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Clarke Caton Hintz
Architecture
Planning
Landscape Architecture

FAIR SHARE PLAN APPENDICES

FOR THE 2012 AMENDMENT TO THE 2008 AMENDED HOUSING ELEMENT & FAIR SHARE PLAN

Borough of Oceanport, Monmouth County, New Jersey

DRAFT OCTOBER 19, 2012



Clarke Caton Hintz
Architecture
Planning
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FAIR SHARE PLAN APPENDICES

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Appendix A.
Planning Board Resolution

PR-12-09
12-05-12

RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF
OCEANPORT, MONMOUTH COUNTY, NEW JERSEY, ADOPTING AN
AMENDMENT TO THE 2008 AMENDED THIRD ROUND HOUSING ELEMENT &
FAIR SHARE PLAN

WHEREAS, the Planning Board of the Borough of Oceanport, County of Monmouth, State of New Jersey, adopted the Amended Third Round Housing Element and Fair Share Plan pursuant to N.J.S.A. 40:55D-28 on December 18, 2008; and

WHEREAS, the Governing Body endorsed the 2008 Amended Third Round Housing Element and Fair Share Plan on December 18, 2008; and

WHEREAS, on October 14, 2009 the Planning Board adopted an Amendment to the 2008 Amended Third Round Housing Element and Fair Share Plan; and

WHEREAS, this 2012 Amendment to the 2008 Amended Third Round Housing Element and Fair Share Plan will supersede and replace the 2009 Amendment; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing(s) on the amended Housing Element and Fair Share Plan on November 1, 2012; and

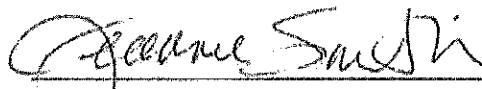
WHEREAS, the Planning Board has determined that the Amendment to the 2008 Amended Third Round Housing Element and Fair Share Plan is consistent with the goals and objectives of the Borough of Oceanport Master Plan and that adoption and implementation of the amended Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Oceanport, County of Monmouth, State of New Jersey, that the Planning Board hereby adopts the Amendment to the 2008 Amended Housing Element and Fair Share Plan.

This resolution was offered by Mr. Whitson,
seconded by Mr. Kleiberg, and adopted on roll
call by the following vote:

ROLL CALL	YES	NO	ABSTAIN	ABSENT	INELIGIBLE
Widdis	(✓)	()	()	()	()
Whitson	(✓)	()	()	()	()
Kahle	(✓)	()	()	()	()
McCarthy	()	()	()	(✓)	()
Johnson	(✓)	()	()	()	()
Savarese	()	()	()	(✓)	()
Kleiberg	(✓)	()	()	()	()
Sullivan	()	()	()	(✓)	()
Fichter	(✓)	()	()	()	()
DeSousa (Alt. 1)	()	()	()	(✓)	()
(Vacant) (Alt. 2)	()	()	()	()	()

I hereby certify that this is a true copy of the resolution
adopting the amended Housing Element and Fair Share Plan of the
Borough of Oceanport, County of Monmouth on December 5, 2012.



Jeanne Smith, Planning Board Secretary

Appendix B.
Governing Body Resolution

RESOLUTION NO: R-12-181

RESOLUTION OF THE COUNCIL OF THE BOROUGH OF OCEANPORT (A) ENDORSING THE BOROUGH'S 2008 AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN, AS FURTHER AMENDED BY THE 2009 AND 2012 AMENDMENTS TO THAT 2008 PLAN; (B) DIRECTING ITS PROFESSIONALS TO FILE THE 2008 PLAN, AS AMENDED, WITH THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING; (C) DIRECTING THAT SPECIAL COUNSEL, IN ACCORDANCE WITH AN ORDER OF THE SUPERIOR COURT, TO FILE A DECLARATORY RELIEF ACTION WITH THE SUPERIOR COURT PURSUANT TO N.J.S.A. 52:27D-313 SEEKING APPROVAL OF THE AMENDED 2008 PLAN; (D) THAT IT DIRECTS SPECIAL COUNSEL TO IMMEDIATELY SEEK IMMUNITY WHILE THE COURT REVIEW AND PROCESS THE BOROUGH'S APPLICATION FOR APPROVAL OF ITS CURRENT PLAN; AND (E) THAT IT DIRECTS SPECIAL COUNSEL TO TAKE SUCH OTHER ACTIONS AS ARE REASONABLE AND APPROPRIATE TO PURSUE APPROVAL OF THE 2008 PLAN, AS AMENDED.

WHEREAS, the Planning Board of the Borough of Oceanport, County of Monmouth, State of New Jersey, adopted the Amended Third Round Housing Element and Fair Share Plan pursuant to N.J.S.A. 40:55D-28 on December 18, 2008; and

WHEREAS, the Governing Body endorsed the 2008 Amended Third Round Housing Element and Fair Share Plan on December 18, 2008; and

WHEREAS, on October 14, 2009 the Planning Board adopted an Amendment to the 2008 Amended Third Round Housing Element and Fair Share Plan; and

WHEREAS, on December 5, 2012, the Oceanport Planning Board adopted an amendment to the 2008 Amended Third Round Housing Element and Fair Share Plan that superseded and replaced the 2009 Amendment; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the December 5, 2012 Amendment to the 2008 Amended Third Round Housing Element and Fair Share Plan is attached hereto pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the 2008 Amended Third Round Housing Plan Element and Fair Share Plan, as further amended by the 2009 and 2012 amendments referenced above (hereinafter "Current Affordable Housing Plan") fully addresses at least the Borough's current affordable housing obligations, which include only the prior round and rehabilitation housing obligations.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE BOROUGH OF OCEANPORT:

1. That it hereby endorses the Amendment to the 2008 Amended Third Round Housing Element and Fair Share Plan as adopted by the Planning Board of the Borough of Oceanport on December 5, 2012; and

2. That it hereby authorizes and directs its professionals to file the Current Affordable Housing Plan with the New Jersey Council on Affordable Housing; and
3. That it hereby authorizes and directs special counsel, upon filing the filing of the Current Affordable Housing Plan with COAH, to bring a declaratory relief action pursuant to N.J.S.A. 52:27D-313 in court, as required by an order of the court, dated September 4, 2012, seeking approval of the Current Affordable Housing Plan; and
4. That it hereby directs special counsel also to bring a motion in conjunction with the declaratory relief action set forth above seeking to maintain the temporary immunity that currently exists in conjunction therewith so that the Court can review the Current Affordable Housing Plan and so that the Borough can respond to any concerns of the Court or its master, free from unnecessary lawsuits brought on the basis of the Mount Laurel doctrine; and
5. That it authorizes its professionals to take any and all actions reasonable and necessary, including the provision of appropriate notice, to secure a Judgment of Compliance and Repose from the Court.



Mayor, Borough of Oceanport

I hereby certify that this is a true copy of the resolution endorsing the Housing Element and Fair Share Plan of the Borough of Oceanport, Monmouth County, on December 5, 2012.


Borough Clerk

Appendix C.

Accessory Apartment Ordinance (draft)

ORDINANCE ____

**DRAFT ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF
MONMOUTH AND STATE OF NEW JERSEY CREATING AN ACCESSORY
APARTMENT PROGRAM**

Section 1. Definitions.

ACCESSORY APARTMENT

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.

Section 2. Accessory Apartments.

1. Accessory apartments shall be permitted on all single-family detached and attached residential lots R1, R2, R3 and R5 zone districts.
2. Each accessory apartment unit shall be for rent.
3. The Borough shall provide a subsidy of \$20,000 to each property owner creating a moderate income accessory apartment and \$25,000 to each property owner creating a low income accessory apartment.
4. Each accessory apartment shall, for a period of at least 10 years, be rented only for such rents as shall be affordable to individuals and families of low or moderate income, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
5. There shall be a recorded deed or declaration of covenants and restrictions applying to each accessory apartment, running with the land, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
6. The accessory apartment shall be affirmatively marketed to the housing region, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
7. The Borough's affordable housing administrative agent shall administer the affirmative marketing, income qualification and compliance with other applicable COAH substantive rules (N.J.A.C. 5:97) and Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
8. No accessory apartment shall receive Board approval or zoning permit unless the property owner demonstrates that an adequate potable water supply sewer capacity is available.
9. The accessory apartment shall be in full compliance with all applicable health and construction codes prior to occupancy.
10. There shall be no more than one accessory apartment per single-family dwelling on each lot.

11. Each accessory apartment shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom.
12. Each accessory apartment shall have a private entrance with direct access to the outdoors.
13. Adequate parking for the accessory apartment shall be provided in a manner which shall be compatible with the established neighborhood character.

Appendix D.

Checkmate Inc. Supplemental Documentation

Purpose: **Brief History and Description of THE ADULT HOMELESS SHELTER at FORT MONMOUTH**

Prepared by: **Jeffrey R. Schwartz, Director**
Division of Planning and Contracting
Monmouth County Department of Human Services

History and Description

Through the Monmouth County **Comprehensive Emergency Assistance System (CEAS)** (a committee of the Monmouth County Department of Human Services [MCDHS] Human Services Advisory Council [HSAC]), the Monmouth County Consolidated Funding Application for Homeless Assistance (The "Continuum of Care Application") is prepared annually. The Continuum of Care is required by US HUD to qualify for funding. It represents a coordinated and holistic system, designed for flexibility to effectively and compassionately address the ongoing and diverse needs of the homeless and chronically homeless individuals and families in Monmouth County. The **mainstay of this system** is the ability to provide adequate accommodations and services for homeless county residents in a safe and secure environment, including both emergency shelter and permanent supported housing. **The Adult Shelter at Fort Monmouth, an emergency shelter, is an integral part of this continuum; its availability is deemed of the highest priority.**

Monmouth County through an agreement with the US Department of the Army operates the Adult Shelter on the grounds of Fort Monmouth (see Attachment 2, Department of Army Lease). The Adult Shelter has been **physically located in the Oceanport** section of Fort Monmouth since its **inception in 1986**. To date it is the only emergency shelter in the county.

Program Description

The Monmouth County Department of Human Services operates an adult homeless shelter for both single men and single women with a capacity, at a minimum, to accommodate 21 men and 10 women on any given day. The shelter operates year-round and provide both shelter and social services to those homeless individuals housed therein. The Adult Shelter currently provides temporary housing, with the average stay for any one person expected to be between 30 and 45 days. The social services provided include: comprehensive case management, on-site meals, medical evaluations and referrals, employment counseling, and linkages to housing, transportation and financial assistance. The program has been operated under the guidelines and requirements of U.S. Department of the Army as expressed through the Garrison Commander. Security restrictions require a background check conducted on all persons prior to admittance to the facility. This background check is currently completed by Fort Monmouth security

personnel. Individuals that are found to be unsuitable are not permitted entry and are placed outside the shelter in alternative arrangements until other accommodations can be made.

Description of the Need

The homeless population has increased dramatically over the past many years due in part to the high cost of living in Monmouth County and the rapidly diminishing stock of affordable housing. Our most recent surveys to identify the homeless population conducted in the winters of 2008 and 2009, confirm that the homeless population in Monmouth County is rising. Through an agreement with the U.S. Department of the Army, Monmouth County has operated the Adult Shelter on the grounds of Fort Monmouth for the past 22 years and has served over 6,300 homeless men and women during that time. The Adult Shelter is critical to our ability to address the problems of homelessness in Monmouth County and the well being of its citizens.

