agreement and the Mortgage(s) or the liability of the Owner for payment of the entire balance of the Agency Financing.

The Owner shall maintain continuously in effect such other insurance coverage of the types and in the amounts specified by the Agency, including worker's compensation insurance and other insurance required by law with respect to employees of the Owner, and liability insurance, and a blanket excess liability policy in an amount not less than \$10,000,000.00, protecting the Owner and the Agency against any loss or liability or damage for personal injury or property damage with respect to the Project. Owner shall also maintain Business Income insurance covering the loss of revenues derived from the Project by reason of interruption, total or partial, of the use of the Project resulting from loss or physical damage thereto in an amount equal to 100% of the anticipated gross rental income for one (1) year at full occupancy with no coinsurance penalty. The Owner shall carry fidelity bond insurance covering all employees of the Owner authorized to handle the revenues derived from the Project in an amount equal to one and one-half (1½) times the maximum monthly rent roll.

In the event the Project receives financing from proceeds of Bonds, the Owner covenants and agrees to provide such additional insurance coverage as required in the Resolution.

Section 12. Taxes, Payments in Lieu of Taxes and Other Municipal Charges

The Owner covenants and agrees to pay all taxes, payments in lieu of taxes, assessments, water charges, sewer charges, and other charges imposed on the Project or Land by the municipality, county, State or other governmental body having jurisdiction over the Project. If such charges are not paid by the Owner, the Agency may pay the same. Any such sum(s) so paid by the Agency shall be payable by the Owner on demand by the Agency and until paid the amount of such sums shall be added to the principal sum of the First Mortgage Note, and shall bear interest at the same interest rate as in the First Mortgage Note.

Section 13. Liens and Encumbrances

The Owner covenants and agrees to maintain its right, title and interest in the Project, Land and all items enumerated in the Loan Documents, as security for repayment of the Agency Financing, free and clear of all liens, security interests and other encumbrances except for Permitted Encumbrances and those exceptions identified and set forth in a certain title insurance commitment issued to the Agency by Chicago Title Insurance Corporation numbered 2016-01005 and dated October 31, 2017, continued to the date of this Agreement, as accepted by the Agency. The foregoing covenant and agreement shall not prevent the Owner from leasing or renting the Project or

Land in the manner as otherwise provided in this Agreement. Except with the written consent of the Agency, the Owner will not install any item of tangible personal property as part of the fixtures or furnishings of the Project that is subject to a purchase money lien or security interest.

The Agency may, at its sole option, pay the amount necessary to discharge any lien or other encumbrance, and the Owner shall reimburse the Agency upon demand for any amounts so paid. Until reimbursement of the Agency of any amounts so paid, such amount shall be added to the principal sum of the First Mortgage Note and shall bear interest at the same interest rate as in the First Mortgage Note.

Section 14. Maintenance, Repair and Replacement

The Owner covenants and agrees to maintain the Project and the Land, including, but not limited to, the dwelling units contained therein, any related facilities, the appurtenant equipment and grounds in good repair and condition so as to provide decent, safe and sanitary housing accommodations. In the event that any investigation, site monitoring, containment, clean-up, removal, restoration, remediation, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Laws at, on, about, under or within the Project or Land, the Owner agrees to commence and diligently perform and complete such Remedial Work in compliance with all applicable Environmental Laws, at its own expense. In the event the Owner shall fail to timely commence, perform and complete such Remedial Work, the Agency may, at its sole and absolute discretion, cause such Remedial Work to be performed and the Owner shall reimburse the Agency upon demand for all costs incurred by the Agency in connection with the performance, completion and monitoring of such Remedial Work. Until reimbursement of the Agency of any costs so incurred, such amount shall be added to the principal sum as of the First Mortgage Note and shall bear interest at the same interest rate as in the First Mortgage Note.

The Owner will not make any substantial alteration to the Project without the consent of the Agency, nor will the Owner permit the removal of any fixtures or articles of personal property, except with the consent of the Agency and in connection with the replacement thereof with appropriate property of at least equal value that is free of all liens or claims.

The Owner will not demolish any part of the Project, substantially subtract from or permit any waste of the real or personal property comprising the Project or Land, or make any alteration that will increase the hazard of fire or other casualty.

Section 15. Advance Amortization Payments

Because the public purposes of the Agency include maximizing the period during which the dwelling units in the Project are available to persons whose incomes do not exceed the maximums provided by the Act, the Agency Regulations, and if applicable, the Code or IRS Regulations, the Owner shall not make any advance principal repayment except as allowed by the Agency Regulations and if the Project is financed by Bonds, as allowed under the Resolution. With respect to any advance amortization payment, if the Agency shall have consented thereto, the Owner shall, if

the First Mortgage Loan is financed from Bonds, pay to the Agency an amount sufficient (a) to enable the Agency to redeem Bonds of the appropriate series in the principal amount as required under the Resolution, (b) to pay the interest accrued and to accrue on the Bonds to be redeemed to the redemption date thereof, (c) to pay the redemption premium, if any, on the Bonds to be redeemed, (d) to pay the cost and expense of the Agency in effecting the redemption of the Bonds to be redeemed including legal fees of the Agency, as determined by the Agency, including any investment shortfall resulting from liquidation of investments, and (e) to pay any other cost, expense and liability incurred by the Agency in connection with the financing of the Project and issuance of its Bonds for such purpose not previously paid or provided for by the Agency including, without limitation, underwriting discount or other unamortized Bond discount; provided, however, that only the amount of such advance amortization payment applied as provided in (a) above shall be credited against the unpaid balance of the First Mortgage Loan.

Section 16. Reserve and Escrow Payments

On the date of the execution of this Agreement, the Owner will deposit with the Agency the following amounts, which will serve as a reserve against late payments and be available to pay expenses when due:

- (a) one monthly installment of debt service on the First Mortgage Note, including principal and interest;
- (b) an amount equal to one-half (1/2) of the estimated annual insurance payments; and
- (c) an amount equal to one-quarter (1/4) of the estimated annual real property taxes or payments in lieu of taxes.

Commencing with the Amortization Date, as defined in the First Mortgage Note, and on the first day of each month thereafter, the Owner will pay to the Agency, along with the monthly principal and interest payment, the following:

- (e) one-twelfth (1/12) of the estimated annual amounts necessary to pay taxes or payments in lieu of taxes and insurance premiums;
- (f) one-twelfth (1/12) of the amount equal to **\$525.00** per unit or such sum as the Agency may determine pursuant to its established management policy as a reserve for repairs and replacement.

All reserve and escrow payments required pursuant to this Section shall be held in accounts under the sole control of the Agency and shall be paid out for the benefit of the Project as needed on request of the Owner or on the Agency's own initiative. Any interest that may be earned on such reserves shall remain in the escrow accounts and shall be used for similar purposes unless the Owner and Agency mutually agree to apply the funds to some other Project purpose.

If the Agency determines that the payments specified herein are insufficient to insure prompt payment of taxes, payments in lieu of taxes, insurance premiums, or to properly fund painting, decorating, repair and replacement needs with respect to the Project, then the Agency may require increases in the required payments necessary to assure proper funding.

Section 17. Compliance Requirements

The Owner covenants and agrees to comply with the Act and the Agency Regulations, and with any amendments or supplements to the Act or Agency Regulations. If the Project receives Tax-Exempt Financing or Tax Credits, the Owner covenants and agrees to comply with the Code or IRS Regulations and with any amendments or supplements to the Code or IRS Regulations, and, in addition, if the Project receives Tax-Exempt Financing, the Owner shall comply with its representations and covenants in the Tax Certificate throughout the term hereof.

The Owner acknowledges that the proceeds of the First Mortgage Loan have been or are expected to be funded through the issuance of Bonds. The Owner agrees that it will execute and be bound by any amendments to this Agreement or the other Loan Documents and any additional documents as may be required by Qualified Bond Counsel for the issuance of the Bonds and/or to comply with the Code or IRS Regulations. The Owner further agrees to comply with any other requirements of the Agency that Qualified Bond Counsel reasonably believes to be necessary in connection with its marketing and issuance of Bonds. To the extent any amendments, modifications or changes to the Code or IRS Regulations shall, in the written opinion of Qualified Bond Counsel, impose requirements upon the construction, rehabilitation, ownership, occupancy or operation of the Project, the parties agree that this Agreement and/or the other Loan Documents shall be amended and modified in accordance with such requirements. The parties hereto agree to execute, deliver, and record, if applicable, any and all documents or instruments necessary in the opinion of and in the form approved by Qualified Bond Counsel to effectuate the intent of this Section.

If the Project receives financing from proceeds of Bonds, the Owner acknowledges receipt of the Continuing Disclosure Agreement, and the Owner agrees that in the event it subsequently becomes an "Obligated Person" meeting the objective criteria set forth in the Continuing Disclosure Agreement, it shall provide the Agency with the Obligated Person Data (as defined in the Continuing Disclosure Agreement) and the audited general purpose financial statements referred to in the Continuing Disclosure Agreement at the times necessary so as to allow the Agency to file the Annual Reports provided for in the Continuing Disclosure Agreement.

The Owner and Agency acknowledge that the Owner is receiving Tax-Exempt Financing and is receiving Tax Credits. Accordingly, the Owner acknowledges that the provisions concerning Tax-Exempt Financing are applicable and the provisions concerning Tax Credits are applicable.

Section 18. Lease of Dwelling Units - Maximum Rents

The Owner shall offer dwelling units for lease and occupancy in strict accordance with the Act or Agency Regulations governing tenant marketing, eligibility and selection. The form of lease to be used by the Owner in leasing to residential tenants shall be previously approved by the Agency and shall comply in all respects with the Agency Regulations and the requirements of the Agency. Initial rents may not exceed such amounts as approved by the Agency. In the event the Project receives Tax-Exempt Financing or Tax Credits, rents may not exceed such amounts as prescribed by the Code or IRS Regulations. The form and terms of all leases for any other portion of the Project and/or Land, if permitted under this Agreement, are subject to the prior consent of the Agency. Rent increases for any dwelling unit shall be made pursuant to procedures prescribed by the Agency Regulations, or if applicable, the Code or IRS Regulations.

Section 19. Consideration for Lease

The Owner covenants and agrees not to require as a condition of the occupancy or leasing of any dwelling unit in the Project and not to accept or allow any employee or agent to accept any consideration other than the prepayment of the first month's rent plus a security deposit not in excess of one and one-half (1 1/2) month's rent or as otherwise mandated by HUD, if applicable, unless otherwise approved in writing by the Agency to guarantee the performance of the covenants of the lease or occupancy agreement.

Section 20. Tenant Security Deposit

The Owner covenants and agrees to deposit all monies paid to the Owner by any residential tenant as a security deposit for the payment of rent in a separate interest-bearing bank account held and maintained in accordance with applicable law and instructions of the Agency as to its custody and control.

Section 21. Account for Project Revenues

The Owner covenants and agrees to establish an account for and deposit all Project Revenues with a bank, trust company or savings and loan institution approved by the Agency and maintaining an office within the State, the deposits of which are insured by the Federal Deposit Insurance Corporation. If the Agency so elects, this account shall be under the joint control of the Agency and the Owner, with all withdrawals requiring a countersignature by one of the authorized representatives of the Agency.

The Owner may not withdraw or use Project Revenues except to pay debt service due under the Loan Documents, the Servicing Fee or other Project expenses approved by the Agency or return on investment payments due under Section 42 hereof. Project Revenues may not be transferred to or invested in any other accounts or investment vehicles, except as permitted by Agency Regulations.

Section 22. Inspection of Premises

The Owner covenants and agrees to permit the Agency, its agents or representatives to enter upon and inspect the Project without prior notice, pursuant to the provisions of the Act.

Section 23. Books and Records

The Owner covenants and agrees to maintain adequate books and records of its transactions with respect to the Project in the form required by the Agency. Such books and records shall be available for inspection and audit by the Agency or its agents at any time during business hours, with or without notice, pursuant to the provisions of the Act. The Owner further covenants and agrees to cause its financial affairs to be audited at least annually by independent certified public accountants and shall furnish the Agency with the audit report of such accountants when received and in any event within three (3) months of the close of each of its fiscal years. The Owner shall adopt and use such uniform systems of accounts and records as may from time to time be required by the Agency.

Section 24. Management Contract

The Owner may, and if the Agency so elects, shall, contract for the services of a firm experienced in real estate management to act as the managing agent for the Project. The selection of any such managing agent, the scope of the agent's duties and the basis of the agent's compensation shall be subject to the approval of the Agency, and any contract for the employment of any managing agent shall provide that such contract may be terminated by the Agency at any time by notice of such determination by the Agency given to the Owner and managing agent.

Section 25. Prohibited Actions

Except with the express approval of the Agency, the Owner shall not:

- (a) incur any liabilities except in connection with the acquisition, construction, rehabilitation, repair, improvement and rental of the Project and Land, and its operation and maintenance;
- (b) engage in any business activity except the ownership and operation of the Project and Land;
- (c) enter into contracts to be paid from Project Revenues for managers, attorneys, accountants, or other services without the prior written approval of the Agency;
- (d) pay more than the fair market value thereof for goods or services;
- (e) transfer or invest Project Revenues in any other accounts or investment vehicles, except as permitted by Agency Regulations; or

(f) pay compensation from Project Revenues to any officer, director, member, partner, or shareholder in his capacity as such or make any cash distribution to any of the foregoing; provided, however, that if no Event of Default has occurred, the Owner may make distributions annually of a return on investment in an amount not to exceed the amount permitted under the Act, the Agency Regulations, and then only to the extent of its retained earnings not previously distributed, or as otherwise approved by the Agency. The Owner, however, shall not make any distribution payment without the express agreement of the Agency that retained earnings (or other funds) are available for such distribution.

Section 26. Change of Owner Status

The Owner shall not dissolve, liquidate, sell, transfer, convey or exchange the Project and/or Land or any portion thereof without prior approval of the Agency and the Owner's compliance with the Agency Regulations. The Owner shall not dissolve, liquidate, sell, transfer, convey or exchange any shares, partnership or other ownership interest in the Owner without prior approval of the Agency and the Owner's compliance with the Agency Regulations. The Owner shall notify in writing and obtain the agreement in writing of any buyer or successor or other person acquiring the Project or Land or any interest therein, in a form acceptable to the Agency, that such acquisition is subject to the requirements of the Loan Documents, Act and Agency Regulations and, if applicable, the Code or IRS Regulations. This notice provision shall not act to waive any other Agency restriction on such dissolution, liquidation, sale, transfer, conveyance or exchange.

Section 27. Estoppel

Within ten (10) business days of demand by the Agency, the Owner will furnish to the Agency in writing a statement of the outstanding balance of the principal sum plus all the accrued interest remaining due on the Agency Financing, together with a statement of any defenses which may exist as to any liability of the Owner with regard to the Loan Documents.

Section 28. Financing Statements

The Owner hereby irrevocably authorizes the Agency to file on its behalf one or more UCC-1 Financing Statements or renewals thereof with respect to any of the security interests granted by the Loan Documents. The Owner hereby assigns all its rights and interests in accounts established under this Agreement to the Agency, to the extent that such interest may be needed, pursuant to this Agreement.

Section 29. Assignment

The Owner transfers and assigns to the Agency all of its right, title and interest, but not its liability, in, under, and to all construction, architectural and design contracts, all architectural design plans and specifications and all government permits, licenses and approvals for the construction of the Project (the foregoing collectively referred to as the "Plans and Approvals"). The owner represents and warrants that the copies of the Plans and Approvals delivered to the Agency are and

shall be true and complete copies of the Plans and Approvals, that there have been no modifications thereof which are not fully set forth in the copies delivered, and that the Owner's interest therein is not subject to any claim, setoff, or encumbrance. Neither this assignment nor any action by the Agency shall constitute an assumption by the Agency of any obligation under or with respect to the Plans and Approvals; the Owner shall continue to be liable for all obligations of Owner with respect thereto; and the Owner hereby agrees to perform all of its obligations under the Plans and Approvals.

The Owner hereby consents to any assignment of the Agreement by the Agency. No assignment or delegation of this Agreement by the Owner is permitted unless approved in writing by the Agency. If assigned, all rights, duties, obligations and interest arising under this Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns.

Section 30. Defaults

Each of the following shall be an Event of Default:

(a) failure by the Owner to pay more than ten (10) days after the due date any installment of principal or interest under the Agency Financing, or on the Servicing Fee or any other payment required by the Owner to the Agency or any other person pursuant to the terms of this Agreement, the First Mortgage Note, or the other Loan Documents;

(b) commission by the Owner of any act prohibited by the terms of this Agreement, or the other Loan Documents, or failure by the Owner to perform or observe in a timely fashion any action, obligation, warranty or covenant required by any of the terms of this Agreement or the other Loan Documents or failure by the Owner to produce satisfactory evidence of compliance therewith. An event set forth in this subsection shall not constitute an Event of Default until the prohibited act or failure to perform or observe shall remain uncured for a period of thirty (30) days after the Agency's written notice to the Owner, specifying such prohibited act or failure and requesting that it be remedied, unless the Agency shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the prohibited act or failure stated in each notice is correctable, but cannot be corrected within the 30-day period, the Agency may consent to an extension of up to 120 days from the delivery of the written notice referred to herein if corrective action is instituted by the Owner within the initial 30-day period and diligently pursued; The Agency will send, simultaneously with sending to the Owner any notices under this subsection, a copy of the aforementioned notices to the Owner's investor limited partner. To the extent the Event of Default is curable, a cure tendered in full pursuant to the terms and conditions of this Agreement and the other Loan Documents by the Owner's investor limited partner shall be honored by the Agency.

(c) the filing by the Owner under any federal or State bankruptcy or insolvency law or other similar law, or any petition in bankruptcy or for reorganization or composition with creditors or the making of an assignment for the benefit of creditors;

(d) the filing against the Owner of a petition seeking an adjudication as a bankrupt or the appointment of a receiver for the benefit of its creditors that shall not have been dismissed within sixty (60) days of the filing thereof, or the adjudication of the Owner as a bankrupt or the appointment of a receiver for the benefit of its creditors; or the appointment by court order of a custodian (such as a receiver, liquidator or trustee) of the Owner or of any of its property or the taking of possession of the Owner or any of its property for the benefit of its creditors and such order remains in effect or such possession continues for more than sixty (60) days;

(e) the occurrence of substantial destruction of the Project by an uninsured casualty or the inability to replace or restore the Project in accordance with Section 11, or failure to maintain insurance that fully complies with the Agency insurance requirements set forth at Section 11 or in Agency insurance specifications minimum requirements, or failure to provide, immediately or no later than 30 days from notice, replacement insurance to meet Agency insurance requirements as set forth in Section 11 during the term of the First Mortgage Loan;

(f) any representation in conjunction with the Loan Documents or the Project by or on behalf of the Owner that is false or misleading in any material respect when made;

(g) any occurrence that results in the dissolution or liquidation of the Owner pursuant to the formation documents of the Owner;

(h) failure to comply with applicable provisions of the Act, the Agency Regulations, and if applicable, the Code or IRS Regulations;

(i) failure to substantially complete the Project pursuant to the Construction Contract.

(j) an Event of Default as to any one mortgage loan held by the Agency shall be deemed an Event of Default as to all mortgage loans held by the Agency.

Section 31. Remedies

Upon the occurrence of any Event of Default, the Agency may at its option take any one or more of the following actions or remedies and no failure or delay to exercise any remedy or take any action enumerated shall constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy:

(a) declare the outstanding balance of the principal sum under the First Mortgage Note plus all accrued interest, the Servicing Fee and all other liabilities of the Owner under the Loan Documents to be immediately due and payable;

(b) cease making disbursements from reserves held by the Agency;

(c) apply any reserves held by the Agency or the balance in the accounts for

Project Revenues or any combination of these monies to the payment of the Owner's liabilities under the Loan Documents;

(d) foreclose the lien of all Mortgage(s) securing the Agency Financing on the Project and Land including, without limitation, all improvements existing or hereafter placed in or on the Project and Land. In any action to foreclose, the Agency shall be entitled to the appointment of a receiver of the rents and profits of the Project as a matter of right, with power to collect the rents, uses, and profits of the Project, due and becoming due during the pendency of such foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured by the Mortgage(s) without regard to the value of the Project or the solvency of any person or persons liable for payment of the mortgaged indebtedness. The Owner, for itself and any such subsequent owner, hereby waives any and all defenses to the application for a receiver as above and hereby specifically consents to such appointment, but nothing herein contained is to be construed to deprive the holder of the Mortgage(s) of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provisions for the appointment of a receiver of the rents and profits and the assignment of such rents and profits are made express conditions upon which the Agency Financing is made. Upon such foreclosure the Agency shall have the right to have a receiver appointed for the Project and the rent from the Project;

(e) take possession of the Project;

(f) without judicial process, collect all rents and other revenue including federal and State subsidies as the assignee of the Owner, and apply the same, at the Agency's option, either to the operation and maintenance of the Project or to the liabilities of the Owner under the Loan Documents and to accept assignment of leases;

(g) act as landlord of the Project and rent or lease the same on any terms or dispossess by summary proceedings or other available means any tenant defaulting under the terms of the lease of a dwelling unit;

(h) take possession of equipment, appliances and other tangible personal property in which a security interest has been granted by the Loan Documents and dispose of the same in any commercially reasonable manner. The Agency shall have the option to dispose of any such equipment and personal property either separately from or in conjunction with disposition of the Project or Land. In conjunction with a sale of the Project or Land, the Owner agrees that either method of disposition shall be commercially reasonable;

(i) sue under or make effective an assignment by the Owner to the Agency of any warranty for the Project or any contract for construction, rehabilitation, repair, renovation, reconstruction or improvement of the Project, in which event the Agency is specifically empowered by the Owner to exercise any and all rights of the Owner under the said contract or warranty to recover any amount payable to the Owner pursuant to the contract or any such warranty and to settle any such claim or liability and release the same and apply the proceeds of any such suit, settlement or

release to the liabilities of the Owner under the First Mortgage Note, this Agreement, or the other Loan Documents;

(j) sue the Owner for mandatory injunction or other equitable relief requiring performance by the Owner of any of its obligations under this Agreement or the other Loan Documents. The Owner agrees with the Agency that the Agency's remedy at law for the violation and nonperformance of the Owner's obligations under this Agreement or the other Loan Documents is not adequate by reason, among other things, of the Agency's public purpose to provide adequate, safe and sanitary dwelling units for the tenants contemplated under this Agreement;

(k) replace the general partner, officers, managers, directors, managing members or partners of, or other persons exercising control over the affairs of the Owner with such person or persons as the Agency in its sole discretion deems advisable, including officers or employees of the Agency, who shall exercise all of the authority of managing general partner or other manager of the Owner. Such appointment by the Agency shall be for the duration provided in Section 7 (b)(6) of the Act and any person so appointed shall be entitled to the same immunities and compensation as provided in such Act. If the Agency decides to remove and replace the general partner, officers, managers, directors, managing members or partners of the Owner pursuant to its rights under the Act, the Agency may require from the newly appointed officers, managers, directors, managing members or partners a deed to the Project in lieu of foreclosure;

(l) exercise any rights of the Owner under the Plans and Approvals and to take in its name or in the name of Owner such action as the Agency may determine to be necessary pursuant to the assignment of Plans and Approvals (as set forth in Section 29). The Agency may use the Plans and Approvals for any purpose relating to the Project. The Owner irrevocably constitutes and appoints the Agency as the Owner's attorney-in-fact, in the Owner's name or in the Agency's name, to enforce all rights of the Owner under any Plans and Approvals.

Notwithstanding the above enumeration of remedies, the Agency shall have available to it all other remedies provided at law or in equity or any other action permitted by law.

Section 32. Anticipatory Breach

If the Owner threatens to commit a breach of any of the provisions of this Agreement or the other Loan Documents, the Agency shall have the right, without posting bond or other security, to seek injunctive relief or specific performance, it being acknowledged and agreed that any such breach, or threatened breach, will cause irreparable injury to the Agency and that money damages will not provide an adequate remedy.

Section 33. Expenses Due to Default

All expenses (including reasonable attorney's fees and costs and allowances) incurred in connection with an action to foreclose the Mortgage(s) or in exercising any other remedy provided by this Agreement or the other Loan Documents, including the curing of any Event of Default, shall be

paid by the Owner on demand, together with interest at the same interest rate as in the First Mortgage Note whether or not an action or proceeding is instituted. Expenses of foreclosure for purposes of this paragraph shall include the items enumerated in Section 15 of this Agreement.

The Owner hereby acknowledges that if the Project receives Bond financing, the payments to be made by the Owner pursuant to the Loan Documents may be used by the Agency to pay interest and principal on the Bonds. In the event that the Owner fails to make any payment due under the Loan Documents and the Agency is required to advance funds to pay interest or principal on the Bonds, the Owner shall be required to pay the Agency interest on any amounts so advanced by the Agency on demand, which interest shall be equal to the same interest rate as in the First Mortgage Note.

Section 34. Amendments; Notices; Waivers

This Agreement may be amended only by a written instrument executed and acknowledged on behalf of the Agency and the Owner in such manner that the instrument may be recorded.

No waiver by the Agency of any Event of Default or required performance by the Owner and no course of conduct of the parties or failure by the Agency to enforce or insist upon performance of any of the obligations of the Owner under this Agreement, or the other Loan Documents at any time shall preclude enforcement of any of the terms of this Agreement or the other Loan Documents.

Any provision of this Agreement requiring the consent or approval of the Agency for the taking of any action or the omission of any action or otherwise called for under this Agreement, requires such written consent by the Agency signed by a duly authorized officer of the Agency. Any such consent or approval, unless it expressly states otherwise, is limited to the particular action or omission referred to therein and does not apply to subsequent similar actions or omissions.

Notice provided for under this Agreement shall be given in writing and signed by a duly authorized officer, and any notice required to be given hereunder shall be given by recognized private carrier with acknowledgment or by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

Borrower:

Cindy Lane Family Ventures, LLC
c/o The Alpert Group, LLC
One Parker Plaza
Fort Lee, NJ 07024
Attn: Joe Alpert, Managing Member

And

AHA Cindy Lane, Inc.
54 Broad Street
Eatontown, NJ 07724
Attn: Donna M. Blaze

Borrower's Investor Member: **Enterprise Housing Partners XXVI
Limited Partnership**
Suite 700
70 Corporate Center
11000 Broken Land Parkway
Columbia, MD 21044

Borrower's Attorney: **Brach Eichler**
101 Eisenhower Parkway
Roseland, NJ 08816
Attn: Dave Ritter, Esquire

Agency: **Executive Director**
New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085

Section 35. Severability

The invalidity of any part or provision hereof shall not affect the validity, legality or enforceability of the remaining portions hereof, and to this end the provisions of this Agreement shall be severable.

Section 36. Personal Liability

Notwithstanding any other provision contained in this Agreement or the other Loan Documents, the Agency agrees, on behalf of itself and any future holder of the Loan Documents, that the liability of the Owner, any general or limited partner, member or shareholder of the Owner and their respective heirs, representatives, successors and assigns, for the payment of its obligations under the Loan Documents, including, without limitation, the payment of principal and interest due and other charges due hereunder and thereunder, shall be limited to the collateral pledged under the Loan Documents, and that the Agency shall have no right to seek a personal judgment against the Owner, any general or limited partner, member or shareholder of the Owner, or their respective heirs, representatives, successors and assigns, individually, except to the extent necessary to subject the collateral pledged under the Loan Documents to the satisfaction of the mortgage debt; provided, however, that the Agency shall retain the right to exercise any and all remedies granted to it under this Agreement and the other Loan Documents, including, without limitation, the right to sue for injunctive or other equitable relief. The foregoing limitation of liability shall not apply to any party to the extent such party has committed fraudulent, criminal or unlawful acts and shall not apply to such amounts that may be due to the Agency pursuant to Sections 11, 12, 13, 14, 15(c) through (e), 33 and/or 42.

Section 37. Counterparts

This Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original. A fax copy of a signature on this Agreement shall have the same effect as an original provided that an original is received by the other party hereto within two business days thereafter.

Section 38. Disclaimer of Warranties, Liability, Indemnification

(a) The Owner acknowledges and agrees that (i) the Agency has not heretofore and does not make any warranty or representation, either express or implied as to the value, condition, or fitness for particular purpose or any use of the Project or Land or any portions thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Agency or its agents or employees be liable or responsible for any incidental, indirect, special, consequential or punitive damages in connection with or arising out of this Agreement or any of the other Loan Documents or from the acquisition, construction, rehabilitation, reconstruction, repair, improvement, ownership, operation or maintenance of the Project or Land or any items or services provided for in this Agreement or the other Loan Documents; and (iii) during the term of this Agreement and the other Loan Documents and to the fullest extent permitted by law, the Owner shall indemnify and hold the Agency harmless against, and the Owner shall pay any and all liability, loss, cost, damage, claims, judgments or expenses of any and all kinds or nature and however arising, imposed by law, which the Owner and the Agency may sustain, be subject to, or caused or incurred by reason of any claim, suit or action based upon personal injury, death or damage to property or any other damage or loss sustained, whether real, personal or mixed, or arising out of any alleged violation of the Environmental Laws or the alleged use, storage or disposal of Hazardous Materials by the Owner or by any person or entity or other source related to the Project or Land, or upon or arising out of contracts entered into by the Owner, or arising out of the Owner's acquisition, construction, rehabilitation, reconstruction, repair, improvement, ownership, operation or maintenance of the Project or Land.

(b) It is mutually agreed by the Owner and the Agency that the Agency and its members, directors, officers, agents, servants, employees, and attorneys shall not be liable for any action performed under this Agreement, and that the Owner shall hold them harmless from any claim or suit of whatever nature.

(c) Any claims asserted against the Agency shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. (except for N.J.S.A. 59:13-9 thereof). While this statute is not applicable by its terms to claims arising under contracts with the Agency, the Owner agrees that it shall be applicable to claims arising under this Agreement or the other Loan Documents. It is acknowledged by the parties that the Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

(d) Notwithstanding the provisions of this Section 38, but in no way intending to reduce the obligations of Owner under this Agreement or the other Loan Documents, in the event the Agency takes possession, ownership and/or control of the Project and commences operating the same, Owner shall not be liable for the acts or omissions of the Agency, its employees, agents or representatives from and after the date of such possession, ownership or control.

Section 39. Filing

This Agreement shall be duly recorded in the Office of the Clerk for the county in which the Land is located.

Section 40. Governing Law and Venue

This Agreement shall be governed by the laws of the State of New Jersey.

If any legal action should be filed by any party against any other in connection with this Agreement and/or the other Loan Documents, the venue and forum for such action shall be the New Jersey Superior Court, Mercer County.

Section 41. Equal Opportunity and Non-Discrimination

The Owner covenants and agrees that it will comply with the Agency guidelines with respect to equal opportunity and non-discrimination in its purchase of goods and services for the operation and maintenance of the Project throughout the term of this Agreement.

Section 42. Investment Funding and Return on Investment

The Owner agrees to make an investment in the Project and Land in an amount which is not less than 10% of the total Project cost as determined by the Agency pursuant to the Act. In the event the principal sum set forth in the Agency Financing that is advanced to the Owner is determined by the Agency to exceed 90% of the total Project cost, the Owner shall reimburse the Agency an amount that would reduce the Agency Financing to 90% of the total Project cost.

The total Project cost and the portion thereof that is contributed by the Owner as investment shall be determined by the Agency in accordance with the cost certification procedures under the Act. The Owner shall be eligible for a return on its investment at the rate of 7.82% annually in the manner set forth in the Agency Regulations.

Section 43. Applicability and Conflict of Terms and Conditions

The terms and conditions of this Agreement are applicable for the entire term of this Agreement (as set forth in Section 9 hereof) unless otherwise set forth in this Agreement. In the event of any conflict or inconsistency between the terms and conditions of any of the Loan Documents and including this Agreement, the terms and conditions of this Agreement shall prevail.

Notwithstanding the foregoing, the Owner agrees that the Agency may render a decision concerning the intent and/or applicability of any term or condition of the Loan Documents and unless such decision is found to be arbitrary or capricious by a court of competent jurisdiction, the Agency decision shall be final.

Section 44. Miscellaneous

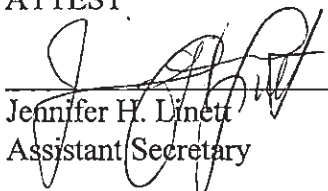
Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.


The Owner and Agency agree to cooperate with each other to correct any error(s) that might inadvertently appear in the Loan Documents.

BORROWER/OWNER ACKNOWLEDGES AND AGREES THAT THERE IS CURRENTLY PENDING FEDERAL LEGISLATION THAT HAS THE POTENTIAL TO IMPACT THE LENDER'S ABILITY TO ISSUE PRIVATE ACTIVITY BONDS UNDER EXISTING PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 (THE "CODE") AFTER DECEMBER 31, 2017, INCLUDING, BUT NOT LIMITED TO, REPEAL OF INTERNAL REVENUE CODE SECTION 142. SUCH FEDERAL LEGISLATION, IF PASSED, MAY ALSO AFFECT THE AVAILABILITY OF FEDERAL LOW INCOME HOUSING TAX CREDITS AND PROVISIONS OF THE CODE WITH RESPECT TO TAX-EXEMPT BOND FINANCING CONTEMPLATED WHEN THIS LOAN WAS COMMITTED TO BE MADE BY THE AGENCY TO BORROWER/OWNER. NOTWITHSTANDING THE FOREGOING, BORROWER/OWNER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE BORROWER/OWNER HAS CONSULTED WITH THEIR OWN COUNSEL AS THE BORROWER/OWNER HAS DEEMED NECESSARY AS WELL AS ANY INVESTOR, LENDER OR OTHER PARTY TO THIS TRANSACTION AND THE BORROWER/OWNER HEREBY ASSUMES ALL RISKS THAT MAY RESULT TO THE PROJECT AND THIS LOAN IF SUCH FEDERAL LEGISLATION IS ENACTED AND THE LENDER IS NO LONGER LEGALLY PERMITTED BY FEDERAL LAW TO: (1) ISSUE PRIVATE ACTIVITY BONDS UNDER THE CODE; (2) MAKE AVAILABLE FEDERAL LOW INCOME HOUSING TAX CREDITS UNDER THE CODE; AND (3) PROVIDE TAX-EXEMPT BOND FINANCING UNDER THE CODE TO THE BORROWER/OWNER.


(SEAL)
ATTEST


Jennifer H. Linett
Assistant Secretary

NEW JERSEY HOUSING AND
MORTGAGE FINANCE AGENCY

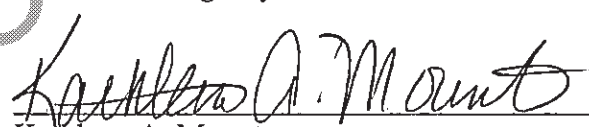
By: 
Debra M. Urban
Chief of Legal and Regulatory Affairs

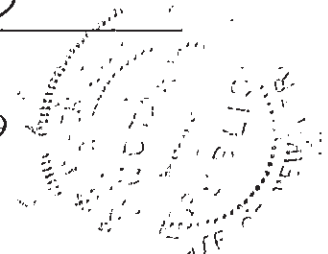
This document has been reviewed and approved as to form.
Christopher S. Porrino
Attorney General of the State of New Jersey

By: 
Nels J. Lauritzen
Deputy Attorney General

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on 11-14 2017, **DEBRA M. URBAN** personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) she is the **Chief of Legal and Regulatory Affairs** of **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**, the Agency named in this document, and b) she executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.


Kathleen A. Mount
Notary Public of the State of New Jersey
My Commission Expires on June 16, 2019



LEGAL DESCRIPTION
EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE TOWNSHIP OF OCEAN, COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY, AND IS DESCRIBED AS FOLLOWS:

BEING known and designated as Proposed New Lot 51.11 in Block 1.02 as set forth on a certain map entitled "Final Plat - Major Subdivision, Block 1.02, Lots 52, 53 and 54; Block 1.02, Lots 51.01, 51.02, 51.03, 51.04, 51.05, 51.06, 51.07, 51.08, 51.09, 51.10 and 55" situated in the Township of Ocean, County of Monmouth, State of New Jersey, said map being duly filed on May 19, 2004 in the Monmouth County Clerk's Office as Map Case No. 294-15.

BEING FURTHER described as follows in accordance with an ALTA/NSPS Land Title Survey prepared by Suzanne E. Warren, P.L.S. for MidAtlantic Engineering Partners, LLC, dated November 9, 2017:

BEGINNING at a point in the southerly right of way line of Cindy Lane, said point being a distance of 186.57 feet from the point of intersection of the southerly line of Cindy Lane with the westerly line of Cindy Lane extended, thence from said point of beginning running

1. On a common line with Lot 56 and part of Lot 57, South 04 degrees 33 minutes 06 seconds West, a distance of 311.70 feet to an angle point; thence
2. On a common line with Lots 58.09 through 58.12 and the northerly terminus of Clearview Drive (50' right of way) North 89 degrees 48 minutes 44 seconds West, a distance of 510.13 feet to an angle point; thence
3. On a common line of Lot 54.01, North 11 degrees 14 minutes 26 seconds East, a distance of 93.53 feet (survey) to a point of curvature; thence
4. On an arc, common with Lots 54.01 and 53.01, curving to the right, in a northeasterly direction, with a radius of 140.00 feet, an arc length of 95.85 feet (survey) to a point and corner; thence
5. North 39 degrees 04 minutes 06 seconds West, a distance of 41.94 feet to a point and corner; thence
6. On a common line with Lot 52.01, North 11 degrees 14 minutes 26 seconds East, a distance of 157.33 feet to a point and corner; thence
7. On the southerly line of Lot 52.01, South 79 degrees 50 minutes 08 seconds East, a distance of 340.13 feet to a point in the southerly line of West Cindy Lane; thence
8. On the same, North 85 degrees 29 minutes 16 seconds East, a distance of 129.14 feet to the point and place of BEGINNING.

BEING ALSO KNOWN AS (REPORTED FOR INFORMATIONAL PURPOSES ONLY):

Block 1.02, Lot 51.11 on the official tax map of the Township of Ocean, County of Monmouth, State of New Jersey



Monmouth County Document Summary Sheet



MONMOUTH COUNTY CLERK
PO BOX 1251
MARKET YARD
FREEHOLD NJ 07728

Return Name and Address

Johanna Peña
Administrative Assistant III
Tax Credit Services
NJHMFA
637 S. Clinton Avenue
Trenton, NJ 08611



600UHA

Official Use Only

Submitting Company New Jersey Housing and Mortgage Finance Agency

Document Type Deed

Document Date (mm/dd/yyyy)

04/23/2019

Total Number of Pages

(Including the cover sheet)

10

Consideration Amount (If applicable)

\$140.00

Official Use Only

AUG 29 2019 5
OCT 07 2019 5

2 of 2

10

IRISTINE GIORDANO HANLON
COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER

2019095158

RECORDED ON

Oct 10, 2019

9:01:48 AM

BOOK: OR-9373

PAGE: 2852

Total Pages: 10

COUNTY RECORDING \$120.00

-FEES

TOTAL PAID \$120.00

First Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	New Jersey Housing and Mortgage Finance Agency Cindy Lane Family Ventures, LLC		c/o The Alpert Group, One Parker Plaza, Fort Lee, NJ 07024		
Second Party	Name(s) (Last Name, First Name or Company Name)		Address (Optional)		
	Cindy Lane Family Ventures New Jersey Housing and Mortgage Finance Agency		c/o The Alpert Group, One Parker Plaza, Fort Lee, NJ 07024		
The Following Section is Required for DEEDS Only					
Parcel Information	Municipality	Block	Lot	Qualifier	Property Address
	Ocean Township	1.02	51.11		Cindy Lane, Ocean Township, NJ 07712
Recording Reference to Original Document (if applicable)					
Reference Information (Marginal Notation)	Book		Beginning Page		Instrument No.

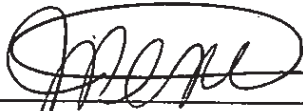
Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.

RECORD & RETURN TO:

Johanna Peña, Administrative Assistant III
NJ Housing and Mortgage Finance Agency
637 S. Clinton Avenue
Trenton, NJ 08611

LIHTC# 1749

Prepared By:


Johanna Peña

**DEED OF EASEMENT AND RESTRICTIVE COVENANT
FOR EXTENDED LOW-INCOME OCCUPANCY**

THIS DEED OF EASEMENT and RESTRICTIVE COVENANT (the "Covenant") dated as of April 23, 2019 shall run with the land and is granted by **Cindy Lane Family Ventures, LLC** and its successors and assigns (the "Project Owner") whose principal address is c/o **The Alpert Group LLC, One Parker Plaza, Fort Lee, NJ 07024**, to the New Jersey Housing and Mortgage Finance Agency, its successors and assigns, (the "Agency") acting as the housing credit agency for the State of New Jersey as described in Section 42(h)(3) of the Internal Revenue Code as amended, and to income eligible members of the public as defined below. As conditioned below, this Covenant restricts occupancy of the described premises to income eligible occupants for a specified period of time. This Covenant is made in satisfaction of the requirements of Section 42 of the Federal Tax Reform Act of 1986, P.L. 99-514, as amended, (the "Code").

As indicated on the **42m Letter** or the IRS Form(s) 8609 for the building(s) described below, the Agency has determined the eligibility for and issued Low Income Housing Tax Credits ("LIHTC") authorized under the Code in an estimated annual amount of **\$461,309** to be claimed by the Project Owner over a 10 or 15 year period pursuant to the Code. In consideration of the receipt of the benefit of the LIHTC, the Project Owner hereby agrees to the following restrictive covenants, which are made in satisfaction of the requirements contained in Section 42(h)(6) of the Code.

- (1) The **two** building(s), which consist of a total of **47** residential rental units, of which **47** are LIHTC units, and which will constitute a qualified low-income housing project as defined in Section 42(g) (1) of the Code and regulations promulgated thereunder, the rental units which will be rented or available for rental on a continuous basis to members of the general public, shall be known as **Ocean Family Apartments** (the "Project"). The Project is located at **Cindy Lane, Ocean Township, NJ 07712**, Municipal Tax Map Block No.1.02, Lot No.51.11 in the City of **Ocean Township, County of Monmouth, New Jersey**, and title to which has been recorded in the County Clerk or Register's Office being more fully described as set forth in Attachment "A" hereto.

**LEGAL DESCRIPTION
EXHIBIT "A"**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE TOWNSHIP OF OCEAN, COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY, AND IS DESCRIBED AS FOLLOWS:

BEING known and designated as Proposed New Lot 51.11 in Block 1.02 as set forth on a certain map entitled "Final Plat - Major Subdivision, Block 1.02, Lots 52, 53 and 54; Block 1.02, Lots 51.01, 51.02, 51.03, 51.04, 51.05, 51.06, 51.07, 51.08, 51.09, 51.10 and 55" situated in the Township of Ocean, County of Monmouth, State of New Jersey, said map being duly filed on May 19, 2004 in the Monmouth County Clerk's Office as Map Case No. 294-15.