Coordination of Services

The MCDHS contracts with a private, non-profit corporation for operations of the Adult Shelter. The current program has been operated by Easter Seals New Jersey, a social service agency which provides "24/7" onsite supervision, for the past year and a half. Prior to that Check-Mate, Inc. had operated the program since its inception. The program is fully integrated and coordinated with a wide variety of local service providers and other homeless assistance programs, to include: The NJ Department of Community Affairs; the Monmouth County Division of Social Services (administering the General Assistance, Food Stamps and Medicaid programs for single adults) and case management for the Homeless Mentally Ill (PATH Program); the Visiting Nurses Association of Central Jersey (providing on-site medical assessment and care); the Monmouth County Division of Mental Health and Addiction Services; and finally the local hospitals and medical facilities. Easter Seals New Jersey is a member of the County Emergency Assistance System (CEAS) and the Monmouth County Continuum of Care. It is affiliated with all of the other homeless shelter providers as well as other human service agencies that provide support to the homeless population.

Description of Property

Currently the Adult Shelter occupies two buildings, #417 and #421, which were constructed around 1940 to serve as temporary barracks for returning soldiers. Building #417 is utilized for housing residents and Building #421 is used for storage, equipment and the refrigeration of the food. The future physical requirements of a facility to house the Adult Shelter necessarily must contain space to provide beds for between 20 – 40 residents, separated by gender. The ideal facility will enable each resident a private area with a door containing a window. Additionally, the facility must include bathroom and shower facilities, a large kitchen and communal eating area, adequate laundry area, a reception area and administrative and counseling offices. Also there is a need for storage space for necessities such as extra mattresses, bedding, food and commercial refrigeration, emergency clothing, etc. Program staff must have the ability to secure the site after hours without compromising the health and safety of staff or residents.

Financial Status and Organizational Structure

The Adult Shelter at Fort Monmouth is a facility that, since its inception in 1986, has been provided by the County of Monmouth, through its Department of Human Services, Division of Planning and Contracting. The program is supported by Monmouth County through an annual contribution of over \$400,000. Additional revenues include fees which are paid by local municipal welfare agencies through the state funded Emergency Assistance Program, as well as an Emergency Shelter Grant allocation of \$19,000 from the Monmouth County Community Development Program. The total operating budget anticipated for FY 2009 is \$565,000. The MCDHS monitors the Adult Shelter through the following: monthly fiscal and statistical review; annual audit and insurance review; quarterly operations meetings; annual intensive program monitoring evaluation.

As of July 1999, Monmouth County became one of only a select few counties in the U.S. to earn a triple-A financial rating from all three of the established rating agencies: Moody's, Fitch Ratings and Standard & Poor's. Triple-A is the highest rating that any entity can earn and to date, only 17 of 3,013 counties in the U.S. have received this rating. This prestigious and coveted rating was affirmed as recently as May, 2006. The County currently maintains in excess of 50 buildings for operations, including a 10-acre site in Tinton Falls known as Linkages, which is the transitional housing program for 29 homeless families.

As previously stated, the County of Monmouth currently subcontracts with Easter Seals New Jersey, a non-profit agency. Prior to that, Checkmate, Inc. had served as the operations agency for the shelter since its inception in 1986. CheckMate, located in Asbury Park and Freehold, serves many of the County's most needy and vulnerable persons through a wide variety of programs and services.

Operational Timeframe

Because of its current active and viable status, the Monmouth County Adult Shelter Program anticipates it will continue the program without any interruption during the transition of Ft. Monmouth. However, if the location of the site of the shelter should change the only issue would be the time required for moving and meeting NJ Department of Community Affairs codes for shelter licensing. It is hoped that should FMERPA designate a new location to house the shelter, the current location would remain operational until the new location was prepared to begin housing clients, therefore resulting in no interruption of services.

The MCDHS is appreciative of the use of the property at Fort Monmouth for the Adult Shelter for homeless adults. We have worked cooperatively with the Department of the Army over the past 22 years and fully intend to do so with any municipality who would site this program. We will most willingly provide any other information as deemed needed.

**Council on Affordable Housing (COAH)
Supportive and Special Needs Housing Survey**

Municipality: Fort Monmouth County: Monmouth
Sponsor: Monmouth County Division of Social Services Developer: N/A
Block: N/A Lot: N/A Street Address: 417 Burns Avenue Fort Monmouth NJ 07703
Facility Name: Class 1 Emergency Homeless Shelter

Section 1: Type of Facility:

Section 2: Sources and amount of funding committed
to the project:

<p><input type="checkbox"/> Licensed group home</p> <p><input type="checkbox"/> Transitional facility for the homeless (not eligible for COAH credit after June 2, 2008)</p> <p><input type="checkbox"/> Residential health care facility (licensed by NJ Dept. of Community Affairs or DHSS)</p> <p><input type="checkbox"/> Permanent supportive housing</p> <p><input type="checkbox"/> Supportive shared housing</p> <p><input checked="" type="checkbox"/> X Other - Please Specify: Class I Emergency Shelter</p>	<p><input type="checkbox"/> Capital Application Funding Unit \$ _____</p> <p><input type="checkbox"/> HMFA Special Needs Housing Trust Fund \$ _____</p> <p><input type="checkbox"/> Balanced Housing - Amount \$ _____</p> <p><input type="checkbox"/> HUD - Amount \$ _____ Program _____</p> <p><input type="checkbox"/> Federal Home Loan Bank - Amount \$ _____</p> <p><input type="checkbox"/> Partners Home Administration - Amount \$ _____</p> <p><input type="checkbox"/> Development fees - Amount \$ _____</p> <p><input type="checkbox"/> Bank financing - Amount \$ _____</p> <p><input checked="" type="checkbox"/> X Other - Please specify: Contract Ceiling \$431,033, Transportation Contract \$40,000</p> <p><input type="checkbox"/> For proposed projects, please submit a pro forma</p> <p><input type="checkbox"/> Municipal resolution to commit funding, if applicable</p> <p><input type="checkbox"/> Award letter/financing commitment (proposed new construction projects only)</p>
<p>Section 3: For all facilities other than permanent supportive housing:</p> <p>Total # of bedrooms reserved for: 31</p> <p>Very low-income clients/households N/A</p> <p>Low-income clients/households N/A</p> <p>Moderate-income clients/households N/A</p> <p>Market-income clients/households N/A</p>	<p>Section 4: For permanent supportive housing:</p> <p>N/A</p> <p>Total # of units 1, including:</p> <p># of very low-income units N/A</p> <p># of low-income units N/A</p> <p># of moderate-income units N/A</p> <p># of market-income units N/A</p>
<p>Section 5:</p> <p>Length of Controls: 1 year</p> <p>Effective Date of Controls: 01/01/08</p> <p>Expiration Date of Controls: 01/01/2013</p> <p>Average Length of Stay: 30 DAY+ (transitional facilities only)</p>	<p>Section 6:</p> <p><input checked="" type="checkbox"/> CO Date: 2/12/2008</p> <p>For licensed facilities, indicate licensing agency:</p> <p><input type="checkbox"/> DDD <input type="checkbox"/> DMHS <input type="checkbox"/> DHSS <input type="checkbox"/> DCA <input type="checkbox"/> DCF</p> <p><input checked="" type="checkbox"/> X Other Department of Community Affairs</p> <p>Initial License Date: 5/22/2008</p> <p>Current License Date: 05/22/08</p>
<p>Section 7:</p> <p>Has the project received project-based rental assistance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No; Length of commitment: N/A</p> <p>Other operating subsidy sources: NONE; Length of commitment: N/A</p> <p>Is the subsidy renewable? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No N/A</p>	
<p>Section 8: The following verification is attached: N/A</p> <p><input type="checkbox"/> Copy of deed restriction or mortgage and/or mortgage note with deed restriction (30-year minimum, HUD, FHA, FHLE, UHAC deed restriction, etc.)</p> <p><input type="checkbox"/> Copy of Capital Application Funding Unit (CAFU) or DHS Capital Application Letter (20 year minimum, no deed restriction required)</p>	
<p>Section 9:</p> <p>Residents 18 yrs or older? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Population Served (describe): Homeless Adults 18 and over</p> <p>Age-restricted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Accessible (in accordance with NJ Barrier Free Subcode)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	

Section 10: Affirmative Marketing Strategy (check all that apply):

N/A

- ☐ DDD/DMHS/DHSS waiting list
- ☐ Affirmative Marketing Plan approved by the Council's Executive Director

CERTIFICATIONS

I certify that the information provided is true and correct to the best of my knowledge and belief.

Certified by:

Sandra Ellis, MSW
Project Administrator

12/30/08
Date

Certified by:

[Signature]
Municipal Housing Liaison

12/30/08
Date

EASTER SEALS OF NJ
1 KIMBERLY ROAD
E. BRUNSWICK, NJ 08815-0000

STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF CODES AND STANDARDS

LICENSE TO OWN AND OPERATE
ISSUED TO: EASTER SEALS OF NJ
LICENSED CAPACITY: 31
LICENSE ISSUED: May 22, 2008



FACILITY TYPE:
Class I Emergency Homeless Shelter
FACILITY ADDRESS:
417 BURNS AV
FORT MONMOUTH, NJ
FACILITY #: 1338-0001
EXPIRATION DATE April 30, 2009

This license is issued pursuant and subject to P.L. 1985, c. 48; N.J.S.A. 55:13C-1 et seq. and is valid only for the person or organization it is issued to and only to own and/or operate the facility indicated herein.

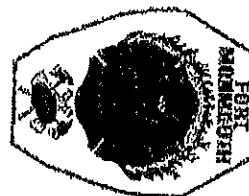
This renewal license is also subject to suspension or revocation, after opportunity for a hearing, in the event of non-compliance with applicable licensing requirements. Issuance of this renewal license is for the purpose of allowing continued operation and is not evidence of any determination that the facility is "currently" in compliance with applicable state regulations.

Michael Briant

Michael Briant
Bureau of Rooming and Boarding House Standards



BUREAU OF FIRE PREVENTION
DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY GARRISON
FORT MONMOUTH, NEW JERSEY 07703-5101



Certificate of Inspection

REGISTRATION FILE NO. 417
NAME OF BUILDING/USE Homeless/Emergency Shelter (R-2) OWNER'S NAME U.S. Army
BUILDING/USE ADDRESS 417 Burns Avenue, Fort Monmouth, New Jersey 07703
OCCUPANT: Easter Seals of New Jersey
1 Kimberly Rd. East Brunswick, NJ 08816

THIS IS TO CERTIFY THAT AN INSPECTION OF THE VISIBLE PARTS OF THE ABOVE NAMED BUILDING/USE
CONDUCTED ON 12 February 2008 FOUND THE PREMISES TO BE FREE OF ANY
APPARENT LIFE THREAT VIOLATIONS OF THE UNIFORM FIRE CODE OF THE STATE OF NEW JERSEY AND
NATIONAL FIRE CODES.

BY: [Signature]
Nels V. Warren Jr.
Fire Official

THIS CERTIFICATE SHALL BE POSTED BY THE
OWNER OF THE USE IN A CONSPICUOUS
LOCATION ON THE SUBJECT PREMISES

Use Group: R-2 Life Hazard Use: Type Ad Occupancy: 31 beds 30 days+

Appendix E.

Oceanport Gardens Supplemental Documentation

OCEANPORT ASSOCIATES

377 Oak Street, Suite 110
P.O. Box 739
Garden City, New York 11530

(516) 745-0150
FAX (516) 745-0189

June 11, 2008

Ms. Kimberly Jungfer
Borough Clerk
Borough of Oceanport
222 Monmouth Boulevard
Oceanport, NJ 07757

RE: Oceanport Gardens
Affordable Housing Information

Dear Ms. Jungfer:

Pursuant to our telephone conversation earlier today, I am providing you the following information regarding our affordable housing at Oceanport Gardens:

Oceanport Gardens is a 100 unit development subsidized by a Pre-81 Universe Project Based HAP Contract. The HAP Contract number is NJ390014058. The contract currently in place became effective on December 1, 2005 and runs for a period of 5 years, expiring on November 30, 2010. The current contract allows senior citizens and a limited number of non-seniors with disabilities, whose incomes at move in are at or below 80% of AMI.

Applicants for Oceanport Gardens are selected from an existing waiting list. In the event that the waiting list needs to be replenished, Oceanport Gardens markets in accordance with the procedures outlined in our HUD Approved Fair Housing Marketing Agreement.

Contract rents at Oceanport Gardens are adjusted annually on the basis of a HUD approved OCAF adjustment. Currently 1-bedroom contract rents range from \$1,052.00 to \$1,059.00 and 2-Bedroom contract rents range from \$1,218.00 to \$1,298.00. Residents at Oceanport Gardens pay 30% of their adjusted gross income in accordance with HUD 4350.3 policies. The remainder of the contract rent is subsidized by the HUD Section 8 program.

Should you need further information, please feel free to contact me.

Thank you.

Yours truly,



Kevin P. Winters

Senior Ex. Director of Property Management

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM
NEW CONSTRUCTION

PART I OF THE
HOUSING ASSISTANCE PAYMENTS CONTRACT

PRIVATE-OWNER OR PHA-OWNER PROJECT

HAP CONTRACT LIST NUMBER AND DATE: NY-78-350 August 4, 1978	PROJECT NUMBER: NJ39-0014-058
--	----------------------------------

This Housing Assistance Payments Contract ("Contract") is entered into by and between the United States of America acting through the Department of Housing and Urban Development ("Government"), and OCEANPORT ASSOCIATES ("Owner"), pursuant to the United States Housing Act of 1937 ("Act"), 42 U.S.C. 1437, et seq., and the Department of Housing and Urban Development Act, 42 U.S.C. 3531, et seq.

The parties hereto agree as follows:

1.1 SIGNIFICANT DATES AND OTHER ITEMS; CONTENTS OF CONTRACT.

- a. Effective Date of Contract. The effective date of this Contract is February 22, 1980. [This date shall be no earlier than the date of Government acceptance of the project.]
- b. Initial Term of Contract. The initial term of this Contract (see Section 1.4a) shall be 5 years (not to exceed five years), beginning with the effective date of this Contract and ending February 22, 1985.
- c. Number and Length of Optional Additional Terms. The number and length of optional additional terms (see Section 1.4a) shall be 3 terms of 5 years each (not to exceed five years each).
- d. Maximum Total Term of Contract. The maximum total term of this Contract for any unit, including all renewals (see Section 1.4a) shall be 20 years. [Insert 20, except that (1) in the case of a project owned by, or financed by a loan or loan guarantee from, a State or local agency, insert the number, not to exceed 40, which will provide a term ending with the scheduled maturity date for the last payment under such financing, and (2) in the case of a mobile homes project, insert number as authorized by the Government pursuant to 24 CFR, Section 880.109, not to exceed 20.]
- e. Fiscal Year. The ending date of each Fiscal Year (see Section 1.4b) shall be 12-31 (insert March 31, June 30, September 30, or December 31, as determined by the Government).
- f. Maximum Housing Assistance Commitment. The maximum amount of the commitment for housing assistance payments under this Contract (see Section 1.5a) is \$ _____.
- g. Contents of Contract. This Contract consists of Part I, Part II, and the following exhibits:
Exhibit A: The Schedule showing the number of units by size ("Contract Units") and their applicable rents ("Contract Rents");
Exhibit B: The project description;
Exhibit C: The statement of services, maintenance and utilities to be provided by Owner;
Exhibit D: The Affirmative Fair Housing Marketing Plan, if applicable; and
Additional exhibits: [Specify additional exhibits, if any. If none, insert "None."]
Exhibit E: Daily Debt Service Schedule

This Contract, including such exhibits, comprises the entire agreement between the parties hereto with respect to the matters contained herein, and neither party is bound by any representations or agreements of any kind except as contained herein or except agreements entered into in writing which are not inconsistent with this Contract.

1.2 OWNER'S WARRANTIES.

- a. Legal Capacity. The Owner warrants that he has the legal right to execute this Contract and to lease dwelling units covered by this Contract.
- b. Completion of Work. The Owner warrants that the project as described in Exhibit B is in good and tenantable condition and that the project has been completed in accordance with the terms and conditions of the Agreement to Enter into Housing Assistance Payments Contract ("Agreement") or will be completed in accordance with the terms on which the project was accepted. The Owner further warrants that he will remedy any defects or omissions covered by this warranty if called to his attention within 12 months of the effective date of this Contract. The Owner and the Government agree that the continuation of this Contract shall be subject to the conditions set forth in Section 1.4f of the Agreement.

1.3 FAMILIES TO BE HOUSED; GOVERNMENT ASSISTANCE.

- a. Families To Be Housed. The Contract Units are to be leased by the Owner to eligible Lower-Income Families ("Families") for use and occupancy by such Families solely as private dwellings.
- b. Government Assistance.
 - (1) The Government hereby agrees to make housing assistance payments on behalf of Families for the Contract Units, to enable such Families to lease Decent, Safe, and Sanitary housing pursuant to section 8 of the Act. Such housing assistance payments shall equal the difference between the Contract Rents for units leased by Families and the portion of such rents payable by Families as determined by the Owner in accordance with schedules and criteria established by the Government.
 - (2) If there is an Allowance for Utilities and Other Services and if such Allowance exceeds the Gross Family Contribution, the Owner shall pay the Family the amount of such excess on behalf of the Government upon receipt of funds from the Government for that purpose.

1.4 TERM OF CONTRACT: FISCAL YEAR.

a. Term of Contract.

[Alternative provisions--incorporate alternative 1 or 2, as applicable.]

Alternative 1--General:

The initial term of this Contract shall be as stated in Section 1.3b. This Contract may be renewed, at the sole option of the Owner, for the number and length of additional terms stated in Section 1.1c, provided that the total Contract term for any unit, including all renewals, shall not exceed the number of years stated in Section 1.1d. Renewal shall be automatic unless the Owner notifies the Government, no later than 60 days prior to the expiration of the current term, of his intention not to renew. If the project is completed in stages, the dates for the initial term and renewal terms shall be separately related to the units in each stage; Provided, however, that the total Contract term for all the stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years. In any case where the project is owned by, or financed by a loan or loan guarantee from, a State or local agency, the housing assistance payments pursuant to this Contract with respect to any dwelling unit shall be payable over a period not to exceed 40 years.

Alternative 2--Non-mobile home projects:

In the case of mobile homes, the initial term of this Contract for each mobile home shall be as stated in Section 1.3b. This Contract shall be renewed, as may be mutually agreed upon by the Owner and the Government, with respect to any mobile home, for the number and length of additional terms as stated in Section 1.1c, provided that the total Contract term for any mobile home, including all renewals, shall not exceed the number of years stated in Section 1.1d. Renewals shall become effective only if either party gives written notice, no later than 60 days prior to the expiration of the current term, of his desire to renew, and the other party concurs or fails to object before the expiration of the current term. If the project is completed in stages, the dates for the initial term and renewal terms shall be separately related to the mobile homes in each stage; Provided, however, that the total Contract term for all the stages, beginning with the effective date of the Contract with respect to the first stage, shall not exceed the total Contract term stated in Section 1.1d, plus two years.

- b. Fiscal Year. The Fiscal Year for the project shall be the 12-month period ending on the date stated in Section 1.1e; Provided, however, that the first Fiscal Year for the project shall be the period beginning with the effective date of the Contract and ending on the last day of said established Fiscal Year which is not less than 12 months after such effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual housing assistance payment in Section 1.5a may be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.

1.5 MAXIMUM HOUSING ASSISTANCE COMMITMENT: PROJECT ACCOUNT.

- a. Maximum Housing Assistance Commitment. Notwithstanding any other provisions of this Contract (other than paragraph b of this Section) or any provisions of any other contract between the Government and the Owner, the Government shall not be obligated to make and shall not make any housing assistance payments under this Contract in excess of the amount per annum stated in Section 1.1f; Provided, however, that this amount shall be reduced commensurately with any reduction in the number of Contract Units or in the Contract Rents or pursuant to any other provisions of this Contract.

- b. Project Account. In order to assure that housing assistance payments will be increased on a timely basis to cover increases in Contract Rents or decreases in Family Incomes:

- (1) A Project Account shall be established and maintained, in an amount as determined by the Government consistent with its responsibilities under section 8(c)(6) of the Act, out of amounts by which the maximum Contract commitment per year exceeds amounts paid under the Contract for any Fiscal Year. This account shall be established and maintained by the Government as a specifically identified and segregated account. To the extent funds are available in said account, the maximum total annual housing assistance payments for any Fiscal Year may exceed the maximum amount stated in paragraph a of this Section to cover increases in Contract Rents or decreases in Family Incomes (see Section 1.8). Any amount remaining in said account after payment of the last housing assistance payment with respect to the project shall be applied by the Government in accordance with law.
- (2) Whenever the Government approved estimate of the required Annual Contribution exceeds the maximum Contract commitment then in effect, and would cause the amount in the Project Account to be less than an amount equal to 40 percent of such maximum Contract commitment, the Government shall, within a reasonable period of time, take such additional steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance, including (as provided in that section of the Act) "the reservation of annual contributions authority for the purpose of amending housing assistance contracts or the allocation of a portion of new authorizations for the purpose of amending housing assistance contracts."

1.6 HOUSING ASSISTANCE PAYMENTS TO OWNERS.

a. General.

- (1) Housing assistance payments shall be paid to the Owner for units under lease by Families in accordance with the Contract. The housing assistance payment will cover the difference between the Contract Rent and that portion of said rent payable by the Family as determined in accordance with the Government-established schedules and criteria.
- (2) The amount of housing assistance payment payable on behalf of a Family and the amount of rent payable by such Family shall be subject to change by reason of changes in Family Income, Family composition, or extent of exceptional medical or other unusual expenses, in accordance with the Government-established schedules and criteria; or by reason of adjustment by the Government of any applicable Allowance for Utilities and Other Services. Any such change shall be effective as of the date stated in a notification of such change to the Family.