BEING FURTHER described as follows in accordance with an ALTA/NSPS Land Title Survey prepared by Suzanne E. Warren, P.L.S. for MidAtlantic Engineering Partners, LLC, dated November 9, 2017:

BEGINNING at a point in the southerly right of way line of Cindy Lane, said point being a distance of 186.57 feet from the point of intersection of the southerly line of Cindy Lane with the westerly line of Cindy Lane extended, thence from said point of beginning running

1. On a common line with Lot 56 and part of Lot 57, South 04 degrees 33 minutes 06 seconds West, a distance of 311.70 feet to an angle point; thence
2. On a common line with Lots 58.09 through 58.12 and the northerly terminus of Clearview Drive (50' right of way) North 89 degrees 48 minutes 44 seconds West, a distance of 510.13 feet to an angle point; thence
3. On a common line of Lot 54.01, North 11 degrees 14 minutes 26 seconds East, a distance of 93.53 feet (survey) to a point of curvature; thence
4. On an arc, common with Lots 54.01 and 53.01, curving to the right, in a northeasterly direction, with a radius of 140.00 feet, an arc length of 95.85 feet (survey) to a point and corner; thence
5. North 39 degrees 04 minutes 06 seconds West, a distance of 41.94 feet to a point and corner; thence
6. On a common line with Lot 52.01, North 11 degrees 14 minutes 26 seconds East, a distance of 157.33 feet to a point and corner; thence
7. On the southerly line of Lot 52.01, South 79 degrees 50 minutes 08 seconds East, a distance of 340.13 feet to a point in the southerly line of West Cindy Lane; thence
8. On the same, North 85 degrees 29 minutes 16 seconds East, a distance of 129.14 feet to the point and place of BEGINNING.

BEING ALSO KNOWN AS (REPORTED FOR INFORMATIONAL PURPOSES ONLY):

Block 1.02, Lot 51.11 on the official tax map of the Township of Ocean, County of Monmouth, State of New Jersey

- (2) The applicable fraction, as defined in Section 42(c)(1)(B) of the Code (the smaller of the low-income unit fraction or the low-income floor space fraction), and as provided by the Project Owner in its low income housing tax credit application (the "Application") is 100 percent. This fraction shall not be decreased during any taxable year of the compliance period or extended use period unless terminated in accordance with the provisions enumerated at Section 42(h)(6)(E) of the Code.
- (3) This Covenant and the Section 42 occupancy and rent restrictions shall commence on the first day of the compliance period as defined in section 42 of the Code, and shall end on the date which is fifteen (15) years after the close of the initial fifteen (15) year compliance period, unless terminated by foreclosure or instrument in lieu of foreclosure, pursuant to the provisions of the Code, and any regulations promulgated thereunder.
- (4) The extended use period shall terminate, subject to the provisions regarding low-income tenancy and gross rent restrictions, on the date the buildings are acquired by foreclosure (or an instrument in lieu of foreclosure), or on the last day of the one year period beginning on the date after the fourteenth (14th) year of the initial compliance period that the Project Owner submits a written request to the Agency to present a qualified contract (as defined at Section 42(h)(6)(F) of the Code) for the acquisition of the buildings, if, and only if, the Agency is unable to present within that year's time, a qualified contract from a purchaser who will continue to operate such buildings as a qualified low-income project.
- (5) The compliance period begins at the same time as the credit period. The Project Owner elects when to begin the credit period at the time the Project Owner's first tax return is filed with the Internal Revenue Service. It is expected that the Project Owner will begin the credit period in 2019.
- (6) The federal set-aside, as defined by section 42(g)(1) of the Tax Code, which was selected by the Project Owner in its Application requires that 40 percent or more of the residential units in the Project are both rent restricted and occupied by individuals whose income is 60 percent or less of area median gross income (AMGI) ("income eligible members of the public"). The selection of this federal set-aside is irrevocable and is binding on the Project Owner and all successors in interest to the Project through the end of the extended use period.
- (7) ☐ If this box is checked, the Project is a Special Needs Project as defined in the _____ Qualified Allocation Plan, and as selected by the Project Owner in its Application and as such, the Project Owner must BOTH restrict 25% of the LIHTC units in the Project for occupancy by one or more special needs population through the end of the compliance period AND make available at a reasonable cost to all tenants with special needs a minimum of three appropriate and accessible social services throughout the compliance period. One of the social services must be a social service coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs. Notwithstanding the above, if after a

period of sixty (60) days of a unit described in this paragraph becoming unoccupied the Project cannot identify an eligible person within the special needs population selected by the Project Owner in its Application to rent the unoccupied unit, such unit may be leased to any low income housing tax credit eligible person or family, with a preference given first to eligible persons in other special needs populations. The next unit of similar size in the Project that becomes unoccupied shall be rented to an eligible person within the special needs population selected by the Project Owner in its Application on the same terms set forth herein.

- (8) Pursuant to section 42(h)(6)(B)(iii) of the Code, this Covenant prohibits the disposition to any person of any portion of a building to which this Covenant applies unless all of the building to which such Covenant applies is disposed of to such person.
- (9) ☐ If this box is checked, the Project Owner must restrict the greater of 5 units or 5 percent of the total units for occupancy by individuals with special needs. The Owner must also make available at a reasonable cost to all tenants with special needs a minimum of two appropriate and accessible social services. One of the social services must be a social services coordinator. With written approval from the Agency, the Project Owner may substitute another special needs population for the one(s) identified in its Application and may substitute services to better address the needs of the tenants with special needs. This restriction shall be in place throughout the extended use period.
- (10) Pursuant to Revenue Ruling 2004-82, this Covenant prohibits (i) the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or (ii) any increase in the gross rent with respect to the unit not otherwise permitted under section 42 of the Code for the term of the extended use period and a period of three (3) years following any termination of this Covenant, including any termination by foreclosure or instrument in lieu of.
- (11) ☐ If this box is checked, the Project Owner is required to make available to tenants of all LIHTC units 3 appropriate and affordable social service(s) throughout the compliance period in accordance with the Social Services Model as defined in the 2015 Qualified Allocation Plan, and as selected by the Project Owner in its Application. Social services may be modified to better address the needs of the low-income tenants of the Project upon written approval of the Agency.
- (12) Pursuant to section 42(h)(6)(B)(iv) of the Code, this Covenant prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 of the status of the prospective tenant as such a holder.
- (13) This Covenant shall constitute an agreement between the Agency and the Project Owner which is enforceable in the courts of the State of New Jersey by the Agency or by individual(s), whether prospective, present, or former occupants of the Project, who meet the income limitations applicable to the Project under Section 42(g) of the Code, said individual(s) being express beneficiaries of this Covenant.

- (14) The Project Owner agrees to comply with the requirements of the federal Fair Housing Act as it may from time to time be amended.
- (15) The Project Owner agrees (i) to obtain the consent of any recorded lien holder on the Project to the terms and conditions of this Covenant and (ii) it will not grant to any lien holder an interest in the Project that is superior to the terms and conditions of this Covenant. Such consent and subordination of the interests of all recorded lien holders on the Project shall be conditions precedent to the issuance of IRS Form(s) 8609.
- (16) The Project Owner agrees to employ throughout the compliance period a staff person who has successfully completed a NJHMFA-approved tax credit certification program with a continuing education component prior to the project being placed in service. The staff person responsible for verification of tenant income must be the person to successfully pass the certification examination and maintain the certification for the term of the compliance and extended use periods.
- (17) This Covenant is binding on all successors in interest to the Project and shall run with the land until the end of the extended use period, unless terminated prior to said date in accordance with all provisions of the Code and the regulations promulgated thereunder.
- (18) These covenants may, from time to time, be amended only with the written consent of the Agency, to reflect changes to the Code or regulations promulgated thereunder. Project Owner expressly agrees to enter into such amendments as may be necessary to maintain compliance under section 42 of the Code.
- (19) In order to enable the Agency to monitor the Project Owner's compliance with these use and occupancy restrictions pursuant to the Code, Project Owner covenants and agrees that the Agency and its agents or employees shall be allowed to enter and inspect the Project during business hours and to inspect and copy all books and records pertaining to the Project.
- (20) The Project Owner covenants and agrees to comply and cooperate with the Code and all Agency tax credit compliance monitoring procedures including but not limited to completing and sending to the Agency an annual status report, or, if requested by an authorized official of the Agency, more frequent reports, in form and content acceptable to the Agency, which shall demonstrate ongoing compliance with this Covenant.
- (21) The Project Owner covenants and agrees that in the event it files for bankruptcy, liquidates, sells or otherwise transfers ownership of the Project, it will notify the Agency in writing, and further, that as a condition precedent to any sale or transfer it will enter into such agreements with the purchaser or transferee as may be prescribed by the Agency, which have the effect of causing such purchaser or transferee to be bound by these use and occupancy restrictions, as they may be amended or supplemented.

- (22) The terms of this Covenant shall be interpreted, conditioned and supplemented in accordance with and by section 42 of the Code and regulations promulgated thereunder, all of which are incorporated herein by reference, whether or not such provisions of the Code or regulations are expressed or referenced herein. In the event of any conflict between this Covenant and the requirements of the Code, the Code shall prevail. The Agency reserves the right to set conditions for the allocation of LIHTC by regulation that may be more stringent than the Code.
- (23) The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining provisions.
- (24) This Covenant may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

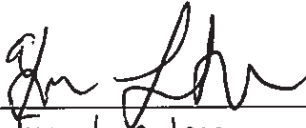
[SIGNATURES ON NEXT PAGE]

Signatures: This Covenant is granted by the Project Owner whose duly authorized representative's signature appears below.

Sworn and subscribed to before
the undersigned Notary Public or
Attorney on the date appearing below:

WITNESS

(IF INDIVIDUAL, LLC, OR PARTNERSHIP)



Fran Leiccatena

PROJECT OWNER:

By:

By: 

Authorized Representative

Joseph Alpaol, Managing Member, Cindy Lane

(Print Name, Title, Organization) Family Ventures LLC

ATTEST (IF A CORPORATION)

PROJECT OWNER:

Secretary

By:

President (Corporation)

(Print Name)

ACKNOWLEDGEMENT FOR PARTNERSHIP

(who has a corporate entity as general partner)

STATE OF NEW JERSEY)
) SS:
 COUNTY OF)

I CERTIFY that on _____, 2019,
 _____ OF THE PARTNERSHIP personally came
 before me, and this person acknowledged under oath, to my satisfaction, that (a) this person is the
 President of _____ who is the general partner of
 _____, the Owner named in this document (the "Partnership");
 and (b) this document was signed and delivered by the Partnership as its voluntary act duly authorized
 by a proper resolution of the Board of Directors of the General Partner.

SWORN TO AND SUBSCRIBED
 before me, the date aforesaid.

 Notary Public

ACKNOWLEDGEMENT FOR LIMITED LIABILITY COMPANY

STATE OF NEW JERSEY)
) SS:
 COUNTY OF Bergen)

I CERTIFY that on April 8, 2019, Joseph Alpert
 personally came before me, and this person acknowledged under oath, to my satisfaction, that (a) this
 person is the Managing Member of Cindy Lane Family Ventures LLC, the Owner named in this
 document (the "LLC"); and (b) this document was signed and delivered by the Company as its voluntary
 act duly authorized by a proper resolution of the Company.

SWORN TO AND SUBSCRIBED
 before me, the date aforesaid.

Joyce E. Atkinson
 Notary Public

JOYCE E. ATKINSON
 Notary Public
 New Jersey
 My Commission Expires March 22, 2022
 License #: 2418921

WITNESS

[Signature]

NEW JERSEY HOUSING AND
MORTGAGE FINANCE AGENCY

By: [Signature]

Debra M. Urban

Chief of Legal and Regulatory Affairs

Date: 4/23/19

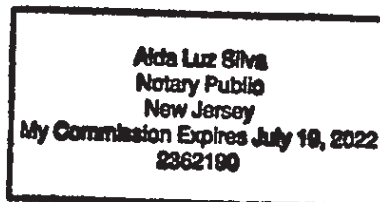
STATE OF NEW JERSEY, COUNTY OF MERCER SS:

I CERTIFY that on April 23, 2019, DEBRA M. URBAN personally came before me, a Notary Public of the State of New Jersey, and acknowledged under oath to my satisfaction that a) she is the **Chief of Legal and Regulatory Affairs of NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**, the Agency named in this document, and b) she executed and delivered this document as the voluntary act of the Agency, duly authorized by a proper resolution of its members, on behalf of the Agency.

[Signature]

Notary Public of the State of New Jersey

My Commission Expires on _____



Revised 7/6/2016

DEC 06 2017 ^{NC}

Record and Return to:

Kathleen Mount, Paralegal
Division of Loan Closings
New Jersey Housing and Mortgage Finance Agency
637 South Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085



RR Chicago Title Company, LLC
2446 Church Road
3rd floor

OCEAN FAMILY APARTMENTS
HMFA # 03176

Toms River, N.J. 08753

2016-01005

CDBG LOAN AGREEMENT AND DEED RESTRICTION

between

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

and

CINDY LANE FAMILY VENTURES, LLC

CHRISTINE GIORDANO HANLON
COUNTY CLERK
MONMOUTH COUNTY, NJ

INSTRUMENT NUMBER

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Nels J. Lauritzen

Deputy Attorney General

COUNTY RECORDING \$500.00
FEES
TOTAL PAID \$500.00

CDBG LOAN AGREEMENT AND DEED RESTRICTION

BETWEEN

NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY

AND

CINDY LANE FAMILY VENTURES, LLC

THIS CDBG LOAN AGREEMENT AND DEED RESTRICTION (the "Loan Agreement") is hereby made on the 15th day of November, 2017, by and between the **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the "Agency") and **CINDY LANE FAMILY VENTURES, LLC**, having its offices located at One Parker Plaza, Fort Lee, New Jersey, (hereinafter the "Sponsor" or "Borrower;" the Agency and the Sponsor are, collectively, the "Parties").

WITNESSETH:

WHEREAS, in the aftermath of Superstorm Sandy, the United States Congress enacted the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, approved January 29, 2013 (the "Act") to aid in the recovery of the State of New Jersey (the "State"); and

WHEREAS, on April 29, 2013, the Department of Housing and Urban Development ("HUD") approved the Action Plan of the State (the "Action Plan"), which demonstrated how the State intended to expend the disaster relief funds; and

WHEREAS, the New Jersey Department of Community Affairs ("DCA") received a grant of CDBG funds provided by HUD pursuant to the Act and DCA allocated a portion of such funds to the Agency; and

WHEREAS, on June __, 2013, the DCA and Agency executed a Subrecipient Agreement in respect to the implementation and administration of the Community Development Block Grant ("CDBG") program; and

WHEREAS, consistent with the Action Plan, the Agency created the Fund for Restoration of Multi-Family Housing, and the Sandy Special Needs Housing Assistance Fund ("CDBG-DR Programs"); and

WHEREAS, the Agency approved, at its board meeting on April 25, 2013, the CDBG-DR Programs' guidelines, as subsequently amended (collectively the "Guidelines"); and

WHEREAS, the Borrower seeks to construct 48 rental units and related facilities for a

project commonly known as Ocean Family Apartments, NJHMFA # 03176 (the "Project") and has requested construction and permanent financing from the Agency, which will be administered by the Agency; and

WHEREAS, the Borrower has met the eligibility requirements of the CDBG-DR Programs, in accordance with the requirements of the Guidelines; and

WHEREAS, contemporaneously herewith Borrower has executed a Note, Mortgage and other loan documents evidencing a CDBG loan from the Agency (hereinafter referred to as the "CDBG Loan"); and

WHEREAS, to evidence its understanding of the terms and conditions of the CDBG Loan and the CDBG Program requirements the Sponsor shall execute this Loan Agreement, a Mortgage and a Note in favor of the Agency that describe the terms and conditions of the CDBG Loan; and

WHEREAS, in consideration of the receipt of the CDBG financing, the Sponsor understands that the Project will be subject to tenant affordability restrictions and Agency oversight;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained the Parties do hereby covenant and agree each with the other as follows:

1. **Applicable Law:** This Loan Agreement shall be governed by and construed in accordance with the Disaster Relief Appropriations Act, 2013, Public Law 113-2 and any Treasury, HUD or DCA regulations, guidelines and applicable notices and bulletins thereto (the "Act") and the laws and regulations of the State of New Jersey including, but not limited to, the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. (the "Fair Housing Act"), New Jersey Administrative Code, and the CDBG Guidelines (the "Guidelines" or "CDBG Guidelines"), all as may be amended and supplemented from time to time. Collectively these authorities are the "Applicable Law". To the extent possible, these authorities shall be construed in such a manner as to complement one another and not conflict. However, in the event of a conflict, the most restrictive authority shall prevail.
2. **Superiority:** Should any of the terms and conditions of this Loan Agreement conflict with those of the Mortgage and/or the Note, the provisions of this Loan Agreement shall prevail, except with respect to the CDBG Loan Agreement Addendum attached hereto (the "CDBG Addendum," which shall prevail over this Loan Agreement in the event of direct conflict.
3. **Amendments:** The parties agree to make no changes, amendments and/or to seek suspension or termination of this Loan Agreement without the prior written approval of the Agency.

4. **Proceeds:** Proceeds from the CDBG Loan shall be paid to the Sponsor at such times and in such manner as such funds are advanced by the Agency in accordance with payment procedures outlined in this Loan Agreement.

5. **Definitions:** Capitalized terms used herein shall have the following meanings:

"**Act**" means the Disaster Relief Appropriations Act, 2013 (Public Law 113-2, as amended from time to time, and the regulations, guidelines and notices promulgated by HUD thereunder.

"**Affordable**" means the rents for units at the Project complies with the requirements of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301, and the regulations promulgated thereunder, including but not limited to the standards set forth in N.J.A.C. 5:80-26.12.

"**Agency**" means the New Jersey Housing and Mortgage Finance Agency or its authorized officer or representative.

"**Agency Financing**" means the construction and/or permanent mortgage loan(s) authorized by the Agency Board of Trustees for the Project.

"**Architect**" means the Architect of Record as designated by the Construction Contract.

"**Borrower**" means CINDY LANE FAMILY VENTURES, LLC, a New Jersey limited liability company.

"**Code**" means the Internal Revenue Service Code of 1986, as it may, from time to time, be amended.

"**Commissioner**" means the Commissioner of the DCA.

"**Construction Completion Date**" means the date specified for completion of all stages of the work under the Construction Contract, which is twelve (12) months, unless otherwise modified pursuant to the terms of the Construction Contract.

"**Construction Contract**" means the contract between the Borrower and the Contractor, for the construction /rehabilitation of the Project.

"**Construction Lender**" means the Agency in its role as Lender of \$7,574,500 to the Borrower for the acquisition, and/or construction/rehabilitation of the Project, which construction loan is secured by a first mortgage.

"**Construction Loan**" means the construction loan made to the Borrower by the Construction Lender to finance a portion of the cost of the acquisition and construction/rehabilitation of the Project as evidenced by a Note and secured by a Mortgage.

"**Construction Period**" means the time period prior to the issuance of a Certificate of Occupancy for all of the units constructed on the premises.

"Contractor" means A.J.D. Construction Co., Inc., a New Jersey corporation.

"Day" means calendar day unless otherwise indicated.

"Draw Schedule" means the schedule of all sources and uses of funding for the project to which this CDBG financing is provided.

"Energy Star" means the Agency's Energy Star program.

"Event of Default" means any of the events set forth in Section 24 of this Loan Agreement.

"Land" means the real property of the Project, described in Schedule "A" attached hereto.

"Loan Documents" means this Loan Agreement, the Mortgage, the Note and any other documents executed by Borrower related to the CDBG Loan.

"Mortgage" means the CDBG Mortgage and Security Agreement that secures the CDBG Loan and the CDBG Note and the terms of which, by reference hereto, are incorporated herein.

"Mortgaged Premises" means the Project and the Land that secure the CDBG Loan and Note.

"NJAG" means New Jersey Affordable Green Homes program and its requirements.

"Note" means the interest-bearing, conditional, non-recourse promissory note that contains the promise of the Borrower to pay the sum of money stated therein at the times stated therein, evidences the obligation of the Borrower to repay the CDBG Loan, and the terms of which, by reference hereto, are incorporated herein.

"Payment and Performance Bonds" mean the bond or bonds securing the payment of the Contractor's obligations to subcontractors and workers relating to the construction of the Project and the performance of the Work pursuant to this Loan Agreement and the Construction Contract. This definition shall also include any letter of credit, maintenance or warranty bond or other form of performance guarantee acceptable to the Agency.

"Placed in Service Date" means the date that the first unit is made available to the public for occupancy.

"Plans and Specifications" means the plans and specifications for the Project submitted by the Architect.

"Project" means the real property as more specifically described in Schedule "A" attached hereto, and all improvements constructed thereon and personal property and fixtures located thereon pursuant to the Construction Contract.

"Qualified Project Period" means the period beginning on the first day on which 10 percent of the residential units in the Project are occupied and ending on the latest of--

- (i) the date which is 15 years after the date on which 50 percent of the residential units in the Project are occupied,
- (ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or
- (iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates, if applicable.

"Recapture" means the Project's loss of CDBG Funds not yet disbursed to it for failure to comply with the December 1, 2019 expenditure requirement as set forth at Section 11 hereof.

"Recapture Date" means the specific date or dates by which all of the CDBG Funds must be expended pursuant to the Act. Any CDBG Funds not expended by the Recapture Date will be recaptured and no longer available for use by the Project and may result in rescission of all CDBG Funds previously disbursed to the Project. For this Project, all CDBG Funds must be expended by December 1, 2019.

"Rules and Guidelines" includes all administrative rules, criteria, notices and program guidelines promulgated by the Agency to implement the CDBG Loan Program.

"Second Note" means the interest-bearing, conditional, non-recourse second promissory note that contains the promise of the Borrower to pay the sum of money stated therein at the times stated therein, evidences the obligation of the Borrower to repay the CDBG Loan, and the terms of which, by reference hereto, are incorporated herein.

"Specifications" means the Project Specifications and all additions hereafter issued by the Architect as provided in the Loan Documents, together with such other addenda as may be agreed upon by the parties.

"Subcontractor" means those who directly contract with the Contractor to perform any part of the Work (as hereinafter defined), including those who furnish substantial on-site labor, or substantial on-site labor and materials, but shall not include anyone furnishing materials without furnishing on-site labor.

"Tax Credits" means low income housing tax credits that the Project may receive pursuant to the Code, if applicable.

"Title Company" means the New Jersey licensed title insurance firm that provides title insurance to the Agency for the CDBG Loan.

6. **The Act/Rules:** In addition to complying with any other laws, rules, regulations and other authorities that may be applicable to the performance of this Loan Agreement, the Sponsor shall comply with all applicable provisions of the Act, the Rules and

Guidelines.

7. **Federal Low Income Housing Tax Credits:** In addition to complying with any other laws, rules and regulations that may be applicable to the performance of this Loan Agreement, the Sponsor shall comply with all applicable provisions of the statutes, regulations, rules, and other authorities governing federal low income housing tax credits ("Tax Credits"), including but not limited to, 26 U.S.C.A. § 42, 26 C.F.R. §§1.42-1 et seq., and N.J.A.C. 5:80-33.1 et seq.
8. **Agency Financing:** In addition to complying with any other laws, rules and regulations that may be applicable to the performance of this Loan Agreement, in the event the Project is receiving Agency Financing, the Sponsor shall comply with all applicable provisions of all statutes, rules, guidelines, policies, procedures and other authorities governing and regulating such Agency construction and/or permanent financing, including, but not limited to, N.J.S.A. 55:14K-1 et seq., N.J.A.C. 5:80-1.1 et seq., and the Agency Multifamily Underwriting Guidelines as currently in effect.
9. **Affordable Units:** The Sponsor will acquire/construct/rehabilitate 48 units, of which the Sponsor agrees to rent forty percent (40%) of the units at the Project to tenants whose income does not exceed sixty percent (60%) percent of the area's median income ("AMI") adjusted for family size, as median income is defined by the United States Department of Housing and Urban Development, from time to time.
10. **Affordability Period; Advance Amortization Payments:** The Parties agree that this Project shall be primarily subject to the affordability restrictions governing and elected by the Sponsor with respect to any Tax Credits and Agency construction and/or permanent financing that this Project is receiving. Additionally, this Project shall be subject to the following affordability requirements:
 - a. The units funded by the CDBG Loan ("Project Units") shall remain affordable for a period of 30 years ("Affordability Period"). The Affordability Period shall commence simultaneously with that of the Agency Financing.
 - b. Because the public purposes of the Agency include maximizing the period during which the residential units in the Project are available to persons of low and moderate income, any advance principal repayment shall not release the Borrower from any obligation incurred under the Note or under any agreement with the Agency that contains obligations that provide that a percentage of the units remain affordable to persons of low- and moderate-income for the Project's full Affordability Period. Such obligations shall remain whether or not Borrower has tendered to or deposited with the Agency an amount otherwise sufficient to pay the CDBG Loan, including interest accrued and payable, in full.
 - c. In addition, CDBG Loan requirements include the obligation of the Borrower to allocate 5% of units to be accessible for persons with mobility impairments, and an additional 2% of units to be accessible for persons with hearing and/or vision impairments.
11. **Timetable:** The timetable for this Project is as follows:

Financing closing date(s): November 15, 2017

Construction start date: December 1, 2017

Construction completion date: December 1, 2019

THE PARTIES AGREE THAT TIME IS OF THE ESSENCE AND THAT ALL CDBG PROCEEDS MUST BE EXPENDED NO LATER THAN DECEMBER 1, 2019. THE BORROWER SHALL IMMEDIATELY NOTIFY THE AGENCY IN WRITING WITHIN TEN DAYS OF ANY EVENT AFFECTING THE PROJECT'S IMPROVEMENTS COMPLETION, TIMETABLE, AND/OR FINANCING. FAILURE TO MEET THE ABOVE TIMETABLE MAY RESULT IN AN EVENT OF DEFAULT AS SET FORTH IN SECTION 24 HEREIN AND THE AGENCY'S EXERCISE OF ITS REMEDIES SET FORTH IN SECTION 25 OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, RECAPTURE OF ALL CDBG FUNDS COMMITTED TO THE PROJECT.

- 12. Construction of Project and Determination of Actual Project Cost.** The Borrower covenants, warrants and agrees to diligently proceed with the construction/rehabilitation of the Project in accordance with the Plans and Specifications for the Project as approved by the Agency.

No substantial revision of the approved Plans and Specifications, which revision would either (a) affect the nature of the Project as described in Section 3 of the Mortgage, or (b) in the aggregate increase the cost of the Project as shown on the Project Development Budget, may be made without the prior express written consent of the Agency. Construction of the Project shall at all times be subject to the inspection, review and approval of the Agency or its duly authorized representatives. Any such inspection, review or approval of the Agency shall be solely for its benefit for the purpose of assuring that the programs and goals of the Agency and the CDBG Program are being fulfilled and shall not be construed as making the Agency a party to any contract to which it is not already in connection with the construction of the Project, nor shall it relieve the Borrower of any of its obligations under this Loan Agreement, the Mortgage or the Note.

Upon completion of the Project, the Borrower shall certify to the Agency or its designee, successor and/or assign the actual cost of the Project. This cost certification shall be performed by a Certified Public Accountant chosen by the Borrower and approved by the Agency. The cost certification must be independent as defined by the American Institute of Certified Public Accountants. The Borrower shall, promptly upon completion of the cost certification, forward it to the Agency, its designee, successor and/or assign. Costs associated with the preparation of the cost certification shall be borne by the Borrower.

- 13. Termination:** In the event of termination of this Loan Agreement and the other Loan Documents due to an Event of Default of the Sponsor, the Agency, at its sole discretion, may require part or all of the CDBG Loan funds advanced to be returned to the Agency within 90 days of the date of termination or as otherwise required by HUD; however, the Sponsor

agrees that even in the event of such termination, all affordability restrictions created hereunder shall continue in full force and effect for the full Affordability Period as set forth in Section 10 hereof.

14. Use of Funds and Method of Payment: Funds provided for under this Loan Agreement will be used only for the purposes described in the Agency form 10, or as otherwise approved by the Agency.

The following items must be submitted to the Agency to begin drawdowns:

- 1) Original, executed Note;
- 2) Copy of the executed Mortgage;
- 3) Copy of this executed Loan Agreement;
- 4) Proof from the Sponsor of all required insurances as outlined in this Loan Agreement, the Mortgage and the Note and as further required by the Agency and/or the Department;
- 5) Completed requisition AIA G702/G703 forms for CDBG funds, with continuation sheets, to be signed by the Architect of record unless otherwise approved by the Agency;
- 6) Certification of compliance with the provisions of the CDBG Addendum.

Approved draws on CDBG Loan proceeds under this Loan Agreement are to be paid by the Agency within fifteen (15) business days of the Agency's receipt of each requisition and shall be paid in accordance with the following process, or as may be otherwise authorized, in writing, by the Agency:

- 1) Draws should be made in accordance with the Draw Schedule, and in accordance with the Schedule of Values or Trade Payment Breakdowns, unless otherwise approved by the Agency.
- 2) For each draw, the Agency shall require a completed CDBG Form of Requisition, along with any back-up documentation, as required. Additionally, a copy of the CDBG Requisition Form shall be sent to the Construction Lender or Lead Lender simultaneously with the submission to the Agency. A copy of any requisition submitted to the Construction Lender or Lead Lender shall also be sent simultaneously to the Agency.
- 3) For each draw, the Agency shall request a construction rundown search from the Title Company retained on behalf of the Project. Upon notice from the Title Company that there are no encumbrances against the title except as may be expressly approved by the Agency and review of such rundown by the Agency, checks shall be issued to the designated vendors as authorized by the Sponsor, unless otherwise agreed upon, in writing, by the Agency and the Sponsor.
- 4) The Sponsor will submit to the Agency the final development cost audit and a certificate of occupancy for all of the units constructed/rehabilitated on the Mortgaged Premises, along with satisfying the Agency's document checklist requirements for final mortgage close-out.

5) Additionally, the following items are required to be submitted to the New Jersey Green Homes Office in connection with the NJAG program:

- Job/Site meeting minutes to date;
- Final Energy Star inspection reports;
- Proof of Energy Star certification (Energy Star certificate);
- Developer/Architect to submit a one-page narrative describing experiences and lessons learned as it relates to the green high performance features;
- Upon request, Sponsor to provide copies of invoices for NJAG funded materials or systems and copies of any certifications such as FSC or Smartwood chain of custody certificates;
- New Jersey Green Homes Office Fuel Release form from each tenant household.

15. **Use of Insurance Proceeds:** The Sponsor covenants and agrees to cause the buildings on the Land and any improvements thereto and the fixtures and articles on the Land and any improvements thereto and the fixtures and articles of personal property covered by the Mortgage to be insured against loss by fire and by such other hazards as may be required by the Agency or its successors and/or assigns for the benefit of the Agency, as approved by the Agency and in accordance with the current Agency insurance requirements. Such insurance shall be written by such companies, in such amounts and in forms as are satisfactory to the Agency. The Sponsor will assign and deliver the certificates of insurance along with the insurance policies to the Agency. Such policies shall provide that the insurer may not cancel the policy and will not refuse to renew the policy except after thirty (30) days written notice to the Agency. If the Agency shall not receive evidence satisfactory to it of the existence of effective insurance coverage as required by the Agency, the Agency may (but shall not be required to) obtain such coverage, and the Sponsor will reimburse the Agency, on demand for any premiums paid for insurance procured by the Agency, and until so reimbursed, the amount of such premiums shall be added to the principal of the Note and bear interest at a rate equal to the yield rate on a 30-year U.S. Treasury bond at the time of making of such payment(s) by the Agency.

In the event of substantial damage to the Project by the occurrence of an insured casualty or the taking of a substantial portion of the Project by condemnation, if, in the sole judgment of the Agency (which judgment shall be conclusive), (a) the Project can be replaced or restored in whole or in part to a condition at least comparable to that of the Project immediately prior to the insured casualty or taking, and (b) the Project as so replaced will produce sufficient income to meet the then obligations of the Sponsor under the Mortgage and the Note, the proceeds of insurance or condemnation, if sufficient, to the extent necessary for the purpose, shall be made available to the Sponsor upon satisfaction by the Sponsor of the conditions precedent to disbursements, for such replacement or restoration. To the extent the Project is not replaced or restored, such proceeds shall be applied to the indebtedness secured hereby after payment of fees and charges due and payable (as defined and provided for in the Mortgage). Nothing in this Section shall affect the lien of the Mortgage or the liability of the Sponsor for payment of

the entire balance of the Mortgage indebtedness.

16. **Liens:** The Sponsor covenants, warrants and agrees to maintain its right, title and interest in the Mortgaged Premises (including the Project and Land) and all items enumerated in Section 5 of the Mortgage free and clear of all liens and security interests except the liens of the Mortgage, and the liens of other mortgagees described in Section 3 of the Mortgage and those exceptions identified and set forth in a certain title commitment issued by Chicago Title Insurance Corporation numbered 2016-01005 and dated October 31, 2017, as approved by the Agency. The Agency shall be furnished with a current standard ALTA form of title insurance policy with extended coverage, insuring that the Mortgage is a valid second lien on the Land and Project. Prior to any disbursement under this Loan Agreement and the Mortgage, the Sponsor shall provide evidence satisfactory to the Agency of the recording of the Mortgage. Except with the written consent of the Agency, the Sponsor will not install any item of tangible personal property as a part of the fixtures or furnishings of the Project that is subject to a purchase money lien or security interest.
17. **Encumbrances and Sale of Project:**
 - a. The Sponsor covenants, warrants and agrees not to sell, lease or otherwise encumber the Mortgaged Premises, or any part thereof, or the rents or revenues thereof without the prior written consent of the Agency, except by leasing to eligible residential tenants.
 - b. The Agency may allow certain "permitted encumbrances" on the Mortgaged Premises, which means (i) utility, access and other easements and rights of way, restrictions and exceptions that do not, individually or in the aggregate, materially impair the utility or value of the property affected thereby for the purposes for which it is intended; (ii) liens for taxes at the time not delinquent, (iii) liens for taxes which, if delinquent, are being contested in good faith and for which the Sponsor has provided security satisfactory to the Agency, (iv) liens superior to or subordinate to the lien of the Mortgage securing any monies loaned in connection with the Project or other monies loaned to the Sponsor by the Agency and any department, agency, public corporation or commission of the United States, the State of New Jersey or a political subdivision of the State of New Jersey.
 - c. The Sponsor acknowledges and agrees that failure by the Sponsor to comply with Loan Agreement stipulations, standards, or conditions may give the Agency just cause to suspend this Loan Agreement and withhold further payments, prohibit additional obligations of Project funds pending corrective action, disallow all or part of the cost associated with the noncompliance, terminate this Loan Agreement or seek any other remedies that may be legally available.
 - d. The Sponsor acknowledges and agrees that in the event it refinances the CDBG Loan and such refinancing will result in the recovering of excess proceeds beyond existing financing on the Project, then a prorata share of the CDBG Loan must be repaid at closing of the refinancing. The percentage of the CDBG Loan to be repaid shall be calculated based on a prorata share of the CDBG Loan to the Total Project Costs. That percentage shall be applied to the excess proceeds recovered.

Nothing in this paragraph shall be deemed to be consent by the Agency to any refinancing of the Project.

18. **Inspection:** The Sponsor covenants, warrants and agrees to permit the Agency, its agents or representatives, to inspect the Mortgaged Premises at any and all reasonable times with or without notice.
19. **Statutory Powers and Restrictions:** The CDBG Loan provided for herein shall be subject to statutory and regulatory restrictions contained in the Act and accompanying regulations and guidelines, and in connection therewith the Agency shall have the powers set forth in the Act as have been delegated by the Department, and the Sponsor hereby consents to such restrictions and powers and agrees to be bound thereby. Such powers and restrictions shall be in addition to and not in limitation of the rights of the Agency expressly set forth in the Loan Documents and in the statutes and regulations of the Agency. The Borrower covenants and agrees to comply with the CDBG rules, regulations, and guidelines. If any provision of this Loan Agreement shall be determined to be inconsistent with the CDBG Program rules, regulations and guidelines that have not been waived, the CDBG Program rules shall govern. The CDBG Program specifically requires that the Sponsor adhere to the requirements set forth in the CDBG Addendum for the improvement work to be done at the Project, and such provisions are incorporated herein. In addition, the Parties confirm the following understandings:
 - (a) The Agency and the Sponsor hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth in this Agreement touch and concern the Land in that the Sponsor's legal interest in the Project and Land is rendered less valuable thereby. The Agency and the Sponsor hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the Project and Land by enhancing and increasing the enjoyment and use of the Project and the Land by the tenants, contemplated under this Agreement and by furthering the public purposes for which the CDBG Loan is made. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project and Land. Except as provided in subsection (b) below, the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and hereof and shall pass to and be binding upon the Sponsor's assigns and successors in title to the Land or Project. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or the Land or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project or Land are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project and Land.
 - (b) Upon termination of the "Affordability Period" set forth in Section 10 of this Agreement, the said covenants, reservations and restrictions shall expire and in such event, the Agency shall, at the expense of the Sponsor,

execute any and all instruments reasonably required to evidence the record of cancellation or discharge of the aforesaid covenants, reservations and restrictions.

- (c) All terms and conditions of the attached CDBG Addendum are true and correct, and Borrower, its agents, licensees, invitees, contractors, architects, subcontractors and all other parties involved with the Project shall comply with the terms in the Addendum before, during and after completion of the Project. A violation of the Addendum shall constitute a default under the Loan Documents and shall entitle the Agency to immediately declare the Mortgage due and payable.

- 20. **Energy Star:** All project owners must participate in the Agency's Energy Star program.
- 21. **Accounting in Event of Default:** Upon the occurrence of an Event of Default and within five (5) business days of demand therefor by the Agency, the Sponsor will furnish to the Agency in writing a statement of the principal amount remaining due on the Note together with a statement of any defenses which may exist as to any liability of the Sponsor under the Loan Documents.
- 22. **Personal Liability:** The Agency agrees, on behalf of itself and any future holder of this Loan Agreement, the Note and the Mortgage, that the liability of the Sponsor, any general or limited partner, member or shareholder of the Sponsor and their respective heirs, representatives, successors and assigns, for the payment and performance of its obligations hereunder and under the Note and the Mortgage, shall be limited to the collateral pledged under the Mortgage and that the Agency shall have no right to seek a personal judgment against the Sponsor, any general or limited partner, member or shareholder of the Sponsor or their respective heirs, representatives, successors and assigns, individually, but shall look only to such collateral for the payment and performance of such obligations; provided, however, that the Agency shall retain the right to exercise any and all remedies granted to it under the Loan Documents. The foregoing limitation of liability shall not apply to any party to the extent such party has committed fraudulent, criminal or other unlawful acts.
- 23. **Assignment by the Agency:** The Sponsor hereby consents to any assignment of the CDBG Loan and the Loan Documents by the Agency.
- 24. **Defaults:** Each of the following shall be an Event of Default:
 - (a) failure of the Sponsor to pay when due any installment of principal or interest on the CDBG Loan or any other payment required by the Sponsor to the Agency or any other person pursuant to the terms of the Loan Documents;
 - (b) commission by the Sponsor of any act prohibited by the terms of the Loan Documents, failure by the Sponsor to perform or observe in timely fashion any action or covenant required by any of the terms of the Loan Documents, or failure by the Sponsor to produce satisfactory evidence of compliance therewith;

- (c) the filing by the Sponsor under any federal or state bankruptcy or insolvency law or other similar law of any petition in bankruptcy or for reorganization or composition with creditors or the making of an assignment for the benefit of creditors;
- (d) the filing against the Sponsor under any federal or state bankruptcy or insolvency law or other similar law of a petition seeking the Sponsor's adjudication as a bankrupt or the appointment of a receiver or other custodian for the benefit of its creditors which shall not be dismissed within thirty (30) days of the filing thereof, or the adjudication of the Sponsor as a bankrupt, or the appointment by court order of a custodian (such as a receiver, liquidator or trustee) of possession of the Sponsor or any of its property for the benefit of its creditors and such order remains in effect or such possession continues for more than thirty (30) days;
- (e) the occurrence of substantial destruction of the Project by an uninsured casualty;
- (f) any representation in conjunction with the CDBG Loan, the Loan Documents or the Project by or on behalf of the Sponsor that is false or misleading in any material respect or any covenant or warranty of the Sponsor that is breached;
- (g) any breach by the Sponsor of its obligations or any failure to observe its covenants under any superior mortgage or note that results in an event of default thereunder, or the Sponsor's failure to observe the covenants as contained in any deed restriction associated with such superior mortgage or note, if applicable;
- (h) failure to obtain or retain the Agency Financing, if applicable;
- (i) failure to obtain or retain Tax Credits, if applicable;
- (j) failure to expend CDBG funds by December 1, 2019;
- (k) use of CDBG funds for a use not permitted by Act, Rules and Guidelines; or
- (l) violation of the provisions of the CDBG Addendum.

An event set forth in subsection(g) of this Section shall not constitute an Event of Default until the prohibited act, failure to perform or observe, or breach shall remain uncured for a period of thirty (30) days after Agency's written notice to Sponsor, specifying such prohibited act, failure or breach and requesting that it be remedied, unless the Agency shall agree in writing to an extension of such time prior to its expiration, and further so long as the event does not trigger a breach of the CDBG Program. If the prohibited act, failure, or breach stated in each notice is correctable but cannot be corrected within the 30 day period, the Agency may consent to an extension of up to 120 days from the delivery of the written notice referred to herein if corrective action is instituted by the Sponsor within the initial 30 day period and diligently pursued. The Agency will, simultaneously with sending to the Sponsor any notices under this Section send a copy of the aforementioned notices to the Sponsor's limited partner. To the extent the Event of Default is curable, a cure tendered in full, pursuant to the terms and

conditions of this Loan Agreement and the other Loan Documents, by the Sponsor's Investor Member shall be honored by the Agency.

Within five (5) business days of receiving notice from the Agency that it believes an Event of Default has occurred with respect to the Project, time being of the essence, the Sponsor shall furnish to the Agency, HUD and DCA, in writing, a statement of any defenses which it claims may exist as to any liability of the Borrower hereunder.

25. **Remedies:** Upon the occurrence of any Event of Default, the Agency, subject to any superior mortgages(s), may, at its option, take any one or more of the following actions or remedies and failure to exercise any remedy or take any action enumerated shall not constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy:
- a. Rescind any CDBG Funds if not expended by the Recapture Date as described in Section 11 hereof;
 - b. declare the entire principal sum of the CDBG Loan, together with all other liabilities of the Sponsor under the Note and the Mortgage, to be immediately due and payable;
 - c. cease making disbursements to the Sponsor or withhold or suspend, in whole or in part, funds awarded under the program or recover misspent funds following an audit;
 - d. apply any reserves held by the Agency or the balance in the accounts for Project disbursements and revenues, or any combination of these moneys, to the payment of the Sponsor's liabilities hereunder;
 - e. foreclose the lien of the Mortgage on the Mortgaged Premises. In any action to foreclose, the Agency shall be entitled to the appointment of a receiver of the rents and profits of the Project as a matter of right and without notice, with power to collect the rents, uses, and profits of the Project, due and becoming due during the pending of the foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured and evidenced by the Loan Documents without regard to the value of the Project or the solvency of any person or persons liable for the payment of the mortgaged indebtedness. The Sponsor, for itself and any subsequent owner, hereby waives any and all defenses to the application for a receiver as set forth above and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the holder of the Mortgage of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provisions for the appointment of a receiver of the rents and profits and the assignment of such rents and profits, is made an express condition upon which the CDBG Loan hereby secured is made. Upon such foreclosure, the Agency shall have the right to have a receiver appointed for the Project and the rentals from the Project;

- f. take possession of all or part of the Mortgaged Premises, subject to rights of permitted superior lienholders;
- g. without judicial process, collect all rents and other revenue including federal and state subsidies as the agent of the Sponsor (which upon the occurrence of any Event of Default the Agency is deemed to have been irrevocably appointed by the Sponsor), and apply them at the Agency's option to the liabilities of the Sponsor under this Loan Agreement;
- h. take possession of equipment, appliances and other tangible personal property in which a security interest has been granted by the Loan Documents and dispose of the same in any commercially reasonable manner. The Agency shall have the option to dispose of any such equipment and personal property either separately from the Mortgaged Premises or in conjunction with a sale of the Mortgaged Premises, and the Sponsor agrees that either method of disposition shall be commercially reasonable;
- i. sue the Sponsor for a mandatory injunction or other equitable relief requiring performance by the Sponsor of any of its obligations under the Loan Documents. The Sponsor agrees with the Agency that the Agency's remedy at law for the violation or the nonperformance of the Sponsor's obligations under the Loan Documents is not adequate by reason, among other things, of the Agency's public purpose to provide adequate, safe and sanitary dwelling units for families of low and moderate income; and/or
- j. If the event constitutes a violation of the CDBG Program to the extent that the Agency is required to refund monies disbursed to the Borrower back to DCA/HUD/the Federal Government, then the Borrower shall be responsible for refunding such monies to the Agency.

Notwithstanding the above enumeration of remedies, the agency shall have available to it any remedies provided to it by law.

26. **Expenses Due to Default:** All reasonable expenses (including reasonable attorney's fees, costs and allowances) incurred in connection with an action to foreclose the Mortgage or in exercising any other remedy provided by the Loan Documents, including the curing of any Event of Default, shall be paid by the Sponsor, together with interest at a rate equal to the yield rate on a 30-year U.S. Treasury bond at the time of making of such payment(s) by the Agency. Any such sum or sums and the interest thereon shall be a further lien on the Mortgaged Premises and shall be secured by the Mortgage.

27. **Amendments, Notices, Waivers:**

- a. This Loan Agreement may be amended only by an instrument in writing executed and acknowledged on behalf of the Agency and the Sponsor in such manner that the instrument may be recorded. No waiver by the Agency in any particular instance of any Event of Default or required performance by the Sponsor and no course of conduct of the Parties or failure by the Agency to enforce or insist upon performance of any of the obligations of the Sponsor

under this Loan Agreement or the other Loan Documents at any time shall preclude enforcement of any of the terms of this Loan Agreement or the other Loan Documents thereafter.

- b. Any provision of this Loan Agreement and the other Loan Documents requiring the consent or approval of the Agency prior to the taking of any action or the omission of any action requires such consent by the Agency in writing signed by a duly authorized officer of the Agency. Any such consent or approval, unless it expressly states otherwise, is limited to the particular action or omission referred to therein and does not apply to subsequent similar actions or omissions.
- c. Notice provided for under this Loan Agreement and the other Loan Documents shall be given in writing signed by a duly authorized officer and any notice required to be given hereunder shall be given by courier, regular mail, or by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the Parties hereto:

Borrower: **Cindy Lane Family Ventures, LLC**
c/o The Alpert Group, LLC
One Parker Plaza
Fort Lee, NJ 07024
Attn: Joe Alpert, Managing Member

And

AHA Cindy Lane, Inc.
54 Broad Street
Eatontown, NJ 07724
Attn: Donna M. Blaze

Borrower's Investor Member: **Enterprise Housing Partners XXVI**
Limited Partnership
Suite 700
70 Corporate Center
11000 Broken Land Parkway
Columbia, MD 21044

Borrower's Attorney: **Brach Eichler**
101 Eisenhower Parkway
Roseland, NJ 08816
Attn: David J. Ritter, Esquire

Agency: **New Jersey Housing and Mortgage Finance Agency**
(Lead Lender) 637 S. Clinton Avenue
P.O. Box 18550
Trenton, New Jersey 08650-2085
Attention: Director of Finance

28. **Severability:** The invalidity of any part or provision of this Loan Agreement shall not affect the validity of the remaining portions thereof.
29. **Disclaimer of Warranties, Liability, Indemnification:**
- a. The Sponsor acknowledges and agrees that (i) the Agency has not heretofore and does not make any warranty or representation, either express or implied as to the value, condition, or fitness for particular purpose or fitness for any use of the Mortgaged Premises or any portion thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Agency or its agents or employees be liable or responsible for any incidental, indirect, special, consequential, or punitive damages in connection with or arising out of this Loan Agreement, the Loan Documents or the development of the Project or the existence, functioning or use of the Project or any items or services provided for in the Mortgage; and (iii) during the term of this Loan Agreement and to the fullest extent permitted by law, the Sponsor shall indemnify and hold the Agency harmless against, and the Sponsor shall pay any and all liability, loss, cost, damage, claims, judgments or expense of any and all kinds or nature and however arising, imposed by law, which the Sponsor and the Agency may sustain, be subject to, or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contracts entered into by the Sponsor, or arising out of the Sponsor's ownership of the Project or out of the development, or management of the Project.
 - b. It is mutually agreed by the Sponsor and the Agency that the Agency and its directors, officers, agents, servants and employees shall not be liable for any action performed under this Loan Agreement or the other Loan Documents, and that the Sponsor shall hold them harmless from any claim or suit of whatever nature.
 - c. Any claims asserted against the Agency shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. (except for N.J.S.A. 59:13-9 thereof) and the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.
30. **Counterparts:** This Loan Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
31. **Venue:** If any legal action should be filed by the Borrower against the Agency in connection with the CDBG Loan, this Loan Agreement, or the other Loan Documents, the venue and forum for such action shall be the Superior Court of New Jersey, Mercer County.
32. **Filing:** This Loan Agreement shall be duly recorded in the Office of the Clerk for the county in which the Land is located at the sole cost and expense of the Borrower.

33. **Equal Opportunity and Non-Discrimination:** The Sponsor covenants, warrants and agrees that it will comply with the Agency guidelines with respect to equal opportunity and non-discrimination in its purchase of goods and services for the operation and maintenance of the Project throughout the term of this Loan Agreement.
34. **Applicability and Conflict of Terms and Conditions:** The terms and conditions of this Loan Agreement are applicable for the entire term of this Loan Agreement (as set forth in Section 10 hereof) unless otherwise set forth in this Loan Agreement. In the event of any conflict or inconsistency between the terms and conditions of any of the Loan Documents and this Agreement, the terms and conditions of this Loan Agreement shall prevail, except with respect to the terms contained in the CDBG Addendum. Notwithstanding the foregoing, the Sponsor agrees that the Agency may render a decision concerning the intent and/or applicability of any term or condition of the Loan Documents and unless such decision is found to be arbitrary or capricious by a court of competent jurisdiction, the Agency decision shall be final.
35. **Miscellaneous:** Unless the context clearly requires otherwise, as used in this Loan Agreement and the other Loan Documents, words of the masculine, feminine or neutral gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. The Loan Documents and all the terms and provisions thereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Loan Agreement and the other Loan Documents have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing the Loan Documents or any provisions thereof or in ascertaining intent, if any question of intent shall arise.

SEE CDBG LOAN AGREEMENT ADDENDUM ANNEXED HERETO AND MADE A PART HEREOF

THIS SPACE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, this Loan Agreement is duly executed by the Sponsor and Agency on the date first set forth above and, by signing below; the Sponsor acknowledges that it has received a true copy of this Loan Agreement, without charge.

(SEAL)
WITNESS

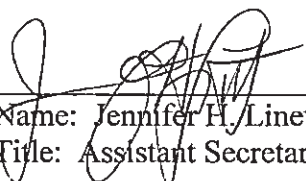
CINDY LANE FAMILY VENTURES, LLC


By: 

By: 
Joseph Alpert, Co-Managing Member

(SEAL)
ATTEST


**NEW JERSEY HOUSING & MORTGAGE
FINANCE AGENCY on behalf of the
CDBG PROGRAM**


Name: Jennifer H. Linett
Title: Assistant Secretary

By: 
Name: Debra M. Urban
Title: Chief of Legal and Regulatory Affairs

This Loan Agreement has been reviewed and approved as to form only.

Christopher S. Porrino
Attorney General of the State of New Jersey

By: 
Nels J. Lauritzen
Deputy Attorney General

STATE OF NEW JERSEY)
) SS:
COUNTY OF MERCER)

I CERTIFY that on November 15, 2017, Joseph Alpert personally came before me, the subscriber, an attorney-at-law of the State of New Jersey, and acknowledged under oath, to my satisfaction that (a) he is the co-managing member of Cindy Lane Ventures, LLC, the limited liability company named in this document; and (b) he executed and delivered this document as the voluntary act of the limited liability company duly authorized by the Officers.

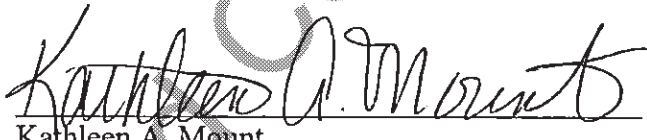


David J. Ritter
Attorney-At-Law

Not Certified Copy

STATE OF NEW JERSEY, COUNTY OF MERCER SS:

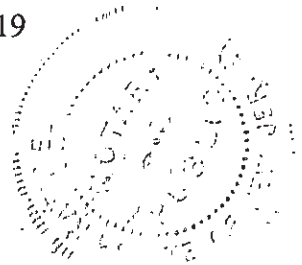
I CERTIFY that on November 14, 2017, Jennifer H. Linett, personally came before me, Kathleen A. Mount, and acknowledged under oath, to my satisfaction, that (a) she is the Assistant Secretary of NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY acting on behalf of the COMMUNITY DEVELOPMENT BLOCK GRANT DIASTER RECOVERY PROGRAM, the Agency named in this document; (b) she is the attesting witness to the signing of this document by the proper Agency officer, who is Debra M. Urban, Chief of Legal and Regulatory Affairs of the Agency; (c) this document was signed and delivered by the Agency as its voluntary act duly authorized by a proper resolution of its Board of Directors; and (d) he signed this proof to attest to the truth of these facts.



Kathleen A. Mount

Notary Public of New Jersey

My commission expires: June 16, 2019



LEGAL DESCRIPTION
EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE TOWNSHIP OF OCEAN, COUNTY OF MONMOUTH, AND STATE OF NEW JERSEY, AND IS DESCRIBED AS FOLLOWS:

BEING known and designated as Proposed New Lot 51.11 in Block 1.02 as set forth on a certain map entitled "Final Plat - Major Subdivision, Block 1.02, Lots 52, 53 and 54; Block 1.02, Lots 51.01, 51.02, 51.03, 51.04, 51.05, 51.06, 51.07, 51.08, 51.09, 51.10 and 55" situated in the Township of Ocean, County of Monmouth, State of New Jersey, said map being duly filed on May 19, 2004 in the Monmouth County Clerk's Office as Map Case No. 294-15.

BEING FURTHER described as follows in accordance with an ALTA/NSPS Land Title Survey prepared by Suzanne E. Warren, P.L.S. for MidAtlantic Engineering Partners, LLC, dated November 9, 2017:

BEGINNING at a point in the southerly right of way line of Cindy Lane, said point being a distance of 186.57 feet from the point of intersection of the southerly line of Cindy Lane with the westerly line of Cindy Lane extended, thence from said point of beginning running

1. On a common line with Lot 56 and part of Lot 57, South 04 degrees 33 minutes 06 seconds West, a distance of 311.70 feet to an angle point; thence
2. On a common line with Lots 58.09 through 58.12 and the northerly terminus of Clearview Drive (50' right of way) North 89 degrees 48 minutes 44 seconds West, a distance of 510.13 feet to an angle point; thence
3. On a common line of Lot 54.01, North 11 degrees 14 minutes 26 seconds East, a distance of 93.53 feet (survey) to a point of curvature; thence
4. On an arc, common with Lots 54.01 and 53.01, curving to the right, in a northeasterly direction, with a radius of 140.00 feet, an arc length of 95.85 feet (survey) to a point and corner; thence
5. North 39 degrees 04 minutes 06 seconds West, a distance of 41.94 feet to a point and corner; thence
6. On a common line with Lot 52.01, North 11 degrees 14 minutes 26 seconds East, a distance of 157.33 feet to a point and corner; thence
7. On the southerly line of Lot 52.01, South 79 degrees 50 minutes 08 seconds East, a distance of 340.13 feet to a point in the southerly line of West Cindy Lane; thence
8. On the same, North 85 degrees 29 minutes 16 seconds East, a distance of 129.14 feet to the point and place of BEGINNING.

BEING ALSO KNOWN AS (REPORTED FOR INFORMATIONAL PURPOSES ONLY):

Block 1.02, Lot 51.11 on the official tax map of the Township of Ocean, County of Monmouth, State of New Jersey

CDBG LOAN AGREEMENT ADDENDUM

WHEREAS, the Borrower, **CINDY LANE FAMILY VENTURES, LLC**, seeks to construct 48 rental units and related facilities for a project commonly known as Ocean Family Apartments, NJHMFA # 03176 (the "Project") and has requested construction and permanent financing from the New Jersey Housing and Mortgage Finance Agency (the "Agency"), which will be administered by the Agency; and

WHEREAS, contemporaneously herewith Borrower has executed a Note, Mortgage, Loan Agreement and other loan documents evidencing a CDBG loan from the Agency (hereinafter referred to as the "CDBG Loan"); and

WHEREAS, in the aftermath of Superstorm Sandy, the United States Congress enacted the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, approved January 29, 2013) to aid in the recovery of the State of New Jersey (the "State"); and

WHEREAS, on April 29, 2013, the Department of Housing and Urban Development ("HUD") approved the Action Plan of the State (the "Action Plan"), which demonstrated how the State intended to expend the disaster relief funds ("Action Plan"); and

WHEREAS, consistent with the Action Plan, the Agency created the Fund for Restoration of Multi-Family Housing, and the Sandy Special Needs Housing Assistance Fund ("CDBG-DR Programs"); and

WHEREAS, the Agency approved, at its board meeting of April 25, 2013, the CDBG-DR Programs' guidelines as subsequently amended (collectively the "Guidelines"); and

WHEREAS, the Borrower has met the eligibility requirements of the CDBG-DR Programs, in accordance with the requirements of the Guidelines and in accordance with the terms and conditions of this Addendum; and

WHEREAS, in order for the Borrower to be eligible to receive and utilize the CDBG Loan, it must also certify that it will comply with certain provisions of the Guidelines as are set forth below;

NOW, THEREFORE, Borrower, for and in consideration of the CDBG Loan, and intending to be legally bound hereby, agrees that the Mortgage shall be amended to include the following provisions and that these provisions shall be paramount and

controlling as to the rights and obligations of the Borrower and the Agency and shall supersede any other provisions of the Mortgage and other Loan Documents to the contrary:

STANDARD PROVISIONS

GENERAL

1. Borrower's Representations

- (i) Borrower has been duly organized and validly exists, has power to enter into the Mortgage, Loan Agreement and other Loan Documents and this Addendum and has authorized the signing of the Loan Documents and this Addendum and taking the actions contemplated by this Addendum.
- (ii) To the best of the Borrower's knowledge, and upon due inquiry, there is no action or proceeding, pending or threatened, against the Borrower before any court or administrative agency that might adversely affect the ability of the Borrower to perform its obligations under the Loan Documents and this Addendum and all consents, authorizations, and approvals of governmental bodies or agencies required in connection with the performance of the Borrower's obligations under the Loan Documents and this Addendum have been obtained and will be obtained whenever required hereunder or by law.
- (iii) Neither the execution and delivery of the Loan Documents nor this Addendum and the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of the Loan Documents and this Addendum is prevented, limited by, or conflicts with or results in a breach of, the terms, conditions, or provisions of any corporate restrictions or any evidence of indebtedness, agreement, or instrument of whatever nature to which the is bound, or constitutes a default under any of the foregoing.
- (iv) All statements, representations and warranties made by Borrower in the Loan Documents were true when made, are true, in all material respects, as of the date hereof, and shall remain and be true and correct during the term of the Loan Documents, it being understood by Borrower that all such statements, representations and warranties have been relied upon by the Agency as an inducement to make the Agency funding and shall continue to be relied upon by the Agency in administering the Agency funding. Borrower further understands and agrees that, if, during the term of the Mortgage and other Loan Documents, any such statements, representations and warranties become untrue or false, it shall have a duty to immediately notify the Agency in writing of such fact.
- (v) Borrower represents that it has at all times relevant to the CDBG Loan been represented by advisors of its own selection, including, but not limited to, attorneys at law and/or certified public accountants; that it has not relied upon any statement, representation, warranty, agreement or information provided by the Agency; that it acknowledges that it is informed by its advisors of its

respective rights, duties, and obligations with respect to the transaction which is the subject of the Loan Documents under all applicable laws, and that it has no set-offs, defenses or counterclaims against the Agency with respect to the transaction.

- (vi) The representations and warranties made in this Paragraph shall survive the expiration or earlier termination of the Loan Documents.
- (vii) If during the duration of the Loan Documents the Borrower becomes aware of any facts, occurrences, information, statements, or events that render any of the foregoing representations or warranties herein untrue or materially misleading or incomplete, it shall immediately notify the Agency in writing of such facts, occurrences, information, statements or events.

2. WARRANTIES AND COVENANTS

- (i) Borrower shall use the Agency funding solely in connection with funding the Project. The Agency funding may be used solely for the purposes contemplated by the Mortgage and other Loan Documents.
- (ii) In relation to the Project, Borrower shall comply with all Federal, State and municipal laws, rules and regulations applicable to all activities it performs and those that are performed on its behalf.
- (iii) Borrower acknowledge that the use of small businesses, minority owned firms and women's business enterprises for contractors, suppliers, labor and products is preferred and agrees that, to the extent feasible and as represented in its Proposal, it shall use such businesses in connection with the Project.
- (iv) Borrower agrees that all hired Contractors and Sub-contractors are not on the Federal excluded parties list.
- (v) Borrower shall execute an agreement with each Contractor containing labor standards and other required provisions, such as equal opportunity and general conditions. This may be accomplished by the execution of a CDBG Contractor's Addendum as provided to Borrower by the Agency.
- (vi) Borrower acknowledges that all construction work will have received environmental approval from the New Jersey Department of Environmental Protection ("DEP") and/or the Agency prior to the commencement of any construction.

3. ASSIGNMENTS

Borrower shall not assign its interests in the Loan Documents to another without the prior written consent of the Agency. Unless otherwise indicated by the Agency in writing, any obligations hereunder shall become the obligations of any assignee or successor of the Borrower.

4. MISCELLANEOUS

- (i) **Forum and Venue.** Unless otherwise provided, all actions related to the matters which are the subject of this Addendum shall be formed and venue in a court of competent jurisdiction in Mercer County New Jersey.
- (ii) **Entire Agreement.** This Addendum along with the Loan Documents and any documents referred to herein constitute the complete understanding of the

Agency and the Borrower (hereinafter, collectively referred to as the "Parties") and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter of this Addendum.

- (iii) **Severability.** Whenever possible, each provision of this Addendum shall be interpreted in such manner as to be effective and valid pursuant to applicable law, but if any provision of the Loan Documents or this Addendum is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Addendum, unless the Agency shall in its sole and absolute discretion deem the invalidated provision essential to the accomplishment of the public purposes served by the Loan Documents and this Addendum, in which case the Agency has the right to terminate the Loan/Loan Documents and all benefits provided to Borrower hereunder upon the giving of sixty (60) days prior notice.
- (iv) **Compliance with All Applicable Law.** Failure to expressly reference any applicable federal or State regulation, statute, public law, Executive order, agency directive or OMB Circular will not exempt Borrower from compliance with such applicable law or regulation, and all applicable provisions not included will be deemed as inserted herein.
- (v) **Amendments or Modifications.** The Loan Documents and this Addendum may only be amended in writing executed by both Parties. Such Amendments or Modifications shall become effective only upon execution of same by both Parties.
- (vi) **Notices.** All notices, requests and other communications shall be in writing and shall be deemed duly given when personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid to the addresses set forth hereunder.

Agency: **New Jersey Housing and Mortgage Finance Agency**
637 South Clinton Avenue
PO Box 18550
Trenton, New Jersey 08550-2085
Attention: Director, Multifamily Lending

Borrower: **Cindy Lane Family Ventures, LLC**
c/o The Alpert Group, LLC
One Parker Plaza
Fort Lee, NJ 07024
Attn: Joe Alpert, Managing Member

And

AHA Cindy Lane, Inc.
54 Broad Street
Eatontown, NJ 07724
Attn: Donna M. Blaze

Borrower's Investor Member: **Enterprise Housing Partners XXVI
Limited Partnership**
Suite 700
70 Corporate Center
11000 Broken Land Parkway
Columbia, MD 21044

Borrower's Attorney: **Brach Eichler**
101 Eisenhower Parkway
Roseland, NJ 08816
Attn: Dave Ritter, Esquire

- (vii) **Contractual Liability Act.** The rights and remedies of the under the Loan Documents and this Addendum shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., the provisions of which are incorporated herein by reference. While this statute is not applicable by its terms to claims arising under the Loan Documents Borrower agrees that it shall be applicable to claims arising under this Addendum or any other documents associated with this Project. Further, it is acknowledged by the parties that the Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

UNIFORM ADMINISTRATIVE REQUIREMENTS

Borrower shall adhere to the following administrative requirements:

1. **DUPLICATION OF BENEFITS**

Borrower will adhere to 76 FR 71060 (published November 16, 2011) regarding duplication of benefit requirements applicable to the Community Development Block Grant-Disaster Recovery ("CDBG-DR") program.

2. **CONFLICT OF INTEREST**

Borrower has reviewed and shall adhere to the Agency's Conflict of Interest policy, which incorporates both the State Conflict of Interest Law, N.J.S.A. 52:13D-1 et seq. and applicable federal law. It will abide by and enforce the conflict of interest requirement set forth in 24 CFR §570.611, 24 CFR §85.36 and 24 CFR §84.42. No one who exercises any functions or responsibilities, or who is in a position to participate in a decision-making process or gain inside information, may obtain a financial interest or benefit from a CDBG-assisted activity (or have a financial interest in any Loan, contract, sub-contract, or agreement with respect to a CDBG assisted facility.)

3. **HATCH ACT**

Borrower covenants that no Agency funding shall be used to finance the use of facilities or equipment for political purposes, or engage in other partisan activities (e.g.

candidate forums, voter transportation, or voter registration). It will comply with the provisions of the Hatch Act that limit the political activity of employees and the HUD regulations governing political activity at 24 CFR §570.207.

4. RELIGIOUS ACTIVITY

Borrower will comply with HUD rules prohibiting the use of CDBG funds for inherently religious activities, as set forth in 24 CFR §570.200(j), except for circumstances specified in the HUD Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response (March 5, 2013). Funding for rehabilitating or reconstructing a storm-damaged or destroyed building may be appropriate where a facility is not used exclusively for the benefit of the religious congregation (i.e., a homeless shelter, food pantry, adult literacy or child care center). When used for both religious and secular purposes, CDBG-DR funds may pay the portion of eligible rehabilitation or construction costs attributable to the non-religious use.

5. RECORDS

- (i) Borrower will give the State and HUD, and any of their representatives or agents, access to and the right to examine all records, books, papers, or documents related to the Agency funding.
- (ii) All records required by the Loan Documents and this Addendum, including financial records, ledgers, bank statements, contracts, invoices and receipts related to the Agency funding must be retained for five years from Project Closeout, which is deemed after the affordability period has expired. However, if any litigation, claim, or audit is started before the expiration of the five (5) year period, then records must be retained for five (5) years after the litigation, claim, or audit is resolved. All of Borrower's books and records relating to the Agency funding will be located at One Parker Plaza, Fort Lee, New Jersey 07024.
- (iii) Borrower will notify the Agency in writing of any change in the location of such books and records prior to any such relocation. Borrower agrees to grant access to inspect, copy, audit and examine at all reasonable times these records to any representative of the Agency, State, Inspector General, HUD and General Accounting Office of the United States.

6. LOBBYING

Borrower certifies that no federally appointed funds will be used for lobbying purposes regardless of level of government.

7. DRUG FREE WORKPLACE

Borrower will comply with the drug-free workplace requirements contained at 24 CFR, Part 24, and Subpart F and established by the Drug-Free Workplace Act

8. COMPLIANCE WITH LAW

Borrower agrees to comply with the following requirements:

- a. Borrower agrees to comply with all applicable federal, State and local laws, regulations and policies governing the Agency funding available under the Loan Documents and this Addendum to supplement rather than supplant funds otherwise available.
- b. Borrower agrees that its Contractor and Sub-Contractors are not and will not be on the list of excluded from Federal Procurement or Non-procurement Programs promulgated in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24 (CDBG funds may not be provided to excluded or disqualified persons).
- c. Borrower shall comply with the following mandatory provisions relating to **FINANCIAL MANAGEMENT AND PROCUREMENT**:
 1. If you are a non-profit, guidelines for financial and compliance audits of federally assisted programs which are OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), revised, and administrative requirements for non-profits, 24 C.F.R. Part 84.
 2. 24 CFR 570.490: Recordkeeping requirements, which requires that all records be kept for a minimum of five years after grant close-out ; and
 3. Borrower will comply with all requirements imposed by the State concerning special requirements of law, program requirements, and other administrative requirements.
- d. Borrower will adhere to 24 CFR Section 570.489(j) regarding change of use of real property. These standards apply to real property within Owner's control which was acquired in whole or in part using CDBG-DR funds in excess of the small purchase procurement threshold in 24 CFR 85.36. These standards apply from the date CDBG-DR funds are first spent until five years after the closeout of the Program.

Borrower may not change the use or planned use of any property (including the beneficiaries of such use) from that for which the acquisition or improvement was made, without first providing citizen review and comment and either:

1. The new use meets one of the national objectives and is not a building for the general conduct of government;
2. The requirement of 24 CFR Section 570.489(j) are met.

9. ENVIRONMENTAL IMPACT

Borrower may not begin any Project Activities without prior written consent of the Agency, as follows.

For all activities undertaken, Borrower agrees to provide information as needed to the DEP and/or the Agency for site-specific activities.

This will include, but is not limited to:

- a. Providing the names of all facilities receiving federal assistance so that the DEP and/or the Agency can ensure that the facilities are not listed on the United States Environmental Protection Agency's (EPA) list of violating;
- b. Providing site-specific information regarding the age, location and prior ground disturbance of all facilities assisted, to determine compliance requirements with Section 106 of the National Historic Preservation Act of 1966, and the Preservation of Archaeological and Historical Data Act of 1966. And the provisions of 24 CFR Part 55 and Executive Order 11988, as amended by Executive Order 12148, relating to evaluation of flood hazards;
- c. Complying with the flood insurance purchase requirement of Section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. §4001 et seq., which requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of HUD as an area having special flood hazards. For purposes herein, the phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal funding. Additionally:
 - I. *Flood insurance purchase requirements.* HUD does not prohibit the use of CDBG-DR funds for [existing residential buildings] in the Special Flood Hazard Area (SFHA) (or "100-year" floodplain). With respect to flood insurance, a HUD-assisted [homeowner] for a property located in the SFHA must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program. Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) mandates the purchase of flood insurance protection for any HUD assisted property within the SFHA.
 - II. *Future Federal assistance to Borrowers remaining in a floodplain.* (1) Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) prohibits flood disaster assistance in certain circumstances. No Federal disaster relief assistance may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on

the person first having obtained flood insurance and the person has subsequently failed to obtain and maintain flood insurance. Borrower may not receive CDBG disaster assistance for the repair, replacement, or restoration if it has failed to meet this requirement.

- III. In the event of transfer of any property having received CDBG-DR assistance, the Borrower will notify the transferee in writing of the requirements to 1) Obtain flood insurance, if the property is not insured as of the date of transfer; 2) Maintain flood insurance; 3) Require the transferor, if there is failure to notify the transferee, to reimburse the federal government in the amount of any subsequent disaster relief assistance if such funds are expended on the property after the date of transfer.
- IV. Borrower will cooperate with the DEP and/or the Agency so that all assisted properties will be elevated, repaired, reconstructed or newly-constructed (including both commercial and residential properties) in accordance with the newly-released FEMA Base Flood Elevation Maps (reference table 2-6 in the state's Action Plan).
- V. In accordance with 24 CFR 58.6(b), Borrower acknowledges that the Agency will not provide any Agency funding to a small business that had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance and the small business failed to obtain and maintain such insurance.
- VI. The Borrower acknowledges that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities, issued by the EPA pursuant to 40 CFR 15.20.
- VII. Prompt notice must be given of any notification received from the Director, Office of Federal Activities, and EPA, indicating that a facility utilized or to be utilized for the Loan under consideration is to be listed on the EPA list of Violating Facilities.
- VIII. In no event shall any amount of assistance provided under this ADDENDUM be utilized with respect to a facility which has given rise to a conviction under section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.
- IX. The Borrower agrees to comply with all the requirements of section 114 of the Clean Air Act, as amended (42 USC 1857c-8-0 and section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said section 114 and 308, and all regulations and guidelines issued thereunder.
- X. The Borrower acknowledges that all work has ceased on the Project pending final DEP and/or Agency environmental review approval.
- XI. Borrower will comply with:

- 1. Executive Order 11990, Protection of Wetlands;
- 2. the Coastal Zone Management Act Sections 307(c)(d);
- 3. In relation to water quality:

- a. Executive Order 12088, as amended by Executive Order 12580, relating to the prevention, control and abatement of water pollution;
 - b. The Safe Drinking Water Act of 1974 (42 U.S.C. §§ 201, 300(f) et seq. and U.S.C. §349), as amended, particularly Section 1424(e) (42 U.S.C. §§ 300h-303(e)), which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and
 - c. Executive Order 12088, as amended by Executive Order 12580, relating to the prevention, control and abatement of water pollution; The Federal Water Pollution Control Act of 1972, as amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. §1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.
4. The Endangered Species Act of 1973 (50 CFR 402), as amended;
5. The Fish and Wildlife Coordination Act of 1958, as amended;
6. Wild and Scenic Rivers Act of 1968 {Sections 7(b) and (c)}, as amended;
7. Executive Order 11738, providing for administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans, and EPA regulations (40 CFR part 15);
8. The Clean Air Act of 1970 (Sections 176(c), (d), and 40 CFR 6, 51, 93), which prohibits engaging in, supporting in any way, or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards;
9. The Farmland Protection Policy Act, 7 U.S.C.A. §4201 et seq., which requires recipients of federal assistance to minimize the extent to which their projects contribute to the unnecessary and irreversible commitment of farmland to nonagricultural uses;

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994;
 11. Noise abatement and control requirement found at 24 CFR 51B;
 12. Provisions of 24 CFR 51C, explosive and flammable operations;
 13. Provisions of 24 CFR 58.5(i) relating to toxic chemicals and radioactive materials;
 14. Sections 1012 and 1013 of Title X of the Housing and Community Development Act of 1992 (Public Law 102-550, as amended). The regulation appears within Title 24 of the Code of Federal Regulation as part 35 (codified in 24 CFR 35). The purpose of this regulation is to protect young children from lead-based paint hazards in housing that is financially assisted by the Federal government or sold by the government. This regulation applies only to structures built prior to 1978. It will also comply with the Lead Safety Housing Regulation covering prohibited methods of paint removal (24 CFR Part 35.140) and occupant protection (24 CFR Part 35.1345);
 15. Borrower will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901, et seq.); and
 16. Borrower will comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).
- XII. Borrower agrees that the use of lead-based paint, that is any paint containing more than 1% lead by weight, is strictly prohibited from use on any interior surface or exterior surface in any building being rehabilitated. Additionally, any evidence of a health hazard, which is, defined as cracking, scaling, peeling and loose lead-based paint must be treated to prevent the ingestion of the contaminated paint. It is further necessary to assume that any of the above conditions constitute an immediate or potential hazard and must be corrected using appropriate methods as detailed in Title IV of the Lead Based Paint Poisoning Prevention Act.

10. LABOR STANDARDS

1. Borrower will adhere to the labor standards requirement set forth in 24 CFR §570.603 and any other regulations issued to implement such requirements;

2. Borrower will comply with Section 110 of the Housing and Community Development Act of 1974, as amended and as set forth in 24 CFR §570.603;
3. Borrower will comply with the Davis-Bacon Act, as amended (40 U.S.C. §3141 et seq.);
4. Borrower acknowledges that the prevailing wage rate shall be determined by the Davis-Bacon Act and not State prevailing wage pursuant to N.J.S.A. 55:14K-42.
5. Borrower will comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §327 et seq.), requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work-week;
6. Borrower will comply with the Federal Fair Labor Standards Act (29 U.S.C. §201 et seq.), requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week;
7. Borrower will comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3);
8. Borrower will comply with the following HUD regulations and/or guidance:
 - 24 CFR 570.489(d): Debarment and suspension.
 - 24 CFR 570.603: Labor standards.
 - 24 CFR 570.609: Use of debarred, suspended, or ineligible contractors or sub-recipients.
 - Form HUD 4010 Federal Labor Standards Provisions
9. Borrower will comply with the following United States Department of Labor regulations in parallel with HUD requirements above:
 - 29 CFR Part 1: Procedures for Predetermination of Wage Rates.
 - 29 CFR Part 3: Contractors and Sub-contractors on Public Building or Public Work Financed In Whole or In Part by Loans or Grants from the United States.
 - 29 CFR Part 5: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also, Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contracts Work Hours and Safety Standards Act).
 - 29 CFR Part 5: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also, Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contracts Work Hours and Safety Standards Act).

- 29 CFR Part 6: Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal and Federally Assisted Construction Contracts and Federal Service Contracts.
- 29 CFR Part 7: Practice before the Administrative Review Board With Regard to Federal and Federally Assisted Construction Contracts.

11. EQUAL OPPORTUNITY

For Contracts above \$10,000:

1. During the Agency funding term, the Borrower agrees as follows:
 - a) It will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. It will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. It agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.
 - b) It will, in all solicitations or advertisements for employees, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - c) It will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding, a notice to be provided advising the said labor union or workers' representatives of their commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d) It will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
 - e) It will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - f) In the event of the Borrower's noncompliance with the nondiscrimination clauses of this Addendum or with any of the said rules, regulations, or orders, this Loan may be canceled, terminated, or suspended in whole or in part and the Borrower may be declared ineligible for further Government Contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24,

1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- g) It agrees to include the provisions a through f in this Equal Opportunity Section in every contract, sub-contract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, sub-contractor or vendor.
- h) It agrees to comply with Executive Order 11246 as to maintaining non-segregated facilities and establishments and does not permit employees to perform services at any location under their control where segregated facilities are maintained.

For Loans \$10,000 and below:

- a) Borrower shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. It shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) It shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. They shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- c) The Borrower and all contractors and sub-contractors shall incorporate the foregoing requirements in all contracts.

12. ACQUISITION AND RELOCATION

Borrower agrees to comply with the following statutes and regulations:

1. Title II (Uniform Relocation Assistance) and Sections 301-304 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Chapter 61), and HUD implementing instructions at 24 CFR Part 42 and 24 CFR §570.606;
2. Section 104(d) of the Housing and Community Development Act of 1974, as amended;
3. It will comply with 42 U.S.C. 3537c (Prohibition of Lump Sum Payments);
4. It will comply with 49 CFR Part 24 (Uniform Relocation and Real Property Acquisition ("URA") for Federal and Federally-Assisted Programs);

5. URA Fixed Residential Moving Cost Schedule;
6. 24 CFR Part 42 (Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs); and
7. 24 CFR 570.606 (Displacement, Relocation, Acquisition and Replacement of Housing).

Borrower agrees to provide relocation assistance to those that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-DR assisted project, with the exception of:

1. The one-for-one replacement requirements at Section 104(d)(2)(A)(i)–(ii) and (d)(3) and 24 CFR 42.375 which have been waived by HUD;
2. The relocation assistance requirements at section 104(d)(2)(A) and 24 CFR 42.350 to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR part 24, as modified by the Act for activities related to disaster recovery;
3. Arms-length voluntary purchase requirements at 49 CFR 24.101(b)(2)(i)–(ii) are waived to the extent that they apply to an arm's length voluntary purchase carried out by a person who uses funds allocated under this Addendum and does not have the power of eminent domain;
4. Rental assistance to a displaced person: The requirements at sections 204(a) and 206 of the URA, and 49 CFR 24.2(a)(6)(viii), 24.402(b)(2), and 24.404 are waived to the extent that they require the Borrower to use 30 percent of a low-income displaced person's household income in computing a rental assistance payment if the person had been paying more than 30 percent of household income in rent/utilities without "demonstrable hardship" before the project;
5. Tenant-based rental assistance requirements of sections 204 and 205 of the URA, and 49 CFR 24.2(a)(6)(ix) and 24.402(b) are waived to the extent necessary to permit a Borrower to meet all or a portion of a Borrower's replacement housing financial assistance obligation to a displaced tenant by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy, provided that the tenant is provided referrals to comparable replacement dwellings in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months;
6. Moving expense requirements at section 202(b) of the URA and 49 CFR 24.302; the Borrower may instead choose to establish a "moving expense and dislocation allowance" under a schedule of allowances that is reasonable takes into account the number of rooms in the displacement dwelling; and
7. The regulation at 24 CFR 570.606(d) is waived to the extent that it requires optional relocation policies to be established; units of local government receiving CDBG-DR funds may establish separate optional policies.

13. FAIR HOUSING AND NON-DISCRIMINATION

Any act of unlawful discrimination committed by Borrower or failure to comply with the following statutory and regulatory obligations when applicable shall be grounds for termination of the Loan and this Addendum or other enforcement action; and Borrower agrees to comply with:

1. Title VI of the Civil Rights Act of 1964 and as amended in 1988, 42 U.S.C. §200d et seq., as amended, and the regulations issued pursuant thereto (24 CFR Part 1), which provide that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Project receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended to the Borrower, this assurance shall obligate the Borrower, or in the case of any transfer of such property, and transferee, for the period during which the property or structure is used for another purpose involving the provision of similar services or benefits.
2. Architectural Barriers Act of 1968, as amended 42 U.S.C. § 4151 et seq.
3. Title IX of the Education Amendments Act of 1972, as amended 20 U.S.C. §1681 et seq.
4. Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. §701, which provides that no otherwise qualified individual shall, solely by reason of his or her handicap be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program receiving federal funding assistance, with special provisions for Grantees with 15 or more employees requiring a formal, written grievance procedure for resolution of complaints.
5. Section 508 of the Rehabilitation Act of 1973 as amended 29 U.S.C. §794, requiring that electronic and information technology be accessible to people with disabilities, including employees and members of the public.
6. Section 109 of Title I of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part §570.602), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under that Part. Section 109 further prohibits discrimination to an otherwise qualified individual with a handicap, as provided under Section 504 of the Rehabilitation Act of 1973, as amended, and prohibits discrimination based on age as provided under the Age Discrimination Act of 1975. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR Part 6.

7. Section 104(b) (2) of the Housing Community Development Act of 1974, implementing Section 109.
8. Age Discrimination Act of 1975 (42 U.S.C. 1601 et seq.), prohibiting discrimination on the basis of age.
9. Title II of the Americans with Disabilities Act of 1990, prohibiting discrimination and ensuring equal opportunity for persons with disabilities in employment, and commercial facilities.
10. Title III of the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12101 et seq.).
11. Borrower must use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of the Loan Documents. As used in this Addendum, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Borrower may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
12. Section 3, Housing and Urban Development Act of 1968. Section 3 requirements will apply to all individual properties assisted with these funds if amounts exceed \$100,000, regardless of the actual amount spent on each individual unit/property. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Addendum, shall be a condition of the Federal financial assistance provided under the Loan Documents and binding upon the Borrower and third-party entities. The Borrower certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

These responsibilities include:

- a. Making efforts to meet the minimum numerical goals found at 24 CFR Part 135.30;
- b. Complying with the specific responsibilities at 24 CFR Part 135.32; and
- c. Submitting Annual Summary reports in accordance with 24 CFR Part 135.90.

The following language must be included in all contracts and sub-contracts if the award exceeds \$100,000:

- a. The work to be performed under the contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- b. Borrower will comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by its execution of this Addendum Borrower certifies that it is under no contractual or other impediment that would prevent it from complying with the part 135 regulations.
- c. The Borrower agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Borrower's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- d. The Borrower agrees to include this section 3 clause in every sub-contract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the contract or in this section 3 clause, upon a finding that the contractor is in violation of the regulations in 24 CFR part 135. The Borrower will not sub-contract with any sub-contractor where the Borrower has notice or knowledge that the sub-contractor has been found in violation of the regulations in 24 CFR part 135.
- e. The Borrower will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor or sub-contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Borrower's obligations under 24 CFR part 135.

- f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of the Loan, and debarment or suspension from future HUD assisted contracts and loans.

Borrower will further comply with:

- a. Executive Order 11246: EEO and Affirmative Action Guidelines for Federal Contracts Regarding Race, Color, Gender, Religion, and National Origin, September 25, 1965 and Executive Order 11375: Amending Executive Order No. 11246, October 13, 1967, which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted construction contracts. Further contractors and sub-contractors on federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment; upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training and apprenticeship.

During the performance of the Loan Documents, the Borrower agrees as follows:

- i. It will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. It will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. It agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- ii. It will, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- iii. It will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Agency contracting officer, advising the labor union or

workers' representative of the Borrower's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- iv. It will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- v. It will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vi. In the event of the Borrower's noncompliance with the nondiscrimination clauses of this Addendum or with any of such rules, regulations, or orders, the Loan cancelled, terminated, accelerated or suspended in whole or in part and the Borrower may be declared ineligible for further Government loans and/or contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- vii. It will include the provisions of paragraphs (1) through (7) in every contract and sub-contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, sub-contractor or vendor. It will take such action with respect to any contract or sub-contract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the Borrower becomes involved in, or is threatened with, litigation with a contractor, sub-contractor or vendor as a result of such direction, it may request the United States to enter into such litigation to protect the interests of the United States.