- b. Vacancies During Rent-up. If a Contract Unit is not leased as of the effective date of the Contract, the Owner shall be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) commenced marketing and otherwise complied with Section 1.3b of the Agreement, (2) has taken and continues to take all feasible actions to fill the vacancy, including, but not limited to, contacting applicants on his waiting list, if any, requesting the Public Housing Agency ("PHA") and other appropriate sources to refer eligible applicants, and advertising the availability of the unit, and (3) has not rejected any eligible applicant, except for good cause acceptable to the Government.

c. Vacancies After Rent-up.

- (1) If a Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner shall receive housing assistance payments in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding 60 days; Provided, however, that if the Owner collects any of the Family's share of the rent for this period in an amount which, when added to the 80 percent payments, results in more than the Contract Rent, such excess shall be payable to the Government or as the Government may direct. (See also Section 1.9b.) The Owner shall not be entitled to any payment under this subparagraph unless he: (i) immediately upon learning of the vacancy, has notified the Government of the vacancy or prospective vacancy and the reasons for the vacancy, and (ii) has taken and continues to take the actions specified in paragraphs b(2) and b(3) of this Section.

- (2) If the Owner evicts a Family, he shall not be entitled to any payment under paragraph c(1) of this Section unless the request for such payment is supported by a certification that (i) he gave such Family a written notice of the proposed eviction, stating the grounds and advising the Family that it had 10 days within which to present its objections to the Owner in writing or in person and (ii) the proposed eviction was not in violation of the Lease or the Contract or any applicable law.

d. Limitation on Payments for Vacant Units. The Owner shall not be entitled to housing assistance payments with respect to vacant units under this Section to the extent he is entitled to payments from other sources (e.g., payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the Housing and Community Development Act of 1974 or payments under Section 1.9b of this Contract).

e. Government Not Obligated for Family Rent. The Government has not assumed any obligation for the amount of rent payable by any Family or the satisfaction of any claim by the Owner against any Family other than in accordance with Section 1.9b of this Contract. The financial obligation of the Government is limited to making housing assistance payments on behalf of Families in accordance with this Contract.

f. Owner's Monthly Requests for Payments.

- (1) The Owner shall submit monthly requests to the Government for housing assistance payments. Each such request shall set forth: (i) the name of each Family and the address and/or number of the unit leased by the Family; (ii) the address and/or the number of units, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth in Exhibit A for each unit for which the Owner is claiming payments; (iv) the amount of rent payable by the Family leasing the unit (or, where applicable, the amount to be paid by the Owner in accordance with Section 1.3b(2); and (v) the total amount of housing assistance payments requested by the Owner.
- (2) Each of the Owner's monthly requests shall contain a certification by him that to the best of his knowledge and belief (i) the dwelling units are in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, and (iv) none of the amount claimed has been previously claimed or paid.
- (3) If the Owner has received an excessive payment, the Government, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.
- (4) The Owner's monthly requests for housing assistance payments shall be made subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

~~g. Recoupment of Government Overpayment.~~

- (1) In the event that interim financing is continued after the first year of the term of the Contract and the debt service of the interim financing for any period of three months, after such first year, is less than the anticipated debt service under the permanent financing on which the Contract Rents were based, an amount reflecting the savings in financing cost, computed in accordance with paragraph g(2) of this Section, shall be credited by the Government to the Project Account, and withheld from housing assistance payments to the Owner. If during the course of the same year there is any period of three months in which the debt service is greater than the anticipated debt service under the permanent financing, an adjustment shall be made so that only the net amount of savings in financing cost for the year is credited by the Government to the Project Account and withheld from housing assistance payments to the Owner as aforesaid. The increased payments shall be made to the Owner on account of any net excess for the year of actual interim debt service over the anticipated debt service under the permanent financing. Nothing in this paragraph shall be construed as requiring recoupment in the Contract Rents or as requiring adjustment of Contract Rents in accordance with Section 1.3c.

~~(2) The computation and recoupment under this paragraph may be made on an annual or on a quarterly or other periodic basis, but in any event no later than as of the end of each Fiscal Year; Provided, however, that if recoupment is to be made less often than quarterly, the amounts of recoupment shall be computed on at least a quarterly basis and the funds shall be deposited in a special account from which withdrawals may be made only with the authorization of the Government. The manner of computing the amount of recoupment shall be as follows:~~

- ~~(i) Determine the amount by which the debt service for the interim financing for the period in question is less than the anticipated debt service under the permanent financing on which the Contract Rents were based;~~
- ~~(ii) Determine what percentage the amount found under paragraph g(2)(i) of this Section is of the aggregate Contract Rents for all Contract Units for the period in question;~~
- ~~(iii) Apply the percentage found in paragraph g(2)(ii) of this Section to the aggregate Contract Rents for those Contract Units which are included in the Owner's claim(s) for housing assistance payments for the period in question; and~~
- ~~(iv) The amount found in paragraph g(2)(iii) of this Section shall be credited to the Project Account and withheld from the next housing assistance payment or payments to the Owner.~~

h. Debt Service Payments

(See attached "Addendum" which is hereby incorporated and made a part of this Contract).

1.7 MAINTENANCE, OPERATION AND INSPECTION.

a. Maintenance and Operation. The Owner agrees (1) to maintain and operate the Contract Units and related facilities so as to provide Decent, Safe, and Sanitary housing, and (2) to provide all the services, maintenance and utilities set forth in Exhibit C. If the Government determines that the Owner is not meeting one or more of these obligations, the Government shall have the right, in addition to its other rights and remedies under this Contract, to abate housing assistance payments in whole or in part.

b. Inspection.

- (1) Prior to occupancy of any unit by a Family, the Owner and the Family shall inspect the unit and both shall certify, on forms prescribed by the Government, that they have inspected the unit and have determined it to be Decent, Safe, and Sanitary in accordance with the criteria provided in the prescribed forms. Copies of these reports shall be kept on file by the Owner for at least three years.

¹ Delete this paragraph unless the project is subject to 24 CFR, Section 880.125.

- (2) The Government shall inspect or cause to be inspected each Contract Unit and related facilities at least annually and at such other times (including prior to initial occupancy and reletting of any unit) as may be necessary to assure that the Owner is meeting his obligation to maintain the units in Decent, Safe, and Sanitary condition and to provide the agreed upon utilities and other services. The Government shall take into account anomalies by occupants and any other information coming to its attention in scheduling inspections and shall notify the Owner and the Family of its determination.

- a. Units Not Decent, Safe, and Sanitary. If the Government notifies the Owner that he has failed to maintain a dwelling unit in Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the Government may exercise any of its rights or remedies under the Contract, including abatement of housing assistance payments, even if the Family continues to occupy the unit. If, however, the Family wishes to be rehoused in another dwelling unit with section 8 assistance and the Government does not have other section 8 funds for such purposes, the Government may use the abated housing assistance payments for the purpose of rehousing the Family in another dwelling unit. Where this is done, the Owner shall be notified that he will be entitled to resumption of housing assistance payments for the vacated dwelling unit if (1) the unit is restored to Decent, Safe, and Sanitary condition, (2) the Family is willing to and does move back into the restored unit, and (3) a deduction is made for the expenses incurred by the Family for both moves.
- d. Notification of Abatement. Any abatement of housing assistance payments shall be effective as provided in written notification to the Owner. The Government shall promptly notify the Family of any such abatement.
- e. Overcrowded and Underoccupied Units. If the Government determines that a Contract Unit is not Decent, Safe, and Sanitary by reason of increase in Family size, or that a Contract Unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to such unit will not be abated, unless the Owner fails to offer the Family a suitable unit as soon as one becomes vacant and ready for occupancy. In the case of an overcrowded unit, if the Owner does not have any suitable units or if no vacancy of a suitable unit occurs within a reasonable time, the Government will assist the Family in finding a suitable dwelling unit and require the Family to move to such a unit as soon as possible. The Owner may receive housing assistance payments for the vacated unit if he complies with the requirements of Section 1.6c(1).

1.8. RENT ADJUSTMENTS.

- a. Funding of Adjustments. Housing assistance payments will be made in increased amounts commensurate with Contract Rent adjustments under this Section, up to the maximum amount authorized under Section 1.5a of this Contract.
- b. Automatic Annual Adjustments.
- (1) Automatic Annual Adjustment Factors will be determined by the Government at least annually; interim revisions may be made as market conditions warrant. Such Factors and the basis for their determination will be published in the Federal Register. These published Factors will be reduced appropriately by the Government where utilities are paid directly by the Families.
- (2) On each anniversary date of the Contract, the Contract Rents shall be adjusted by applying the applicable Automatic Annual Adjustment Factor most recently published by the Government. Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the adjusted Contract Rents be less than the Contract Rents on the effective date of the Contract.
- c. Special Additional Adjustments. Special additional adjustments shall be granted, when approved by the Government, to reflect increases in the actual and necessary expenses of owning and maintaining the Contract Units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs (i.e., assessments, and utilities not covered by regulated rates), but only if and to the extent that the Owner clearly demonstrates that such general increases have caused increases in the Owner's operating costs which are not adequately compensated for by automatic annual adjustments. The Owner shall submit to the Government financial statements which clearly support the increase.
- d. Overall Limitation. Notwithstanding any other provisions of this Contract, adjustments as provided in this Section shall not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the Government; provided, that this limitation shall not be construed to prohibit differences in rents between assisted and comparable unassisted units to the extent that such differences may have existed with respect to the initial Contract Rents.
- e. Incorporation of Rent Adjustment. Any adjustment in Contract Rents shall be incorporated into Exhibit A by a dated addendum to the exhibit establishing the effective date of the adjustment.
- ~~f. Adjustment to the Project Rental Cost of Permanent Financing. This paragraph shall apply to the project if the project is permanently financed after the effective date of the Contract. After the project is permanently financed, the Financing Agency shall submit a certification to the Government as to the actual financing terms. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the Contract Rents currently in effect shall be reduced commensurately, and the amount of the savings shall be credited to the Project Account. The maximum Contract commitment shall not be reduced. If the actual debt service is higher than the anticipated debt service, the Contract Rents shall be increased commensurately.~~

1.9 MARKETING AND LEASING OF UNITS.

- a. Compliance with Equal Opportunity. Marketing of units and selection of Families by the Owner shall be in accordance with the Owner's Government-approved Affirmative Fair Housing Marketing Plan, shown as Exhibit D, and with all regulations relating to fair housing advertising.
- b. Security and Utility Deposits.
- (1) The Owner may require Families to pay a security deposit in an amount equal to one month's Gross Family Contribution. If a Family vacates its unit, the Owner, subject to State and local law, may utilize the deposit as reimbursement for any unpaid rent or other amount owed under the Lease. If the Family has provided a security deposit, and it is insufficient for such reimbursement, the Owner may claim reimbursement from the Government, not to exceed an amount equal to the remainder of one month's Contract Rent. Any reimbursement under this Section shall be applied first toward any unpaid rent. If a Family vacates the unit owing no rent or other amount under the Lease or if the amount owed is less than the amount of the security deposit, the Owner shall refund the full amount or the unused balance, as the case may be, to the Family.
- (2) In those jurisdictions where interest is payable by the Owner on Security deposits, the refunded amount shall include the amount of interest payable. All security deposit funds shall be deposited by the Owner in a segregated bank account, and the balance of this account, at all times, shall be equal to the total amount collected from tenants then in occupancy, plus any accrued interest. The Owner shall comply with all State and local laws regarding interest payments on security deposits.
- (3) Families shall be expected to obtain the funds to pay security and utility deposits, if required, from their own resources and/or other private or public sources.