- b. Executive Order 12086: Consolidation of Contracts compliance functions for equal employment opportunity, October 5, 1978.
- c. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994.
- d. Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, August 11, 2000.

And Borrower affirms it will comply with implementing regulations for the above:

- I. 24 Code of Federal Regulations Part 1: Nondiscrimination in Federally Assisted Programs of HUD.
- II. 24 Code of Federal Regulations Part 5.105: Other Federal Requirements.
- III. 24 Code of Federal Regulations Part 6: Nondiscrimination in Programs, Activities Receiving Assistance under Title I of the Housing and Development Act of 1974.
- IV. 24 Code of Federal Regulations Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the HUD.
- V. 24 CFR Code of Federal Regulations Parts 50.4 (l) and 58.5 (j): Environmental Justice.
- VI. 24 Code of Federal Regulations Part 91.325(b) (5): Compliance with Anti-discrimination laws.
- VII. 24 Code of Federal Regulations Part 91.520: Performance Reports.
- VIII. 24 CFR Part 121: Collection of Data.
- IX. 24 CFR Part 135: Economic Opportunities for Low- and Very Low-Income Persons.
- X. 24 CFR Part 146: Non-discrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.
- XI. 24 Code of Federal Regulations Part 570.487(e): Contractual Barriers Act and Americans with Disabilities Act (State Community Development Block Grant grantees).
- XII. 24 Code of Federal Regulations Part 570.490(a) (b): Recordkeeping requirements.

- XIII. 24 Code of Federal Regulations 570.491: Performance Reviews and Audits.
- XIV. 24 Code of Federal Regulations Part 570.495(b): HCDA Section 109 nondiscrimination.
- XV. 24 Code of Federal Regulations Part 570.506(g): Fair Housing and equal opportunity records.
- XVI. 24 Code of Federal Regulations Part 570.608 and Part 35: Lead-Based Paint.
- XVII. 24 Code of Federal Regulations Part 570.614: Contractual Barriers Act and Americans with Disabilities Act.
- XVIII. 24 Code of Federal Regulations Part 570.904: Equal Opportunity and Fair Housing Review.
- XIX. 24 Code of Federal Regulations Part 570.912: Nondiscrimination compliance.
13. Section 503 of the Rehabilitation Act of 1973 requires the following clauses in all contracts and sub-contracts involving federal funds of \$10,000 or more.
1. Borrower will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Borrower agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
 2. Borrower agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
 3. In the event of the Borrower's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the Act.
 4. Borrower agrees to post in conspicuous places, available to employees and applicants for employment, notices stating the Borrower's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

5. Borrower will notify each labor union or representative of workers with which it has a collective bargaining agreement or other Loan Documents understanding, that the Borrower is bound by the terms of Section 503 of the Rehabilitation of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. Borrower will include the provisions of this clause in every contract, sub-contract or purchase order of \$10,000 or more of federal funding unless exempted by rules, regulations, or orders of the (federal) secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each contractor, sub-contractor or vendor. The Borrower will take such action with respect to any contract, sub-contract and purchase order as the director of the Office of Federal Loan Documents Compliance Programs may direct to enforce such provisions, including action for non-compliance (41 CFR 60-741.4.4).

BORROWER:

CINDY LANE FAMILY VENTURES, LLC

By: 
Joseph Alpert, Co-Managing Member



L. ROOSEVELT PROPERTIES DOCUMENTATION

AGREEMENT TO RESOLVE ISSUES BETWEEN THE TOWNSHIP OF OCEAN AND ROOSEVELT PROPERTIES, LLC REGARDING A PROPOSED INCLUSIONARY DEVELOPMENT LOCATED ON BLOCK 22, LOTS 11, 12, AND 22 ON THE OCEAN TOWNSHIP TAX MAPS.

THIS SETTLEMENT AGREEMENT ("Agreement") made this _____ day of April, 2020, by and between:

THE TOWNSHIP OF OCEAN, a municipal corporation of the State of New Jersey, County of Monmouth, having an address at 399 Monmouth Road, Oakhurst, NJ 07755 (hereinafter the "Township");

And

THE MAYOR AND COUNCIL OF THE TOWNSHIP OF OCEAN, the governing body of the Township, having an address at 399 Monmouth Road, Oakhurst, New Jersey 07755 (hereinafter the "Mayor and Council")

And

THE PLANNING BOARD OF THE TOWNSHIP OF OCEAN, a municipal land use agency created by the Township, organized and existing under the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. (the "MLUL"), having an address at 399 Monmouth Road, Oakhurst, NJ 07755, (hereinafter the "Planning Board" or "Board", and together with the Township and the Mayor and Council, "Ocean");

And

ROOSEVELT PROPERTIES, LLC, a New Jersey limited liability corporation having an address at 1806 Route 35 South, Ocean Township, New Jersey (hereinafter "Roosevelt");

Collectively, the Township, and the Mayor and Council, the Planning Board, and Roosevelt shall be referred to as the "Parties."

WHEREAS, Roosevelt filed a builder's remedy lawsuit against the Township and its Planning Board on December 1, 2009, which is styled Roosevelt Properties, LLC v. Township of Ocean et al, Docket No. MON-L-5930-09, which was filed in the Superior Court of New Jersey, Law Division, Monmouth County ("Roosevelt Litigation"), and seeking to develop an inclusionary project ("Inclusionary Development") on an approximately 11-acre site known as Block 22, Lots 11, 12 and 22 on the Township of Ocean's Tax Maps in Ocean Township, New Jersey (hereinafter the "Roosevelt Site"); and

WHEREAS, on July 15, 2010, the trial judge entered an immunity order barring the filing of all builder's remedy lawsuits but reserving its decision of whether the Roosevelt lawsuit was "barred by the doctrine of temporary immunity;" and

WHEREAS, after an extended briefing period, on November 21, 2014, the trial judge issued a written opinion which, among other things, barred the Roosevelt builder's remedy suit; and

WHEREAS, on September 4, 2015, the trial judge entered an order reaffirming the Township's immunity against all Mount Laurel lawsuits, including Roosevelt's, after the Township had filed a timely Declaratory Judgment Action in the wake of In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) ("Mount Laurel IV"); and

WHEREAS, Ocean filed a declaratory action on July 2, 2015, which is styled In the Matter of the Application of the Township of Ocean, Docket No. MON-L-2531-15 in the Superior Court of New Jersey, Law Division, Monmouth County ("Declaratory Action"), seeking a Final Round 3 Judgment of Compliance and Repose based upon a judicial determination that the Township satisfied its constitutional fair share housing obligations for the period between 1987 and 2025; and

WHEREAS, the Township is amenable to accepting a realistic development potential ("RDP") for the Roosevelt parcel and for zoning the Roosevelt site to enable Roosevelt to satisfy the RDP it creates; and

WHEREAS, the Township has entered into a Settlement Agreement with Fair Share Housing Center ("FSHC") which envisions that the Roosevelt site would generate an RDP of five and that the Township would satisfy this RDP by Roosevelt reserving 2 of the units in its project for moderate-income units and by making a payment in lieu for three low-income units; and

WHEREAS, the Court conducted a Mount Laurel Fairness Hearing to determine if the Settlement Agreement with FSHC (hereinafter "FSHC Agreement") is fair and reasonable to low- and moderate-income households in the region; and

WHEREAS after considering the Report and testimony of the Special Master; the documents submitted into evidence by FSHC and the Township; and the testimony of the Township's Mount Laurel Planner, the Court determined on the record that the Township provided the public and all interested parties adequate notice of the Fairness Hearing and that the FSHC Agreement is fair and reasonable to low- and moderate-income households in the region; and

WHEREAS, in furtherance of the FSHC Settlement, it is desirable to negotiate an Agreement with Roosevelt to facilitate the construction of five affordable units; and

WHEREAS, more specifically, the Township proposes to create a realistic opportunity for five units consistent with the negotiations between the Township and Roosevelt and subject to the details delineated herein; and

WHEREAS, the Inclusionary Development for the Roosevelt site will be a multi-family

residential project consisting of twenty two (22) units, twenty (20) of which will be market-priced townhouse units, and two (2) of which will be on-site moderate-income units located within an additional townhouse structure. In addition, Roosevelt will make a \$475,000.00 payment in lieu of constructing two (2) low-income units and one (1) very-low-income unit at a rate of \$158,333.33 each; and

WHEREAS, to further effectuate this Settlement, the Township shall rezone the Roosevelt Site pursuant to an ordinance (hereinafter "Rezoning Ordinance"), in a form attached hereto as Exhibit A; and

WHEREAS, Roosevelt has not provided the Township with certain relevant information including, but not limited to, detailed engineering information and a proposed Stormwater Management Plan; and

WHEREAS, as a result, this Agreement is subject to Roosevelt addressing all reasonable engineering issues and concerns raised by the Township; and

WHEREAS, the Parties wish to execute this comprehensive Settlement Agreement, setting forth the terms, conditions, responsibilities and obligations of the Parties, as the Court was assured at the Compliance Hearing on February 4, 2020 ; and

NOW, THEREFORE, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereto, each binding itself, its successors and assigns, do hereby covenant and agree, each with the other, as follows:

ARTICLE I – PURPOSE

1.1 The purpose of this Agreement is to create a realistic opportunity for five affordable units through the adoption of an Inclusionary Zoning Ordinance on the Roosevelt site, which will permit the construction of 22 units, 20 of which will be market-priced townhouse units and 2 of which will be on-site moderate income units located within an additional townhouse structure; and

1.2 Roosevelt shall also remit to the Township a \$475,000 payment in lieu of constructing two (2) low-income units and one (1) very-low-income unit, at a rate of \$158,333.33 per unit, with the timing of said payments being further addressed below.

ARTICLE II - BASIC TERMS AND CONDITIONS

2.1 The essential terms of this Agreement have been presented to the Court and the Court-appointed Master at the time of the Compliance Hearing held on February 4, 2020.

2.2 In the event of any legal challenges to the Court's approval of this Agreement or the Rezoning Ordinance (attached hereto as Exhibit A), the Parties must jointly and vigorously defend any such challenge. In addition, if any such challenge results in a modification of this Agreement or the Rezoning Ordinance, the Parties must negotiate in good faith with the intent to

draft a mutually-acceptable amended Agreement, provided that no such modification requires an increase or decrease in density than that agreed upon and reflected in the within Agreement. If the Parties cannot reach an amended agreement, they shall be restored to the *status quo ante*, meaning all Parties shall have the rights and responsibilities that existed prior to the entry of this Agreement; and no Party shall be permitted to use this Agreement to the detriment of the other in any future proceeding.

ARTICLE III – ROOSEVELT OBLIGATIONS

3.1 Affordable Housing Set-Aside. In lieu of constructing two (2) low-income units and one (1) very-low-income unit (which, together with the two (2) moderate-income on-site units, is a setaside of 20 percent), Roosevelt shall have an obligation to pay into the Ocean Township Affordable Housing Trust Fund the sum of \$475,000.00, broken down further as \$23,750.00 per market-priced unit or \$158,333.33 per low-income unit not constructed on site. Roosevelt shall pay \$11,875.00 as a condition of the issuance of the building permit for each of the 20 market units, and an additional payment of \$11,875.00 shall be made as a condition of the issuance of the final Certificate of Occupancy for each of the 20 market units. Except as otherwise provided in this Agreement, the moderate-income units shall be constructed and operated in accordance with the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et. seq., or any statutes, judicial decisions, or regulations superseding the UHAC regulations. Subject to the standards set forth in the Rezoning Ordinance attached as Exhibit A, market priced units may be constructed anywhere on the Roosevelt Site permitted by the New Jersey Department of Environmental Protection. However, the moderate-income units may be constructed only on the portion of the Roosevelt Site outside the Flood Hazard Area delineated by the New Jersey Department of Environmental Protection.

3.2 Obligation Not To Interfere With the Township’s Adoption and Implementation of the Housing Element and Fair Share Plan Adopted Pursuant to the FSHC Agreement: Unless the Affordable Housing Plan deprives Roosevelt of any rights created hereunder, Roosevelt shall not directly or indirectly oppose or undertake any action to interfere with the (a) the implementation of the FSHC Settlement; and/or (b) the implementation by the Township and Planning Board of the Affordable Housing Plan adopted and endorsed pursuant to the FSHC Settlement, as it may be amended in any form.

3.3 Obligation to Voluntarily Dismiss the Roosevelt Litigation. Upon the Court approving this Agreement at the Compliance Hearing and entry of a Final Round 3 Judgment of Compliance and Repose in favor of Ocean, and no appeal of either having been filed, this Agreement shall operate as a dismissal with prejudice of any claims that Roosevelt has against the Township.

3.4 Obligation To Pay Half Of The Special Master’s Bills In Conjunction With The Application of Approval Of This Agreement. Roosevelt shall pay half of the Special Master’s costs and fees for reviewing this Agreement and issuing a Report advising the Court (a) if this Settlement Agreement is fair and reasonable to Region 4 low- and moderate-income households; and (b) whether the Court should otherwise approve this Agreement.

3.5 Engineering and Stormwater Management Issues. Because Roosevelt has not provided the Township relevant information including, but not limited to, detailed engineering information and a Stormwater Management Plan, this Agreement is subject to Roosevelt's compliance with applicable DEP stormwater management regulations and the provisions of the Rezoning Ordinance attached hereto as Exhibit A, and addressing all reasonable engineering issues and concerns raised by the Township; and

3.6 No Vehicular Access from Pine Street. No parking by contractors or their employees shall be permitted along Pine Street during the construction process, and there shall be no vehicular access to the project at any time via Pine Street, except for emergency vehicles; and

3.7 Conversion of Attics, Basements, and Garages Into Living Space . Owner of units within the project shall be allowed to convert the attic and/or basements into living space only to the extent permitted by the applicable Uniform Construction Code, this Settlement, and subject Ordinance, but shall not be converted into additional bedrooms. Garage space shall not be converted into living space; and

ARTICLE IV - OBLIGATIONS OF THE TOWNSHIP

4.1 Obligation To Rezone the Subject Property. Within sixty (60) days of the Court's approval of this Agreement at the Compliance Hearing, the Township shall duly rezone the Property by adopting an ordinance in the form attached hereto as **Exhibit A**. Should strict compliance with the 60-day timeframe not be possible due to some unforeseen event beyond the control of the Township, Roosevelt, upon appropriate notice from the Township, shall permit an extension of time accordingly so that the Township can rezone the Property. If, after the duly-noticed public hearing(s), the Township fails to adopt the Rezoning Ordinance in its current form or in a form acceptable to Roosevelt within the time frames set forth herein, the Roosevelt Litigation shall revert to the *status quo ante* to the execution date of this Agreement and all claims and defenses available to the Parties now shall be available then. In such an event, the Parties shall not take any action whatsoever to use this Agreement, the negotiations in conjunction therewith, or any statements by Township officials, Roosevelt representatives, professionals, or the general public as a means to prejudice the other Party in any future proceedings.

4.2 Obligation To Pay For Half Of The Special Master's Bills In Conjunction With Application of Approval Of This Agreement. The Township shall pay half of the Special Master's costs and fees for reviewing this Agreement and issuing a Report advising the Court (a) if this Settlement Agreement is fair and reasonable to Region 4 low- and moderate-income households; and (b) whether the Court should otherwise approve this Agreement.

4.3 Obligation To Preserve The Rezoning Ordinance. The Rezoning Ordinance shall not be amended or rescinded, without the approval of Roosevelt or order of the Court, until

the later of: (a) twenty (20) years from the effective date of the Rezoning Ordinance; or (b) any date which may be otherwise applicable under the body of law, which is generally referred to as the Mount Laurel doctrine. Conversely, there shall be no requirement for the Rezoning Ordinance to remain in effect upon the expiration of both of the aforesaid two events. Notwithstanding the foregoing, the time period for the preservation of the Rezoning Ordinance shall be tolled for a period equal in length to the time of any appeal of the Rezoning Ordinance, this Agreement, or any of the Required Approvals (as defined in Section 4.5).

4.4 Representation regarding Sufficiency of Water and Sewer: The Township hereby represents that there is sufficient potable water and sewer capacity to service the proposed Inclusionary Development.

4.5 Obligation To Cooperate: The Township acknowledges that, in order for Roosevelt to construct its Inclusionary Development, it must obtain any and all necessary and applicable agreements, approvals, and permits from all relevant public entities and utilities; such as, by way of example only, the Township, the Planning Board, the County of Monmouth, the Monmouth County Utilities Authority, the Monmouth County Planning Board, the New Jersey Department of Environmental Protection, the New Jersey Department of Transportation, the Soil Conservation District and the like, including the Township's ordinance requirements as to site plan and subdivision (the "Required Approvals"). The Township agrees to use all reasonable efforts to assist Roosevelt in its undertakings to obtain the Required Approvals without interfering with the independence of the Planning Board.

4.6 Cost Generative Requirements. Ocean acknowledges that the Inclusionary Development entitles Roosevelt to all of the benefits and burdens afforded to developers of inclusionary developments by the FHA, COAH's regulations, and the UHAC regulations. The Parties acknowledge that the express terms of this Agreement and the Rezoning Ordinance satisfy the Township's obligation to remove all "cost generative features not necessary for health or safety" as set forth in N.J.A.C. 5:93-10 et seq. If the Township or Planning Board impose any *additional* requirement that may be considered improperly cost generative and/or not expressly or impliedly required by this Agreement or the Rezoning Ordinance, (a) Roosevelt may request a determination by the Master as to the appropriateness of said additional requirement; and (b) the Township and its Planning Board have the right to oppose Roosevelt's claim regarding said cost-generative requirement.

4.7 CONCEPT PLAN. The Township stipulates that the Roosevelt Properties site is suitable for development of a multi-family inclusionary residential development substantially consistent with that shown in the Concept Plan Roosevelt Avenue Properties, LLC ("Concept Plan"), dated February 5, 2020, attached hereto as Exhibit B, and said Concept Plan conforms to the engineering requirements set forth in the proposed rezoning ordinance in Exhibit A. The Township further stipulates that a development substantially consistent with the Concept Plan would be an acceptable implementation of the Rezoning Ordinance.

ARTICLE V – OBLIGATIONS OF THE PLANNING BOARD

5.1 Obligation to Process Roosevelt's Development Applications with Reasonable

Diligence. The Planning Board shall reasonably expedite the processing of Roosevelt's development application(s) in accordance with N.J.A.C. 5:93-10.1(a) and within the time limits imposed by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq. In accordance with N.J.A.C. 5:93-10(b), the Planning Board shall not deny any reasonable waivers and/or variances that are necessary to develop the Inclusionary Development contemplated in this Agreement. If the Rezoning Ordinance or Court approval of this Agreement is appealed, the Board shall nevertheless consider any properly filed application for Roosevelt's Inclusionary Development. However, any approval by the Planning Board may be conditioned upon the outcome of any pending appeal.

5.2 Obligation to Refrain From Imposing Cost-Generative Requirements. Notwithstanding the provisions set forth in Section 4.6 above, nothing shall prevent Roosevelt from applying to the Planning Board for reasonable waivers, *de minimus* exceptions, and/or variances from any standard imposed by the Township's Land Use and Development Ordinance or the Rezoning Ordinance, and the Planning Board shall not unreasonably deny such requests. To determine whether Roosevelt is entitled to the relief sought, it shall utilize the relevant standards set forth in the MLUL and the Residential Site Improvement Standards ("RSIS").

5.3 Amendment to Master Plan. To the extent that adoption of the Rezoning Ordinance requires the Planning Board to amend the Master Plan, the Planning Board shall consider such amendments, prior to adoption of the Rezoning Ordinance, in accordance with all relevant MLUL provisions including, but not limited to, the public's right to notice and the opportunity to be heard on such amendment(s).

ARTICLE VI – MUTUAL OBLIGATIONS

6.1 Obligation To Comply with State Regulations: The Parties shall comply with any and all Federal, State, County and local laws, rules, regulations, statutes, ordinances, permits, resolutions, judgments, orders, decrees, directives, interpretations, standards, licenses, approvals, and similarly binding authority, applicable to the Inclusionary Development or the performance by the Parties of their respective obligations or the exercise by the Parties of their respective rights in connection with this Agreement.

6.2 Mutual Good Faith, Cooperation and Assistance. The Parties shall exercise good faith, cooperate, and assist each other in fulfilling the intent and purpose of this Agreement, including, but not limited to, the approval of this Agreement by the Superior Court, the adoption of the Rezoning Ordinance, the development of the Inclusionary Development on the Roosevelt Site consistent with the terms hereof, and the defense of any challenge with regard to any of the foregoing.

6.3 Defense of Agreement. Each party shall exclusively be responsible for all costs which they may incur in obtaining Court approval of this Agreement and any appeal therefrom, or from the adoption of the Rezoning Ordinance or the Affordable Housing Plan or any part thereof. The Parties shall cooperate to vigorously defend any such challenge.

ARTICLE VII - COOPERATION AND COMPLIANCE

7.1 Implementation And Enforcement of Agreement. The Parties agree to cooperate with each other, provide all reasonable and necessary documentation, and take all necessary actions to satisfy the terms and conditions hereof and assure compliance with the terms of this Agreement, subject to prior written agreement between the Parties on payment by the requesting party of the requested party's direct costs and expenses in connection with such assistance. The Township's obligation to cooperate shall be further conditioned upon Roosevelt paying and maintaining current real estate taxes.

ARTICLE VIII - NOTICES

Any notice or transmittal of any document required, permitted or appropriate hereunder and/or any transmittal between the Parties relating to the Roosevelt Site (herein "Notice[s]") shall be written and shall be served upon the respective Parties by facsimile or by certified mail, return receipt requested, or recognized overnight or personal carrier such as, for example, Federal Express, with certified proof of receipt, and, where feasible (for example, any transmittal of less than fifty (50) pages), and in addition thereto, a facsimile delivery shall be provided. All Notices shall be deemed received upon the date of delivery set forth in such certified proof, and all times for performance based upon notice shall be from the date set forth therein. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days' notice as provided herein:

TO ROOSEVELT: Richard D. Schibell, Esq.
1806 Route 35 South
Ocean Township, New Jersey

WITH COPIES TO: Hill Wallack, LLP
Attention: Thomas F. Carroll, III, Esq.
21 Roszel Road
Princeton, New Jersey 08534
Fax: (609) 452-1888

TO THE TOWNSHIP OF OCEAN: The Township of Ocean
Attention: Vincent G. Buttiglieri, Township Clerk
399 Monmouth Road
Oakhurst NJ 07755
Fax: (732) 531-5286

WITH COPIES TO: Arbus, Maybruch & Goode, LLC
Attention: Martin J. Arbus, Esq.
61 Village Court
Hazlet, NJ 07730
Fax: (732) 888-0024

AND TO: Surenian, Edwards & Nolan, LLC

Attention: Nancy L. Holm, Esq.
707 Union Avenue, Suite 301
Brielle, NJ 08730
Fax: (732) 612-3101

TO THE PLANNING BOARD: The Township of Ocean Planning Board
Attention: Planning Board Clerk
399 Monmouth Road
Oakhurst NJ 07755
Fax: (732) 531-5286

WITH COPIES TO: Sanford Brown, Esq., Board Attorney
Brown & Connelly, LLC
1127 Highway 35
Ocean NJ 07712
Fax: (732) 517-0722

If any of the individuals identified above has a successor, said individual shall provide all others identified of the name and contact information for the successor.

ARTICLE IX - MISCELLANEOUS

9.1 Severability: Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provisions of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

9.2 Successors Bound: The provisions of this Agreement shall run with the land, and the obligations and benefits hereunder shall be binding upon and inure to the benefit of the Parties, their successors and assigns, including any person, corporation, partnership or other legal entity which at any particular time may have a fee title interest in the Roosevelt Site which is the subject of this Agreement. This Agreement may be enforced by any of the Parties, and their successors and assigns, as herein set forth. Developer shall record this Agreement following its approval by the Court to put all successors and assigns on notice of this Agreement.

9.3 Governing Law: This Agreement shall be governed by and construed by the laws of the State of New Jersey.

9.4 No Modification: This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.

9.5 Effect of Counterparts: This Agreement may be executed simultaneously in one (1) or more facsimile or e-mail counterparts, each of which shall be deemed an original. Any facsimile or e-mail counterpart forthwith shall be supplemented by the delivery of an original counterpart pursuant to the terms for notice set forth herein.

9.6 Voluntary Agreement: The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.

9.7 Interpretation: Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties, and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (a) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (b) it has conferred due authority for execution of this Agreement upon the person(s) executing it.

9.8 Compliance with Municipal Land Use Law: The Parties recognize that the site plans required to implement the development provided in this Agreement, and such other actions as may be required of the Planning Board or Township under this Agreement, cannot be approved except on the basis of the independent reasonable judgment by the Planning Board and the Township Council, as appropriate, and in accordance with the procedures established by law. Nothing in this Agreement is intended to constrain that judgment or to authorize any action not taken in accordance with procedures established by law. Similarly, nothing herein is intended to preclude Roosevelt from appealing any denials of or conditions imposed by the Planning Board in accordance with the MLUL or taking any other action permitted by law.

9.9 Schedules: Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.

9.10 Entire Agreement: This Agreement constitutes the entire Agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof except as otherwise provided herein.

9.11 Conflict Of Interest: No member, official or employee of the Township shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.

9.12 Effective Date: Anything herein contained to the contrary notwithstanding, the effective date ("Effective Date") of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.

9.13 Waiver. Each of the Parties waive all rights to challenge the validity or the ability to enforce this Agreement. Failure to enforce any of the provisions of this Agreement by any of the Parties shall not be construed as a waiver of these or other provisions.

9.14 Captions. The captions and titles to this Agreement and the several sections and subsections are inserted for purposes of convenience of reference only and are in no way to be

construed as limiting or modifying the scope and intent of the various provisions of this Agreement.

9.15 Default. In the event that any of the Parties shall fail to perform any material obligation on its part to be performed pursuant to the terms and conditions of this Agreement, unless such obligation is waived by all of the other Parties for whose benefit such obligation is intended, or by the Court, such failure to perform shall constitute a default of this Agreement. Upon the occurrence of any default, the non-defaulting Party shall provide notice of the default and the defaulting Party shall have a reasonable opportunity to cure the default within forty-five (45) days. In the event the defaulting Party fails to cure within forty-five (45) days or such reasonable period of time as may be appropriate, the Party(ies) for whose benefit such obligation is intended shall be entitled to exercise any and all rights and remedies that may be available in equity or under the laws of the State of New Jersey, including the right of specific performance to the extent available. Further, the Parties may apply to the Court for relief, by way of a motion for enforcement of litigant's rights.

9.16 Notice of Actions. The Parties and their respective counsel agree immediately to provide each other with notice of any lawsuits, actions or governmental declarations threatened or pending by third parties of which they are actually aware which may affect the provisions of this Agreement.

9.17 Construction, Resolution of Disputes. This Agreement has been entered into and shall be construed, governed and enforced in accordance with the laws of the State of New Jersey without giving effect to provisions relating to the conflicts of law. Jurisdiction of any litigation ensuing with regard to this Agreement exclusively shall be in the Superior Court of New Jersey, with venue in Monmouth County. Service of any complaint may be effected consistent with the terms hereof for the delivery of "Notices," hereinafter defined. The Parties waive formal service of process. The Parties expressly waive trial by jury in any such litigation.

9.18 Conflicts. The Parties acknowledge that this Agreement cannot be affected by any amendments to the Township's Affordable Housing Plan or Land Use and Development Ordinances adopted/endorsed pursuant to the FSHC Agreement. Upon dismissal of the Roosevelt builder's remedy lawsuit and the DJ Action, the Court shall retain jurisdiction to ensure compliance with the terms and conditions of this Agreement. As to any inconsistencies between the Rezoning Ordinance and this Agreement, the Rezoning Ordinance shall control. The Parties further acknowledge that this Agreement cannot be affected by any change in State law affecting the Township's fair share housing obligation, whether by judicial decision, constitutional amendment, statute, or regulation. Upon any dismissal of the In the Matter of the Township of Ocean, Docket No. MON-L-2531-15, the Court shall retain jurisdiction to ensure compliance with the terms and conditions of this Agreement.


THIS AGREEMENT IS CONTINUED ON THE NEXT PAGE.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

ROOSEVELT PROPERTIES, LLC

By: _____
as its [CORPORATE TITLE]


Sandy K. Chamberlain
ATTORNEY AT LAW OF
NJ
Dated: February 20, 2020

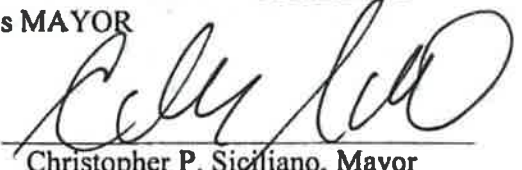
By: 
[NAME]

Witness/Attest:

TOWNSHIP OF OCEAN

By: CHRISTOPHER P. SICILIANO
as its MAYOR



By: 
Christopher P. Siciliano, Mayor

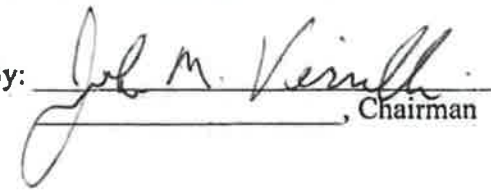
Dated: April 23, 2020

Witness/Attest:

TOWNSHIP OF OCEAN PLANNING BOARD

By: John M. Verinelli, as its CHAIRMAN



By: 
Chairman

Dated: April 24, 2020

EXHIBIT A
(REZONING ORDINANCE)

ORDINANCE 2334A

ROOSEVELT AVENUE INCLUSIONARY OVERLAY ZONE

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 21 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF OCEAN, 1965 ENTITLED: LAND DEVELOPMENT ORDINANCE

1. **PURPOSE.** The purpose of this Roosevelt Avenue Inclusionary Overlay Zone is to create an overlay zone for certain properties within the existing Multi-Family Residential zone for Lots 11, 12 and 22 of Block 22, as shown on the official tax maps of the Township of Ocean, County of Monmouth. This overlay zone is created pursuant to the terms of a settlement agreement dated _____, entered in litigation entitled *Roosevelt Properties LLC v. Township of Ocean*, Docket. No. MON-L-5930-09 and that resolves all issues in that case as well as in *In re Ocean Township*, Docket. No. MON-L-2531-15. The provisions set forth herein shall permit the development of twenty-two (22) units of townhouses and a stacked townhouse, and at a higher density than permitted in the existing and underlying zone to accommodate the required provision of affordable housing.
2. **CONFLICTING PROVISIONS.** Provisions of this Roosevelt Avenue Inclusionary Overlay Zone Ordinance shall supersede any provision of the Township of Ocean Land Development Ordinance as currently amended and/or supplemented, which conflicts with, or is contrary to, the provisions set forth in this Overlay Zone Ordinance.
3. **PERMITTED PRIMARY USES.** All uses permitted in the underlying zone continue to be permitted in compliance with the standards of the underlying zone. In addition, multi-family units, consisting of townhouses and apartment flats within a townhouse structure shall be permitted, provided that 22 such multi-family residential units may be constructed in accordance with the development standards listed below for this zone, of which two (2) shall be moderate-income affordable units provided as apartment flats located within one townhouse structure. Two market rate flats will be located in the first building next to Roosevelt Avenue along with the two affordable flats. All other multi-family units shall be market rate townhouse units. In addition to the on-site construction of two (2) moderate income units, the developer shall make a payment into the Housing Trust Fund of Ocean Township of \$475,000 or \$23,750 per market unit in lieu of constructing three (3) low income units including one (1) very-low income unit.
4. **DEFINITIONS:** For purposes of this ordinance, the terms below have the following meanings:

APARTMENT FLAT- A dwelling unit consisting of a single story or level, which may be at ground level or above a ground level unit and shall be located in a building type that also includes townhouses.

LOT LINE, FRONT – Any lot line, or segment thereof, that is collinear with the right-of-way line of a public thoroughfare.

LOT LINE, REAR – The lot line (or lines) of a tract to be developed pursuant to the Multi-Family Residential Overlay provisions of the Ordinance which is opposite and generally parallel to the LOT LINE, FRONT of the tract from which primary access to the development obtains.

LOT LINE, SIDE – Any lot line that is not a LOT LINE, FRONT or a LOT LINE, REAR.

5. **PERMITTED ACCESSORY USES.** All accessory uses permitted in the underlying zone continue to be permitted.
6. **DEVELOPMENT (BULK) STANDARDS.** The following bulk standards shall apply to the development of any property located in the Roosevelt Avenue Inclusionary Overlay zone:
 - a. More than one (1) primary building may be constructed per lot;
 - b. Minimum Gross Lot Area: 10 acres;
 - c. Minimum Lot Frontage: 125 feet;
 - d. Minimum Lot Depth: 125 feet;
 - e. Minimum Front Yard Setback: 30 feet;
 - f. Minimum Side Yard Setback: 15 feet;
 - g. Minimum Rear Yard Setback: 100 feet;
 - h. Minimum Setback from Pavement of Internal Roadway: 24 feet from front of building, excluding roof soffits the fascia of which shall be permitted to have setbacks of 22 feet;
 - i. Maximum Principal Building Height: 38 feet from the garage floor to the highest roof point;
 - j. Maximum Number of Levels of Living Space: 3;
 - k. Maximum Building Coverage 7.5% of total lot area;
 - l. Maximum Impervious Lot Coverage: 15% of total lot area;
 - m. Number of Dwellings per Building: 8 dwellings;
 - n. Maximum Dwelling Unit Density: 2.5 dwelling units per acre;
 - o. Maximum Length of Building: 200 feet;
 - p. Minimum Distances Between Buildings:
 - i. Front to Front: 50 feet;

- ii. Rear to Front: 50 feet;
 - iii. Front to Side: 50 feet;
 - iv. Rear to Rear: 50 feet excluding building eaves which shall be permitted to extend a maximum of twenty four (24) inches beyond the primary vertical planes of the building walls below;
 - v. Rear to Side: 50 feet; and
 - vi. Side to Side: 20 feet.
- q. Onsite Emergency Vehicle Access/Circulation: Every onsite street and/or common access/circulation drive shall meet, or exceed NFPA requirements for a "fire access road."
- r. Subject to the development standards set forth in this Inclusionary Overlay Zone Ordinance, and notwithstanding the provisions of any other ordinance, market priced units may be constructed anywhere in the Inclusionary Overlay Zone permitted by the New Jersey Department of Environmental Protection, including flood hazard areas. Subject to the development standards set forth in this Inclusionary Overlay Zone Ordinance, and notwithstanding the provisions of any other ordinance, moderate income units may be constructed anywhere in the Inclusionary Overlay Zone permitted by the New Jersey Department of Environmental Protection, except they may only be constructed on the portion of the zone outside the Flood Hazard Area delineated by the New Jersey Department of Environmental Protection. Documents showing the location of proposed units with regard to NJDEP-approved Floodway and Flood Hazard areas shall be disclosed to all prospective buyers prior to the entry of a contract for sale.
- s. Access Driveways and Onsite Parking - Access driveways and onsite parking shall be provided in strict compliance with requirements of N.J.A.C. 5:21-4.14, subject to the right of the applicant to seek relief from the provisions of the RSIS, with the understanding that the Planning Board, in its sole discretion, shall determine whether or not to grant relief to the applicant, and the following:
- i. All interior access driveways shall be curbed.
 - ii. All interior access driveways shall have minimum travelled-way pavement widths (i.e., curb face to curb face) of twenty-four feet (24').
 - iii. A continuous concrete walk, four feet (4') in width, shall be provided along the entire building-side length of every interior access driveway. A 4-foot wide concrete walk shall connect the interior of the development with each, and every, public right-of-way adjoining the development site.
 - iv. The minimum distance between any travelled way pavement edge and any point upon the architectural front façade of any building shall be twenty

four feet (24') excluding roof soffits the fascia of which shall be permitted to have setbacks of twenty two feet (22').

v. All market-priced residential units shall include, at a minimum, an attached, fully-enclosed, one-car garage having minimum inside clear dimensions of twelve feet (12') wide by twenty feet (20') deep. Direct access shall be provided between the interior of any garage and the interior living space of the dwelling unit of which the garage is a part.

vi. Every market-priced unit shall be provided with a paved driveway having a minimum width of ten feet (10') which shall provide a continuous paved connection between the unit's garage and the travelled way upon which the unit fronts.

vii. On-street parallel parking shall not be permitted. All parking spaces not located within enclosed garages or upon residential driveways shall be provided within onsite common parking lots or within onsite common parking areas located directly adjacent to the travelled way of a development access driveway.

viii. Onsite parking lots and parking areas shall be screened from view of offsite persons by six-foot (6') tall, architecturally solid-faced fencing and landscaping designed to minimize impacts of vehicle headlight illumination upon offsite properties. The designs of all such fencing and landscaping shall be subject to site-specific review and approval of the Planning Board and its Professional Staff.

ix. No point upon the paved surface of any onsite parking lot or parking area, excluding townhouse driveways, shall be located within fifty feet (50') of a development site front boundary line and/or no closer than eight feet (8') to a development site side or rear boundary line except that, such pavement may be located as close as four feet (4') to a development site side or rear boundary line if a six foot (6') tall brick or stone masonry screen wall, which will aesthetically match the architectural design of the townhomes on both sides of the wall, of a design acceptable to the Planning Board and its Professional Staff, is provided in place of the required solid faced fencing.

- t. All outdoor spaces reserved for private use by residents of one (1) single dwelling unit including, but not limited to, patios, decks and balconies, excluding building front entry porches having areas of thirty-two (32) square feet or less, shall be located along, or upon, exterior building facades other than architectural front facades and shall not face parking areas or access drives of the development.
- u. No portion of any horizontal structural member nor any exterior facade element of any building shall be located at an elevation lower than the New Jersey Flood Hazard Area Design Flood Elevation for the site provided, however, that building design and construction shall strictly comply with all applicable building codes and/or NJDEP requirements in effect at the time of construction.

- v. The buffer requirements of Section 21-47.1.d.1. shall not apply. Where a building, parking space, drive aisle or drainage structure is located within 100' of an adjacent lot, a solid fence shall be constructed in accordance with the requirements of Section 21-48. Unless located in the required front yard, such fence shall be 6' in height.
- w. The recommended maximum townhouse driveway pavement slope is 7.50% with driveway surface slopes no greater than 3.00% within ten (10) feet of a garage door. At the sole discretion of Developer's New Jersey Professional Engineer, steeper driveway surface slopes shall be permitted upon signed/sealed construction drawings submitted for review during the Site Plan approval process. In no case, however, shall the elevation differential between a point along the gutter line of any onsite circulation drive and any point upon an adjacent townhouse driveway surface located along the line perpendicular to said gutter line from said gutter line point be greater than eighteen (18) inches.
- x. Within this Inclusionary Overlay Zone, ground surface elevation changes of two (2) feet or more shall be permitted if, and only if, (1) all yard areas of the site located within twenty (20) feet of a townhouse unit and having ground surface elevations above that of the New Jersey Flood Hazard Area Design Flood Elevation (NJFHADFE) for the site as established by the NJDEP, have slopes no greater than 25% (i.e. 1V:4H); and, (2) all other yard areas of the site above the NJFHADFE shall have surface grading no steeper than 40% (i.e., 1V:2.5H) and be permanently stabilized with approved ground cover.
- y. No wall or structure constructed upon, or within ten (10) feet of, a tract boundary line shall serve as an earth retaining structure unless it results in a lowering of the ground surface of the subject tract to elevation levels below those of the adjacent property at all points of its length.
- z. No point upon the pavement surface of any onsite street and/or common access/circulation drive shall have an elevation below that of the New Jersey Flood Hazard Area Flood Elevation for the site.

7. AFFORDABLE HOUSING REQUIREMENTS.

- a. Twenty percent (20%) of the units constructed shall be affordable to low and moderate income households of which at least 50 percent of the units shall be low income units.
- b. In lieu of reserving twenty percent (20%) of all units for low and moderate income households, the developer shall have the right, pursuant to the Settlement Agreement, to satisfy its 20 percent affordable housing obligation through the on-site construction of two (2) moderate income for-sale units and an in-lieu contribution to the Township for three (3) low income affordable units including one (1) very-low income unit.

- c. The two (2) on-site affordable units shall address the affordable housing requirements of the Township of Ocean, the Council on Affordable Housing ('COAH') at N.J.A.C. 5:93 and the Uniform Housing Affordability Controls ('UHAC') per N.J.A.C. 5:80-26.1. The two (2) affordable units shall be provided within one stacked townhouse structure, with one (1) unit provided as a two-bedroom unit and one (1) as a three-bedroom unit. Pursuant to COAH's phasing requirements at N.J.A.C. 5:93-5.6(d), both on-site affordable housing units must receive a certificate of occupancy ('C.O.') before the tenth (10th) of the 20 total market-rate units receives a C.O. The affordable units shall remain affordable to a moderate income household for a period of at least 30 years by virtue of a deed restriction per UHAC at N.J.A.C. 5:80-26.11(a). UHAC at N.J.A.C. 5:80-26.3(f) requires that affordable units utilize the same type of heating source as market units within the affordable development. The townhouse units shall comply with the accessibility and adaptability requirements of the International Building Code – NJ Edition 2015 ("IBC-NJ 2015") and the affordable stacked townhouse units shall comply as well with COAH's accessibility and adaptability rules, including, but not limited to, N.J.A.C. 5:97-3.14. COAH Regulations at N.J.A.C. 5:93-11 and UHAC at N.J.A.C. 5:80-26.15 requires an affirmative marketing program for the affordable units. Furthermore, pursuant to N.J.A.C. 5:93-11.3(e), the cost of affirmatively advertising the affordable units is to be the developer's responsibility. The developer shall enter into an agreement with an experienced affordable housing administrative agent per UHAC at N.J.A.C. 5:80-26.14 to oversee the placement of a deed restriction on the units, household income qualification, setting the moderate income sales prices at an average of no more than 55% of the regional median income, ongoing affirmative marketing and administrative oversight efforts, etc.
- d. In lieu of construction of three (3) of the residential units as affordable to very-low and low income households on site, the developer shall make a payment into the Housing Trust Fund of Ocean Township of \$158,333.33 for each of the three (3) very-low and low income units, for a total contribution of \$475,000. The developer shall pay into the Ocean Township Affordable Housing Trust fund the sum of \$23,750 per market priced unit. The developer shall pay one half of this sum as a condition of receipt of the building permit for that unit and the remainder as a condition of receipt of the final certificate of occupancy for that unit.

8. **BULK STANDARDS AS APPLIED TO ACCESSORY STRUCTURES.** All accessory structures within this zone shall be constructed in accord with the provisions of sect. 21-24A.2(a)(2).

9. **COMMON OWNERSHIP AND MAINTENANCE.** If property developed in accordance with the development standards for this zone is subdivided into separate residential lots, all common lands not deeded to and accepted by the municipality shall be owned in common by a non-profit Homeowner's Association for the development within this overlay zone in accordance with the provisions of section 21-31.3. Maintenance of any such common area shall be in accordance with the provisions of section 21-31.2(b)(8)(o)(17). All homeowners' documents shall be submitted, reviewed and approved as part of the land use application.

10. COST GENERATION AND DEVELOPMENT REVIEW PROCESS. Pursuant to the executed settlement agreement referenced in para. 1 (PURPOSE) above, Roosevelt is entitled to all of the benefits and burdens afforded to developers of inclusionary developments by the FHA, COAH's regulations, and the UHAC regulations. However, per the agreement, this Ordinance satisfies the Township's obligation to remove all "cost generative features not necessary for health or safety" as set forth in N.J.A.C. 5:93-10 et seq. If the Township or Planning Board impose any *additional* requirement that may be considered improperly cost generative and/or not expressly or impliedly required by the agreement or this ordinance, (a) Roosevelt may request a determination by the Special Master as to the appropriateness of said additional requirement; and (b) the Township and its Planning Board have the right to oppose Roosevelt's claim regarding said cost-generative requirement.

Record of Vote	Deputy Mayor Napolitani	Councilman Acerra	Councilwoman Donlon	Councilman Fisher	Mayor Siciliano
Motion To Approve			X		
Motion to Second		X			
Approved	X	X	X	X	X
Opposed					
Not Voting/Recuse					
Absent/Excused					

CERTIFICATION

*I hereby certify that this is a true copy of a Ordinance adopted by the Township of Ocean Governing Body at their meeting held on **April 23, 2020**.*


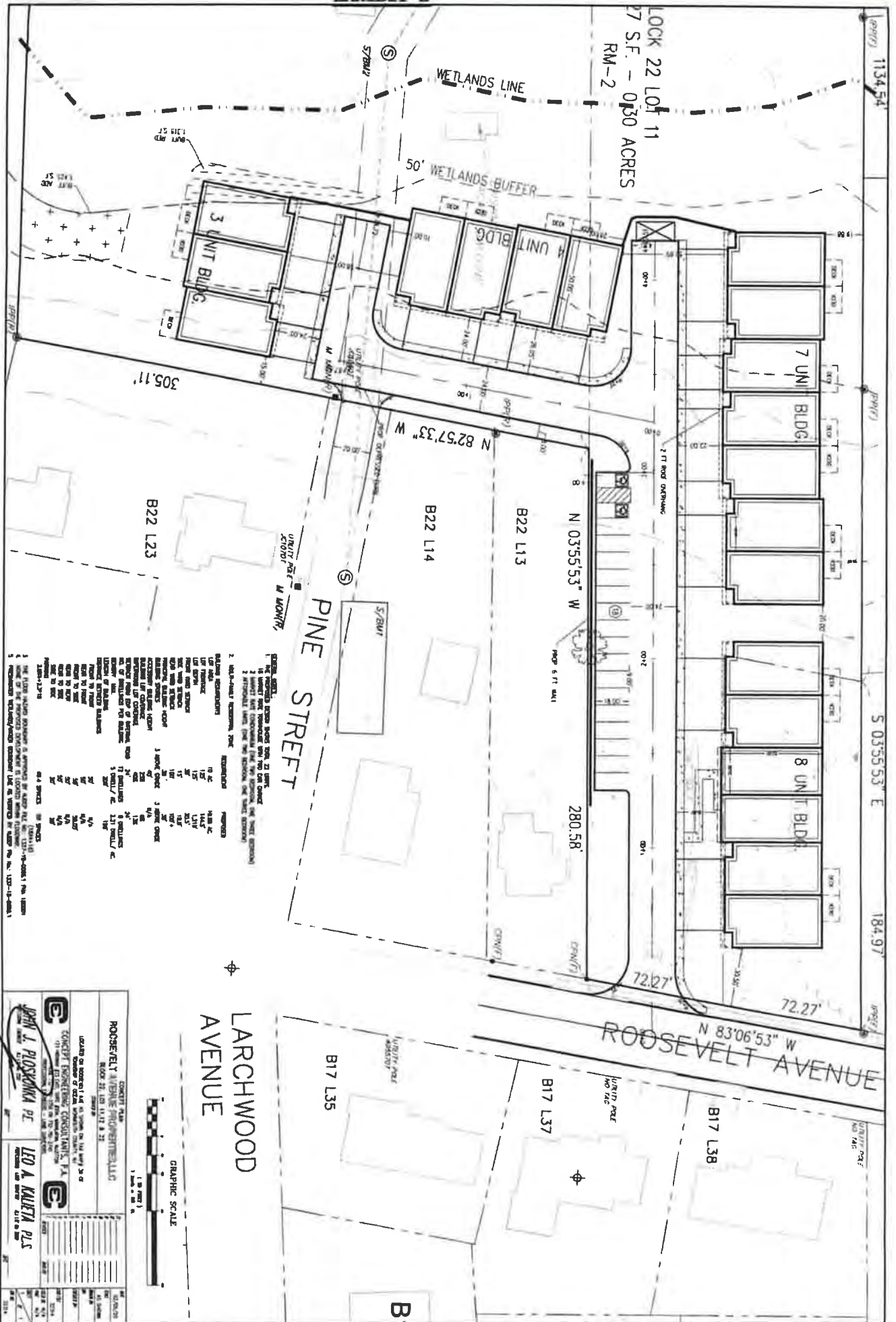

 Vincent Buttiglieri, RMC/MMC
 Township Clerk

EXHIBIT B
(CONCEPT PLAN)

EXHIBIT B



Approved
25 October
2021

File
Applicant
Tax
Building
Clerk
Twp Atty
Engineer
TOSA
Planner
EC
Zoning
Original

TOWNSHIP OF OCEAN PLANNING BOARD RESOLUTION

**GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL TO
ROOSEVELT AVENUE PROPERTIES, LLC**

WHEREAS, Roosevelt Avenue Properties, LLC, hereinafter referred to as “Applicant”, is the owner of certain property known as part of Block 22, Lots 11, 12 and 22, as shown on the official tax map of the Township of Ocean, which property is located at Roosevelt Avenue, in the Township of Ocean, County of Monmouth, and State of New Jersey; and

WHEREAS, the site is located in the Roosevelt Avenue Inclusionary Overlay Zone District which was created as an overlay zone within the existing Multi-Family Residential Zone pursuant to the terms of a Settlement Agreement with the Fair Share Housing Center to permit development of twenty-two (22) units of townhouses and a stacked townhouse (flats) at a higher density than permitted in the existing and underlying zone to accommodate the required provision of affordable housing which resulted in Ordinance No. 2334A of the Municipal Ordinances of the Township of Ocean, a copy of which is attached hereto as Exhibit A.

WHEREAS, the Roosevelt Avenue Inclusionary Overlay Zone continues to allow all uses permitted in the underlying zone in compliance with the standards of the underlying zone. In addition, multi-family units, consisting of townhouses and apartment flats within a townhouse structure shall be permitted, provided that 22 multi-family residential units be constructed, of which two (2) moderate income affordable units provided as apartment flats shall be located within one (1) townhouse structure. Two (2) market rate flats will be located in the first building next to Roosevelt Avenue along with two (2) affordable flats. All other multi-family units shall be market rate townhouse units. The Applicant will also pay \$475,000.00 to the Township’s Affordable Housing Fund; and

WHEREAS, the subject property consists of Block 22, Lots 11, 12 and 22, an approximately 11 acre parcel located on the south side of Roosevelt Avenue currently developed with a 2.5 story dwelling and detached garage. Areas of wetlands and special flood hazard areas exist in the southern portion of the property. Residential uses surround the subject property; and

WHEREAS, a seven (7) unit townhome building is proposed to the south of the eight (8) unit building. Townhome buildings containing four (4) units and three (3) units will be located to the east of the seven (7) unit building. The proposed townhouse units will consist of four (4) and five (5) bedroom units. Access to the site and all units will be from a 24 feet wide driveway. Proposed ancillary site improvements include lighting, sidewalks, a concrete block trash enclosure and 18 parking spaces; and

WHEREAS, the site is located in the Roosevelt Avenue Inclusionary Overlay Zone District, created as an overlay zone within the existing Multi-Family Residential Zone pursuant to terms of a Settlement Agreement with the Fair Share Housing Center to permit the development of twenty-two (22) townhouses and a stacked townhouse to permit a higher density than permitted in the existing and underlying zone to accommodate the required provisions of affordable housing. The proposed layout was part of the approved settlement resulting on a Court approved Order for same; and

WHEREAS, a public meeting on the within application were held on September 27, 2021, with notice as required by law; and

WHEREAS, the Board has considered the revised report of the Board Engineer dated September 22, 2021 and revised report of the Board Planner dated September 23, 2021 as well as the Fire Marshal's letter dated May 3, 2021 and the Traffic Safety Officer's letter of May 18, 2021; and

WHEREAS, the Applicant has entered into evidence plans entitled “Preliminary and Final Site Plan for Roosevelt Avenue Properties, LLC. Block 22, Lots 11, 12 & 22, Located on Roosevelt Ave as shown on Tax Map #36, Township of Ocean, Monmouth County, New Jersey” consisting of twelve (12) sheets, prepared by John J. Ploskonka, P.E., of Concepts Engineering Consultants, PA, dated September 3, 2020, revised through September 10, 2021, together with Traffic Statement prepared by John H. Rea, P.E., and Scott T. Kennel, of McDonough & Rae Associates, LLC, dated February 2021; Landscape Plan, consisting of one (1) sheet, prepared by Brian M. Leff, L.L.A., P.P., of BML Studio, revised through September 10, 2021; Response Letter to Fire Marshal from Bhakar Halari, P.E., of Concept Engineering Consultants. PA, dated May 6, 2021; Fire Truck Vehicle Tracking Plan, consisting of one (1) sheet, prepared by John J. Ploskonka, P.E., of Concept Engineering Consultants, PA, dated May 5, 2021; Net Fill Calculations Plans, consisting of ten (10) sheets, prepared by John J. Ploskonka, P.E., of Concept Engineering Consultants, PA, dated September 3, 2020, revised through February 8, 2021; Architectural Plans consisting of six (6) sheets prepared by David H. Feldman, R.A., A.I.A. of Feldman & Feldman Architects, dated July 14, 2021; Garbage Truck Circulation Plan, consisting of one (1) sheet John J. Ploskonka, P.E., of Concept Engineering Consultants, PA, dated May 5, 2021; Stormwater Management Report of Roosevelt Avenue Properties, LLC, John J. Ploskonka, P.E., of Concept Engineering Consultants, PA, dated September 9, 2021; Operations and Maintenance Manual for Stormwater Management Facilities prepared by John J. Ploskonka, P.E., of Concept Engineering Consultants, PA, dated September 10, 2020; and Attachment D – Major Development Stormwater Summary; and

WHEREAS, the Board carefully considered the evidence and documents presented to it, by or on behalf of the Applicant, together with the reports of the Township’s Professionals and

the comments from the public; and

WHEREAS, after carefully considering all the evidence presented to it, the Board has made the following findings of fact:

1. The Applicant proposes to develop of eighteen (18) units of townhouses and four (4) units of stacked townhouse (flats) at a higher density than permitted in the existing and underlying zone to accommodate the required provision of affordable housing which resulted in Ordinance No. 2334A of the Municipal Ordinances of the Township of Ocean, a copy of which is attached hereto as Exhibit A, pursuant to the terms of a Settlement Agreement with the Fair Housing Center.

2. The site is located in the Roosevelt Avenue Inclusionary Overlay Zone District which zone district was created as an overlay zone within the existing Multi-Family Residential Zone pursuant to the terms of a Settlement Agreement with the Fair Housing Center to permit the development of twenty two (22) units of townhouses and a staked townhouse (flats) at a higher density than permitted in the existing and underlying zone to accommodate the required provisions of affordable housing in a configuration heretofore approved by the Court as part of the settlement.

3. Bulk variances are required with regard to:

21-24A.2 The Ordinance requires a variance for decks which exceed three (3) feet in height which do not maintain the required side yard setback...provided no point of the deck exceeds a height of seven (7) feet above finished grade. The maximum required side yard setback is 15 feet and eleven (11) of the decks along the western property line are to be within the side yard setback. The Applicant presented credible testimony that there is no ability to develop the site farther to the west. The Applicant will mitigate this deficiency with landscaping

and a fence along the property line and will enhance the proposed plantings if the Board Planner shall so direct. The stairs from the decks have been moved to the sides of the decks rather than off the back to provide distance to the property line.

21-46A.6c.3 requires outdoor lighting in all nonresidential land use zones to be directed towards, and confined to, ground area of walks, driveways, parking lots and lawns. Illuminance levels of light spillage shall not exceed 0.25 footcandles at any property boundary line except that light spillage upon any residentially zoned or residentially used property shall not exceed 0.06 footcandles, whereas spillage of 0.3 footcandles is proposed in various locations. The Applicant presented credible testimony that as a result of the “L” shape of the property, it is difficult to maintain the 0.6 footcandles in the roadway and parking area and then in a few feet go to practically 0.06 footcandles. There is some minor spillage of 0.3 footcandles near the entryway and near the end of Citation Way, but as a result of the wall and fencing the adjoining neighbors are mostly at 0 footcandles and the minor deviation from the ordinance will not cause any detriment to the adjacent properties.

21-46A.6d.1 (a) requires multifamily residential parking areas to have a minimum level of horizontal illuminance of 0.6 footcandles where the Applicant is proposing illuminance of 0.5 footcandles. The Applicant provided credible testimony that the lighting in the parking area is safe and does not result in dark spots. If same was increased the site will be over-lighted and the resulting deficiency is *de minimis*.

21-47.1.c.1 requires a minimum twenty-five foot wide landscaping area to be provided along all front property lines and public streets, except entrance walks and access drives. The twenty-five feet shall be measured from the proposed right-of-way line as designated in the Master Plan. The proposed development does not meet this requirement. The Applicant

provided credible testimony that the proposed development could not be moved to the south of the site due to environmental constraints. The front landscaping will be enhanced as required by the Board Planner to further mitigate the request for this variance.

21-47.1.c.2 requires a minimum 10 foot wide landscaped area to be provided along all rear and side property lines. The same cannot be provided in the parking area and will be mitigated by decorative wall as the area is needed for the parking space depths and cartway width. There is also a deficiency along Citation way on the north side where there will only be an 8 feet wide landscaping area. This is caused by the floodplain to the south, required building setbacks and 24 feet of cartway which leaves an 8 feet area for the landscaping.

21-55.1h requires plantings in all required buffer areas to consist of a minimum of two staggered rows of evergreen trees spaced 10 feet apart, planted 10 feet on center. Any areas on the site which may not be wide enough for planting rows as required will have enhanced landscaping as required by the Board Planner to meet the intent of the Ordinance.

WHEREAS, the Board finds that the granting of the Preliminary and Final Major Site Plan approval as set forth herein, and subject to the various conditions set forth herein, will result in the overall improvement and enhancement to the zone plan as required by the Settlement Agreement with the Fair Share Housing Center and will be without any substantial detriment to the public welfare and without substantial impairment to the intent and purpose of the zoning plan or zoning ordinance; and

WHEREAS, the Board finds that the purpose of the Municipal Land Use Law will be advanced by the approval of the proposed site plan and that the benefits substantially outweigh any possible detriments to the within application based upon the requirements of the Settlement Agreement with the Fair Share Housing Center.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the Township of Ocean hereby approves the application of Roosevelt Avenue Properties, LLC, with regard to the plans set forth above, together with the variances above set forth, for the property known as Block 22, Lots 11, 12 & 22, as shown on the official tax map of the Township of Ocean, and in accordance with the application submitted in compliance with the Settlement Agreement with the Fair Share Housing Center, subject to the following conditions

- A. Applicant to install electric car charging stations if required by applicable law.
- B. Applicant to provide detail of decorative wall for parking area and gate proposed for the terminus of Pine Street which shall be subject to the approval of the Board's Professionals.
- C. Applicant to amend Plans to continue sidewalk from parking area out to Roosevelt Avenue.
- D. No changes to the Plan shall be permitted to allow any vehicle access from Pine Street stub and the Applicant shall support a request to the Mayor and Council to designate Pine Street "No Parking".
- E. The Plans to provide for a solid fence along the southern property line adjacent to the existing residential dwellings with a solid gate at the Pine Street stub with a "knox" box for fire emergency access subject to the review and approval of the Fire Official.
- F. The Lighting Plan shall not permit any spillage on to adjacent Lot 14 in Block 22 beyond that which is permitted by Ordinance.
- G. Applicant to plant on Lot 13, Block 22, a row of evergreens along the back of the decorative wall for approximately 200 feet, a single row of evergreen 10 feet on center at time of planting at the height of the landscaping being planted on the subject site. This requirement is

subject to the owner of Lot 13, Block 22, granting the Applicant access for such planting. The maintenance of the evergreens shall be the responsibility of the owner of Lot 13, Block 22.

H. All final Site Plan and Architectural Plans shall be subject to the final approval of the Board's Engineer and Planner.

I. Publication by the Applicant of a notice of this decision in the official newspaper serving the Township of Ocean and return of proof of publication to the Planning Administrator.

J. Payment by the Applicant of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued and no map is to be signed or filed until proof is furnished to the Planning Administrator of the Planning Board that there are no taxes, escrows or assessments due or delinquent on the property in question.

K. The Applicant shall obtain all proper building permits for construction, and shall construct same in accordance with the documents marked at the hearing, and in compliance with the testimony of Applicant and Applicant's experts at the hearing.

L. Compliance by the Applicant with any and all other requirements of this Municipality and any other governmental subdivisions as set forth in any laws, ordinances or regulations and obtainment of any permits or approvals required thereunder.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Township Manager, the Township Construction Official, the Board Engineer, the Board Attorney, the Township Clerk, the Township Tax Collector, the Township Tax Assessor, the Township Attorney and the Applicant herein.

BE IT FURTHER RESOLVED that this Resolution shall serve as one of memorialization of the action taken by this Board at its meeting on October 25, 2021.

The foregoing Resolution was offered by Joseph DiBenedetto and seconded by Estelle Klose and adopted on Roll Call by the following vote:

ROLL CALL:

In Favor: DiFiglia, Fisher, Klose, Weinstein, Beale, DiBenedetto

Opposed: None

Abstained: None

Ineligible: None

Absent: Duthie, Siano

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Township of Ocean on the 25th day of October. 2021.


AMY STEWART
Secretary, Planning Board



M. OCEAN GLADES ENVIRONMENTAL CONTAMINATION REPORT



TO BE SUPPLIED BY THE
TOWNSHIP ENGINEER



N. AFFORDABLE HOUSING ALLIANCE PRO FORMA, TIMETABLE

Exhibit A

(Project Financial Structure)

OCEAN FAMILY HOUSING		
Ocean Township, Monmouth County		
67 units		
<u>Sources</u>		per unit
HMFA 1st Mortgage	\$5,140,000	\$76,716
Tax Credit Equity	\$18,198,180	\$271,614
[Other subsidies]		
[Ocean AHTF]		
Deferred Dev Fee	\$1,489,387	\$22,229
TOTAL DEVELOPMENT COSTS	\$24,827,566	\$370,559
<u>Uses</u>		
Land		
Construction Costs	\$18,668,166	\$278,629
Soft Costs/ Professional Fees	\$1,028,460	\$15,350
Developer Fee	\$3,168,908	\$47,297
Reserves	\$256,990	\$3,835
Carrying and Financing Costs	\$1,705,042	\$25,448
TOTAL DEVELOPMENT COSTS	\$ 24,827,566	\$370,559

Exhibit D

(Tentative Development Schedule)

To meet deadline for 9% application in 2026. If additional funding sources (FHLB) are needed for the Project, this could delay the closing and start of construction by 12 months.

- Spring 2026 – Preliminary and Final Site Plan Approval
- Fall 2026 – Submit 9% Tax Credit Application
- December 2026 - 9% Tax Credit Awards
- Spring 2027 – Close on financing and start construction
- Fall 2028 – Complete construction
- Summer 2028 – Winter 2028 – Lease-up the Project



O. UNMET NEED INCLUSIONARY OVERLAY ORDINANCES

§ 21-51.47. Mixed Use Development in the C- 1 Zone on Norwood Avenue. [Added 10-13-2016 by Ord. No. 2282; 2-27-2020 by Ord. No. 2333; amended 9-14-2023 by Ord. No. 2432]

- a. Mixed Use Inclusionary Development shall consist of a mix of commercial and residential uses (both market-rate and affordable dwellings) in the same building subject to the following restrictions.
 1. Properties shall have adequate frontage as required in subsection 21-51.47b2 below on Norwood Ave.
 2. Commercial uses shall be limited to those uses otherwise permitted in the C-1 Zone (subsection 21-35.1a) and shall be limited to the first floor of the building. All portions of the building fronting on a public street shall be occupied by commercial uses or for common space including access to the residential uses in the building.
 3. Residential uses shall consist of one, two and three bedroom dwellings, which may be in the form of flats or multi-level units. Residential units may occupy portions of the first floor of the building, but in no case shall a residential unit occupy any portion of the first floor within 20 feet of any portion of the building facade that faces a public street. Stairs and common space including access to residential uses shall not be considered part of a residential unit.
 4. Affordable housing is required to be provided. At least 20% of the total number of dwellings shall be affordable to very-low-, low- and moderate-income households in accordance with the Uniform Housing Affordability Controls ("UHAC") at N.J.A.C. 5:80-26.1 et seq., and the affordable housing regulations of the Township of Ocean (Article III, § 21-9A, Affordable Housing Development Fees, and § 21-9B, Affordable Housing), with the exceptions noted in paragraph a4, below. A fractional unit shall be addressed through the payment of an in-lieu contribution to the Township's Affordable Housing Trust Fund at Article III, § 21-9A.
 5. A minimum of 53% of the affordable units provided must be affordable to families making no more than 50% of regional median income by household size, including at least 13% that must be affordable to families making 30% or less of the regional income by household size pursuant to the amended Fair Housing Act ("FHA") at N.J.S.A. 52:27D-329.1. The remaining 47% may be made available to families making less than 80% of regional median income by household size.
- b. Bulk requirements.
 1. Minimum lot size: 40,000 square feet.
 2. Minimum lot frontage: 200 feet.
 3. Minimum lot depth: 200 feet.
 4. Minimum front yard setback (measured from the future R.O.W.): five feet.
 5. Minimum side yard setback: zero feet.

In order to encourage an end product which provides parking, access, and architectural continuity even where development occurs piece-meal and with diverse ownership, buildings may be attached and may be built to the interior side lines in order to be attached. The minimum distance between structures, if not attached, shall be 15 feet whether on the same lot or an adjacent lot. Attached buildings may include two walls which must be keyed to each other. Where buildings are built to both side lot lines, the site plan shall be accompanied by appropriate easements and plans showing properly located loading spaces and trash receptacles with permitted access across adjacent properties. If the property abuts a residential zone, the building shall be set back a distance of 25 feet from the residential zone.

6. Minimum rear yard setback: 10 feet.

If the property abuts a residential zone, the building shall be set back a distance of 25 feet from the residential zone.

7. Maximum floor area ratio: 2.5.
8. Maximum building height: 40 feet**.

Note: ** Architectural elements including parapets and chimneys, as well as screening elements that are required to hide other rooftop equipment, may exceed the 40 feet height requirement provided that these elements do not extend more than six feet above the roof height and do not occupy more than 10% of the roof area of the building. Elevator towers and stair towers may exceed the 40 feet height requirement provided that these elements do not exceed 12 feet above the roof height and do not occupy more of the roof area than is necessary to provide the function to which they are intended. Furthermore, screening elements shall be required to hide rooftop equipment and, excluding parapets, shall be set back from the edge of the roof a minimum of three feet for every one foot in height of the screening element.

9. Maximum stories above grade: three.
10. Maximum building coverage: NA.
11. Minimum landscaped area: 10% of total lot area.

c. Residential Density Requirements.

1. Maximum residential density shall not exceed 25 units per acre.
2. A minimum of 15% of the apartments shall be one bedroom apartments. A minimum of 20% of the units shall be two bedroom apartments. For this requirement, fractions less than 0.5 units shall be rounded down. (For example, if 15% of units totals 6.2 units, the required number of units would be 6.)

d. Parking Requirements.

1. One and Two bedroom apartments: 1.25 spaces per dwelling unit; three bedroom apartments: 1.75 spaces per unit - up to 0.5 spaces per unit may be provided on-street allowing 22 feet per parking space as per subsection 21-45.5c of this chapter.

2. One space per 200 square feet of retail space excluding common area.

§ 21-32B. AH-G AFFORDABLE HOUSING GOLF COURSE RESIDENTIAL INCLUSIONARY OVERLAY ZONE

§ 21-32B.1. Intent; Purpose. [Added 2-27-2020 by Ord. No. 2332]

- a. The intent of the AH-G Affordable Housing Golf Course Residential Inclusionary Overlay Zone (AH-G Overlay Zone) is to establish a suitable location within the Township for the development of low- and moderate-income housing uses in the form of an inclusionary (market-rate and affordable housing) development. This Overlay Zoning District will provide future opportunities for the construction of low- and moderate-income housing to implement the Township's unmet need provision in its Third-Round Housing Element and Fair Share Plan.
- b. For the purpose of permitting inclusionary development, in the event of a change of use from golf course to a residential use, the provisions and requirements of the Affordable Housing Golf Course Residential Inclusionary Overlay Zone shall supersede the provisions and requirements of the underlying R-1, R-2 or R-3 Zones. In the event of a conflict between the provisions of this section and other sections of the Township development regulations with respect to the development of market-rate and affordable townhouses and apartment flats, the provisions of this Affordable Housing Golf Course Residential Inclusionary Overlay Zone shall govern.

§ 21-32B.2. Permitted Uses. [Added 2-27-2020 by Ord. No. 2332]

- a. Permitted principal uses in the AH-G Affordable Housing Golf Course Residential Inclusionary Overlay Zone shall include:
 1. Townhouses.
 2. Multifamily apartment flats designed to appear as a townhouse.
- b. Accessory buildings not to exceed 15 feet in height, structures and uses including:
 1. Private residential off-street parking subject to the requirements of this chapter.
 2. Decks and open porches subject to the requirements of this chapter.
 3. Outdoor recreational uses for residents and their guests.
 4. Fences and hedges.
 5. Satellite dish antennas attached to a principal structure, not to exceed three feet in diameter or extend above the top of the roof of the building.
 6. Other customary accessory uses and structures that are clearly incidental to the principal structures and uses.
- c. Required use. Affordable housing is required to be provided, in accordance with the provisions of the Township of Ocean Revised General Ordinances, Chapter XXI, Article III, § 21-9B, as follows:

1. Twenty percent of the total number of dwellings produced shall be affordable to low- and moderate-income households and in accordance with the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1, with the one UHAC exception to very-low-income units required in Subsection c3 below.
 2. At least 53% of the total number of affordable units produced shall be affordable to low-income households, including very-low-income households. The remaining 47% may be affordable to moderate-income households.
 3. At least 13% of the total number of affordable units produced shall be affordable to very-low-income households pursuant to N.J.S.A. 52:27D-329.1.
 4. The affordable units shall not be age restricted.
 5. Each affordable unit shall have at least one bedroom with a minimum of 150 square feet and all other required bedrooms shall have at least 100 square feet.
- d. The following conditional uses are permitted subject to approval of the Planning Board and the special conditions of this chapter:
1. Public utility installations.

§ 21-32B.3. Townhouse and Multifamily Apartment Flat Development Standards. [Added 2-27-2020 by Ord. No. 2332]

The following development standards shall apply to the AH-G Affordable Housing Golf Course Residential Inclusionary Overlay Zone:

- a. Minimum lot size: 75 acres. (For the purposes of this zone, Block 59, Lot 1, and Block 60, Lot 1, shall be considered to be one lot.)
- b. Maximum density: eight units per gross acre.
- c. The developer shall reserve no less than 25% of the site for open space purposes. No more than 1/3 of the reserved open space shall be part of any floodplain, freshwater wetlands area or freshwater wetlands area buffer; and a minimum of five contiguous acres of usable land, not a part of any floodplain, freshwater wetlands area or freshwater wetlands area buffer, shall be reserved for open space purposes. The location shall be approved by the Planning Board. The open space may be a part of the land reserved for common use. Title to all reserved or common land shall be held in fee simple by the homeowners' association, except that the municipality may elect to have certain areas dedicated to the municipality.
- d. The minimum width of the entire parcel containing an affordable residential development shall not be less than 400 feet.
- e. The minimum depth of the entire parcel containing an affordable residential development shall not be less than 1,000 feet.
- f. Multiple road accesses from any affordable residential development onto any single street shall be separated by at least 500 feet of frontage.

- g. Road access shall be prohibited from any affordable residential development into any of the following single-family residential streets in order to protect the single-family residential character of the area: Crosby Avenue, Runyon Avenue, Parker Avenue, Dwight Drive, Fairway Lane, and Brook Drive.
- h. Townhouse dwelling units, including affordable townhouse or multifamily apartment flat dwelling units, shall utilize the following standards:
 - 1. Minimum setback from all public roads: 100 feet.
 - 2. Minimum setback from pavement of internal public or private road or parking area: 20 feet.
 - 3. Minimum setback from perimeter property lines of entire site: 100 feet.
 - 4. Maximum lot coverage:
 - (a) Building: 25% of total lot area.
 - (b) Impervious: 50% of total lot area.
 - 5. Minimum width per unit: 20 feet.
 - 6. Maximum building height: two stories above grade or 35 feet, whichever is less.
 - 7. Maximum number of units per structure:
 - (a) Townhouse: six.
 - (b) Multifamily apartment flat: 12.
 - 8. Minimum number of units per structure:
 - (a) Townhouse: four.
 - (b) Multifamily apartment flat: eight.
 - 9. Maximum length of structure: 150 feet.
 - 10. Minimum interior storage area per unit: 700 cubic feet. Required storage space shall have a minimum vertical clearance of five feet and shall be located in a basement, attic or attached storage room and shall not include garage or closets.
 - 11. Minimum distance between buildings: 85 feet between any two rear or front facades or any rear or front facade with a side facade; 35 feet between any two side facades. No portion of a front facade shall face any portion of a rear facade.
 - 12. Minimum number of outside accesses per unit: two.
 - 13. Other provisions.
 - (a) A structure shall not have more than two connected townhouse units on one facade without providing a variation in setback of at least five feet.

- (b) A structure shall not have more than two connected townhouse units on one facade without providing a reasonable variation in the facade architecture.
- (c) Television antenna equipment shall be built into the buildings. No antennas shall be erected on the roof.
- (d) There shall be a minimum buffer of 50 feet along all side and rear property lines.
- (e) Buffers of no less than 50 feet shall be placed along all roads where a dwelling unit's rear or side facade faces a public road. The use of landscaped berms or decorative masonry walls can be utilized in addition to an all landscaped buffer. The use of a decorative wall and material to be used for the wall shall be at the discretion of the Planning Board.
- (f) No individually registered commercial vehicle longer than 22 feet in length or 10 feet in height measured from the highest point of said vehicle excluding exhaust stacks and antennas, or having a registered weight of 18,000 pounds or more, shall be stored or parked on any lot or portion of a lot nor parked on any street overnight situated in this residential zone.
- (g) Accessory buildings shall conform to the height and setback requirements of the principal building.
- (h) Fences, patios, or similar outside facilities to the rear of each unit may only be constructed by the original developer or by the homeowners' association and only after a set of architectural standards is approved by the municipal agency and administered by the original developer or the homeowners' association.
- (i) There shall be, within each townhouse and multifamily apartment flat unit, adequate area for the temporary storage of recyclable materials, as required in this chapter.
- (j) There shall be a trash and recyclable storage area completely surrounded by a six-foot-high solid architectural fence with front solid gates. All outside trash and recyclables shall be stored in this area and shall not be in public view over the fence height. All accessory apparatuses, such as propane tanks, shall be similarly enclosed.
- (k) Common areas of any tract utilized for any development shall be deeded to a homeowners' association consisting of the property owners within the development, for their use, control, management and maintenance.
- (l) Only the land directly under each unit, and land adjacent thereto with an area not greater than 50% of said land under each unit, shall be sold in fee simple to the purchaser of the unit. All other lands shall be the ownership and responsibility of the homeowners' association. All land other than that directly under each unit shall be under the maintenance responsibility of the homeowners' association.
- (m) Off-street parking is required subject to the regulations of this chapter.
- (n) Landscaping is required subject to the regulations of this chapter.

- (o) All internal and external improvements found necessary in the public interest, including, but not limited to, streets, driveways, parking areas, sidewalks, curbs, gutters, lighting, shade trees, water mains, water systems, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures and the like, shall be installed in accordance with the standards set forth for major subdivisions of land. All curb-to-curb pavement widths shall not be less than 30 feet. No building permit shall be issued unless and until adequate performance guarantees of proper installation of such improvements shall have been posted in accordance with municipal ordinances.
- (p) There shall be no direct access of driveways from any dwelling unit onto a public street.
- (q) Affordable townhouse units and multifamily apartment flats shall be integrated throughout the development and not separated from market rate units.



P. SEAVIEW SQUARE ENVIRONMENTAL CONTAMINATION REPORT



TO BE SUPPLIED BY THE
TOWNSHIP ENGINEER



Q. 280 NORWOOD AVENUE DOCUMENTATION



To: Ocean Township Zoning Board of Adjustment

From: James W. Higgins Associates — Planning Consultant

**Subject: Sorora Land Development (aka 280 Norwood Ave.) - Conditional Use
Variance and Site Plan
Engineering Plans - 11 Sheets - Rev. 11/1/23
Architectural Plans - 7 Sheets - Dated 10/27/23**

Location: Block 22 Lots 85 & 85.01 - Norwood Ave. and West Morgan Ave.

Zone: C-1 Neighborhood Commercial Zone

Date: November 21, 2023

Application

The applicant proposes to construct a 3 story, mixed use commercial/residential development with 66 indoor parking spaces located in a parking garage beneath the upper 2 stories of the building, and 10 on street parking spaces. The development will include a total of 28 apartments, of which 15 will be 3 bedrooms, 9 will be 2 bedroom, and 4 will be 1 bedroom. A total of 5 of the units will be affordable units that will count towards the Township's COAH requirements. The development is proposed to include a total of 7,000 sq. ft. of retail space and 1,841 sq. ft. of common space on the first floor.

Site Description

The site is a rectangular shaped 1.15 acre corner lot with 210' of frontage on Norwood Ave. and 244.5' of frontage on Morgan Ave. It was previously occupied by a single story 12,238 sq. ft. commercial building and a 57 space parking lot, both of which have been demolished. Norwood Ave. is an approximate 90' wide, 4 lane State highway with a grass divider in the middle.

Surrounding Land Uses

The site is in an area of mixed uses. Commercial uses exist to the immediate north, commercial and 7 residential units exist across W. Morgan Ave. to the south, townhouses exist to the immediate west, and single family dwellings exist across Norwood Ave. to the east in Deal. Morgan Ave. also provides access to the TOSA plant to the west of the site.

Zoning

The site is located in the C-1 Neighborhood Commercial Zone. The Zone permits a variety of commercial uses, as well as Mixed Use Inclusionary Development as a Conditional Use. The applicant is proposing a Mixed Use Inclusionary Development that fully complies with the conditions.

The conditions for a Mixed Use Inclusionary Development in the C-1 Zone in Section 21-51.47 of the Ordinance include:

- a. Mixed Use Inclusionary Development shall consist of a mix of commercial and residential uses (both market-rate and affordable dwellings) in the same building subject to the following restrictions.**
 - 1. Properties shall have adequate frontage as required in Section 21-51.47.b.2. below on Norwood Ave. Complies.**
 - 2. Commercial uses shall be limited to those uses otherwise permitted in the C-1 Zone (Subsection 21-35.1a) and shall be limited to the first floor of the building. All portions of the building fronting on a public street shall be occupied by commercial uses or for common space including access to the residential uses in the building. Will Comply.**
 - 3. Residential uses shall consist of one, two and three bedroom dwellings, which may be in the form of flats or multi-level units. Residential units may occupy portions of the first floor of the building, but in no case shall a residential unit occupy any portion of the first floor within 20 feet of any portion of the building facade that faces a public street. Stairs and common space including access to residential uses shall not be considered part of a residential unit. Complies.**
 - 4. Affordable housing is required to be provided. At least 20% of the total number of dwellings shall be affordable to very-low-, low- and moderate-income households in accordance with the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq., and the affordable housing regulations of the Township of Ocean (Article III, §21-9A, Affordable Housing Development Fees, and § 21-9B, Affordable Housing), with the exceptions noted in Subsection a4, below. A fractional unit shall be addressed through the payment of an in-lieu contribution to the Township’s Affordable Housing Trust Fund at Article III, § 21-9A. Complies.**
 - 5. A minimum of 53% of the affordable units provided must be affordable to families making no more than 50% of regional median income by household size, including at least 13% that must be affordable to families making 30% or less of the regional income by household size pursuant to the amended Fair**

Housing Act ("FHA") at N.J.S.A. 52:27D-329.1. The remaining 47% may be made available to families making less than 80% of regional median income by household size. Complies.

b. Bulk requirements.

- 1. Minimum lot size - 40,000 sf - 49,924 sq. ft. - Complies.**
- 2. Minimum lot frontage - 200' - 210' - Complies**
- 3. Minimum lot depth - 200' - 229.5' - Complies**
- 4. Minimum front yard setback - 5' - 5.35' minimum - Complies**
- 5. Minimum side yard setback: zero feet - 5.46' - Complies**

In order to encourage an end product which provides parking, access, and architectural continuity even where development occurs piece-meal and with diverse ownership, buildings may be attached and may be built to the interior side lines in order to be attached. The minimum distance between structures, if not attached, shall be 15 feet whether on the same lot or an adjacent lot. Attached buildings may include two walls which must be keyed to each other. Where buildings are built to both side lot lines, the site plan shall be accompanied by appropriate easements and plans showing properly located loading spaces and trash receptacles with permitted access across adjacent properties. If the property abuts a residential zone, the building shall be set back a distance of 25 feet from the residential zone. >15' from buildings on adjacent lots - Complies

- 6. Minimum rear yard setback - 10 feet - 10' - Complies**

If the property abuts a residential zone, the building shall be set back a distance of 25 feet from the residential zone. - NA - Does not abut a residential Zone.

- 7. Maximum Floor Area Ratio - 2.5 - FAR 1.96 - Complies**
- 8. Maximum building height - 40 feet** - Building Height 39' - Complies**

Note: ** Architectural elements including parapets and chimneys, as well as screening elements that are required to hide other rooftop equipment, may exceed the 40 feet height requirement provided that these elements do not extend more than 6 feet above the roof height and do not occupy more than

10% of the roof area of the building. Elevator towers and stair towers may exceed the 40 feet height requirement provided that these elements do not exceed 12 feet above the roof height and do not occupy more of the roof area than is necessary to provide the function to which they are intended. Furthermore, screening elements shall be required to hide rooftop equipment and, excluding parapets, shall be set back from the edge of the roof a minimum of three feet for every one foot in height of the screening element. - Stair Tower extends 9' above the roof line - Complies

9. Maximum stories above grade: 3. - 3 stories - Complies

10. Maximum Building Coverage - NA

11. Minimum Landscaped Area - 10% of total lot area - 25.8%

c. Residential Density Requirements.

1. Maximum residential density shall not exceed 25 units per acre. - 24.4 units per acre

2. A minimum of 15% of the apartments shall be one bedroom apartments. A minimum of 20% of the units shall be two bedroom apartments. For this requirement, fractions less than 0.5 units shall be rounded down. (For example, if 15% of units totals 6.2 units, the required number of units would be 6.) - 4 one bedroom units required and 4 proposed; 6 two bedroom units required and 9 proposed - Complies

d. Parking Requirements.

1. One and Two bedroom apartments - 1.25 spaces per dwelling unit; three bedroom apartments - 1.75 spaces per unit - up to .5 spaces per unit may be provided on-street allowing 22 feet per parking space as per Subsection 21-45.5c of this chapter.

2. 1 space per 200 square feet of retail space excluding common area.

69 parking spaces required - 76 parking spaces provided (66 on site; 10 on street).

The following C variances are also required:

Off Street Parking and Loading

21-45.5.b. Landscaped Islands - The Ordinance requires landscaped islands a minimum of 10' in width at the end of all rows of parking. There are 2 reasons for this requirement. The first and most obvious is to allow for a more pleasing visual environment. Since the parking spaces are located under a building, landscaping is not possible. The second is to allow for adequate traffic circulation. In this instance, the striped areas at the ends of the parking rows are less than 10' wide.

Testimony should be given as to the adequacy of the traffic flow in the parking area.

21-45.5.c. Parking Space Width - The Ordinance requires parking spaces to be 10' wide. The plan proposes 9' wide parking spaces.

The applicant should provide testimony as to the adequacy of the parking space width. It should be noted that the 9' wide spaces are wider than typically provided in parking garages, which normally provide 8' to 8'5' wide spaces.

21-45.6. Parking Space Within Buildings - The Ordinance permits parking spaces within buildings only if the layout "meets the off-street parking requirements of this Chapter".

In this instance the parking layout does not meet the requirements of this chapter with regard to the required 10' islands at the end of rows of parking and parking space width. If the Board is satisfied with the proposed parking space width and the absence of landscaped islands, it would be appropriate to grant this variance also.

21-45.13.a. Number and Location of Curb Cut - The Ordinance limits the number of curb cuts to 1 and requires that it be located in the center 1/3 of the lot. The plan proposes 2 curb cuts and the western one is located in the western 1/3 of the lot.

The applicant should provide testimony as to the reasons for this deviation.

21-45.13.b. Location of Curb Cut on Corner Lot - The Ordinance requires that, for a corner lot, the curb cut be on the street of higher classification in the Master Plan, which is Norwood Ave. in this instance. The 2 curb cuts are on W. Morgan Ave., which is the street of lower classification.

Given the nature of Norwood Ave., it makes more sense to have vehicular access from W. Morgan Ave.

21-46.1 & 21-46.2. Loading Area - The Ordinance requires that all retail uses have a designated loading area and that this site include one such area. While a loading area is provided, it does not meet Ordinance standards.

It appears that the loading area is adequate to meet the needs of the proposed development. However, testimony should be provided to confirm this.

21-47.1.c.2. Landscaped area along Side and Rear Property Lines - The Ordinance requires that a 10' wide landscaped area be provided along all side and rear lot lines. The plan proposes less than 10' of landscaping in one small area in the rear of the site.

This variance is due to the irregular shape of the rear lot line. It appears that the overall intent of the Ordinance is met.

21-47.1.e & f. Required Mulch and Design - The Ordinance requires 4" of mulch in all planting beds and that all landscape plans be prepared by a licensed landscape architect. The plan proposes 3" much in planting beds and is not prepared by a licensed landscape architect.