¹ Delete this paragraph unless the project is subject to 24 CFR, Section 980.125.

c. Eligibility, Selection and Admission of Families.

- (1) The Owner shall be responsible for determination of eligibility of applicants, selection of families from among those determined to be eligible, and compliance with the Government's established schedules and criteria. In the initial letting of the Contract Units, the Owner shall lease at least 30 percent to Very Low-Income Families (determined in accordance with the Government-established schedules and criteria) and shall thereafter exercise his best efforts to maintain at least 30 percent occupancy of the Contract Units by Very Low-Income Families as determined in accordance with such schedules and criteria.
 - (2) The Lease entered into between the Owner and each selected Family shall be on the form of Lease approved by the Government.
 - (3) The Owner shall make a reexamination of Family Income, composition, and the extent of medical or other unusual expenses incurred by the Family, at least annually (except that such reviews may be made at intervals of no longer than two years in the case of elderly Families), and appropriate redeterminations shall be made by the Owner of the amount of Family contribution and the amount of housing assistance payment, all in accordance with schedules and criteria established by the Government. In connection with this reexamination, the Owner shall determine what percentage of Families in occupancy are Very Low-Income Families. If there are fewer than 30 percent Very Low-Income Families in occupancy, the Owner shall report the fact to the Government and shall adopt changes in his admission policies to achieve, as soon as possible, at least 30 percent occupancy by such Families.
 - d. Rent Redetermination after Adjustment in Allowance for Utilities and Other Services. In the event that the Owner is notified of a Government determination making an adjustment in the Allowance for Utilities and Other Services applicable to any of the Contract Units, the Owner shall promptly make a corresponding adjustment in the amount of rent to be paid by the affected Families and the amount of housing assistance payments.
 - e. Processing of Applications and Complaints. The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Government requirements and shall maintain records and furnish such copies or other information as may be required by the Government.
 - f. Government Review; Incorrect Payments. In making housing assistance payments to Owners, the Government will review the Owner's determinations under this Section. If as a result of this review, or other reviews, audits or information received by the Government at any time, it is determined that the Owner has received improper or excessive housing assistance payments, the Government shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery thereof.
- 1.10 TERMINATION OF TENANCY. The Owner shall be responsible for termination of tenancies, including evictions. However, conditions for payment of housing assistance payments for any resulting vacancies shall be as set forth in Section 1.6c.

1.11 REDUCTION OF NUMBER OF CONTRACT UNITS FOR FAILURE TO LEASE TO ELIGIBLE FAMILIES.

- a. After First Year of Contract. If at any time, beginning six months after the effective date of this Contract, the Owner fails for a continuous period of six months to have at least 80 percent of the Contract Units leased or available for leasing by Families, the Government may on 30 days notice reduce the number of Contract Units to not less than the number of units under lease or available for leasing by Families, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.
- b. At End of Initial and Each Renewal Term. At the end of the initial term of the Contract and of each renewal term, the Government may, by notice to the Owner, reduce the number of Contract Units to not less than (1) the number of units under lease or available for leasing by Families at that time or (2) the average number of units so leased or available for leasing during the last year, whichever is the greater number, plus 10 percent of such number if the number is 10 or more, rounded to the next highest number.
- c. Restoration of Units. The Government will agree to an amendment of the Contract to provide for subsequent restoration of any reduction made pursuant to paragraph a or b of this Section if the Government determines that the restoration is justified as a result of changes in demand and in the light of the Owner's record of compliance with his obligations under this Contract and if annual contributions contract authority is available; and the Government will take such steps authorized by section 8(c)(6) of the Act as may be necessary to carry out this assurance (see Section 1.5).

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

OWNER OCEANPORT ASSOCIATES

By [Signature]
GENERAL PARTNER
(Official Title)

Date March 20, 19 80

United States of America
Secretary of Housing and Urban Development

By [Signature]
Deputy Director
Multifamily Development
(Official Title)

Date 3/28, 19 80

[If the project is to be completed and accepted in stages, execution of the Contract with respect to the several stages appears on the following pages of this Contract.]

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM
NEW CONSTRUCTION

PART II OF THE

HOUSING ASSISTANCE PAYMENTS CONTRACT
PRIVATE-OWNER OR PHA-OWNER PROJECT

HAP CONTRACT LIST NUMBER AND DATE:
NY-78-350 August 4, 1978

PROJECT NUMBER:
NJ39-0014-058

2.1 NONDISCRIMINATION IN HOUSING.

- a. The Owner shall not in the selection of Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, or national origin. No person shall be automatically excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program because of membership in a class such as unmarried mothers, recipients of public assistance, etc.
- b. The Owner shall comply with all requirements imposed by Title VIII of the Civil Rights Act of 1968, and any rules and regulations pursuant thereto.
- c. The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241; the regulations of the Department of Housing and Urban Development issued thereunder, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq.; the requirements of said Department pursuant to said regulations; and Executive Order 11063 to the end that, in accordance with that Act, the regulations and requirements of said Department thereunder, and said Executive Order, no person in the United States shall, on the grounds of race, color, creed, religion or national origin, be excluded from participation in, or be denied the benefits of, the Housing Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of the Department of Housing and Urban Development, 24 CFR, Subtitle A, Part 1, Section 1.1, et seq., issued under Title VI of the said Civil Rights Act of 1964, and the requirements of said Department pursuant to said regulations; and the obligation of the Owner to comply therewith inures to the benefit of the Government and the said Department, either of which shall be entitled to invoke any remedies available by law to redress any breach thereof or to compel compliance therewith by the Owner.

2.2 TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES FOR BUSINESSES AND LOWER-INCOME PERSONS.³

- a. The project assisted under this 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 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.
- b. Notwithstanding any other provision of this Contract, the Owner shall carry out the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135 (published in 38 Federal Register 29220, October 23, 1973), and all applicable rules and orders of the Secretary issued thereunder prior to the execution of this Contract. The requirements of said regulations include, but are not limited to, development and implementation of an affirmative action plan for utilizing business concerns located within, or owned in substantial part by persons residing in, the area of the project; the making of a good faith effort, as defined by the regulations, to provide training, employment, and business opportunities required by section 3; and incorporation of the "section 3 clause" specified by section 135.20(b) of the regulations and paragraph d of this Section in all contracts for work in connection with the project. The Owner certifies and agrees that he is under no contractual or other disability which would prevent him from complying with these requirements.
- c. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Secretary issued thereunder prior to approval by the Government of the application for this Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the Owner, his successors and assigns. Failure to fulfill these requirements shall subject the Owner, his contractors and subcontractors, his successors, and assigns to the sanction specified by this Contract, and to such sanctions as are specified by 24 CFR, Section 135.135.
- d. The Owner shall incorporate or cause to be incorporated into any contract or subcontract for work pursuant to this Contract in excess of \$50,000 cost, the following clause:

"EMPLOYMENT OF PROJECT AREA RESIDENTS AND CONTRACTORS

- "A. The work to be performed under this Contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and 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 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.
- "B. The parties to this Contract will comply with the provisions of said section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- "C. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- "D. The contractor will include this section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontract is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR, Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR, Part 135, and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

³Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum term of this Contract, are \$500,000 or less.

"E. Compliance with the provisions of section 3, the regulations set forth in 24 CFR, Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR, Section 135.135."

e. The Owner agrees that he will be bound by the above Employment of Project Area Residents and Contractors clause with respect to his own employment practices when he participates in Federally assisted work.

2.3 COOPERATION IN EQUAL OPPORTUNITY COMPLIANCE REVIEWS. The Owner shall cooperate with the Government in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and rules and regulations pursuant thereto.

2.4 FLOOD INSURANCE. If the project is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.5 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.⁴ In compliance with regulations issued by the Environmental Protection Agency ("EPA"), 40 CFR, Part 15, 39 F.R. 11099, pursuant to the Clean Air Act as amended ("Air Act"), 42 U.S.C. 1857, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees that:

- a. Any facility to be utilized in the performance of this Contract or any subcontract shall not be a facility listed on the EPA List of Violating Facilities pursuant to section 15.20 of said regulations;
- b. He will promptly notify the Department of Housing and Urban Development field office director of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;
- c. He will comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder; and
- d. He will include or cause to be included the provisions of this Section in every nonexempt subcontract, and that he will take such action as the Government may direct as a means of enforcing such provisions.

2.6 REPORTS AND ACCESS TO PREMISES AND RECORDS.

- a. The Owner shall furnish such information and reports pertinent to the Contract as reasonably may be required from time to time by the Government.
- b. The Owner shall permit the Government or any of its duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the housing assistance payments.

2.7 DEFAULT BY THE OWNER UNDER CONTRACT

- a. A default by the Owner under this Contract shall result if:
 - (1) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease; or
 - (2) The Owner has asserted or demonstrated an intention not to perform some or all of his obligations under this Contract or under any Lease.
- b. Upon a determination by the Government that a default has occurred, the Government shall notify the Owner of (1) the nature of the default, (2) the actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default, and, where appropriate, abatement of housing assistance payments in whole or in part and recovery of overpayments), and (3) the time within which the Owner shall respond with a showing that he has taken all the actions required of him. If the Owner fails to respond or take action to the satisfaction of the Government, the Government shall have the right to terminate this Contract in whole or in part or to take other corrective action to achieve compliance.
- c. The availability of any remedy under this Contract shall not preclude the exercise of any other remedy available under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.8 DISPUTES.

- a. Except as otherwise provided herein, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement between the Department of Housing and Urban Development field office and the Owner may be submitted by the Owner to the Secretary of Housing and Urban Development. The decision of the Secretary or duly authorized representative for the resolution of such disputes shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any proceeding under this Section, the Owner shall be afforded an opportunity to be heard and to offer evidence in support of his position.
- b. This Section does not preclude consideration of questions of law in connection with the decision rendered under paragraph a of this Section; Provided, however, that nothing herein shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

2.9 INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES OF PHA, MEMBERS OF LOCAL GOVERNING BODY OR OTHER PUBLIC OFFICIALS. No member, officer, or employee of the PHA, no member of the governing body of the locality (city and county) in which the project is situated, no member of the governing body of the locality in which the PHA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Contract or in any proceeds or benefits arising therefrom.

⁴ Strike this Section if the Contract Rents on the effective date of this Contract, over the maximum total term of this Contract, are \$100,000 or less.

2.10 INTEREST OF MEMBER OF OR DELEGATE TO CONGRESS. No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise therefrom.

2.11 ASSIGNMENT, SALE OR FORECLOSURE.

- a. The Owner agrees that he has not made and will not make any sale, assignment, or conveyance or transfer in any other form, of this Contract or the project or any part thereof or any of his interest therein, without the prior consent of the Government; Provided, however, that in the case of an assignment as security for the purpose of obtaining financing of the project, the Government shall consent in writing if the terms of the financing have been approved by the Government.
- b. The Owner agrees to notify the Government promptly of any proposed action covered by paragraph a of this Section. The Owner further agrees to request the written consent of the Government in regard thereto.
- c.
 - (1) A transfer by the Owner, in whole or in part, or a transfer by a party having a substantial interest in said Owner, or transfers by more than one party of interests aggregating a substantial interest in said Owner, or any other similarly significant change in the ownership of interests in the Owner, or in the relative distribution thereof, or with respect to the parties in control of the Owner or the degree thereof, by any other method or means (e.g., increased capitalization, merger with another corporation or other entity, corporate or other amendments, issuance of new or additional ownership interests or classification of ownership interests or otherwise) shall be deemed an assignment, conveyance, or transfer for purposes of this Section 2.11. An assignment by the Owner to a limited partnership, in which no limited partner has a 25 percent or more interest and of which the Owner is the sole general partner, shall not be considered an assignment, conveyance, or transfer.
 - (2) The term "substantial interest" means the interest of any general partner, any limited partner having a 25 percent or more interest in the organization, any corporate officer or director, and any stockholder having a 10 percent or more interest in the organization.
 - (3) The Owner, and the party signing this Contract on behalf of said Owner, represent that they have the authority of all of the parties having ownership interests in the Owner to agree to this provision on their behalf and to bind them with respect thereto.
- d. In the event of foreclosure, including foreclosure by the Government, and in the event of assignment or sale agreed to by the Government or made to the Government, housing assistance payments shall continue in accordance with the terms of the Contract.

(If the project is subject to 24 CFR, Section 880.125, paragraph d above shall be stricken and the following shall be used instead:
- d. In the event of foreclosure, or assignment or sale to the financing agency in lieu of foreclosure, or in the event of assignment or sale agreed to by the financing agency and approved by the Government (which approval shall not be unreasonably delayed or withheld), housing assistance payments shall continue in accordance with the terms of the Contract.)

U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS
BASIC RENEWAL CONTRACT
MULTI-YEAR TERM

PREPARATION OF CONTRACT

Reference numbers in this form refer to notes at the end of the contract text. These endnotes are instructions for preparation of the Basic Renewal Contract. The instructions are not part of the Renewal Contract

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U.S. Department of Housing and Urban Development
Office of Housing

Project-based Section 8

HOUSING ASSISTANCE PAYMENTS

BASIC RENEWAL CONTRACT¹

MULTI-YEAR TERM

1 CONTRACT INFORMATION²

PROJECT

Section 8 Project Number: NJ390014058

Section 8 Project Number of Expiring Contract: NJ390014058

FHA Project Number (if applicable): 031-35157

Project Name: Oceanport Gardens

Project Description:³

High-rise / Elevator bldg. at 274 - 280 East Main Street, Oceanport, NJ 07757

TYPE OF RENEWAL

- ☒ Check this box for a project renewed under Section 524(a) of MAHRA (not including a Mark-Up-To-Market renewal).
- ☐ Check this box for a project renewed at exception rents under Section 524(b)(1) of MAHRA.

PARTIES TO RENEWAL CONTRACT

Name of Contract Administrator⁴

New Jersey Housing & Mortgage Finance Agency

Address of Contract Administrator

637 So. Clinton Avenue
P.O. Box 18550
Trenton, NJ 08650-2085

Name of Owner⁵

Oceanport Associates

Address of Owner

377 Oak Street
Garden City, NY 11530

2 TERM AND FUNDING OF RENEWAL CONTRACT

a

The Renewal Contract begins on April 1, 2011⁶ and shall run for a period of 20 (twenty)⁷ years.

b

Execution of the Renewal Contract by the Contract Administrator is an obligation by HUD of \$ _____ in amount sufficient to provide housing assistance payments for approximately 12(twelve)⁹ months of the first annual increment of the Renewal Contract term.

- c HUD will provide additional funding for the remainder of the first annual increment and for subsequent annual increments, including for any remainder of such subsequent annual increments, subject to the availability of sufficient appropriations. When such appropriations are available, HUD will obligate additional funding and provide the Owner written notification of (i) the amount of such additional funding, and (ii) the approximate period of time within the Renewal Contract term to which it will be applied.

3 DEFINITIONS

ACC. Annual contributions contract.

Anniversary. The annual recurrence of the date of the first day of the term of the Renewal Contract.

Contract rent. The total monthly rent to owner for a contract unit, including the tenant rent (the portion of rent to owner paid by the assisted family).

Contract units. The units in the Project which are identified in Exhibit A by size and applicable contract rents.

Fifth year anniversary. The Renewal Contract annual anniversary that falls at expiration of each 5-year period of the Renewal Contract term.

Fifth year comparability adjustment. An adjustment of contract rents by the contract administrator at the Fifth Year Anniversary. The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

HAP contract. A housing assistance payments contract between the Contract Administrator and the Owner.

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

HUD requirements. HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract.

MAHRA. The Multifamily Assisted Housing Reform and Affordability Act of 1997 (Title V of Public Law No. 105-65, October 27, 1997, 111 Stat. 1384), as amended.

Mid-term comparability adjustment. An adjustment of contract rents by the contract administrator within each 5-year period of the Renewal Contract term (in addition to the comparability analysis and adjustment at

the Fifth Year Anniversary). The contract rent for each unit size is set at comparable rent as shown by comparability analysis.

OCAF. An operating cost adjustment factor established by HUD.

PHA. Public housing agency (as defined and qualified in accordance with the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.).

Project. The housing described in section 1 of the Renewal Contract.

Renewal Contract. This contract, including applicable provisions of the Expiring Contract (as determined in accordance with section 5 of the Renewal Contract).

Section 8. Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

4 **RENEWAL CONTRACT**

a Parties

- (1) The Renewal Contract is a housing assistance payments contract ("HAP Contract") between the Contract Administrator and the Owner of the Project (see section 1).
- (2) If HUD is the Contract Administrator, HUD may assign the Renewal Contract to a public housing agency ("PHA") for the purpose of PHA administration of the Renewal Contract, as Contract Administrator, in accordance with the Renewal Contract (during the term of the annual contributions contract ("ACC") between HUD and the PHA). Notwithstanding such assignment, HUD shall remain a party to the provisions of the Renewal Contract that specify HUD's role pursuant to the Renewal Contract, including such provisions of section 9 (HUD requirements), section 10 (statutory changes during term) and section 11 (PHA default), of the Renewal Contract.

b Statutory authority

The Renewal Contract is entered pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), and section 524 of MAHRA.

c Expiring Contract

Previously, the Contract Administrator and the Owner had entered into a HAP Contract ("expiring contract") to make Section 8 housing

assistance payments to the Owner for eligible families living in the Project. The term of the expiring contract will expire prior to the beginning of the term of the Renewal Contract.

d Purpose of Renewal Contract

- (1) The purpose of the Renewal Contract is to renew the expiring contract for an additional term. During the term of the Renewal Contract, the Contract Administrator shall make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract.
- (2) Housing assistance payments shall only be paid to the Owner for contract units occupied by eligible families leasing decent, safe and sanitary units from the Owner in accordance with statutory requirements, and with all HUD regulations and other requirements. If the Contract Administrator determines that the Owner has failed to maintain one or more contract units in decent, safe and sanitary condition, and has abated housing assistance payments to the Owner for such units, the Contract Administrator may use amounts otherwise payable to the Owner pursuant to the Renewal Contract for the purpose of relocating or rehousing assisted residents in other housing.

e Contract units

The Renewal Contract applies to the Contract units.

5 EXPIRING CONTRACT - PROVISIONS RENEWED

- a Except as specifically modified by the Renewal Contract, all provisions of the Expiring Contract are renewed (to the extent such provisions are consistent with statutory requirements in effect at the beginning of the Renewal Contract term).
- b All provisions of the Expiring Contract concerning any of the following subjects are not renewed, and shall not be applicable during the renewal term:
 - (1) Identification of contract units by size and applicable contract rents;
 - (2) The amount of the monthly contract rents;

- (3) Contract rent adjustments; and
 - (4) Project account (sometimes called "HAP reserve" or "project reserve") as previously established and maintained by HUD pursuant to former Section 8(c)(6) of the United States Housing Act of 1937 (currently Section 8(c)(5) of the Act, 42 U.S.C. 1437f(c)(5)). Section 8(c)(5) does not apply to the Renewal Contract, or to payment of housing assistance payments during the Renewal Contract term.
- c The Renewal Contract includes those provisions of the Expiring Contract that are renewed in accordance with this section 5.

6 CONTRACT RENT

a Initial contract rents

At the beginning of the Renewal Contract term, and until contract rents for units in the Project are adjusted in accordance with section 6b, the contract rent for each bedroom size (number of bedrooms) shall be the initial contract rent amount listed in Exhibit A of the Renewal Contract.

b Contract rent adjustments

(1) OCAF or Budget-Based Rent Adjustments

- (a) Except as provided in section 6b(2) below (concerning comparability adjustments at each Fifth Year Anniversary and discretionary comparability adjustments within each five-year term), during the term of the Renewal Contract the Contract Administrator shall annually, on the anniversary of the Renewal Contract, adjust the amounts of the monthly contract rents in accordance with HUD requirements by either of the following methods (as determined by the Contract Administrator in accordance with HUD requirements):
 - (i) Using an OCAF; or
 - (ii) At the request of the owner, based on the budget for the Project, as approved by the Contract Administrator in accordance with HUD requirements.

- (b) Adjustments by use of the OCAF shall not result in a negative adjustment (decrease) of the contract rents. The OCAF shall not be used for adjustment of rent at each Fifth Year Anniversary (as determined in accordance with section 6b(2)(b) below).

(2) **Comparability adjustments**

- (a) **Applicability.** This section 6b(2) is applicable only if the contract has been renewed pursuant to Section 524(a) of MAHRA. This section 6b(2) does not apply to a project renewed at exception rents under Section 524(b)(1) of MAHRA (See section 1 of the Renewal Contract).
- (b) **Fifth year adjustment (comparability adjustment at expiration of each 5-year period, if applicable).**
 - (i) This section 6b(2)(b) is only applicable if the term of the Renewal Contract is longer than five (5) years (from the first day of the term specified in section 2a).
 - (ii) At the expiration of each 5-year period of the Renewal Contract term ("Fifth Year Anniversary"), the Contract Administrator shall conduct a comparability analysis of existing contract rents. At such Fifth Year Anniversary of the Renewal Contract, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable market rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.
 - (iii) To assist in the redetermination of contract rents at each Fifth Year Anniversary, the Contract Administrator may require that the Owner submit to the Contract Administrator a rent comparability study prepared (at the Owner's expense) in accordance with HUD requirements.

(c) Mid-term adjustment (discretionary comparability adjustment within 5-year term)

In addition to the comparability analysis and adjustment of contract rents at the Fifth Year Anniversary, HUD may, at HUD's discretion, require or permit the Contract Administrator to conduct a comparability analysis and adjustment of contract rents ("mid-term adjustment"), one more time within each 5-year period of the Renewal Contract term

(d) Adjusting contract rent

At the time of a fifth year or mid-term comparability adjustment, the Contract Administrator shall make any adjustments in the monthly contract rents, as reasonably determined by the Contract Administrator in accordance with HUD requirements, necessary to set the contract rent for each unit size at comparable rent. Such adjustment may result in a negative adjustment (decrease) or positive adjustment (increase) of the contract rents for one or more unit sizes.