I do not have a concern regarding the mulch. The 3" specified should be adequate.

With regard to the issue of design, any approval should be conditioned upon a final landscape plan being approved by the Board Planner.

Design Waivers

21.55.1.f. Sodding - The Ordinance requires that all lawn areas be sod. The plans are unclear as to whether there will be lawn areas.

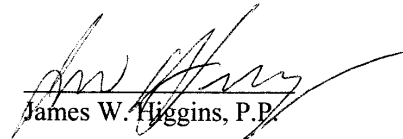
I recommend that all lawn areas, if any are to be provided, be sod.

21.55.1.g. Underground Sprinkler System - The Ordinance requires that "Underground Sprinkler Systems" be provided for all landscaped areas. None is indicated on the plan.

The plans should specify that an underground sprinkler system be provided for all landscaped areas except the raised planters.

21.55.2.a.2. Number of Trees - The Ordinance requires all sites provide a minimum of 15 trees per acre, of which a minimum of 30% shall be evergreen and a minimum of 30% be deciduous. The site requires a minimum of 17 trees of which 5 shall be evergreen and 5 be deciduous.

The plan proposes 2 deciduous trees. The plan proposes a total of 22 Compact Japanese Holly shrubs along the western property line. These are small shrubs, not trees. I recommend that these be replaced by 19 columnar Holly trees, rather than shrubs, as well as 3 Ginkgo trees. This would eliminate the need for this design waiver.



James W. Higgins, P.D.

File
Applicant
Tax
Building
Clerk
Twp Atty
Engineer
TOSA
Planner
EC
Zoning
Original

RESOLUTION GRANTING
PRELIMINARY AND FINAL SITE PLAN APPROVAL

PLANNING BOARD
TOWNSHIP OF OCEAN

BLOCK 22, LOTS 85 & 85.01
280 NORWOOD AVENUE

HADDAD MANAGEMENT, LLC

WHEREAS, Haddad Management has applied to the Planning Board of the Township of Ocean for preliminary and final site plan approval for property located at 280 Norwood Avenue which is officially designated as Block 22, Lots 85 & 85.01 on the official tax map of the Township of Ocean;

WHEREAS, the applicant has provided notice to all property owners within two hundred feet and has caused notice to be published regarding said application in accordance with *N.J.S.A. 40:55D-1* et seq., this Board gaining jurisdiction thereunder; and

WHEREAS, a public hearing was held in the within matter at a regularly scheduled meeting of the Planning Board held on November 27, 2023 during which all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, the Board having carefully considered the evidence and exhibits presented by the applicant;

NOW THEREFORE, be it Resolved by the Planning Board of the Township of Ocean that the following findings of facts and conclusions are made:

1. Throughout the course of the proceedings, the applicant was represented by R. Armen McOmber, Esquire of the law firm McOmber, McOmber & Luber which has law offices located at 54 Shrewsbury Avenue, Red Bank, New Jersey 07701.
2. The property which is the subject of this application is located at 280 Norwood Avenue and is officially designated as Block 22, Lots 85 & 85.01 on the official tax map of the Township.
3. The subject site is a rectangular shaped 1.15-acre corner lot with 210 feet of frontage on Norwood Avenue and 244.5 feet of frontage on Morgan Avenue. It was previously occupied by a single story 12,238 square foot commercial building and a 57-space parking lot; both of which have been demolished.
4. The applicant seeks Preliminary and Final Site Plan approval to construct a three (3) story, mixed use commercial/residential development with 66 indoor parking

spaces located in a parking garage beneath the upper 2 stories of the building, and 10 on street parking spaces. The development will include a total of 28 apartments on the upper levels, of which 15 will be three (3) bedrooms, 9 will be two (2) bedroom, and 4 will be one (1) bedroom. A total of five (5) of the units will be affordable units that will count toward the Township's affordable housing requirements. The development is proposed to include a total of 7,000 square feet of retail space and 1,841 square feet of common space on the first floor.

5. The site is located within the Township's C-1 Neighborhood Commercial Zone which permits a variety of commercial uses, as well as Mixed Use Inclusionary Development as a Conditional Use. The applicant's proposal meets all of the conditions for the aforesaid Mixed-Use Inclusionary Development.
6. The application does require the following bulk variance relief pursuant to the provisions of N.J.S.A. 40:55D-70(c):

Variance Condition	Required	Proposed
Landscaped Islands	Ordinance requires landscaped islands a minimum of 10' in width at the end of all rows of parking.	No islands are proposed
Parking Space Width	Parking spaces must be at least 10 feet wide.	Plan proposes 9-foot-wide parking spaces
Parking Space Within Buildings	Parking spaces within buildings are permitted only if the layout meets all off-street parking requirements	Parking islands and 10-foot-wide spaces not being provided
Number and location of Curb Cuts	The number of curb cuts are limited to 1 and requires that it be located in the center 1/3 of the subject lot	Plan proposes 2 curb cuts and the western one is located in the western 1/3 of the lot
Location of curb Cut on Corner Lot	For a corner lot, the curb cut must be on the street of higher classification in the Master Plan, which is Norwood Avenue in this instance.	The two curb curbs are on West Morgan Avenue, which is a street of lower classification.
Loading Area	Ordinance requires that all retail uses have a designated loading area and that the site include one such area.	While a loading area is provided, it is not at Ordinance standards
Landscaped Area Along Side and Rear property lines	The Ordinance requires that a 10-foot-wide landscaped area be provided along all side and rear lot lines	The plan proposes less than 10 feet of landscaping in one small area in the rear of the site
Required Mulch and Design	Ordinance requires 4" of mulch in all planting beds and that all landscape plans be prepared by a licensed	The plan proposes less than 10 feet of landscaping in one small area in the rear of the site

	landscape architect	
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7. In support of the application, the following exhibits were submitted into evidence:
 - Exhibit A-1:** Application
 - Exhibit A-2:** Preliminary and Final Site Plan dated November 1, 2023 as prepared by Jason Fichter, P.E. of Insite Engineering
 - Exhibit A-3:** Boundary and Topographic Survey dated March 27, 2023 as prepared by Justin Hedges, P.L.S. of Insite Surveying
 - Exhibit A-4:** Site Layout Exhibit
 - Exhibit A-5:** Aerial Exhibit showing site
 - Exhibit A-6:** Architectural Renderings (4 photographs)
 - Exhibit A-7:** Architectural Plans dated October 27, 2023 as prepared by Antonio Scalise, R.A. of Parallel Architectural Group
8. The Board also marked into evidence the following exhibits of its own:
 - Exhibit B-1:** Board Planner's Report dated November 21, 2023
 - Exhibit B-2:** Board Engineer's Report dated November 21, 2023
 - Exhibit B-3:** Director of Code Enforcement Report dated November 16, 2023
 - Exhibit B-4:** Director of Public Works Report dated November 16, 2023
 - Exhibit B-5:** Environmental Commission Review Letter
9. The Board heard sworn testimony from the applicant's engineer, Jason L. Fichter, P.E., P.P., who went over the proposed improvements. (**Exhibit A-1**)
10. Mr. Fichter made clear that there was no basement to the property. The proposed parking lot would be located on the ground level, behind the proposed retail units with all residential units being located upon the upper levels.
11. Sixty-Nine (69) parking spaces are required for the site, whereas the applicant was proposing seventy-six (76) parking spaces, include twelve (12) electric vehicle changing stations.
12. The applicant would not be supplying the required landscaping islands because the parking would all be located underneath the residential floors, meaning that it would not be exposed to daylight. As such, providing landscaped islands would make no practical sense.
13. With respect to the parking space width, Mr. Fichter stated that the spaces would be 9 x 18 which he believed was more than sufficient to accommodate a vehicle.

14. It was noted that the two existing curb cuts already exist for the site and the applicant was looking to maintain them. Additionally, due to the nature of Norwood Avenue, being a 90-foot-wide, four (4) lane State Highway with a grass divider in the middle, it makes no sense to have curb cuts leading into that street. In order to allow proper ingress and egress from the site, the curb cuts onto West Morgan Street make more sense. This conclusion was concurred with by the Board's Professionals.
15. The exterior will be adequately lit by lighting mounted along the façade of the building. All sidewalks and drive aisles would be properly lit.
16. With respect to water runoff at the site, Mr. Fitcher testified that less runoff would occur from what currently exists as the site has been specifically designed to deal with such issues. Having the parking be located underneath the building helped ensure this would be the case. The Board's Professionals took no issue with this representation.
17. The applicant assured the Board that all signage for the building would comply with ordinance requirements.
18. Mr. Fitcher noted that the applicant was proposing a flexible retail space on the ground floor of the building. Initially this was envisioned as being two (2) separate commercial units, however the applicant was leaving open the possibility that these spaces might be broken up or merged at some future date. It was agreed however, as a condition of approval, that in consideration of maintaining sufficient parking at the site the space would never be utilized as a restaurant.
19. There was a dedicated loading area for the site which Mr. Fitcher felt was more than sufficient to accommodate whatever retail space would ultimately be brought to the site. The Board's professionals agreed the loading space should be sufficient.
20. It was agreed, as a condition of approval, that the applicant would follow all of the suggestions made within the review letters of the Board's Professionals. **(Exhibits B-1 through B-5)**
21. The applicant also heard testimony from the applicant's architect, Antonio Scalise, R.A. who went over the specifics related to the residential units in the building. He

- confirmed that there would be 28 apartments on the upper levels, of which 15 will be three (3) bedrooms, 9 will be two (2) bedroom, and 4 will be one (1) bedroom. A total of five (5) of the units would be affordable units.
22. As a condition of approval, it was agreed that the affordable units would be “for sale” units. It was further represented that all of the regular units would also be “for sale” units, however it had yet to be determined whether the retail portion would be sold or retained by the applicant.
23. The building would also feature many attractive amenities, including a gym and locker room area, as shown within the architectural plans and elevations marked into evidence. **(Exhibits A-6 & A-7)**
24. Refuse areas would be kept inside the building and out of public sight.
25. Mechanicals would be kept on the roof and not be visible from the ground. The roof would only be accessible to service these mechanicals. As a condition of approval, the roof would not be available for public access. (ie: no roof top parties)
26. In order to ensure proper management and maintenance of the building, it was agreed that that a condominium association would be formed which would include the retail flexible space. The Master Deed and By-Laws of this Association would need to be reviewed and approved by the Board’s Attorney and Engineer prior to its recording with the County Clerk’s Office. This would be a condition of approval.
27. Mr. Fitcher, who also acted as a Planner for the applicant, indicated his belief that the proposed building would serve as a benefit for the town due to the fact that it would aesthetically improve the site with a use conforming to the Township’s zoning ordinance while also contributing to applicable affordable housing obligations. Accordingly, variance relief could be granted pursuant to the provisions of N.J.S.A. 40:55D-70(c)(2).
28. Mr. Fitcher further believed that that the variance relief required for the application could be granted based upon hardships created by the odd shape of the site as depicted within **Exhibits A-2 and A-3**.
29. The Board’s Planner, James W. Higgins, P.P. and the Board’s Engineer, Bennett A. Matlack, P.E., who were both placed under oath, advised that they had no

objections to the application as proposed provided the suggestions contained within their respective review letters (**Exhibits B-1 and B-2**) were adhered to.

30. It was recognized that prior to the hearing, the Board had been notified by Ronald S. Gasiorowski, Esquire of the law firm Gasiorowski & Holobinko that he represented the interests of the adjacent Deal Terrace Condominium Association and that his client had no objections to the application being granted.
31. The following members of the public also spoke with respect to the application:
 - (a) Richard Cero of 218 West Morgan Street
 - (b) Eddie Braha of 215 West Morgan Street

Both individuals expressed concerns over potential water run off from the new development, however they were assured that water run off was being decreased as a result of the development. Concerns over the adequacy of parking were also discussed, but these were addressed by the fact that the applicant was actually providing more parking than actually required under the ordinance.

CONCLUSIONS

32. In considering the merits of this application, the Board agrees with the testimony of the applicant's engineer and planner, as confirmed by the Board's experts, that the proposed site plan will function as designed. In fact, the Board finds that once in place, the changes will allow the site to function better than it has previously, being that water run off issues will be resolved.
33. The Board finds that all of the requested variance relief may be granted as the proposals will lead to a better designed site. The Board cannot envision any negatives that would be created by such relief.
34. Based upon all of the testimony and evidence presented, the Board finds that the requested variance relief can be granted pursuant to the provisions of both N.J.S.A. 40:55D-70(c)(1) and (2) since the site is indeed an odd shape at a corner location, as shown on **Exhibits A-2 and A-3**. Additionally, the benefits of granting the application in providing new life to site, including bringing the Township into better compliance with its affordable housing obligations than currently exists, will allow for a better alternative than strict adherence to the provisions of the zoning ordinance would otherwise allow.

35. Based upon the evidence and testimony presented, the Board finds that the proposed site plan may be granted provided all conditions of approval are followed.

NOW THEREFORE, be it further resolved by the Planning Board of the Township of Ocean, that for all the reasons stated above, the application of Haddad Management, LLC may be granted subject to the following conditions:

1. Subject to the applicant adhering to all of the exhibits marked into evidence unless otherwise stated by this Resolution.
2. Subject to the condition that the flex/retail space will never be utilized for a restaurant. This prohibition shall be included within the recorded Master Deed and By-Laws.
3. Subject to the formation of a condominium association which shall include the entire building. Said Master Deed and By-Laws must be reviewed and approved by the Board's Attorney and Engineer prior to its recording with the County Clerk's Office.
4. Subject to the roof of the building only being accessible to service with mechanicals located there. It shall not be available for public access. (ie: no roof top parties) Such a prohibition must be included within the recorded Master Deed and By-Laws.
5. Subject to all affordable units being for sale units.
6. Subject to compliance with the letters of the Board's professionals and the environmental commission. **(Exhibits B-1 through B-)**
11. Subject to all representations made by the applicant during the application.
12. Subject to the applicant entering into a Developer's Agreement with the Township if such is required by the Township's Engineer.
13. This application is granted only in conjunction with the conditions noted herein and but for the existence of the same, the within application would not be approved.
14. Subject to any and all other approvals as may be required by the Township, prior to the issuance of any permits.
15. Subject to adherence to any applicable affordable housing ordinances of the Township of Ocean.
16. Subject to the payment of any fees, escrows and taxes as may be due to the Township, prior to the issuance of any permits.
17. This approval shall be deemed void by abandonment if the applicant does not proceed with building permits within three (3) years of this Resolution's adoption.
18. The action of the Planning Board in approving this application shall not relieve the applicant of responsibility for any damage caused by this project, nor does the

Planning Board of the Township of Ocean or its reviewing professionals and agencies accept any responsibility for the design of the proposed improvements or for any damage that may be caused by the development.

19. The applicant must publish adequate notice of this Resolution in the official newspaper of the Township of Ocean at their sole cost, within ten days, and provide proof of publication to the Board Secretary within thirty days

The foregoing was Moved by: Weinstein

Seconded by: Menell and on Roll

Call, the following vote was recorded:

Affirmative: DiFiglia, Duthie, Menell, Bodnovich, Mamiye, Weinstein

Negative: None

Abstentions: None

The foregoing is a true copy of a Resolution adopted by the Planning Board of the Township of Ocean during its meeting on December 11, 2023.



CLAIRE VILANOVA
SECRETARY TO THE PLANNING BOARD



R. 44 MONMOUTH ROAD DOCUMENTATION

**RESOLUTION OF THE ZONING BOARD
OF ADJUSTMENT OF THE TOWNSHIP
OF OCEAN**

PRELIMINARY AND FINAL SITE PLAN APPROVAL

WHEREAS, an application to construct a three-story building with eleven residential units on premises known and designated as 44 Monmouth Road, Oakhurst, Block 7, Lot 51, in the C-1 Neighborhood Zone was filed by Memo Investments, LLC, with the Building Inspector and/or Zoning Officer of the Township of Ocean; and

WHEREAS, the Zoning Board of Adjustment of the Township of Ocean granted the Applicant a D-1 Use Variance for a multi-family residential use; and bulk variances for minimum size of lot, minimum lot width, minimum lot depth, minimum front yard setback, minimum side yard setback, minimum gross floor area, maximum lot coverage, and maximum building height (number of floors); and

WHEREAS, the Board of Adjustment of the Township of Ocean held a public hearing on April 16, 2024, and the surrounding property owners within 200 feet having been given notice and the Applicant having published notice as required by law; and

WHEREAS, the Zoning Board of Adjustment of the Township of Ocean has reviewed the plans for same entitled, "Preliminary and Final Site Plan for Proposed Multi-Family Development, Block 7, Lot 51, Tax Map Sheet #8, 44 Monmouth Road, Township of Ocean, Monmouth County, NJ", prepared by Insite Engineering, Patrick R. Ward, PE and PP, dated March 31, 2022, revised through October 5, 2023, consisting of 15 sheets described as follows:

Sheet 1 – Title Sheet.

Sheet 2 – Existing Conditions Plan.

Sheet 3 – Tree Location and Preservation Plan.

Sheet 4 – Site Plan.

Sheet 5 – Turning Movement Plan.

Sheet 6 – Grading, Drainage & Utility Plan.

Sheet 7 – Pavement Plan

Sheet 8 - Landscape Plan.

Sheet 9 – Lighting Plan.

Sheet 10 – Landscape & Lighting Details.

Sheet 11 – Construction Details.

Sheet 12 – Construction Details

Sheet 13 – Soil Erosion & Sediment Control Plan.

Sheet 14 – Soil Erosion & Sediment Control Details.

Sheet 15 – Soil Erosion & Sediment Control Details.

Together with Architectural Plans entitled, “44 Monmouth Road, Oakhurst, Ocean Twp., NJ, Block 7, Lot 51” consisting of six (6) sheets prepared by Brick City Reconstruction, dated March 29, 2022, revised through September 28, 2023.

WHEREAS, the aforesaid plans have been reviewed by the Township Planner by reports dated January 15, 2024; the Board Engineer by reports dated January 12, 2024; the Fire Marshal report dated May 17, 2022; Crime Prevention Officer report dated December 4, 2023; the Traffic Safety Officers report dated December 13, 2023; the Code Enforcement report dated December 6, 2023; the Environmental Commission report dated January 18, 2024, and the Public Works Department report dated December 7, 2023, which said officials and/or agencies having found the proposed plans to be satisfactory subject to the conditions to be hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Ocean that the Preliminary and Final Site Plan application of Memo Investments, LLC, with regard to the plans noted above, be and is hereby approved, subject to the following conditions:

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that this approval is conditioned upon all construction being in substantial conformance with the plans, specifications and testimony submitted before the Board; and the Applicant being permitted to erect a conforming fence to enclose the property.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that this approval is conditioned upon the following:

1. Publication by the Applicant of a notice of this decision in the official newspaper serving the Township of Ocean and return of proof of publication to the Planning Administrator.
2. Payment of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued until proof is furnished to the Planning Administrator that there are no taxes, escrows or assessments due or delinquent on the property in question.

3. Compliance with any and all other requirements of this Municipality and any other governmental subdivision as set forth in the laws, Ordinances, or regulations and obtainment of any permits or approvals required there under.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that this approval is conditioned upon the Applicant's acknowledgement, understanding and acceptance that, except for the relief from specific Zoning and/or Municipal Ordinance requirements which are the subject of this application, the within approval does not grant, or imply the grant of, relief from any other local, County, State and/or Federal regulation governing the proposed construction, even if plans, illustrations and/or construction specifications presented by the Applicant as part of the within application clearly deviate from the requirements of such regulations. In order to obtain a building permit, the Applicant must present construction plans prepared in accordance with any and all applicable building codes and meet any and all applicable Municipal, County, State and/or Federal requirements regarding the proposed construction as well, and any and all construction permits required by statutes governing jurisdictional bodies outside the Township of Ocean.

DATED: April 16, 2024

MOVED BY: Ashkenazi

SECONDED BY: Littman

ROLL CALL VOTE

Those in Favor: Littman, Ashkenazi, DeGennaro, Leneski, Caramanica, Chairwoman Beale

Those Against: None

Those Absent: Fuller, Dellomo, Chmura, Pugielli

Those Abstaining: None

Those Ineligible: None

MEMORIALIZATION DATE: May 16, 2024

MOVED BY: DeGennaro

SECONDED BY: Ashkenazi

ROLL CALL VOTE

Those in Favor: Ashkenazi, DeGennaro, Lenesi, Caramanica, Chairwoman Beale

Those Against: None

Those Absent: Littman, Chmura

Those Abstaining: None

Those Ineligible: Fuller, Dellomo, Chmura, Pugielli

The foregoing is a true copy of the Resolution adopted by the Board of Adjustment of the Township of Ocean at its meeting of May 16, 2024, and copied from the Minutes of said meeting.



Secretary, Zoning Board of
Adjustment of the Township
of Ocean

**RESOLUTION OF THE ZONING BOARD
OF ADJUSTMENT OF THE TOWNSHIP
OF OCEAN**

APPROVAL OF D-1 USE VARIANCE

WHEREAS, an application to construct a three-story building with eleven residential units on premises known and designated as 44 Monmouth Road, Oakhurst, Block 7, Lot 51, in the C-1 Neighborhood Zone was filed by Memo Investments, LLC, with the Building Inspector and/or Zoning Officer of the Township of Ocean; and

WHEREAS, the Building Inspector and/or Zoning Officer of the Township of Ocean denied the application for a building permit because the Applicant is in need of a D-1 Use Variance for a multi-family residential use; bulk variances for maximum lot coverage, maximum building height by way of number of stories, minimum parking setback to right-of-way, minimum side yard parking setback, minimum side yard curb cut setback, minimum driveway width, parking stall size, parking location in a front yard, and width of landscaped areas; and the Applicant is in need of Site Plan approvals; and

WHEREAS, an application was filed with the Board of Adjustment of the Township of Ocean for a variance from the requirements of the Zoning Ordinance aforesaid; and

WHEREAS, the Board of Adjustment of the Township of Ocean held a public hearing on April 16, 2024, and the Board having taken the testimony of the Applicant and its expert witnesses, and having considered the exhibits accepted into evidence and the reports of the Board's professionals and those appearing from the public, the Board made the following findings of facts:

1. The Applicant proposes to construct a three-story building with eleven residential units consisting of six two-bedroom and five three-bedroom units as well as a basement with storage, a gym, a multi-purpose room, and utilities. Site improvements include a total of 25 parking spaces, a playground area, lighting, landscaping and signage.
2. The site is a 23,877 square feet lot with 123.25 feet of frontage on Monmouth Road and a depth of 200 feet. Same is currently vacant and was previously cleared of all improvements.
3. The site abuts an office use to the north, a commercial use to the south, single family residences to the west and commercial uses and open space across Monmouth Road. The

rear yard of the residence at the immediate rear of the site is developed with a swimming pool and associated amenities, located approximately 10 feet from the rear property line.

4. The site in the C-1 Zone where the proposed use of a multi-family residential structure is not specifically permeated as a standalone use in the C-1 Zone, but is permitted as part of a Commercial/Residential mixed-use development.

5. While the standalone multi-family use is not permitted in this zone, multi-family dwellings are permitted in a mixed-use development provided affordable housing is provided. The Applicant proposed to include two affordable units as part of the project as required by the ordinance and subject to a determination on final number of units and unit types by the Township Special Planner and/or Affordable Housing Administrator per the state regulations.

6. The Applicant's engineer demonstrated a positive storm water management and will be reducing the existing run off by 90%.

7. Per ordinance, the Applicant needs 20 parking spaces and is providing 25 parking spaces.

8. The proposed trash room will accommodate the needs of the residents.

9. The Applicant presented a traffic engineer who conducted a traffic examination of the proposed use and found that same will generate less traffic than the permitted use of commercial on the first floor with residential units above same.

10. The additional traffic added to Monmouth Road will have no significant impact on the current conditions and will add about 8 cars per hour during the peak traffic hours.

11. The height of the building meets or is less than the maximum height of 40 feet permitted.

12. The Applicant presented a Professional Planner who opined that the Ordinance permits the site to be developed with commercial on the first floor and residential on the upper floors and in the rear of the first floor.

13. As a result of consultation with the Township Planner the application as amended is a three-story multi-family residential building with no commercial component to reduce any impact from a commercial use adjacent to the residential neighbors to the west.

14. The Applicant's Professional Planner finds the site suitable for the intended use as it is what is basically permitted without the intensity of a commercial use component so close to residences.

15. The use of the site for residential permits the occupants to walk to nearby commercial establishments, and will enhance the viability of the neighborhood businesses which is a goal of the Master Plan.

16. The Applicant's Professional Planner does not find any negative impact in the use of the site as presented without the commercial component as same will be more compatible with the adjacent residential area, will generate less traffic, and will overall be a less intense use than permitted in the zone.

17. The on-site parking is screened from Monmouth Road with landscaping and the Applicant has buffered the building to the west with a small playground area to separate same from the residents to the rear.

18. Several nearby residents appeared to question the Applicant's professionals but overall the response provided a clear picture of a use much less intense than permitted.

19. The proposed development meets the goals of the Municipal Land Use Law and Master Plan, specifically the following stated purposes: A to promote the general welfare as it fits into the neighborhood, provides more housing options and will provide affordable housing in at least one or two of the eleven units; B to promote a safe environment by improvements to the storm water management on site; C to provide light, air and open space; E have an appropriate density; G provide space for residential use; I have a desirable visual effect; and J prevent urban sprawl and preserve property values in the neighborhood.

20. On balance, the positive benefits of the application outweigh any detriments.

21. In view of the above the Applicant has presented credible testimony as to the positive criteria for the use and has shown that there is no negative impact on the surrounding area or detriment to the Zoning Ordinance or the Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Ocean that it hereby adopts the aforesaid findings of fact, and, in addition thereto, finds:

1. Service was made on all persons within 200 feet of the subject premises and publication was made in the Asbury Park Press.

2. Based on the aforementioned findings of fact, the Board does find that the Applicant established special reasons cognizable by the Board of Adjustment of the Township of Ocean.

3. Based upon the aforementioned findings of fact, the granting of a variance for the use as proposed would not cause substantial detriment to the public good and would not substantially impair the intent and purposes of the Zoning Ordinance or the Zoning Plan.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that it hereby grants Applicant's request for a D-1 variance for a multi-family use.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that this variance is conditioned upon all construction being in substantial conformance with the plans, specifications and testimony submitted before the Board; and the Applicant being granted all bulk variances, site plan approval.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that this variance is conditioned upon the following:

1. Publication by the Applicant of a notice of this decision in the official newspaper serving the Township of Ocean and return of proof of publication to the Planning Administrator.

2. Payment of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued until proof is furnished to the Planning Administrator that there are no taxes, escrows or assessments due or delinquent on the property in question.

3. Compliance with any and all other requirements of this Municipality and any other governmental subdivision as set forth in the laws, Ordinances, or regulations and obtainment of any permits or approvals required there under.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that this variance is conditioned upon the Applicant's acknowledgement, understanding and acceptance that, except for the relief from specific Zoning and/or Municipal Ordinance requirements which are the subject of this application, the within approval does not grant, or imply the grant of, relief from any other local, County, State and/or Federal regulation governing the proposed construction, even if plans, illustrations and/or construction specifications presented by the Applicant as part of the within application clearly deviate from the requirements of such regulations. In order to obtain a building permit, the Applicant must present construction plans

prepared in accordance with any and all applicable building codes and meet any and all applicable Municipal, County, State and/or Federal requirements regarding the proposed construction as well, and any and all construction permits required by statutes governing jurisdictional bodies outside the Township of Ocean.

DATED: April 16, 2024

MOVED BY: Ashkenazi

SECONDED BY: Littman

ROLL CALL VOTE

Those in Favor: Littman, Ashkenazi, DeGennaro, Lenesi, Caramanica, Chairwoman Beale

Those Against: None

Those Absent: Fuller, Dellomo, Chmura, Pugielli

Those Abstaining: None

Those Ineligible: None

MEMORIALIZATION DATE: May 16, 2024

MOVED BY: DeGennaro

SECONDED BY: Ashkenazi

ROLL CALL VOTE

Those in Favor: Ashkenazi, DeGennaro, Lenesi, Caramanica, Chairwoman Beale


Those Against: None

Those Absent: Littman, Chmura

Those Abstaining: None

Those Ineligible: Fuller, Dellomo, Chmura, Pugielli

The foregoing is a true copy of the Resolution adopted by the Board of Adjustment of the Township of Ocean at its meeting of May 16, 2024, and copied from the Minutes of said meeting.


Secretary, Zoning Board of
Adjustment of the Township
of Ocean

**RESOLUTION OF THE ZONING BOARD
OF ADJUSTMENT OF THE TOWNSHIP
OF OCEAN**

APPROVAL OF BULK VARIANCES

WHEREAS, an application to construct a three-story building with eleven residential units on premises known and designated as 44 Monmouth Road, Oakhurst, Block 7, Lot 51, in the C-1 Neighborhood Zone was filed by Memo Investments, LLC, with the Building Inspector and/or Zoning Officer of the Township of Ocean; and

WHEREAS, the Building Inspector and/or Zoning Officer of the Township of Ocean denied the application for a building permit because the Applicant is in need of a D-1 Use Variance for a multi-family residential use; bulk variances for maximum lot coverage, maximum building height by way of number of stories, minimum parking setback to right-of-way, minimum side yard parking setback, minimum side yard curb cut setback, minimum driveway width, parking stall size, parking location in a front yard, and width of landscaped areas; and the Applicant is in need of Site Plan approvals; and

WHEREAS, an application was filed with the Board of Adjustment of the Township of Ocean for a variance from the requirements of the Zoning Ordinance aforesaid; and

WHEREAS, the Board of Adjustment of the Township of Ocean held a public hearing on April 16, 2024, and the Board having taken the testimony of the Applicant and its expert witnesses, and having given consideration to the exhibits accepted into evidence and the reports of the Board's professionals and those appearing from the public, the Board made the following findings of facts:

1. The Applicant proposes to construct a three-story building with eleven residential units consisting of six two-bedroom and five three-bedroom units as well as a basement with storage, a gym, a multi-purpose room, and utilities. Site improvements include a total of 25 parking spaces, a playground area, lighting, landscaping and signage.
2. The site is a 23,877 square feet lot with 123.25 feet of frontage on Monmouth Road and a depth of 200 feet. Same is currently vacant and was previously cleared of all improvements.
3. The site abuts an office use to the north, a commercial use to the south, single family residences to the west and commercial uses and open space across Monmouth Road. The

rear yard of the residence at the immediate rear of the site is developed with a swimming pool and associated amenities, located approximately 10 feet from the rear property line.

4. Section 21-35.2.a.8 of the Municipal Ordinance of the Township of Ocean permits a maximum lot coverage of 27%. The proposed lot coverage is 27.8% which includes a six inch building overhang which, if eliminated, would reduce the coverage below 27%. The aesthetic benefit of the overhang outweighs the detriment as same does not significantly increase the impervious coverage.

5. Section 21-35.2.a.9 of the Municipal Ordinance of the Township of Ocean permits 2.5 stories and a maximum height of 35 feet. The proposed building meets the maximum height allowed as same is 34.5 feet and the 3 stories are consistent with more intensive mixed use development that is permitted.

7. Section 21-45.5.c of the Municipal Ordinance of the Township of Ocean requires parking spaces to be 10 feet wide. The New Jersey Residential Site Improvement Standards (RSIS) which supersedes the Ocean Township Zoning Ordinance permits 9 feet wide parking spaces. The Township Planner has no objection to the granting of this variance and same will allow for a more than sufficient number of parking spaces on this site.

8. Section 21-45.12.a & b. of the Municipal Ordinance of the Township of Ocean prohibits parking in a front yard for residential uses and uses in commercial zones, unless a 25 feet landscaped area is provided along the front property line and a 10 feet landscaped area is provided along the side property line. Neither landscaped area is being provided by the Applicant. Also, the Ordinance limits the width of a residential driveway in a front yard to 20 feet and the driveway proposed is 24 feet wide in the front yard.

9. Neither the Township Planner nor the Professional Planner provided by the Applicant have concerns for the negative impact of the parking and driveway on this site. The parking is as far as possible from the adjacent residential area and has been designed to make the parking areas imperceptible. The width of the driveway as 24 feet is more appropriate than the 20 feet wide limitation since a residential use on this site was not contemplated and the same accommodates a garbage truck and emergency vehicles.

10. Section 21-45.13.a of the Municipal Ordinance of the Township of Ocean requires that curb cuts be located in the center 1/3 of the lot and the proposed curb cuts are located mostly in the northern 1/3 of the lot.

11. To comply with the ordinance the curb cuts would be at least 41 feet from each side and as the front property is only 123.25 feet wide and cannot meet this standard as to provide a required ~~minimum~~ curb radius to accommodate garbage and emergency vehicles. The design of the building required the curb cuts to be located where placed.

12. Section 21-47.1.c.1 & 2 of the Municipal Ordinance of the Township of Ocean requires that a 25 feet wide landscaped area be provided along street lines and a 10 feet wide landscaped area be provided along all side and rear property lines. Where buildings are closer than 10 feet to a side lot line, all areas between the building and property line shall be landscaped. The Applicant proposes 15 feet of landscaping in the front yard; 7.53 feet on the north side; 0 feet on the southern side adjacent to the building; and 5.4 feet on the southern side adjacent to the parking lot in front of the building.

13. The site proposes substantial landscaping and will be an improvement to the area. The Applicant agreed with the Township planner to further mitigate this variance by using decorative pavers rather than concrete in the area between the building and the southern property line to be more consistent with the intent of the ordinance.

14. The Applicant will meet the requirement of 4 inches of mulch, have the landscape plan prepared by a licensed Landscaped Architect, and provide an underground sprinkler system.

15. On balance, the positive benefits of the application outweigh any detriments.

16. In view of the above the Applicant has presented credible testimony as to the positive criteria for the use and has shown that there is no negative impact on the surrounding area or detriment to the Zoning Ordinance or the Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Township of Ocean that it hereby adopts the aforesaid findings of fact, and, in addition thereto, finds;

1. Service was made on all persons within 200 feet of the subject premises and publication was made in the Asbury Park Press.

2. Based on the aforementioned findings of fact, the Board does find that the Applicant established special reasons cognizable by the Board of Adjustment of the Township of Ocean.

3. Based upon the aforementioned findings of fact, the granting of a variance for the use as proposed would not cause substantial detriment to the public good and would not substantially impair the intent and purposes of the Zoning Ordinance or the Zoning Plan.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that it hereby grants Applicant's request for Bulk Variances as to maximum lot coverage, maximum building height by way of number of stories, minimum parking setback to right-of-way, minimum side yard parking setback, minimum side yard curb cut setback, minimum driveway width, parking stall size, parking location in a front yard, and width of landscaped areas.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that this variance is conditioned upon all construction being in substantial conformance with the plans, specifications and testimony submitted before the Board; and the Applicant being granted site plan approval.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that these variances are conditioned upon the following:

1. Publication by the Applicant of a notice of this decision in the official newspaper serving the Township of Ocean and return of proof of publication to the Planning Administrator.
2. Payment of all taxes, escrows and assessments to date. No building permit or certificate of occupancy is to be issued until proof is furnished to the Planning Administrator that there are no taxes, escrows or assessments due or delinquent on the property in question.
3. Compliance with any and all other requirements of this Municipality and any other governmental subdivision as set forth in the laws, Ordinances, or regulations and obtainment of any permits or approvals required there under.

BE IT FURTHER RESOLVED, by the Board of Adjustment of the Township of Ocean that these variances are conditioned upon the Applicant's acknowledgement, understanding and acceptance that, except for the relief from specific Zoning and/or Municipal Ordinance requirements which are the subject of this application, the within approval does not grant, or imply the grant of, relief from any other local, County, State and/or Federal regulation governing the proposed construction, even if plans, illustrations and/or construction specifications presented by the Applicant as part of the within application clearly deviate from

the requirements of such regulations. In order to obtain a building permit, the Applicant must present construction plans prepared in accordance with any and all applicable building codes and meet any and all applicable Municipal, County, State and/or Federal requirements regarding the proposed construction as well, and any and all construction permits required by statutes governing jurisdictional bodies outside the Township of Ocean.

DATED: April 16, 2024

MOVED BY: Ashkenazi

SECONDED BY: Littman

ROLL CALL VOTE

Those in Favor: Littman, Ashkenazi, DeGennaro, Leneski, Caramanica, Chairwoman Beale

Those Against: None

Those Absent: Fuller, Dellomo, Chmura, Pugielli

Those Abstaining: None

Those Ineligible: None

MEMORIALIZATION DATE: May 16, 2024

MOVED BY: DeGennaro

SECONDED BY: Ashkenazi

ROLL CALL VOTE

Those in Favor: Ashkenazi, DeGennaro, Leneski, Caramanica, Chairwoman Beale


Those Against: None

Those Absent: Littman, Chmura

Those Abstaining: None

Those Ineligible: Fuller, Dellomo, Chmura, Pugielli

The foregoing is a true copy of the Resolution adopted by the Board of Adjustment of the Township of Ocean at its meeting of May 16, 2024, and copied from the Minutes of said meeting.


Secretary, Zoning Board of
Adjustment of the Township
of Ocean



S. HERBERT AVENUE DOCUMENTATION



DRAFT ORDINANCE TO BE SUPPLIED ONCE DEVELOPED WITH LANDOWNER INPUT



T. AFFORDABLE HOUSING ORDINANCE MANDATORY SET-ASIDE ORDINANCE DEVELOPMENT FEE ORDINANCE

§ 21-9B. Affordable Housing.

§ 21-9B.1. General Program Purposes, Procedures. [Added 10-13-2016 by Ord. No. 2281]

a. Affordable Housing Obligation.

1. This § 21-9B of the Township's Comprehensive Land Development Ordinance sets forth regulations regarding the very-low-, low- and moderate-income housing units in the Township consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing," N.J.A.C. 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., except where modified by the requirements for very-low-income housing as established in P.L. 2008, c. 46 (the "Roberts Bill," codified at N.J.S.A. 52:27D-329.1) as reflected in the terms of a settlement agreement between the Township and the Fair Share Housing Center ("FSHC") such that the statutory requirement to provide very-low-income units equal to 13% of affordable units approved and constructed after July 17, 2008, to be affordable households at 30% of the regional median income, overrides the UHAC requirement that 10% of all low- and moderate-income units must be affordable at 35% of the regional median income, and the Township's constitutional obligation to provide a fair share of affordable housing for very-low-, low-, and moderate-income households. **[Amended 1-30-2020 by Ord. No. 2331]**
2. This section is intended to assure that very-low-, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low-, low- and moderate-income households shall occupy these units. This section shall apply. to all inclusionary developments and 100% affordable developments (including those funded with low-income housing tax credit financing), except where inconsistent with applicable law. **[Amended 1-30-2020 by Ord. No. 2331]**
3. The Township of Ocean Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Township Council of the Township of Ocean. The Fair Share Plan describes the ways the Township shall address its fair share for low- and moderate-income housing as previously determined by the Council on Affordable Housing ("COAH"), to be determined by the Superior Court and documented in the Township's Housing Element and Fair Share Plan.
4. This section implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:93, as may be amended and supplemented.
5. The Township of Ocean shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan: **[Amended 1-30-2020 by Ord. No. 2331]**
 - (a) Beginning on June 25, 2020, and on every anniversary of that date through June 25, 2025, the Township agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs ("NJDCA"), Council on Affordable Housing ("COAH"), or Local Government Services ("NJLGS"), or other entity designated by the State of New Jersey, with a

copy provided to FSHC and posted on the municipal website, using forms developed for this purpose by the NJDCA, COAH, or NJLGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- (b) Beginning on June 25, 2020, and on every anniversary of that date through June 25, 2025, the Township agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- (c) By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity. Any interested party may by motion request a hearing before the Court regarding these issues.
- (d) By June 25, 2022, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the Township will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very-low-income requirements, including its family very -low-income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very-low-income and family very-low-income housing obligations.

6. **Applicability. [Added 1-30-2020 by Ord. No. 2331]**

- (a) The provisions of this section shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Township of Ocean pursuant to the Township's most recently adopted Housing Element and Fair Share Plan.
- (b) Moreover, this section shall apply to all developments that contain very-low-, low- and moderate-income housing units, including any currently unanticipated future developments that will provide very-low-, low- and moderate-income housing units.
- (c) Projects receiving federal low-income housing tax credit financing shall comply with the income and bedroom distribution requirements of UHAC at N.J.A.C. 5:80-26.3 (with the exception that the UHAC requirement for 10% of the affordable units in rental projects being required to be at 35% of median income be modified as required by the statutory requirement, N.J.S.A. 52:27D-329.1, to 13% of affordable units in such projects shall be required to be at 30% of median income) and the length of the affordability controls applicable to such projects shall

be not less than a 30 year compliance period, plus a fifteen-year extended use period.

7. Township-wide mandatory set-aside. **[Added 1-30-2020 by Ord. No. 2331]**

- (a) A multifamily development providing a minimum of five new housing units created through a municipal rezoning; Zoning Board use or density variance; redevelopment plan or rehabilitation plan that provide for densities at or above six units per acre is required to include an affordable housing set-aside of 20% if the affordable units will be for sale and 15% if the affordable units will be for rent.
- (b) At least 50% of the affordable units in each development shall be affordable to low-income housing. At least 13% of all affordable units in rental developments shall be affordable to very-low-income households.
- (c) All such affordable units, including bedroom distribution, shall be governed by the controls on affordability and affirmatively marketed in conformance with UHAC, N.J.A.C. 5:80-26.1 et seq., or any successor regulation, and all other applicable law.
- (d) No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement. Developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold.
- (e) This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Township of Ocean to grant such rezoning, variance or other relief.
- (f) This Township-wide mandatory set-aside requirement does not apply to any sites or specific zones otherwise identified in the Township's settlement agreement with FSHC or Fair Share Plan, for which density and set-aside requirements shall be governed by the specific standards as set forth therein. The Township shall maintain this mandatory set-aside provision through at least July 7, 2025, at which time the Township may determine to extend the applicability of the provision.

- b. Definitions. As used in §§ 21-9A and 21-9B of this chapter, the following terms shall have the following meanings: **[Amended 1-30-2020 by Ord. No. 2331]**

ACCESSORY APARTMENT — Shall mean a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

ACT — Shall mean the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

ADAPTABLE — Shall mean constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT — Shall mean the entity responsible for the administration

of affordable units in accordance with this section 21-9B, N.J.A.C. 5:91, N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et seq.

AFFIRMATIVE MARKETING — Shall mean a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

AFFORDABILITY AVERAGE — Shall mean the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households per N.J.A.C. 5:80-26.3.

AFFORDABLE — Shall mean, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:93-7.4; in the case of an ownership unit, that the sales price for this unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

AFFORDABLE DEVELOPMENT — Shall mean a housing development all or a portion of which consists of restricted units.