(3) Procedure for rent adjustments during renewal term

- (a)** To adjust contract rents during the term of the Renewal Contract (including an OCAF or budget-based adjustment in accordance with section 6b(1), or a fifth year or midterm adjustment in accordance with section 6b(2)), the Contract Administrator shall give the Owner notice with a revised Exhibit A that specifies the adjusted contract rent amounts.
- (b)** The revised Exhibit A shall specify the adjusted contract rent amount for each bedroom size as determined by the Contract Administrator in accordance with this section. The adjustment notice by the Contract Administrator to the Owner shall specify when the adjustment of contract rent is effective.
- (c)** Notice of rent adjustment by the Contract Administrator to the Owner shall automatically constitute an amendment of the Renewal Contract.

(4) No other adjustments

Except for contract rent adjustments in accordance with this section, there shall not be any other adjustments of the contract rents during the term of the Renewal Contract. Special adjustments shall not be granted.

7 OWNER WARRANTIES

- a The Owner warrants that it has the legal right to execute the Renewal Contract and to lease dwelling units covered by the contract.
- b The Owner warrants that the rental units to be leased by the Owner under the Renewal Contract are in decent, safe and sanitary condition (as defined and determined in accordance with HUD regulations and procedures), and shall be maintained in such condition during the term of the Renewal Contract.

8 OWNER TERMINATION NOTICE

- a Before termination of the Renewal Contract, the Owner shall provide written notice to the Contract Administrator and each assisted family in accordance with HUD requirements.
- b If the Owner fails to provide such notice in accordance with the law and HUD requirements, the Owner may not increase the tenant rent payment for any assisted family until such time as the Owner has provided such notice for the required period.

9 HUD REQUIREMENTS

The Renewal Contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the Renewal Contract. However, any changes in HUD requirements that are inconsistent with the provisions of the Renewal Contract, including the provisions of section 6 (contract rent), shall not be applicable.

10 STATUTORY CHANGES DURING TERM

If any statutory change during the term of the Renewal Contract is inconsistent with section 6 of the Renewal Contract, and if HUD determines, and so notifies the Contract Administrator and the Owner, that the Contract Administrator is unable to carry out the provisions of

section 6 because of such statutory change, then the Contract Administrator or the Owner may terminate the Renewal Contract upon notice to the other party.

11 PHA DEFAULT

- a** This section 11 of the Renewal Contract applies if the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD. This includes a case where HUD has assigned the Renewal Contract to a PHA Contract Administrator, for the purpose of PHA administration of the Renewal Contract.
- b** If HUD determines that the PHA has committed a material and substantial breach of the PHA's obligation, as Contract Administrator, to make housing assistance payments to the Owner in accordance with the provisions of the Renewal Contract, and that the Owner is not in default of its obligations under the Renewal Contract, HUD shall take any action HUD determines necessary for the continuation of housing assistance payments to the Owner in accordance with the Renewal Contract.

12 EXCLUSION OF THIRD-PARTY RIGHTS

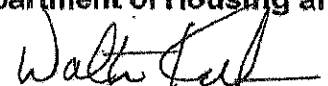
- a** The Contract Administrator does not assume any responsibility for injury to, or any liability to, any person injured as a result of the Owner's action or failure to act in connection with the Contract Administrator's implementation of the Renewal Contract, or as a result of any other action or failure to act by the Owner.
- b** The Owner is not the agent of the Contract Administrator or HUD, and the Renewal Contract does not create or affect any relationship between the Contract Administrator or HUD and any lender to the Owner or any suppliers, employees, contractors or subcontractors used by the Owner in connection with implementation of the Renewal Contract.
- c** If the Contract Administrator is a PHA acting as Contract Administrator pursuant to an annual contributions contract ("ACC") between the PHA and HUD, the Contract Administrator is not the agent of HUD, and the Renewal Contract does not create any relationship between HUD and any suppliers, employees, contractors or subcontractors used by the Contract Administrator to carry out functions or responsibilities in connection with contract administration under the ACC.

13 WRITTEN NOTICES .

- a** Any notice by the Contract Administrator or the Owner to the other party pursuant to the Renewal Contract shall be given in writing.
- b** A party shall give notice at the other party's address specified in section 1 of the Renewal Contract, or at such other address as the other party has designated by a contract notice. A party gives a notice to the other party by taking steps reasonably required to deliver the notice in ordinary course of business. A party receives notice when the notice is duly delivered at the party's designated address.

SIGNATURES**Contract administrator (HUD or NJHMFA)**

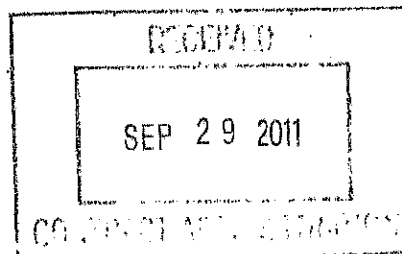
Name of Contract Administrator (Print)

New Jersey Housing & Mortgage Finance AgencyBy: 
Signature of authorized representativeFrancis A. Thomas, Director of Contract Administration
Name and official title (Print)Date 9/29/2014**U.S. Department of Housing and Urban Development**By: 
Signature of authorized representativeWalter Kreher, Director, Newark Multifamily Program Center
Name and official title (Print)Date SEP 30 2011**Owner**

Name of Owner (Print)

OCEANPORT ASSOCIATESBy: 
Signature of authorized representativeDENISE R. COYLE, VICE PRESIDENT

Name and title (Print)

Date 9.28.2011

Basic Renewal Contract
Multi-Year Term
REV-12-08-200

EXHIBIT B
DISTRIBUTIONS LIMITATION

FOR PROJECT NOT SUBJECT TO DISTRIBUTIONS LIMITATION:

If the project is not subject to any limitation on distributions of project funds, either pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, neither HUD nor the PHA may impose any additional limitation on distributions of project funds during the term of the Renewal Contract.

FOR PROJECT SUBJECT TO DISTRIBUTIONS LIMITATION:

If the project is subject to any limitation on distributions of project funds pursuant to an FHA Regulatory Agreement or pursuant to the Expiring Contract, such limitation on distributions shall continue to be applicable during the term of the Renewal Contract, provided that the owner may take an increased distribution in accordance with the Section 8 Renewal Policy Guidance for Renewal of Project-Based Section 8 Contracts, (the "Guidebook").

However, owners of Section 8 properties must maintain the property in good condition, as demonstrated by a REAC score of 60 or higher, in order to take increased distributions.

The owner shall comply with the distribution limitations. The maximum distribution to the owner shall be equal to the total of:

- 1 The limited distribution permitted pursuant to the FHA Regulatory agreement or the Expiring Contract, **plus**
- 2 Any Increased distribution as approved by HUD in accordance with the Guidebook.

Appendix F.

Oceanport Manor Supplemental Documentation

AGREEMENT FOR PAYMENT IN LIEU OF TAXES

This Agreement, made this 1st day of October, 2009 between Monmouth Housing Alliance d/b/a Affordable Housing Alliance a not-for-profit corporation of the State of New Jersey, having its principal office at 59 Broad Street, (hereinafter the "Sponsor") and Oceanport, a municipal corporation in the County of Monmouth and the State of New Jersey (hereinafter the "Municipality").

WITNESSETH

In consideration of the mutual covenants herein contained for other good and valuable consideration, it is mutually covenanted and agreed as follows:

1. The project is or will be situated on that Parcel of land known and designated as Black 110, Lot 18.01 as shown on the Official Assessment Map of the municipality of Oceanport and more commonly referred to as 25 Main Street, Oceanport, New Jersey. This project will originally encompass six (6) rental units for low to moderate income individuals and will later be expanded to include six (6) additional rental units for a total of twelve (12) rental units. Entry into this agreement shall require the parcel to be deed restricted for a minimum of 30 years consistent with the COAH obligations referenced in paragraph 2. Upon expiration of the COAH obligations this payment in lieu of taxes agreement shall expire
2. As of January 1, 2010 the land and improvements comprising the projects shall be exempt from real property taxes, provided that the Sponsor shall make payments in lieu of taxes to the Municipality as provided hereinafter. The exemption of the project from real property taxation and the Sponsor's obligation to make payments in lieu of taxes shall not extend beyond the date on which the COAH obligation is required according to N.J.S.A. 52:27D-301 et seq. and COAH's N.J.A.C. 5:94-1 et seq. may not exceed fifty (50) years. Sponsor shall make payment to the Municipality of an annual service charge in lieu of taxes in such amount as follows:
 - a. Sponsor shall make payment to the Municipality in an amount equal to six (6%) percent of the annual gross operating revenue from the date of the agreement and for the remaining term as stated above.
 - b. As used herein, "Project Revenue" means the total annual gross rental or other income of the Sponsor from the Project, which shall not include the cost of gas, electricity and heating fuel for direct housing units or the cost of sewer and water as part of the operation of the property. Project Revenues shall not include any rental subsidy contributions received from any federal or state program.
 - c. The amount of payment in lieu of taxes to be paid pursuant to paragraph A above is calculated in Exhibit A attached hereto. It is expressly understood and agreed that the revenue projections provided to the Municipality as set

forth in Exhibit A and as part of the Sponsor's application for an agreement for payments in lieu of taxes are estimates only. The actual payments in lieu of taxes to be paid by the Sponsor shall be determined pursuant to Exhibit A below.

- i. Payment by the Sponsor shall be made on a quarterly basis in accordance with bills issued by the Tax collector of the Municipality in the same manner and on the same dates as real estate taxes are paid to the Municipality and shall be based upon Project Revenues of the previous quarter. No later than three (3) months following the end of the first fiscal year of operation after signing this agreement and each year thereafter that this Agreement remains in effect, the Sponsor shall submit to the Municipality a certified, audited financial statement of the operation of the Project (the "Audit"), setting forth the Project Revenues and the total payments in lieu of taxes due to the Municipality calculated at 6% of the Project Revenues as set forth in the Audit ("Audit Amount"). The Sponsor simultaneously shall pay the difference, if any, between (i) the Audit Amount and (ii) payments made by the Sponsor for any fiscal year shall exceed the Audit Amount for such fiscal year, the municipality shall credit the amount of such excess to the account of the Sponsor.
- ii. All payments pursuant to this Agreement shall be in lieu of taxes and the Municipality shall have all the rights and remedies of tax enforcement granted to Municipalities by law just as if said payments continued regular tax obligations on real property within the Municipality. If, however, the Municipality disputes the total amount of the annual payment in lieu of taxes due, based upon the Audit, it may apply to the Superior Court, Chancery Division for an accounting of the service charge due the Municipality, in accordance with this Agreement. Any such action must be commenced within one year of the receipt of the Audit by the Municipality.
- iii. In the event of any delinquency in the aforesaid payment, the Municipality shall give notice to the Sponsor and DCA in the manner set forth in 2G below, prior to any legal action being taken.
- d. The tax exemption provided herein shall apply only so long as the Sponsor or its successors and assigns and the Project remain subject to the provisions of the COAH law and regulations made thereunder and the supervision of the Department of Community Affairs, but in no event longer than the term identified in paragraph 2. In the event of (a) sale, transfer or conveyance of the Project by the sponsor or (b) a change in the organizational structure of the Sponsor, this agreement shall be assigned to the Sponsor's successor and shall continue in full force and effect so long as the successor entity qualifies under the law and any other law applicable at the time of assignment of this Agreement.