AFFORDABLE HOUSING DEVELOPMENT — Shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

AFFORDABLE HOUSING PROGRAM(S) — Shall mean any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT — Shall mean a housing unit proposed or created pursuant to the Act, and approved for crediting by the Court, and/or funded through an affordable housing trust fund.

AGE-RESTRICTED UNIT — Shall mean a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

AGENCY — Shall mean the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

ALTERNATIVE LIVING ARRANGEMENT — Shall mean a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE — Shall mean a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and

congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

CERTIFIED HOUSEHOLD — Shall mean a household that has been certified by an administrative agent as a very-low-income household, a low-income household or moderate-income household.

COAH or THE COUNCIL — Shall mean the New Jersey Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.), which had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state.

DCA — Shall mean the State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT — Shall mean a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

DEVELOPER — Shall mean any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT — Shall mean the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

DEVELOPMENT FEE — Shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE — Shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through 54:1-35c).

FAIR SHARE PLAN — Shall mean the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Township proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:93-5.

GREEN BUILDING STRATEGIES — Shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

HOUSING ELEMENT — Shall mean the portion of the Township's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes

the information required by N.J.A.C. 5:93-5.1 and establishes the Township's fair share obligation.

INCLUSIONARY DEVELOPMENT — Shall mean a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a nonresidential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD — Shall mean a household with a total gross annual household income equal to 50% or less of the median regional household income by household size.

LOW-INCOME UNIT — Shall mean a restricted unit that is affordable to a low-income household.

MAJOR SYSTEM — Shall mean the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

MARKET-RATE UNITS — Shall mean housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME — Shall mean the median income by household size for the applicable housing region, as adopted annually by the Township pursuant to this section, by COAH or a successor entity approved by the Court

MODERATE-INCOME HOUSEHOLD — Shall mean a household with a total gross annual household income in excess of 50% but less than 80% of the regional median household income by household size.

MODERATE-INCOME UNIT — Shall mean a restricted unit that is affordable to a moderate-income household.

NON-EXEMPT SALE — Shall mean any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

RANDOM SELECTION PROCESS — Shall mean a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

REGIONAL ASSET LIMIT — Shall mean the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by duly adopted regional income limits published annually by COAH or a successor entity.

REHABILITATION — Shall mean the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

RENT — Shall mean the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

RESTRICTED UNIT — Shall mean a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHOP or MONI.

SPECIAL MASTER — Shall mean an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

UHAC — Shall mean the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

VERY LOW-INCOME HOUSEHOLD — Shall mean a household with a total gross annual household income equal to 30% or less of the regional median household income by household size.

VERY LOW-INCOME UNIT — Shall mean a restricted unit that is affordable to a very low-income household.

WEATHERIZATION — Shall mean building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

- c. New Construction. The following requirements shall apply to all new or planned developments that contain very-low, low- and moderate-income housing units.
1. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for very-low, low- and moderate-income units whether developed in a single phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

2. Design. [Amended 1-30-2020 by Ord. No. 2331]

- (a) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

- (b) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market-rate units.
- 3. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:93-8.10(c).
- 4. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.
- 5. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - (a) The fair share obligation shall be divided equally between low- and moderate-income units N.J.A.C. 5:93-2.20, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit.
 - (b) In each affordable development, at least 50% of the restricted units shall be affordable to low-income households. Also, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
 - (c) Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very-low-income households.
 - (d) Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (1) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (2) At least 30% of all low- and moderate-income units shall be two bedroom units;
 - (3) At least 20% of all low- and moderate-income units shall be three bedroom units; and
 - (4) The remaining affordable units may be allocated among two and three bedroom units at the discretion of the developer.
 - (e) Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- 6. Accessibility requirements.
 - (a) The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7, and the following: **[Amended 1-30-2020 by Ord. No. 2331]**
 - (b) All restricted townhouse dwelling units and all restricted units in other multistory

buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- (1) An adaptable toilet and bathing facility on the first floor;
- (2) An adaptable kitchen on the first floor;
- (3) An interior accessible route of travel on the first floor;
- (4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor;¹
- (5) If not all of the foregoing requirements in Subsection c6(b)(1) through (4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of Subsection c6(b)(1) through (4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and **[Added 1-30-2020 by Ord. No. 2331²]**
- (6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Township has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:
 - (i) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - (ii) To this end, the builder of restricted units shall deposit funds within the Township of Ocean's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
 - (iii) The funds deposited under Subsection 6(b)(6)(ii) herein, shall be used by the Township for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - (iv) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Ocean.
 - (v) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to

1. Editor's Note: Former Subsection c6(b)(4), regarding an interior accessible route of travel, was repealed 1-30-2020 by Ord. No. 2331.

2. Editor's Note: This ordinance also redesignated former Subsection c6(b)(5) as Subsection c6(b)(4).

the Township of Ocean's affordable housing trust fund in care of the Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

- (vi) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.

7. Maximum rents and sales prices. In conjunction with realistic market information, the following criteria shall be used in determining maximum rents and sale prices:

- (a) In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court and detailed herein. "Regional income units shall be established for the region that the Township is located within (i.e., Region 4) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied by the estimated households within the county according to the most recent decennial census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial census in the Township's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80% of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50% of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very-low-income unit for a household of four shall be 30% of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year." **[Amended 1-30-2020 by Ord. No. 2331]**
- (b) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
- (c) The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - (1) Very-low Income. At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.

- (d) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- (e) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
 - (1) A studio or efficiency unit shall be affordable to a one-person household;
 - (2) A one-bedroom unit shall be affordable to a 1 1/2 person household;
 - (3) A two-bedroom unit shall be affordable to a three-person household;
 - (4) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (5) A four-bedroom unit shall be affordable to a six-person household.
- (f) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted-living facilities and age-restricted developments, the following standards shall be met: **[Amended 1-30-2020 by Ord. No. 2331]**
 - (1) A studio or efficiency unit shall be affordable to a one-person household;
 - (2) A one-bedroom unit shall be affordable to a 1 1/2 person household; and
 - (3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- (g) The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
- (h) The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

- (i) The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
 - (j) The rent of very-low-, low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rent increases for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits. **[Amended 1-30-2020 by Ord. No. 2331]**
 - (k) Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.
- d. Condominium and Homeowners' association Fees. For any affordable housing unit that is part of a condominium association and/or homeowners' association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

§ 21-9B.2. Affordable Unit Controls and Requirements. [Added 10-13-2016 by Ord. No. 2281]

- a. Purpose. The requirements of this Subsection 21-9B.2 apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.
- b. Affirmative Marketing.
 - 1. The Township shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
 - 2. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 4 and is required to be followed throughout the period of deed restriction. **[Amended 1-30-2020 by Ord. No. 2331]**
 - 3. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 4, comprised of Mercer, Monmouth and Ocean counties.
 - 4. The municipality has the ultimate responsibility for adopting the affirmative marketing plan and for the proper administration of the affirmative marketing program, including

initial sales and rentals and resales and rerentals. The administrative agent designated by the Township shall assure the affirmative marketing of all affordable units is consistent with the affirmative marketing plan for the municipality. **[Amended 1-30-2020 by Ord. No. 2331]**

5. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 6. The affirmative marketing process for available affordable units shall begin at least four months (120) days prior to the expected date of occupancy. **[Amended 1-30-2020 by Ord. No. 2331]**
 7. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Township of Ocean.
 8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request. **[Added 1-30-2020 by Ord. No. 2331]**
 9. In addition to other affirmative marketing strategies, the administrative agent shall provide specific notice of the availability of affordable housing units in Ocean Township, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, STEPS, OCEAN, Inc., the Greater Red Bank, Asbury Park/Neptune, Bayshore, Greater Freehold, Greater Long Branch, and Trenton Branches of the NAACP, and the Supportive Housing Association. **[Added 1-30-2020 by Ord. No. 2331]**
- c. Occupancy Standards.
1. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - (a) Provide an occupant for each bedroom;
 - (b) Provide children of different sex with separate bedrooms;
 - (c) Prevent more than two persons from occupying a single bedroom; and
 - (d) Provide separate bedrooms for parents and children. **[Added 1-30-2020 by Ord. No. 2331]**
 2. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

- d. Selection of Occupants of Affordable Housing Units.
 - 1. The administrative agent shall use a random selection process to select occupants of low- and moderate-income housing.
 - 2. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26.1 et seq.
- e. Control periods for restricted ownership units and enforcement mechanisms. **[Amended 1-30-2020 by Ord. No. 2331]**
 - 1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this section for a period of at least 30 years, until Ocean Township takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
 - 2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
 - 3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the nonrestricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
 - 4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the administrative agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first nonexempt sale after the unit's release from the restrictions set forth in this section, an amount equal to the difference between the unit's nonrestricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
 - 5. The affordability controls set forth in this section shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
 - 6. A restricted ownership unit shall be required to obtain a continuing certificate of occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.
- f. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:
 - 1. The initial purchase price for a restricted ownership unit shall be approved by the

Administrative Agent.

2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
4. The owners of restricted ownership units may apply to the administrative agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household. **[Amended 1-30-2020 by Ord. No. 2331]**
5. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the administrative agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale, provided the price, which shall be subject to ten-year, straight-line depreciation, has been approved by the administrative agent. Unless otherwise approved by the administrative agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale. **[Added 1-30-2020 by Ord. No. 2331]**

g. Buyer Income Eligibility.

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
2. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.
3. Notwithstanding the foregoing, the administrative agent may, upon approval by the Township Committee, and subject to the Court's approval, permit a moderate-income

purchaser to buy a low-income unit if and only if the administrative agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit. **[Added 1-30-2020 by Ord. No. 2331]**

4. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the administrative agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year. **[Added 1-30-2020 by Ord. No. 2331]**
- h. Limitations on Indebtedness Secured by Ownership Unit; Subordination.
 1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine, in writing, that the proposed indebtedness complies with the provisions of this section, and the administrative agent shall issue such determination prior to the owner incurring such indebtedness. **[Amended 1-30-2020 by Ord. No. 2331]**
 2. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C. 5:80-26.6(b).
- i. Control periods for restricted rental units.
 1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this section for a period of at least 30 years, until Ocean Township takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented. **[Amended 1-30-2020 by Ord. No. 2331]**
 2. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
 3. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
 4. A restricted rental unit shall remain subject to the affordability controls of this section, despite the occurrence of any of the following events:

- (a) Sublease or assignment of the lease of the unit;
 - (b) Sale or other voluntary transfer of the ownership of the unit; or
 - (c) The entry and enforcement of any judgment of foreclosure on the property containing the unit. **[Amended 1-30-2020 by Ord. No. 2331]**
- j. Rent restrictions for rental units; leases. **[Amended 1-30-2020 by Ord. No. 2331]**
 - 1. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
 - 2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
 - 3. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this section.
 - 4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this section.
- k. Tenant Income Eligibility.
 - 1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows: **[Amended 1-30-2020 by Ord. No. 2331]**
 - (a) Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of regional median income by household size.
 - (b) Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of regional median income by household size.
 - (c) Moderate-income rental units shall be reserved for households with a gross household income less than 80% of regional median income by household size.
 - 2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- (a) The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 - (b) The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 - (c) The household is currently in substandard or overcrowded living conditions;
 - (d) The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 - (e) The household documents reliable anticipated third-party assistance from an outside source, such as a family member, in a form acceptable to the administrative agent and the owner of the unit. **[Amended 1-30-2020 by Ord. No. 2331]**
- 3. The applicant shall file documentation sufficient to establish the existence of the circumstances in Subsections k2(a) through k2(e) above with the Administrative Agent, who shall counsel the household on budgeting.
- l. Conversions. Each housing unit created through the conversion of a nonresidential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.
- m. Alternative living arrangements. **[Added 1-30-2020 by Ord. No. 2331]**
 - 1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
 - (a) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court; and
 - (b) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
 - 2. With the exception of units established with capital funding through a twenty-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
 - 3. The service provider for the alternative living arrangement shall act as the administrative agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 21-9B.3. Administration. [Added 10-13-2016 by Ord. No. 2281]

- a. Unnecessary Cost-Generating Features. Section 14(b) of the Fair Housing Act, N.J.S.A. 52:270-301 et seq. incorporates the need to eliminate unnecessary cost-generating features from Ocean Township's land use ordinances. Accordingly, the Township will eliminate

development standards that are not essential to protect the public welfare and to expedite or fast-track municipal approvals/denials on inclusionary development applications. Ocean Township will adhere to the components of N.J.A.C. 5:93-10.1 - 10.3.

b. Municipal Housing Liaison.

1. The Township shall appoint a Municipal Housing Liaison by duly adopted resolution of the Township Council, subject to the approval by the Superior Court. **[Amended 1-30-2020 by Ord. No. 2331]**
2. The Municipal Housing Liaison must be either a full-time or part-time employee of the Township of Ocean.
3. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in N.J.A.C. 5:93.
4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Ocean, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - (a) Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - (b) The implementation of the Affirmative Marketing Plan and affordability controls.
 - (c) When applicable, supervising any contracting Administrative Agent.
 - (d) Monitoring the status of all restricted units in the Township of Ocean's Fair Share Plan;
 - (e) Compiling, verifying and submitting annual reports as required by the Court and this section; **[Amended 1-30-2020 by Ord. No. 2331]**
 - (f) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - (g) Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

c. Administrative agent. **[Amended 1-30-2020 by Ord. No. 2331]**

1. The Township shall designate by resolution of the Township Council, subject to the approval of the Court, one or more administrative agents to administer and to affirmatively market the affordable units in accordance with N.J.A.C. 5:93, UHAC and this section.
2. An operating manual for each program shall be provided by the administrative agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The operating manuals shall be available for public inspection in the office of the Municipal Clerk, the Municipal Housing Liaison, and in the office(s) of the

administrative agent(s).

3. The administrative agent(s) shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the operating manual, including those set forth in N.J.A.C. 5:80-26.14, 5:80-26.16 and 5:80-26.18 thereof, which includes:
 - (a) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.
 - (b) Affirmative marketing:
 - (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Township of Ocean and the provisions of N.J.A.C. 5:80-26.15; and
 - (2) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
 - (c) Household certification:
 - (1) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - (3) Providing written notification to each applicant as to the determination of eligibility or noneligibility;
 - (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendixes J and K of N.J.A.C. 5:80-26.1 et seq.;
 - (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Township of Ocean when referring households for certification to affordable units.
 - (d) Affordability controls:
 - (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as

appropriate;

- (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Somerset County Register of Deeds or Somerset County Clerk's office after the termination of the affordability controls for each restricted unit;
 - (4) Communicating with lenders regarding foreclosures; and
 - (5) Ensuring the issuance of continuing certificates of occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (e) Records retention;
- (f) Resale and rental:
- (1) Instituting and maintaining an effective means of communicating information between owners and the administrative agent regarding the availability of restricted units for resale or rental; and
 - (2) Instituting and maintaining an effective means of communicating information to low- (or very-low-) and moderate-income households regarding the availability of restricted units for resale or rental.
- (g) Processing requests from unit owners:
- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this section;
 - (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air-conditioning systems;
 - (3) Notifying the municipality of an owner's intent to sell a restricted unit; and
 - (4) Making determinations on requests by owners of restricted units for hardship waivers.
- (h) Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality:
- (1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
 - (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or

in any other way committed, to any person, other than a household duly certified to the unit by the administrative agent;

- (3) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the administrative agent where complaints of excess rent or other charges can be made;
 - (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
 - (6) Creating and publishing a written operating manual for each affordable housing program administered by the administrative agent, to be approved by the Township Committee and the Court, setting forth procedures for administering the affordability controls.
- (i) Preparation of monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this section; and
 - (j) The administrative agent shall, as delegated by the Township Council, have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

d. Enforcement of Affordable Housing Regulations.

1. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
 - (a) The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:

- (1) A fine of not more than \$500 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - (2) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Ocean Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - (3) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
- (b) The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
3. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
4. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
5. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title

shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

6. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
 7. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
 8. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.
- e. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this section shall be filed in writing to the Township.

§ 21-9A. Affordable Housing Development Fees.

§ 21-9A.1. Purpose. [Added 5-16-2011 by Ord. No. 2167]

- a. In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b. Pursuant to P.L. 2008, c. 46, Section 8 (N.J.S.A. 52:27D-329.2) and the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of a court of competent jurisdiction may retain fees collected from nonresidential development. **[Amended 1-30-2020 by Ord. No. 2331]**
- c. In *Re: Adoption of N.J.A.C. 5:96 and 5:97* by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), also known as "the Mount Laurel IV decision," the Supreme Court remanded COAH's duties to the Superior Court. As a result, affordable housing development fee collections and expenditures from the municipal affordable housing trust funds to implement municipal third-round fair share plans through July 7, 2025, are under the Court's jurisdiction and are subject to approval by the Court. **[Amended 1-30-2020 by Ord. No. 2331]**
- d. This section, codified as § 21-9A, establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32 through 38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8. **[Added 1-30-2020 by Ord. No. 2331]**

§ 21-9A.2. Basic Requirements. [Added 5-16-2011 by Ord. No. 2167; amended 1-30-2020 by Ord. No. 2331]

- a. The Township's Development Fee Ordinance, which originally received Court approval in 2011, remains effective pursuant to the Superior Court's jurisdiction in accordance with N.J.A.C. 5:93-8.
- b. At such time that the Court approves the Township's Third-Round Housing Element and Fair Share Plan and its third-round spending plan, the Township may begin spending development fees in conformance with N.J.A.C. 5:93-8.

§ 21-9A.3. Definitions. [Added 5-16-2011 by Ord. No. 2167]

The following terms, as used in § 21-9A, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — Shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary

development, a municipal construction project or a 100% affordable development.

COAH or THE COUNCIL — Shall mean the New Jersey Council on Affordable Housing established under the Act which had primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the state. **[Amended 1-30-2020 by Ord. No. 2331]**

DEVELOPER — Shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT FEE — Shall mean money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

EQUALIZED ASSESSED VALUE — Shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c. 123 (C. 54:1-35a through C. 54:1-35c).

GREEN BUILDING STRATEGIES — Shall mean those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§ 21-9A.4. Residential Development Fees. [Added 5-16-2011 by Ord. No. 2167]

a. Imposed Fees.

1. Within all zoning districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1 1/2% of the equalized assessed value on the first two units; and the specified higher percentage up to 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable

units shall be exempt from development fees.

2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
3. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.
4. Developers of new single-family detached dwelling units built on an infill lot or as part of a minor subdivision that does not involve the creation of more than one new lot shall be exempt from paying a development fee.
5. Except as enumerated above, development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, or is demolished and replaced. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure. However, improvements that increase the equalized assessed value less than \$20,000 shall be exempt from development fees. **[Added 1-30-2020 by Ord. No. 2331]**

§ 21-9A.5. Nonresidential Development Fees. [Added 5-16-2011 by Ord. No. 2167]

a. Imposed Fees.

1. Unless otherwise prohibited by law, within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
2. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the nonresidential development fee shall be zero.

b. Eligible Exactions, Ineligible Exactions and Exemptions for Nonresidential Development.

1. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the 2.5% development fee, unless otherwise exempted below.

2. The 2.5% fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to P.L. 2008, c. 46, as specified in the Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
5. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by Ocean Township as a lien against the real property of the owner.

§ 21-9A.6. Collection Procedures. [Added 5-16-2011 by Ord. No. 2167]

- a. Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Construction Official responsible for the issuance of a building permit.
- b. For nonresidential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Nonresidential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a nonresidential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The Construction Official responsible for the issuance of a building permit shall notify the local Tax Assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of that notice, the municipal Tax Assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The Construction Official responsible for the issuance of a final certificate of occupancy notifies the local Assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection, the municipal

Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

- g. Should Ocean Township fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b of section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6). **[Amended 1-30-2020 by Ord. No. 2331]**
- h. 50% of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i. Appeal of Development Fees.
 - 1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Ocean Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2. A developer may challenge nonresidential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Ocean Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

§ 21-9A.7. Affordable Housing Trust Fund. [Added 5-16-2011 by Ord. No. 2167]

- a. A separate, interest-bearing Housing Trust Fund has been established and will continue to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls. **[Amended 1-30-2020 by Ord. No. 2331]**
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - 1. Payments in lieu of on-site construction of affordable units;
 - 2. Developer contributed funds to make 10% of the adaptable entrances in a townhouse or other multi-story attached development accessible;
 - 3. Rental income from municipally operated units;

4. Repayments from affordable housing program loans;
 5. Recapture funds;
 6. Proceeds from the sale of affordable units; and
 7. Any other funds collected in connection with Ocean Township's affordable housing program.
- c. Ocean Township has previously provided COAH with written authorization, in the form of a three-party escrow agreement between the municipality, Investor's Bank, and COAH, to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8. COAH-approved the tri-party escrow agreement in 2015. The Superior Court shall now have such jurisdiction to direct the disbursement of the Township's trust funds per N.J.A.C. 5:93-8. **[Amended 1-30-2020 by Ord. No. 2331]**
- d. All interest accrued in the Housing Trust Fund shall only be used on eligible affordable housing activities approved by the Court. **[Amended 1-30-2020 by Ord. No. 2331]**

§ 21-9A.8. Use of Funds. [Added 5-16-2011 by Ord. No. 2167]

- a. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the Housing Trust Fund may be used for any activity approved by the Court to address Ocean Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing nonresidential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.16 and specified in the approved spending plan. **[Amended 1-30-2020 by Ord. No. 2331]**
- b. Funds shall not be expended to reimburse Ocean Township for past housing activities.
- c. At least 30% of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of median income by region.
1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs.

2. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income.
3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. Ocean Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:93-816. **[Amended 1-30-2020 by Ord. No. 2331]**
- e. No more than 20% of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20% of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the Affordable Housing Trust Fund.

§ 21-9A.9. Monitoring. [Added 5-16-2011 by Ord. No. 2167; amended 1-30-2020 by Ord. No. 2331]

- a. On or about June 25 of each year through 2025, Ocean shall provide annual reporting of trust fund activity to the DCA, COAH, or NJLGS, or other entity designated by the State of New Jersey, with a copy provided to the Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the DCA, COAH, or NJLGS. This reporting shall include an accounting of all Housing Trust Fund activity, including the collection of development fees from residential and nonresidential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier-free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Ocean Township's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the Court.

§ 21-9A.10. Ongoing Collection of Fees. [Added 5-16-2011 by Ord. No. 2167; amended 1-30-2020 by Ord. No. 2331]

- a. The ability for Ocean Township to impose, collect and expend development fees shall expire with its Court-issued judgment of compliance unless Ocean Township has filed an adopted Housing Element and Fair Share Plan with the Superior Court or other appropriate jurisdiction, has filed a declaratory action seeking a judgment of repose, and has received the Court's approval of its Development Fee Ordinance. If Ocean Township fails to renew its ability to impose and collect development fees prior to the expiration of its judgment of

compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the New Jersey Affordable Housing Trust Fund established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320). Ocean Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its judgment of compliance, nor shall Ocean Township retroactively impose a development fee on such a development. Ocean Township shall not expend development fees after the expiration of its judgment of compliance.

§ 21-9A.11. Nonresidential Fee Provisions. [Added 5-16-2011 by Ord. No. 2167]

This ordinance and the provisions set forth in Subsections 21-9A.1 through 21-9A.10 above are being adopted in accordance with Section 8 of P.L. 2008, c. 46 (N.J.S.A. 52:27D-329.2(a)) and the policies, procedures and requirements of the New Jersey Council on Affordable Housing ("COAH"). Pursuant to COAH's requirements for approval of a municipal development fee ordinance and the model ordinance promulgated by COAH, the Township is required to, and has, included provisions for the assessment and collection of nonresidential development fees. Notwithstanding the inclusion of such provisions as required by COAH, the Township notes and acknowledges that recently there have been legislative enactments impacting upon the collection of nonresidential development fees, including but not limited to, Sections 32 through 38 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.1 through 40:55D-8.7), known as the "Statewide Nonresidential Development Fee Act," and Sections 36 through 41 of P.L. 2009, c. 90, known as the "Economic Stimulus Act of 2009." The Township shall continue to abide by the applicable law concerning the collection of nonresidential development fees.

ORDINANCE NO. 2492

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 21 – THE
COMPREHENSIVE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF OCEAN

BE IT ORDAINED by the Township Council of the Township of Ocean, County of Monmouth, State of New Jersey as follows:

Chapter 21, the Comprehensive Land Development Ordinance of the Township of Ocean is hereby amended and supplemented as follows:

ARTICLE III LAND USE PROCEDURES

21-9A. Affordable Housing Development Fees.

21-9A.4. Residential Development Fees.

- b. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.
3. **Development fees shall be imposed and collected when an existing residential structure is demolished and replaced. However,** owner-occupied residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying a development fee.
4. Developers of new single-family detached dwelling units built on an infill lot or as part of a minor subdivision ~~that does not involve the creation of more than one new lot shall pay~~ be exempt from paying a development fee.
5. Except as enumerated above, development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, ~~or is demolished and replaced~~ **or is expanded**. The development fee shall be calculated on the increase in the equalized value of the improved **or expanded** structure. ~~However, improvements that increase the equalized assessed value less than \$20,000.00 shall be exempt from development fees.~~

Record of Vote	Deputy Mayor Fisher	Councilman Acerra	Councilwoman Kaplan	Mayor Napolitani	Vacant
Motion to Approve	X				
Motion to Second			X		
Approved	X	X	X	X	
Opposed					
Not Voting/Recuse					
Absent/Excused					

CERTIFICATION

*I hereby certify that this is a true copy of an Ordinance adopted by the Township of Ocean Governing Body at their meeting held on **January 9, 2025**.*

Jessie M. Joseph
Jessie M. Joseph, RMC/CMC
Township Clerk



U. SPENDING PLAN, RESOLUTION OF INTENT TO BOND

RESOLUTION ADOPTING FOURTH ROUND SPENDING PLAN

WHEREAS, in accordance with the Mount Laurel Doctrine every municipality has a constitutional obligation to create a realistic opportunity for producing a fair share of the regional present and prospective need for housing low and moderate income families; and,

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L.2024, c.2, establishing a new framework for determining and enforcing municipal affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the New Jersey Fair Housing Act (the "FHA") (N.J.S.A. 52:27D-301, et al.); and

WHEREAS, among other things, the Act abolished the Council on Affordable Housing (hereinafter, "COAH"), and replaced it with seven retired, on recall judges designated as the Program and authorized the Director of the Administrative Office of the Courts, (hereinafter, respectively, "Director" and "AOC") to create a framework to process applications for affordable housing compliance certification; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality was to adopt a binding resolution no later than January 31, 2025, determining and setting forth its present and prospective fair share obligations for the "Fourth Round" of affordable housing obligations ("Fourth Round"); and

WHEREAS, the Mayor and Council of the Township of Ocean ("Township") adopted Resolution No. 25-023 on January 27, 2025, identifying its present need obligation as 51 units and prospective need obligation as 166 affordable units for the Fourth Round.

WHEREAS, in accordance with the FHA and Administrative Directive #14-24, issued by the Administrative Office of the Courts on December 13, 2024 ("Directive #14-24"), the Township filed a Complaint for Declaratory Judgment with the Superior Court of New Jersey, Law Division, Monmouth County, entitled In the Matter of the Application of the Township of Ocean, County of Monmouth, State of New Jersey, Docket No. MON-L-393-25 on January 29, 2025 (the "DJ Action"), identifying its present and prospective fair share obligations for the Fourth Round as set forth above, and committing to adopting and submitting a Fourth Round Housing Element and Fair Share Plan ("HEFSP") as required by the FHA; and

WHEREAS, the Township of Ocean Planning Board ("Board") adopted the HEFSP, entitled "2025 Fourth Round Housing Element & Fair Share Plan" prepared by the Township's affordable housing planner, Clarke Caton Hintz, dated May 30, 2025 (the "Fourth Round HEFSP"), as an amendment to the Township's Master Plan on June 12, 2025; and

WHEREAS, the Fourth Round HEFSP includes a Fourth Round Spending Plan component, pursuant to the FHA and Directive #14-24, which project anticipated revenues to the Township's Affordable Housing Trust Fund, and describes estimated expenditures of funds to address its fair share obligations as set forth in the Fair Share plan and which specifically establishes that the expenditure of funds contemplated in the Fourth Round Spending Plan constitute a commitment for expenditure pursuant to N.J.S.A. 52:27D-329.2.d, with the four year time period beginning to run with the date of collection of the funds, as such time may be extended by virtue of the date of the Superior Court's approval of this Fourth Round Spending Plan; and

WHEREAS, the Governing Body has reviewed the Fourth Round Affordable Housing Spending Plan appended to the Fourth Round HEFSP adopted by the Board on June 12, 2025, and wishes to adopt said plan.

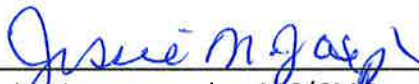
NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Township of Ocean, Monmouth County, New Jersey, hereby adopts the Affordable Housing Spending Plan prepared by Clarke Caton Hintz; and,

BE IT FURTHER RESOLVED by the Governing Body of the Township of Ocean, Monmouth County, New Jersey that this resolution shall take effect immediately.

Record of Vote	Deputy Mayor Fisher	Councilman Acerra	Councilwoman Kaplan	Councilman Weinstein	Mayor Napolitani
Motion to Approve		X			
Motion to Second				X	
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

CERTIFICATION

*I hereby certify that this is a true copy of a resolution passed by the Township of Ocean Governing Body at their meeting held on **June 12, 2025**.*



Jessie M. Joseph, RMC/CMC
Township Clerk



INTRODUCTION

Ocean Township, Monmouth County, first adopted a development fee ordinance on May 16, 2011, creating a dedicated revenue source for affordable housing. The ordinance was approved by the Court on December 12, 2011, and it established Ocean Township's Affordable Housing Trust Fund, for which this 2025 Fourth Round Spending Plan is prepared. The development fee ordinance set development fees at 1.5% and 2.5% of equalized assessed property value for residential development and non-residential development, respectively. COAH approved the Township's tri-party escrow agreement in 2015.

On July 6, 2015, the Township filed its Third Round Declaratory Judgment ("DJ") action with the Superior Court. In January 2019 the Township and FSHC negotiated and executed a Third Round Settlement Agreement that was approved by Court order dated June 25, 2019. The Township's 2019 Housing Element and Fair Share Plan and the accompanying Third Round Spending Plan were approved by the Court in a final Third Round Judgment of Repose on May 4, 2020.

On January 29, 2025, the Township filed its Fourth Round DJ action which included the Township's January 27, 2025 binding resolution stipulating to its Fourth Round affordable housing obligation, in accordance with the provisions of the March 2024 amendment to the Fair Housing Act ("FHA") at P.L. 2024 c.2. The Superior Court affirmed the Township's Fourth Round affordable housing obligation by Order dated April 1, 2025. This Fourth Round Spending Plan has been prepared to conform to the terms the amended FHA.

As of December 31, 2024, Ocean Township has collected a total of \$4,794,410.97 in development fees, payments in lieu of construction, and interest, and has expended \$1,187,131.24 in affordability assistance, housing activity, and permissible administrative expenditures, leaving a trust fund balance of \$3,607,279.73 as of December 31, 2024. All development fees, payments in lieu of constructing affordable units on site, and interest generated by the fees are deposited in an interest-bearing affordable housing trust fund at Citizens Bank for affordable housing purposes. Ocean Township anticipates collecting an additional \$1,516,301 in revenues and interest through the end of the Fourth Round, for a total of \$5,123,581. These funds will be spent in accordance with N.J.A.C. 5:93-8.16 as described in the sections that follow.

This Fourth Round Spending Plan is submitted to the Superior Court of New Jersey for approval to expend up to \$5,123,581 in current and possible future affordable housing trust fund monies during the Fourth Round, including up to \$663,000 to fund a municipally sponsored rehabilitation program, \$2.025 million in very low-income affordability assistance to subsidize very low-income units at a proposed 100% affordable development, up to \$1,372,336 toward construction costs for the proposed 100% affordable development, \$583,000 in bond repayments for the Heritage Village



at Ocean and Heritage Village at Oakhurst affordable senior developments, and up to approximately \$480,245 for administrative expenses, depending on actual funds collected.

REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of Fourth Round Judgment of Repose, Ocean Township considered the following:

(a) **Development fees: \$800,000**

1. Residential and non-residential projects that have had development fees imposed upon them at the time of preliminary or final development approvals over the past five years;
2. Any fee-generating projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development and the availability of land.

(b) **Payments in lieu – actual and committed payments in lieu of construction from developers: \$475,000**

The Township anticipates a payment in lieu of construction from the Roosevelt Properties project, which agreed to provide two affordable units as part of the development on its property at Block 22, lots 11, 12, and 22. Approvals for the inclusionary project were granted in 2021. No additional revenues from payments in lieu of construction are expected over the Fourth Round period as the amended FHA eliminated N.J.S.A. 52:27D-329.3 which had enabled payments in lieu of construction.

(c) **Other funding sources: \$0**

Ocean Township does not anticipate collecting money from other funding sources at this time. Funds from other sources include, but are not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, and proceeds from the sale of affordable units. All revenues to the affordable housing trust fund are anticipated to come from development fees, payments in lieu, and interest.

Fourth Round Spending Plan

TOWNSHIP OF OCEAN, MONMOUTH COUNTY, N.J.



(d) **Projected interest: \$241,301**

Based on interest payments since the creation of the trust fund, revenue projections, and prevailing interest rates, Ocean Township anticipates collecting \$241,301 in interest through June 30, 2035.

Ocean Township projects a total of \$1,516,301 in revenue to be collected between January 1, 2025, and June 30, 2035, from residential and non-residential development fees, previously approved payments in lieu of construction, and accrued interest. Residential fees have been estimated based on background growth patterns in the Township since May 2020, averaging three new units per year at an average fee of \$4,600 per unit. (Note this estimate does not include the large townhouse development on Woolley Court or the 10-unit development on Country Day Lane, but does include the approved six-unit development at 1515 Logan Road.) In 2024 the Township amended its Development Fee Ordinance to permit residential fees to be imposed on the increase in assessed value when a residential structure is torn down and replaced, or when it is expanded. This Spending Plan estimates approximately \$1,000 per year in fees from teardowns and expansions, for total estimated residential development fees of \$15,000 per year.

Non-residential development fees are levied at 2.5% of the equalized assessed value of non-residential development, or of change in assessed value resulting from additions or reconstruction. Background non-residential development in the Township since May 2015 has generated an average of \$70,000 per year, and the Township anticipates a slightly slower rate of growth over the next decade.

Interest is calculated based on historic interest earnings to the Affordable Housing Trust Fund. Interest is added to the projected ending balance at the end of each year. All interest earned on the account will accrue to the account, to be used only for the purposes of affordable housing.



Source of Funds – Housing Trust Fund 2025 through June 30, 2035													
Source of Funds		2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	Jan-June 2035	2025-2035 Total
Payments in Lieu – Roosevelt Properties	STARTING BALANCE January 1, 2025 \$3,607,280	\$23,750	\$47,500	\$47,500	\$47,500	\$47,500	\$47,500	\$47,500	\$47,500	\$47,500	\$47,500	\$23,750	\$475,000
Projected Residential Development Fees		\$7,500	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$7,500	\$150,000
Projected Non-Residential Development Fees		\$32,500	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$65,000	\$32,500	\$650,000
Interest		\$35,905	\$36,385	\$26,768	\$16,802	\$17,088	\$17,377	\$17,668	\$17,963	\$18,260	\$18,561	\$18,524	\$241,301
<i>Total</i>		\$99,655	\$163,885	\$154,268	\$144,302	\$144,588	\$144,877	\$145,168	\$145,463	\$145,760	\$146,061	\$82,274	\$1,516,301

Fourth Round Spending Plan

TOWNSHIP OF OCEAN, MONMOUTH COUNTY, N.J.



ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

Ocean Township uses the following procedural sequence for the collection and distribution of development fee revenues:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with the Township of Ocean's development fee ordinance for both residential and non-residential developments, in accordance with COAH's rules and P.L. 2008, c.46, sections 8 (N.J.S.A. 52:27D-329.2) and 32-38 (N.J.S.A. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The governing body reviews an expenditure request for consistency with the Spending Plan and adopts the recommendation by resolution. The release of the funds requires the adoption of the governing body resolution in accordance with the Court-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer reviews the request for consistency with this spending plan, and releases the requested funds from the trust fund for the specific use approved in the governing body's resolution.



DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) Affordability Assistance (N.J.A.C. 5:93-8.16(c)) \$2,025,000

Ocean Township is required to spend a minimum of 30% of development fee revenue to render existing affordable units more affordable, and at least one-third of development fee revenues collected since July 17, 2008, must be dedicated to very low-income households (i.e., households earning less than 30% of the regional median income) or to create very low-income units. The actual affordability assistance minimums are calculated on an ongoing basis based on actual revenues.

Projected Minimum Overall Affordability Assistance Requirements			
Actual development fees thru 12/31/2024			\$2,548,653
Actual interest earned thru 12/31/2024	+		\$176,037
Development fees projected 1/1/2025 – 6/30/2035	+		\$800,000
Interest projected 1/1/2025 – 6/30/2035	+		\$241,301
Total	=		\$3,765,991
30% requirement	x 0.30 =		\$1,129,797
Less Affordability Assistance expenditures to date	-		\$814,707
PROJECTED MINIMUM Affordability Assistance Requirement	=		\$315,090



Projected Minimum Very Low-Income Affordability Assistance Requirements			
Actual development fees 7/17/2008 - 12/31/2024			\$2,548,653
Actual interest earned 7/17/2008 - 12/31/2024	+		\$176,037
Development fees projected 1/1/2025 – 6/30/2035	+		\$800,000
Interest projected 1/1/2025 – 6/30/2035	+		\$241,301
Total	=		\$3,765,991
PROJECTED MINIMUM Affordability Assistance Requirement	x 0.30 =		\$1,129,797
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement	÷3		\$376,599
<i>Less Very Low-Income Affordability Assistance expenditures to date</i>			\$500,000
PROJECTED REMAINING Very Low-Income Affordability Assistance Requirement			\$0

Based on projected revenues, Ocean Township must dedicate at least \$315,090 from its Affordable Housing Trust Fund to render units more affordable. The Township has already expended trust funds in excess of its very low-income requirement, but will nonetheless dedicate additional funds to subsidize the creation of very low-income units as discussed below, which will satisfy the Township's outstanding overall affordability assistance requirement.

The Township may use a variety of mechanisms to provide affordability assistance, including the following:

- Down-payment assistance;
- Rental assistance;
- Security deposit assistance;



- Low-interest loans;
- Assistance with homeowners' association or condominium fees and special assessments; and/or
- Converting low-income units to very low-income units, creating very low-income units, etc.

Affordable Housing Alliance (Block 184, Lot 2 and Block 188, Lots 1.01 and 2.01, Valley Road): \$2,025,000

In addition to transferring the land, the Township intends to provide a municipal contribution of at least \$2,025,000 to subsidize the creation of nine very low-income units at the proposed municipally sponsored Affordable Housing Alliance 100% affordable project on Valley Road, a subsidy of \$225,000 per unit.

(b) [Housing Activity \(N.J.A.C. 5:93-8.16\(a\)\)](#): \$2,618,336

Rehabilitation: \$663,000

Ocean Township will contract with an experienced Administrative Agent to establish and administer a municipally sponsored rehabilitation program, available to renter-occupied units. It will allocate a total of up to \$663,000 at a minimum of \$13,000 per unit to rehabilitate up to 20 renter-occupied units and to supplement Monmouth County's Home Improvement Program for up to 31 owner-occupied units, toward satisfaction of its 51-unit Rehabilitation obligation. All rehabilitated units will have at least one major system repaired or replaced, at a minimum average per-unit cost of \$10,000.

Affordable Housing Alliance (Block 184, Lot 2 and Block 188, Lots 1.01 and 2.01, Valley Road): \$1,372,336

Pending the availability of over \$1.5 million in projected future funds, the Township will also allocate up to \$1,372,336 toward construction costs at the proposed Affordable Housing Alliance 100% affordable development.

Bond Repayment: \$583,000

Finally, the Township will allocate up to \$583,000 toward repayment of a bond that financed the extensions of controls at Heritage Village at Ocean and the purchase of the land on which the Heritage Village at Oakhurst 100% affordable project was constructed.

Fourth Round Spending Plan

TOWNSHIP OF OCEAN, MONMOUTH COUNTY, N.J.

PAGE 8



(c) Administrative Expenses (N.J.A.C. 5:93-8.16(e)): \$480,245

Projected Permitted Administrative Expenses			
Development fees/interest collected through 12/31/2024			\$2,715,690
Payments in lieu of construction through July 17, 2008	+		\$0
Development fees projected 2025-June 30, 2035	+		\$800,000
Interest projected 2025-June 30, 2035	+		\$241,301
Total	=		\$3,756,991
20% maximum permitted administrative expenses	x 0.20 =		\$751,398
Less administrative expenditures thru 12/31/2024	-		\$271,153
Projected allowed administrative expenditures	=		\$480,245

Ocean Township may use up to 20% of Affordable Housing Trust Fund development fee and interest revenue for related administrative costs, pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated based on actual revenues.

Ocean Township projects that over the entire Fourth Round, \$480,245 may be available from the Affordable Housing Trust Fund to be used for administrative purposes. As of December 31, 2024, the Township was able to expend \$271,153 on administrative fees based on collected development fees and interest. Projected administrative expenditures, subject to the 20% cap, are as follows:

- Township Attorney, Engineer, and Planner fees related to plan preparation and implementation, and to obtaining a Certificate of Judgment of Compliance;



- Rehabilitation program administration fees; and
- Administration fees related to the municipally sponsored Affordable Housing Alliance new construction project.

EXPENDITURE SCHEDULE

Ocean Township intends to use approximately \$3.6 million of current Trust Funds and possibly up to \$1.5 million in projected Affordable Housing Trust Fund revenues for the creation and subsidization of affordable housing units including very low-income units. Where applicable, the creation/subsidization funding schedule below will parallel the implementation schedule to be set forth in the Township's Fourth Round Housing Element and Fair Share Plan and is summarized as follows.

Projected Expenditure Schedule 2025 Through June 30, 2035												
Expenditure	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	Jan-June 2035	2025-2035 Total
Affordability Assistance – Affordable Housing Alliance			\$1m	\$1.025m								\$2.025m
Housing Activity												
Rehab	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$33,000	\$663,000
Affordable Housing Alliance			\$650,000	\$722,336								1,372,336
Bond Repayment	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$53,000	\$583,000
Admin	\$160,000	\$75,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$75,000	\$100,245	\$480,245
Total	\$276,000	\$191,000	\$1,776,000	\$1,873,336	\$126,000	\$126,000	\$126,000	\$126,000	\$126,000	\$191,000	\$186,245	\$5,123,581



EXCESS OR SHORTFALL OF FUNDS

Pursuant to this 2025 Housing Element and Fair Share Plan, the governing body of Ocean Township will adopt a resolution agreeing to fund ~~any~~^a shortfall of funds required for implementing its affordable housing mechanisms. In the event that a shortfall of anticipated revenues occurs, Ocean Township may bond to satisfy the gap in funding. In the event that funds exceed projected expenditures, the Township will devote any excess funds to additional affordability assistance. Alternatively, the Township reserves the opportunity to amend its Fourth Round Housing Element and Fair Share Plan, as well as this Fourth Round Spending Plan, to create additional affordable housing opportunities.

SUMMARY

The Township of Ocean intends to spend affordable housing trust fund revenues pursuant to the extant regulations governing such funds and consistent with the housing programs outlined in its 2025 Fourth Round Housing Element and Fair Share Plan. Ocean Township had a trust fund balance of \$3,607,280 as of December 31, 2024, and anticipates collecting an additional \$1,516,301 in revenues and interest through the end of the Fourth Round, for a total of \$5,123,581. Although the Township has already exceeded its required very low-income expenditure, it will expend an additional \$2.025 million to subsidize the creation of nine very low-income units at the proposed municipally sponsored Affordable Housing Alliance 100% affordable project. It will also expend up to \$663,000 on a municipally sponsored Rehabilitation program, up to an additional \$1,372,336 toward construction costs for the Affordable Housing Alliance project (depending on the availability of over \$1.5 million in projected future funds), and up to \$583,000 toward bond repayments that financed the Heritage Village at Oakhurst and Heritage Village at Ocean projects. The Township may be able to spend up to \$480,245 toward administrative costs.



Spending Plan Summary			
Revenues			
Balance as of 12/31/2024			\$3,607,280
1. Development fees and interest projected through 6/30/2035	+		\$1,041,301
2. Payments in lieu of construction projected through 6/30/2035 (approved pre-March 2024)	+		\$475,000
Roosevelt Properties: \$475,000			
3. Other funds	+		\$0
Total Projected Revenues	=		\$5,123,581
Expenditures			
Very Low-Income Affordability Assistance	-		\$2,025,000
Affordable Housing Alliance: \$2,025,000			
Housing Activity	-		\$2,618,336
Rehabilitation: \$663,000			
Bond Repayment: \$583,000			
Affordable Housing Alliance: \$1,372,336			
Administration	-		\$480,245
Total Projected Expenditures	=		\$5,123,581
BALANCE			\$0

**RESOLUTION OF INTENT TO BOND IN THE EVENT THAT THERE IS A SHORTFALL IN FUNDING TO
EFFECTUATE CERTAIN AFFORDABLE HOUSING MECHANISMS IN ITS FOURTH ROUND HOUSING ELEMENT
AND FAIR SHARE PLAN**

WHEREAS, the Governing Body of the Township of Ocean desires to create a realistic opportunity for the creation of affordable housing within the Township; and

WHEREAS, the Township voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by Administrative Directive #14-24 seeking approval of a Housing Element and Fair Share Plan that satisfied the Township's obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

WHEREAS, the Township of Ocean Planning Board has adopted a Fourth Round Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act; and

WHEREAS, the Fourth Round Housing Element and Fair Share Plan provides for expenditures to fund and support its affordable housing mechanisms; and

WHEREAS, the Township has adopted a Development Fee Ordinance in order to generate revenue for the Township's Affordable Housing Trust Fund; and

WHEREAS, the Township of Ocean anticipates that monies collected and deposited in the Affordable Housing Trust Fund, along with other permitted funding sources, will be sufficient to effectuate the above-referenced mechanisms; and

WHEREAS, the Township of Ocean is committed to securing approval of its Fourth Round Housing Element and Fair Share Plan; and

WHEREAS, the Township of Ocean acknowledges the affordable housing rules and regulations that provide that, although utilization of a mandatory development fee ordinance is an appropriate mechanism to raise money for the purpose of off-setting the expenses incurred in connection with the Housing Element and Fair Share Plan, there must be an alternative funding source in the event that insufficient monies are derived from the mandatory development fee ordinance or other resources, or the funds are not received in a timely fashion, for the purpose of effectuating the 100 percent (100%) affordable housing mechanism; and

WHEREAS, the Township of Ocean wishes to express its commitment to cover such funding shortfalls and to fully implement the mechanisms set forth in its Fourth Round Housing Element and Fair Share Plan through bonding or other lawful means.

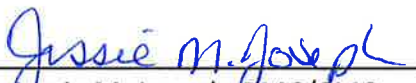
NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Township of Ocean, in the County of Monmouth, State of New Jersey, that it does hereby confirm its intent that in the event that the projected funding from the mandatory development fee ordinance the Township has adopted is

insufficient to complete the aforementioned affordable housing mechanisms, it is the intention of the Governing Body of the Township of Ocean to adopt appropriate bond ordinances in order to provide the requisite funding in an appropriate time frame.

Record of Vote	Deputy Mayor Fisher	Councilman Acerra	Councilwoman Kaplan	Councilman Weinstein	Mayor Napoli
Motion to Approve		X			
Motion to Second				X	
Approved	X	X		X	X
Opposed					
Not Voting/Recuse					
Absent/Excused			X		

CERTIFICATION

*I hereby certify that this is a true copy of a resolution passed by the Township of Ocean Governing Body at their meeting held on **June 12, 2025**.*



Jessie M. Joseph, BMC/CMC
Township Clerk



V. AFFIRMATIVE MARKETING PLAN

1a. Administrative Agent Name, Address, Phone Number Affordable Housing Alliance 3535 Route 66, Parkway 100 Building 4 Neptune Township, NJ 07753 732-393-2958		1b. Development or Program Name, Address Cindy Lane Apartments 16 Cindy Lane Ocean Township, NJ 07755	
1c. Number of Affordable Units: 48 Number of Rental Units: 48 Number of For-Sale Units: 0	1d. Price or Rental Range From \$ 287 To \$1,316		1e. State and Federal Funding Sources (if any) CDBG-DR. tax credit funds
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Spring 2019 Occupancy: Summer 2019		
1h. County Mercer, Monmouth, Ocean		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number (same as administrative agent)			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number Community Grants, Planning & Housing 101 Interchange Plaza, Suite 301 Cranbury, NJ 08512-3716 609 664-2769		1b. Development or Program Name, Address Wayside Point 17 Cindy Lane Ocean, NJ 07755	
1c. Number of Affordable Units: 11 Number of Rental Units: 11 Number of For-Sale Units: 0	1d. Price or Rental Range From \$ 374 To \$1,286		1e. State and Federal Funding Sources (if any)
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 2020 Occupancy: 2020-2021		
1h. County Mercer, Monmouth, Ocean		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number (same as above)			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number		1b. Development or Program Name, Address Roosevelt Properties	
1c. Number of Affordable Units: 2 Number of Rental Units: Number of For-Sale Units:	1d. Price or Rental Range From To		1e. State and Federal Funding Sources (if any)
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: Occupancy:		
1h. County Mercer, Monmouth, Ocean		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

1a. Administrative Agent Name, Address, Phone Number		1b. Development or Program Name, Address Ocean Glades	
1c. Number of Affordable Units: 46 Number of Rental Units: 46 Number of For-Sale Units: 0	1d. Price or Rental Range From To		1e. State and Federal Funding Sources (if any)
1f. <input type="checkbox"/> Age Restricted <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: 2022 Occupancy: 2022-2023		
1h. County Mercer, Monmouth, Ocean		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

II. RANDOM SELECTION

2. Describe the random selection process that will be used once applications are received.

The Administrative Agent will assign random numbers to each applicant through a computerized random number generator.

After the list of applications submitted during the initial lottery period is exhausted, the priority of preliminary applications is established by the date the household submitted their preliminary application (Interest Date).

In addition to the random number assigned to the household and/or the Interest Date, there are other factors affecting waiting priority that are described below.

- **Regional Preference:** Applicants who indicate that they live or work in the Affordable Housing Region will be contacted first. Once those applicants are exhausted, applicants outside the region will be contacted.
- **Household Size:** Whenever possible, there will be at least one person for each bedroom. If the waiting list is exhausted and there are no in- or out-region households with a person for each bedroom size, units will be offered to smaller sized households that do not have a person for each bedroom. The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor. A household can be eligible for more than one unit category.
- **Fully Accessible Units:** A household with a person with physical disabilities will get preference on the waiting list because of the very limited number of accessible units. If there is more than one household with a person with physical disabilities on the waiting list, in-region households with a person for each bedroom will be contacted first. Applicants must provide a letter from their doctor stating what kind of accommodation they require as a result of their disability.

III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)

☐ White (non-Hispanic) ☒ Black (non-Hispanic) ☒ Hispanic ☐ American Indian or Alaskan Native
☐ Asian or Pacific Islander ☐ Other group:

3b. **HOUSING RESOURCE CENTER** (www.njhousing.gov) A free, online listing of affordable housing

☒

3c. Commercial Media (required) (Check all that applies)

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
TARGETS PARTIAL COAH REGION 4			
Daily Newspaper			
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Trenton Times	Mercer
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Trentonian	Mercer
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Asbury Park Press	Monmouth, Ocean
<input type="checkbox"/>		Ocean County Observer	Ocean
Weekly Newspaper			
<input type="checkbox"/>		Ewing Observer	Mercer

<input type="checkbox"/>		Hopewell Valley News	Mercer
<input type="checkbox"/>		Lawrence Ledger	Mercer
<input type="checkbox"/>		Pennington Post	Mercer
<input type="checkbox"/>		Princeton Town Topics	Mercer
<input type="checkbox"/>		Tempo Mercer	Mercer
<input type="checkbox"/>		Trenton Downtowner	Mercer
X	At outset; ongoing as needed	Windsor Heights Herald	Mercer
<input type="checkbox"/>		West Windsor-Plainsboro News	Mercer, Middlesex
X	At outset; ongoing as needed	Princeton Packet	Mercer, Middlesex, Somerset
<input type="checkbox"/>		Messenger-Press	Mercer, Monmouth, Ocean
<input type="checkbox"/>		Woodbridge Sentinel	Middlesex
<input type="checkbox"/>		Atlanticville	Monmouth
<input type="checkbox"/>		Coaster	Monmouth
<input type="checkbox"/>		Courier	Monmouth
<input type="checkbox"/>		Examiner	Monmouth
<input type="checkbox"/>		Hub, The	Monmouth
<input type="checkbox"/>		Independent, The	Monmouth
X	At outset; ongoing as needed	News Transcript	Monmouth
<input type="checkbox"/>		Two River Times	Monmouth
<input type="checkbox"/>		Coast Star, The	Monmouth, Ocean
<input type="checkbox"/>		Beach Haven Times	Ocean
<input type="checkbox"/>		Beacon, The	Ocean
<input type="checkbox"/>		Berkeley Times	Ocean
<input type="checkbox"/>		Brick Bulletin	Ocean
<input type="checkbox"/>		Brick Times	Ocean
<input type="checkbox"/>		Jackson Times	Ocean
<input type="checkbox"/>		Lacey Beacon	Ocean
<input type="checkbox"/>		Manchester Times	Ocean
<input type="checkbox"/>		New Egypt Press	Ocean
<input type="checkbox"/>		Ocean County Journal	Ocean
X	At outset; ongoing as needed	Ocean Star, The	Ocean

X	At outset; ongoing as needed	Tri-Town News	Ocean
<input type="checkbox"/>		Tuckerton Beacon	Ocean
<input type="checkbox"/>		Atlantic Highlands Herald	Monmouth
	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL TV STATION(S)	CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
TARGETS ENTIRE COAH REGION 4			
<input type="checkbox"/>		2 WCBS-TV CBS Broadcasting Inc.	
<input type="checkbox"/>		4 WNBC NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		5 WNYW Fox Television Stations, Inc. (News Corp.)	
<input type="checkbox"/>		7 WABC-TV American Broadcasting Companies, Inc (Walt Disney)	
<input type="checkbox"/>		9 WWOR-TV Fox Television Stations, Inc. (News Corp.)	
<input type="checkbox"/>		10 WCAU NBC Telemundo License Co. (General Electric)	
<input type="checkbox"/>		11 WPIX WPIX, Inc. (Tribune)	
<input type="checkbox"/>		13 WNET Educational Broadcasting Corporation	
<input type="checkbox"/>		58 WNJB New Jersey Public Broadcasting Authority	
TARGETS PARTIAL COAH REGION 4			
<input type="checkbox"/>		25 W25AW WZBN TV, Inc.	Mercer
<input type="checkbox"/>		39 WLVT-TV Lehigh Valley Public Telecommunications Corp.	Mercer
<input type="checkbox"/>		60 WBPH-TV Sonshine Family Television Corp	Mercer
<input type="checkbox"/>		63 WMBC-TV Mountain Broadcasting Corp.	Mercer
<input type="checkbox"/>		69 WFMZ-TV Maranatha Broadcasting Company, Inc.	Mercer
<input type="checkbox"/>		41 WXTV WXTV License Partnership, G.P. (Univision Communications Inc.)	Mercer, Monmouth
<input type="checkbox"/>		3 KYW-TV CBS Broadcasting Inc.	Mercer, Ocean
<input type="checkbox"/>		6 WPVI-TV American Broadcasting Companies, Inc (Walt Disney)	Mercer, Ocean

<input type="checkbox"/>		12 WHYY-TV WHYY, Inc.	Mercer, Ocean
<input type="checkbox"/>		17 WPHL-TV Tribune Company	Mercer, Ocean
<input type="checkbox"/>		23 WNJS New Jersey Public Broadcasting Authority	Mercer, Ocean
<input type="checkbox"/>		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Mercer, Ocean
<input type="checkbox"/>		35 WYBE Independence Public Media Of Philadelphia, Inc.	Mercer, Ocean
<input type="checkbox"/>		48 WGTW-TV Trinity Broadcasting Network	Mercer, Ocean
<input type="checkbox"/>		52 WNJT New Jersey Public Broadcasting Authority	Mercer, Ocean
<input type="checkbox"/>		57 WPSG CBS Broadcasting Inc.	Mercer, Ocean
<input type="checkbox"/>		61 WPPX Paxson Communications License Company, LLC	Mercer, Ocean
<input type="checkbox"/>		65 WUVP-TV Univision Communications, Inc.	Mercer, Ocean
<input type="checkbox"/>		25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications	Monmouth
<input type="checkbox"/>		31 WPXN-TV Paxson Communications License Company, LLC	Monmouth
<input type="checkbox"/>		47 WNJU NBC Telemundo License Co. (General Electric)	Monmouth
<input type="checkbox"/>		50 WNJN New Jersey Public Broadcasting Authority	Monmouth
<input type="checkbox"/>		68 WFUT-TV Univision New York LLC	Monmouth, Ocean (Spanish)
<input type="checkbox"/>		62 WWSI Hispanic Broadcasters of Philadelphia, LLC	Ocean
	DURATION & FREQUENCY OF OUTREACH	NAMES OF CABLE PROVIDER(S)	BROADCAST AREA
TARGETS PARTIAL COAH REGION 4			
<input type="checkbox"/>		Cablevision of Hamilton	Partial Mercer, Monmouth
<input type="checkbox"/>		Comcast of Central NJ,	Partial Mercer, Monmouth
<input type="checkbox"/>		Patriot Media & Communications, CNJ	Partial Mercer
X	At outset; ongoing as needed	Cablevision of Monmouth, Raritan Valley	Partial Monmouth
<input type="checkbox"/>		Comcast of Mercer County, Southeast Pennsylvania	Partial Middlesex
X	At outset; ongoing as needed	Comcast of Monmouth County	Partial Monmouth, Ocean

X	At outset; ongoing as needed	Comcast of Garden State, Long Beach Island, Ocean County, Toms River	Partial Ocean
	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL RADIO STATION(S)	BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
TARGETS ENTIRE COAH REGION 4			
AM			
<input type="checkbox"/>		WWJZ 640	
<input type="checkbox"/>		WOR 710	
<input type="checkbox"/>		WABC 770	
<input type="checkbox"/>		WCBS 880	
<input type="checkbox"/>		WBBR 1130	
<input type="checkbox"/>		WPST 94.5	
FM			
<input type="checkbox"/>		WKXW-FM 101.5	
<input type="checkbox"/>		WPRB 103.3	
TARGETS PARTIAL COAH REGION 4			
AM			
<input type="checkbox"/>		WFIL 560	Mercer, Monmouth
<input type="checkbox"/>		WMCA 570	Monmouth, Ocean
<input type="checkbox"/>		WFAN 660	Mercer, Monmouth
<input type="checkbox"/>		WNYC 820	Mercer, Monmouth
<input type="checkbox"/>		WWBD 860	Mercer
<input type="checkbox"/>		WPHY 920	Mercer
<input type="checkbox"/>		WNTD 990	Mercer
<input type="checkbox"/>		WCHR 1040	Mercer
<input type="checkbox"/>		WOBM 1160	Monmouth, Ocean
<input type="checkbox"/>		WWTR 1170	Mercer
<input type="checkbox"/>		WPHT 1210	Mercer, Monmouth
<input type="checkbox"/>		WBUD 1260	Mercer, Monmouth
<input type="checkbox"/>		WIMG 1300	Mercer
<input type="checkbox"/>		WADB 1310	Monmouth, Ocean
<input type="checkbox"/>		WHTG 1410	Monmouth
<input type="checkbox"/>		WCTC 1450	Mercer, Monmouth

<input type="checkbox"/>		WBCB 1490	Mercer
<input type="checkbox"/>		WTTM 1680	Mercer, Monmouth
FM			
<input type="checkbox"/>		WNJT-FM 88.1	Mercer
<input type="checkbox"/>		WWFM 89.1	Mercer, Monmouth
<input type="checkbox"/>		WRDR 89.7	Monmouth, Ocean
<input type="checkbox"/>		WRTI 90.1	Mercer
<input type="checkbox"/>		WBJB-FM 90.5	Monmouth
<input type="checkbox"/>		WWNJ 91.1	Ocean
<input type="checkbox"/>		WTSR 91.3	Mercer
<input type="checkbox"/>		WBGD 91.9	Ocean
<input type="checkbox"/>		WFNY-FM 92.3	Mercer, Monmouth
<input type="checkbox"/>		WXTU 92.5	Mercer
<input type="checkbox"/>		WOBM-FM 92.7	Ocean
<input type="checkbox"/>		WPAT-FM 93.1	Mercer, Monmouth
<input type="checkbox"/>		WMMR 93.3	Mercer
<input type="checkbox"/>		WNYC-FM 93.9	Mercer, Monmouth
<input type="checkbox"/>		WYSP 94.1	Mercer
<input type="checkbox"/>		WJLK-FM 94.3	Monmouth, Ocean
<input type="checkbox"/>		WFME 94.7	Mercer, Monmouth
<input type="checkbox"/>		WZZO 95.1	Mercer
<input type="checkbox"/>		WPLJ 95.5	Mercer, Monmouth
<input type="checkbox"/>		WBEN-FM 95.7	Mercer
<input type="checkbox"/>		WRAT 95.9	Monmouth, Ocean
<input type="checkbox"/>		WCTO 96.1	Mercer
<input type="checkbox"/>		WQXR-FM 96.3	Mercer, Monmouth
<input type="checkbox"/>		WRDW-FM 96.5	Mercer
<input type="checkbox"/>		WQHT 97.1	Mercer, Monmouth
<input type="checkbox"/>		WSKQ-FM 97.9	Mercer, Monmouth
<input type="checkbox"/>		WOGL 98.1	Mercer
<input type="checkbox"/>		WMGQ 98.3	Mercer, Monmouth
<input type="checkbox"/>		WRKS 98.7	Mercer, Monmouth

<input type="checkbox"/>		WUSL 98.9	Mercer, Monmouth
<input type="checkbox"/>		WAWZ 99.1	Mercer, Monmouth
<input type="checkbox"/>		WBAI 99.5	Mercer, Monmouth
<input type="checkbox"/>		WJRZ-FM 100.1	Ocean
<input type="checkbox"/>		WHTZ 100.3	Mercer, Monmouth
<input type="checkbox"/>		WCBS-FM 101.1	Mercer, Monmouth
<input type="checkbox"/>		WQCD 101.9	Mercer, Monmouth
<input type="checkbox"/>		WIOQ 102.1	Mercer
<input type="checkbox"/>		WNEW 102.7	Mercer, Monmouth
<input type="checkbox"/>		WMGK 102.9	Mercer
<input type="checkbox"/>		WKTU 103.5	Mercer, Monmouth
<input type="checkbox"/>		WAXQ 104.3	Mercer, Monmouth
<input type="checkbox"/>		WWPR-FM 105.1	Mercer, Monmouth
<input type="checkbox"/>		WDAS-FM 105.3	Mercer, Monmouth
<input type="checkbox"/>		WCHR-FM 105.7	Ocean
<input type="checkbox"/>		WJJZ 106.1	Mercer, Monmouth
<input type="checkbox"/>		WHTG-FM 106.3	Monmouth, Ocean
<input type="checkbox"/>		WLTW 106.7	Mercer, Monmouth
<input type="checkbox"/>		WKDN 106.9	Mercer
<input type="checkbox"/>		WWZY 107.1	Monmouth, Ocean
<input type="checkbox"/>		WBLS 107.5	Mercer, Monmouth
<input type="checkbox"/>		WWPH 107.9	Mercer

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters)
(Check all that applies)

		NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
TARGETS ENTIRE COAH REGION 4				
Weekly				
X	At outset; ongoing as needed	Nuestra Comunidad	Central/South Jersey	Spanish-Language
TARGETS PARTIAL COAH REGION 4				
Weekly				
<input type="checkbox"/>		New Jersey Jewish News	Northern and Central New Jersey	Jewish

<input checked="" type="checkbox"/>	At outset; ongoing as needed	El Hispano	Camden and Trenton areas	Spanish-Language
<input type="checkbox"/>		Ukrainian Weekly	New Jersey	Ukrainian community
3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies)				
DURATION & FREQUENCY OF OUTREACH		NAME OF EMPLOYER/COMPANY		LOCATION
Mercer County				
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Mercer County Board of Education	1075 Old Trenton Rd, Trenton, NJ	
<input type="checkbox"/>		Medical Center at Princeton	253 Witherspoon St, Princeton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Bristol-Myers Squibb	100 Nassau Park Blvd, Princeton, NJ and 820 Bear Tavern Rd, Trenton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Educational Testing Service	660 Rosedale Rd., Princeton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Princeton Theological Seminary	P.O. Box 821, Princeton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Princeton University	Office of Human Resources, 2 New South, Princeton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Westminster Choir College of Rider University	2083 Lawrenceville Rd., Lawrenceville, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	St. Lawrence Rehabilitation Center	2381 Lawrenceville Rd, Lawrenceville, NJ	
<input type="checkbox"/>		McGraw-Hill	120 Windsor Center Dr, East Windsor, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Conair Corporation	150 Milford Rd, Hightstown, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Shiseido America, Inc.	366 Princeton Hightstown Rd, East Windsor, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	NJ Manufacturers Insurance Company	P.O. Box 1428, West Trenton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Homasote	932 Lower Ferry Rd, Trenton, NJ	
<input type="checkbox"/>		Robert Wood Johnson University Hospital	1 Hamilton Health Pl, Trenton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Congoleum Corp.	3500 Quakerbridge Rd, Mercerville, NJ	
<input type="checkbox"/>		Coca-Cola Foods	480 Mercer St, Hightstown, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Peddie School	201 S. Main St., Hightstown, NJ	
<input type="checkbox"/>		Dana Communications	2 E Broad St, Hopewell, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Merrill Lynch	7 Roszel Road, Princeton, NJ; 1300 Merrill Lynch Drive, Pennington, NJ; and 410 Scotch Rd, Hopewell, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Janssen Pharmaceutical	1125 Trenton Harborton Rd, Titusville, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	St. Francis Medical Center	601 Hamilton Ave., Trenton NJ 08629-1986	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	The Trenton Times	413 Riverview Plazat, Trenton, NJ	
<input checked="" type="checkbox"/>	At outset; ongoing as needed	Gaum. Inc.	1080 US Highway 130, Robbinsville, NJ	

Monmouth County			
X	At outset; ongoing as needed	Meridian Health System	1350 Campus Parkway Neptune
<input type="checkbox"/>		US Army Communications Electronics Command Fort Monmouth	CECOM Bldg 901 Murphy Drive Fort Monmouth
X	At outset; ongoing as needed	County of Monmouth Hall of Records	1 East Main Street Freehold
X	At outset; ongoing as needed	Central State Healthcare Systems	West Main Street Freehold
X	At outset; ongoing as needed	Monmouth Medical Center	300 Second Ave Long Branch
<input type="checkbox"/>		Asbury Park Press	3601 Route 66 Neptune, NJ
X	At outset; ongoing as needed	Food Town Circus Super Markets, Inc.	835 Highway 35 PO BOX 278 Middletown, NJ
X	At outset; ongoing as needed	Monmouth University	400 Cedar Ave, West Long Branch
<input type="checkbox"/>		Naval Weapons stations Earle	State Highway 34 Colts Neck, NJ
X	At outset; ongoing as needed	Norkus Enterprises, Inc.	505 Richmond Ave Point Pleasant, NJ
X	At outset; ongoing as needed	Horizon Blue Cross Blue Shield	1427 Wyckoff Road Farmingdale, NJ

Ocean County			
<input type="checkbox"/>		Saint Barnabas Health Care System	300 2nd Ave Long Branch, NJ 07740
X	At outset; ongoing as needed	Six Flags Theme Parks Inc.	Route 537 Jackson, NJ 08527
<input type="checkbox"/>		Meridian Health Care System	415 Jack Martin Blvd, Brick, NJ
X	At outset; ongoing as needed	Southern Ocean County Hospital	1140 Route 72 West, Manahawkin, NJ
X	At outset; ongoing as needed	Jenkinson's	300 Ocean Ave Pt. Pleasant Beach, NJ 08742
3f. Community Contacts (names of community groups/organizations throughout the housing region that must be contacted to post advertisements and distribute flyers regarding available affordable housing)			
Name of Group/Organization	Outreach Area	Racial/Ethnic Identification of Readers/Audience	Duration & Frequency of Outreach
Fair Share Housing Center 510 Park Blvd. Cherry Hill, NJ 08002	Statewide	N/A	At outset; ongoing as needed
New Jersey State Conference of the NAACP 4326 Harbor Beach Blvd., #775, Brigantine, NJ 08203	Statewide	African-American	At outset; ongoing as needed
Latino Action Network 2560 U.S. Highway 22, Suite 322 Scotch Plains, NJ 07076	Statewide	Hispanic	At outset; ongoing as needed
STEPS P.O. Box 638 Lakewood, NJ 08701	Ocean County	N/A	At outset; ongoing as needed
OCEAN, Inc. 40 Washington Street Toms River, NJ 08753	Ocean County	N/A	At outset; ongoing as needed
Greater Red Bank Branch of the NAACP	Monmouth County	African-American	At outset; ongoing as needed

PO Box 311 Navesink, NJ 07752			
Asbury Park/Neptune Branch of the NAACP 401 Atkins Avenue Neptune, NJ 07753	Monmouth County	African-American	At outset; ongoing as needed
Bayshore Branch of the NAACP PO Box 865 Matawan, NJ 07747	Monmouth County	African-American	At outset; ongoing as needed
Greater Freehold Branch of the NAACP PO Box 246 Marlboro Annex, NJ 07746	Monmouth County	African-American	At outset; ongoing as needed
Greater Long Branch Branch of the NAACP PO Box 472 Long Branch, NJ 07740	Monmouth County	African-American	At outset; ongoing as needed
Trenton Branch of the NAACP PO Box 1355 Trenton, NJ 08608	Mercer County	African-American	At outset; ongoing as needed
Supportive Housing Association of New Jersey 185 Valley Street South Orange, NJ 07079	Statewide	Special needs	At outset; ongoing as needed

IV. APPLICATIONS

Applications for affordable housing for the above units will be available at the following locations:													
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies)													
	<table border="1"> <thead> <tr> <th></th> <th>BUILDING</th> <th>LOCATION</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>Mercer County Library Headquarters</td> <td>2751 Brunswick Pike, Lawrenceville, NJ 08648</td> </tr> <tr> <td>X</td> <td>Monmouth County Headquarters Library</td> <td>125 Symmes Drive, Manalapan, NJ 07726</td> </tr> <tr> <td>X</td> <td>Ocean County Library</td> <td>101 Washington Street, Toms River, NJ 08753</td> </tr> </tbody> </table>		BUILDING	LOCATION	X	Mercer County Library Headquarters	2751 Brunswick Pike, Lawrenceville, NJ 08648	X	Monmouth County Headquarters Library	125 Symmes Drive, Manalapan, NJ 07726	X	Ocean County Library	101 Washington Street, Toms River, NJ 08753
	BUILDING	LOCATION											
X	Mercer County Library Headquarters	2751 Brunswick Pike, Lawrenceville, NJ 08648											
X	Monmouth County Headquarters Library	125 Symmes Drive, Manalapan, NJ 07726											
X	Ocean County Library	101 Washington Street, Toms River, NJ 08753											
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)													
Township of Ocean Municipal Building 399 Monmouth Rd. Oakhurst, NJ 07755 Attn.:													
Township of Ocean Library 701 Deal Road Ocean, NJ 07712													
4c. Sales/Rental Office for units (if applicable)													

V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the Township's Judgment of Repose.

ELAINE R. CLISHAM

Name (Type or Print)

Planner

Title/Municipality



Signature

December 2, 2019

Date



W. MUNICIPAL HOUSING LIAISON ADMINISTRATIVE AGENT

RESOLUTION

WHEREAS, the Township of Ocean’s Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH’s Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., the Township is required to appoint a Municipal Housing Liaison for the administration of the Township’s affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Ocean, in the County of Monmouth, State of New Jersey as follows:

- 1. The aforementioned recitals are incorporated herein as though fully set forth at length.
- 2. The Township hereby appoints David G. Brown, II as the Municipal Housing Liaison for the administration of the Township’s affordable housing program.

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to the following:

- 1. Department of Community Affairs

Record of Vote	Deputy Mayor Fisher	Councilman Acerra	Councilwoman Kaplan	Councilwoman Terry	Mayor Napolitani
Motion to Approve			X		
Motion to Second		X			
Approved		X	X	X	X
Opposed					
Not Voting/Recuse					
Absent/Excused	X				

CERTIFICATION

*I hereby certify that this is a true copy of a resolution passed by the Township of Ocean Governing Body at their meeting held on **November 14, 2024**.*

Jessie M. Joseph
Jessie M. Joseph, RMC/CMC
Township Clerk

RESOLUTION

WHEREAS, the Township Council of the Township of Ocean, County of Monmouth, adopted Affordable Housing Ordinance No. 2331 on January 30, 2020 that created the position of Administrative Agent for the administration of the Township's affordable housing units; and

WHEREAS, the Township Manager of the Township of Ocean, County of Monmouth advertised for the position of Administrative Agent for the administration of the Township's affordable housing units; and

WHEREAS, one (1) proposal was received: Community Grants, Planning & Housing (CGP&H), LLC, Cranbury, NJ; and

WHEREAS, the Township of Ocean is desirous of entering into an agreement with Community Grants, Planning & Housing (CGP&H), LLC for the position of Administrative Agent for the administration of the Township's affordable housing units for the period July 1, 2024 through June 30, 2025 at a cost not to exceed \$10,000.00; and

WHEREAS, the Director of Finance has certified that funds will be made available in the Township of Ocean 2024 Municipal Budget under the following line item appropriation: account #4-01-20-712-217 for the period July 1, 2024-December 31, 2024 and January 1, 2025-June 30, 2025 is contingent upon the adoption of the 2025 Municipal Budget.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Ocean in the County of Monmouth, that the Mayor and the Township Clerk are hereby authorized to sign a contract between the Township of Ocean and Community Grants, Housing & Planning (CGP&H), LLC, as the Township of Ocean's Affordable Housing Administrative Agent for the period July 1, 2024 through June 30, 2025 at a cost not to exceed \$10,000.00; and

BE IT FURTHER RESOLVED this resolution shall be advertised according to law; and

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be forwarded to the following:

1. Director of Finance
2. Planning Administrator
3. Community Grants, Planning & Housing (CGP&H), LLC

Record of Vote	Deputy Mayor Fisher	Councilman Acerra	Councilwoman Kaplan	Councilwoman Terry	Mayor Napolitani
Motion to Approve				X	
Motion to Second	X				
Approved	X	X	X	X	X
Opposed					
Not Voting/Recuse					
Absent/Excused					

CERTIFICATION

THE TOWNSHIP OF OCEAN
MONMOUTH COUNTY
399 MONMOUTH ROAD
OAKHURST, NJ 07755-1589
www.oceantwp.org



TOWNSHIP OF OCEAN
CERTIFICATION OF FUNDS

Pursuant to N.J.A.C.5:30-5.4, and any other applicable requirements, I, Richard J. Gartz, Director of Finance/CFO of the Township of Ocean, hereby certify that there are available sufficient uncommitted appropriations in various Accounts of the Township of Ocean to approve a contract for the 2024-25 for Administrative Agent for Affordable Housing Units in the amount not to exceed \$10,000.00 (Ten-thousand dollars and zero cents).

With: CGP&H, LLC
1249 South River Road, Suite 301
Cranbury, NJ 08512

For: 2024-25 for Administrative Agent for Affordable Housing Units

In line item appropriation(s) as follows:

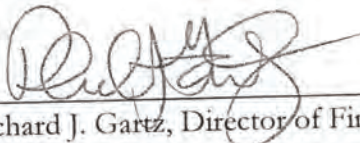
4-01-20-712-217

Contract period: July 1, 2024 – June 30, 2025

Contract amount: \$10,000.00 (Not to Exceed)

Amount certified: \$10,000.00 (Partially Contingent upon adoption of 2025 Budget)

Dated: June 6, 2024


Richard J. Gartz, Director of Finance/CFO

Township of Ocean
Resolution Number 24-114f

PROFESSIONAL SERVICES AGREEMENT

Proposal for Township Administrative Agent for Affordable Housing Services

THIS AGREEMENT by and between the Township of Ocean (hereinafter referred to as "Township"), a Municipal Corporation of the State of New Jersey and CGP&H LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512 (hereinafter referred to as "CGP&H"); and

WHEREAS, both the Township and CGP&H desire to set forth the various duties, terms and responsibilities of the parties hereto;

WHEREAS, CGP&H submitted its proposal on the 29th day of April, 2024 and was awarded this contract based upon the recommendation of the RFP Review Committee; and

WHEREAS, the Township Council hereby desires to approve of this Contract that was presented for the provision of said services.

WITNESSETH, that the parties hereto, for and in consideration of the mutual agreements herein contained, promise and agree as follows:

1. The term of the Agreement shall become effective as of the 1st day of July, 2024 for a period of twelve (12) months terminating at the close of business on the 30th day of June, 2025. The term of this Agreement shall become effective as of the date this Agreement is executed by the Township for a period of twelve (12) months. The Agreement may be terminated by either party, by giving one (1) month advanced written notice to the other.
2. CGP&H shall perform to the Township's satisfaction all services as required by the Township during the term of this Agreement as authorized and specifically in accordance with the proposal submitted by CGP&H which is incorporated herein by reference and made a part hereof as though more fully set forth herein at length.
3. The "contract" shall consist of the following:
 - a. This Agreement and all Schedules annexed thereto.
 - b. Resolution of appointment made by the Mayor and Township Council.
 - c. All other terms required by law to be inserted in this contract, whether actually inserted or not.
 - d. The Affirmative Action Requirements annexed hereto, applicable to this

contract, as Schedule B.

4. CGP&H hereby represents to the Township that CGP&H is qualified to fulfill the position set forth herein with applicable requirements. CGP&H further represents that CGP&H is familiar with all applicable statutes, laws, regulations, procedures and requirements in connection with this appointment.
5. CGP&H hereby agrees to perform the services set forth under the attached proposal, Schedule A, for the Township of Ocean during the period set forth herein above.
6. The Contractor shall be compensated in accordance with the fee schedule included in its Professional Services Proposal for Affordable Housing Services submitted on the 29th day of April, 2024 to the Township of Ocean, and attached here as Schedule A.
7. CGP&H shall not assign this contract or any of its rights or monies due hereunder without the previous written consent of the Township of Ocean as evidenced by a duly adopted Resolution.
8. CGP&H represents that they currently have professional liability insurance in a minimum amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, and that they shall supply a certificate to the Township showing said coverage. CGP&H further covenants and agrees to protect, keep and hold the Township of Ocean harmless against any and all actions, claims or demands for damages, which may be caused by the negligent error, act or omission of CGP&H or by the improper performance of the contract.
9. Payment to CGP&H shall be made in strict accordance with the terms of this contract. It is understood and agreed that in the event CGP&H is required to perform services that are not contemplated and are not within the subject matter of this contract and are extraordinary and are of a kind which would not ordinarily be performed in the normal course of providing services, that CGP&H shall be paid additional sums of money based upon change orders duly approved by Resolution of the Township Council.

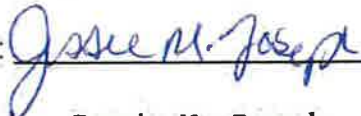
AND IT IS FURTHER UNDERSTOOD AND AGREED that the covenants,

conditions and agreements herein contained are binding of the parties hereto, their successors, assigns and legal representatives.

IN WITNESS WHEREOF, the parties hereto have caused their presents to be signed by the respective authorized officers and the proper corporate and/or municipal seals affixed hereto, the date and year first written above.

WITNESS:

Township of Ocean

BY: 

BY: 

NAME: Jessie M. Joseph

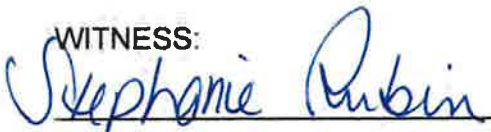
NAME: John P. Napolitani, Sr.

TITLE: Township Clerk


TITLE: Mayor

DATE: 08/09/2024

WITNESS:



CGP&H, LLC



NAME: Stephanie Rubin

NAME: John Burton

TITLE: Office Operations Coordinator

TITLE: Chief Executive Officer

DATE: 7/29/2024

SCHEDULE A:

CGP&H will provide municipality with professional services for the purposes described in this proposal. CGP&H will only bill for services performed, and therefore, the actual amount billed may be considerably less than the budgets presented below depending on the breadth of services requested by municipality.

SUMMARY OF ALL FEES	
ADMINISTRATIVE AGENT GENERAL SERVICES	\$10,300
TOTAL CONTRACT NOT-TO-EXCEED	\$10,300

The fee tables on the following pages delineate the fee structure for each fee category above. CGP&H may invoice above an individual fee category budget amount or individual fee line item budget amount without additional authorization, however CGP&H will not perform professional services or bill for services that would exceed the total contract not-to-exceed amount without prior authorization from the municipality. While \$10,000 is CGP&H's minimum not-to-exceed for our smaller projects, we do not necessarily anticipate that we will reach the not-to-exceed amount.

See the following pages for a detailed breakdown of all fees.

ADMINISTRATIVE AGENT GENERAL SERVICES paid by Municipality	
1. Municipal Services	Not-to-exceed \$10,000 billed hourly at a rate of \$160 per hour for senior staff which include planners and department supervisors
2. Applicant Services	Monthly flat fee of \$0 per month for a total of \$0 per year. <i>This line item is not anticipated to be required and therefore will not be implemented without additional written authorization and change order.</i>
3. Administrative Agent Resale Fee	\$2,000 flat fee payable by Municipality for each sale unit when home gets listed for sale. <i>A fee of 3% of the resale price will be paid from the seller at the closing to CGP&H.</i>
4. Subordination Requests	\$175 flat fee to process refinancing requests. This fee is paid by the homeowner.
5. Direct Costs	Reimbursement for expenses. Not to exceed \$300 per contract year.
TOTAL PAID BY MUNICIPALITY	Not-to-exceed \$10,300 including up to 0 units listed for sale.

1. Municipal Services: This may include, but is not limited to:

- Implementing Affirmative Marketing Plan postings and other compliance requirements
- Creation/Updates to the Administrative Agent Operating Manual and Affirmative Marketing Plan, when required
- Distressed Properties follow up activities
- Responding to initial private developer inquiries
- Advising Municipality on affordable housing requirements for new developments
- Foreclosure prevention activities
- CTM entry of trust fund or unit information
- Enforcing affordability controls, including annual mailings to homeowners
- Program setup for Accessory Apartment program
- Program setup for Affordability Assistance Programs
- Trust Fund Monitoring and Unit Monitoring
- Assisting with Spending Plan revisions
- Extension of Controls
- Releasing controls at end of control period
- Calculating annual tax assessments for affordable homeowners
- Midpoint Review
- Group home research to document creditworthiness

If the municipality requires additional services above this line item's budgetary cap, CGP&H will request permission to proceed before invoicing further.

CGP&H will strive to comply with all aspects of S2527 affirmative marketing legislation. However, CGP&H cannot ensure that other administrative agents administering affordable housing units in the Municipality are meeting the regulations until further direction is provided by the State of New Jersey.

2. **Applicant Services:** *This line item is not anticipated to be required and therefore will not be implemented without additional written authorization and change order.*

This may include, but is not limited to:

- Affordable Housing Waitlist Management for existing Sales and Rental units
- Responding to general affordable housing inquiries from pre-applicants, applicants, and existing affordable housing owners
- Unit Administration
- Management of general inquiries
- Responding to existing homeowners' inquiries (intent to sell requests, etc.)
- Processing requests for loan subordinations/approval of equity loans and refinancing
- Answering Affordability Assistance Questions
- Advising on annual increases for Market to Affordable, Accessory Apartment, and other units

3. **Administrative Agent Resale Fee:** This includes but is not limited to:

- Facilitation of the resale of any affordable sales unit that is put up for sale by current owner
- Certifying a buying household(s) as eligible
- Sending potential purchasers to the unit
- Facilitating an agreement between buyer and seller
- Preparing and filing closing documents.

The flat fee that is paid by the Municipality will be billed once a notice of intent to sell is signed by the seller. In the event that the seller cancels the sale during the sale process, and the unit does not go to closing, this flat fee is still applicable and will not be returned or cancelled.

4. **Subordination Requests:** includes the cost of processing mortgage Subordination Requests during the affordability control period.

5. **Direct Costs:** this includes, but is not limited to:

- Reimbursement for direct costs for large scale printing jobs; postage; affirmative marketing mailing, mailings to affordable housing homeowners; poster production; expedited mailings or messenger services, etc.

SCHEDULE B

N.J.S.A. 10-5-31 et seq., (N.J.A.C. 17-27)

MANDATORY AFFIRMATIVE ACTION LANGUAGE

GOODS PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

- a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.
- b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.
- c. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to **N.J.S.A. 10:5-31 et seq.** as amended and supplemented from time to time and the American with Disabilities Act.
- e. The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C 17:-5.2. or a binding determination of the applicable county employment goals determined by the Division pursuant to N.J.A.C.17:27-5.2.
- f. The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or