- e. Upon any termination of such tax exemption, whether by affirmative action of the Sponsor, its successor and assigns, or by the terms of this agreement, or by virtue of the provisions of or any other applicable law, the Project shall be taxed as omitted property in accordance with the law.
- f. The Sponsor, its successors and assigns shall, upon request, permit inspection of property, equipment, Buildings and other faculties of the Project and also documents and papers by representatives duly authorized by the Municipality. Any such inspection, examination or audit shall be made during reasonable hours of the business day, in the presence of an officer or agent of the Sponsor or its successor and assigns.
- g. Any notice or communication by one party to the other hereafter shall be sent by certified mail, return receipt request addressed as follows:
- i. When sent by Municipality to the Sponsor, it shall be addressed to the Borough Clerk, 222 Monmouth Boulevard, Oceanport, New Jersey, 07757 or to such other address as the Municipality may designate in writing. Affordable Housing Alliance, 59 Broad St., Eatontown, NJ 07724
 - ii. When sent by Sponsor to the Municipality, it shall be addressed to the Borough Clerk, 222 Monmouth Boulevard, Oceanport, New Jersey, 07757 or to such other address as the Municipality may designate in writing.
- h. In the event of a breach of this agreement by either of the parties hereto or an dispute arising between the parties in reference to the listed provisions as set forth herein either party may apply in the Superior Court Chancery Division, to settle and resolve said dispute in such fashion as will tend to accomplish the purposes of the law.

ATTEST

ATTEST

SPONSOR:

Affordable Housing Alliance

By: Donna M. Blaze
Donna Rose Blaze, Executive Director

Municipality:

Borough of Oceanport

By: Michael J. Mahon
MICHAEL J. MAHON, MAYOR

Appendix G.

Old Wharf Supplemental Documentation



Engineers
Planners
Surveyors
Landscape Architects
Environmental Scientists

Corporate Headquarters
331 Newman Springs Road, Suite 203
Red Bank, NJ 07701
T: 732.383.1950
F: 732.383.1984
www.maserconsulting.com

October 19, 2012

Elizabeth McManus, PP, AICP
Clark Caton Hintz
100 Barrack Street
Trenton, NJ 08608

Re: Old Wharf Inn
Block 121, Lots 1.01 and 2
Borough of Oceanport, Monmouth County, NJ
MC Project No.: OPB-001

In accordance with your request, our office has reviewed the site constraints, potential environmental permits and the remaining developable area. Our original discussion centered on minimizing the number of permits for the possible development of 20 units and associated parking (approximately 40 spaces). The site in question is directly adjacent to a tributary to Oceanport Creek. Oceanport is located entirely within the CAFRA Zone. Development within 150 feet of the mean high water would require a CAFRA Permit. In addition any development of 25 or more units anywhere within the CAFRA Zone would also trigger the need for a permit. Therefore, the 20 unit development does not appear to require a CAFRA Permit so long as the improvements are not located within 150 feet from the mean high water line. That is not to say that if it is desirable to utilize the existing northern driveway a permit could not be obtained.

Existing Lot 2 previously contained an isolated wetlands area for which Permit No. 1338-03-0007.1 was issued on February 25, 2004 by NJDEP to fill this area. Typically the SGP #6 permit would have expired after five years (2009) however under the Permit Extension Act the permit should be extended until December 2014.

While the Oceanport Planning Board had approved the Ocean Creek project, NJDEP CAFRA denied it based on an area of wetland filled which occurred sometime in the mid 70's. It is anticipated that the NJDEP will require that this 11,000 sf of filled wetlands area will have to be mitigated to correct the violation. The area in question falls within 150 foot of the mean high water line and if the development is kept outside this area as previously discuss will not have an effect on the developable area.

It also should be noted that the entire site is located within the flood hazard area as is shown on your map entitled "Old Wharf Inclusionary Development". A Flood Hazard Individual Permit will be required. Our office does not foresee a problem with NJDEP issuing the permit as the area has already been developed. Our office is in agreement with the developable area that is located outside of the 150' mean high water line buffer.

If you have any questions or require information, please do not hesitate to contact me.

Very truly yours,

MASER CONSULTING P.A.

William H.R. White, III, PE, PP, CME, CFM
Oceanport Borough Engineer/

WHW-vat

\\HQFAS1\General\Projects\Opb\Opb-001\Letters\2012\101912whw_McManus Old Wharf Inn.docx

Customer Loyalty through Client Satisfaction

Appendix H.

Pemberton Avenue Supplemental Documentation

CONSTRUCTION SCHEDULE
PEMBERTON AVENUE MUNICIPALLY SPONSORED CONSTRUCTION PROJECT

<u>Activity</u>	<u>Start Date</u>	<u>Completion Date</u>
RFP Process:	December 2012	February 2013
Developer Selection:	February 2013	
Pro Forma Completion:	March 2013	
Site Plan Preparation:	April 2013	July 2013
Site Plan Approvals:	July 2013	September 2013
Building Design:	July 2013	September 2013
Contractor Selection:	October 2014	November 2014
Construction Permits:	December 2014	January 2014
Funding:	February 2013	February 2014
Construction:	February 2014	February 2015
Occupancy:	April 2015	

PRO FORMA
PEMBERTON AVENUE MUNICIPALLY SPONSORED CONSTRUCTION SITE

The Borough is proposing a municipally sponsored construction program on Block 113, Lot 2.02. The property is a .25 acre property along Pemberton Avenue and East Main Street. The development shall consist of one duplex containing 2 units.

Construction Cost

Unit Type	Number of Units	Construction Cost per Unit¹	Total
Single-family attached	2	\$140,697	\$281,394

The Borough of Oceanport will partner with an affordable housing developer in the construction and funding of the project. Furthermore, the Borough anticipates that funding will come from one or more outside sources to reduce the cost of the program to the Borough. These sources include, but are not limited to, governmental sources such as, but not limited to, Balanced Housing and County HOME funds.

¹ Source: Payments in lieu of construction per N.J.A.C. 5:97-6.4(c)3.

**REQUEST FOR PROPOSALS TO BUILD A DUPLEX CONTAINING TWO
AFFORDABLE HOUSING UNITS
OCEANPORT BOROUGH, MONMOUTH COUNTY, NEW JERSEY**

DRAFT – October 2012

BOROUGH OF OCEANPORT
MONMOUTH COUNTY, NEW JERSEY

Objectives of this Request for Proposals

The Oceanport Borough Council is soliciting proposals from developers qualified to finance and build a 100% affordable housing development on Block 113, Lot 2.02. In accordance with N.J.S.A. 40A:12-21, the property will be conveyed to the Chosen Developer for a nominal fee.

The development shall be comprised of one duplex structure containing two units. One unit shall be restricted to a low income household and one unit shall be restricted to a moderate income household; neither unit shall be restricted to those with special needs or those fifty-five (55) years or older.

Project Location

The development site is a .25 acre property along Pemberton Avenue and East Main Street. The site is undeveloped and is located in the VC district. The site has approximately 150 feet of frontage on Pemberton Avenue and approximately 70 feet of frontage on East Main Street. While the property is currently in the VC district, it is surrounded by appropriate land uses. South of the site along Pemberton Avenue are single family residences in the R-5 Residential district and west of the site are duplexes in the R-5 Residential district. Immediately east of the site is the Borough of Oceanport First Aid and Fire Rescue Squad building, north of the site is Old Wharf Park.

The Project

The Chosen Developer shall be responsible for construction of the project. The project envisioned by the Borough is two family units constructed in a duplex (side by side). Each building shall be a maximum of two and one half (2.5) stories and shall have two or more bedrooms. Access to both units shall be provided along Pemberton Avenue.

The project should conform to the following additional characteristics:

- Access to the site shall be constructed by the Chosen Developer.
- All site improvements shall be completed by the Chosen Developer.
- The buildings shall have a residential character, consistent with architectural styles found in Oceanport.

Utilities

All units shall be served by public sewer and water. Other public utilities necessary to serve the development contemplated in this RFP must be extended to the project site, including electric,

telephone and cable TV. Information on the location and size of this infrastructure is available at the office of the Municipal Engineer.

Scope of Services for the Developer

The Developer selected by the Borough is expected to negotiate and enter into an Agreement with the Borough which will set forth the responsibilities of the respective parties and applicable time frames for accomplishing key objectives.

The Developer is expected to seek housing subsidies from governmental sources such as, but not limited to, County HOME funds, Balanced Housing, in order to cover all costs associated with the development of the project. All financing shall be provided by outside funding sources or the developer; the Borough's only contribution to the project shall be the land. The Borough is willing to support the Developer in applications for securing housing subsidies.

The Developer is expected to perform at its sole expense all necessary predevelopment activities associated with the project. These include, without limitation, site inspections, surveys, environmental investigations, document review, preparation of engineered site plans, preparation of architectural plans and securing building permits for the project. Plans and specifications are subject to Borough approval to ensure consistency with the project characteristics set forth herein. The Developer shall be responsible for obtaining all necessary permits from County, State and Federal authorities, with the exception of those associated with the provision of public water or sewer in the event that one or both are obtained from a nearby municipality.

In addition, the Developer is responsible for structuring the financing plan for the development and for providing the equity and securing the financing – construction loan(s), subsidies and permanent mortgage(s) – needed to complete the project as well as for the ongoing maintenance and management of the facility. The Borough expects that the project will be built in one phase.

The Developer's Agreement between the Chosen Developer and Oceanport Borough, to be created subsequent to awarding the project to the Chosen Developer, shall include a timeframe within which the Chosen Developer must complete the project. Said time frame shall not exceed two years from the date of the developer's agreement.

The developer is responsible for the ongoing maintenance and management for the life of the facility or until it is conveyed to another party.

Submission Requirements

1. A narrative that describes the respondent's intended approach to the project and scope of work. This should include a description of the site layout, building layout, access, parking configuration, open space configuration and any other information the respondent believes to be necessary.
2. Anticipated sources of funding should be specified, with a pro forma statement.
3. A statement of the respondent's qualifications and experience that demonstrates knowledge of the law and regulations governing this type of development and facility management and conveys an understanding of the project and the required scope of services.
4. A statement regarding the organization of the respondent, identification of the Developer's team and the proposed organization of key personnel by name, title, and reporting relationship. This section should name the project manager and other key people to be assigned to this project. The proposal should include a resume for each key staff member. A contact person and phone number, fax number and/or email for the respondent is required.
5. Current financial statement.
6. Three references which should state the nature of the relationship to the respondent and the name, telephone number, fax number and address of the person at the reference who is most familiar with the work performed.
7. Statement that proves eligibility to submit bonds to guarantee work.
8. Names and company of proposed project team, including but not limited to the engineer and architect.
9. Statement of Affirmative Action pursuant to *NJAC 17:27-1.1 et seq.*

Selection Process

The Borough will consider as "non-responsive" any submission for which critical information is lacking, or any submission which represents a major deviation from this RFP. Minor omissions may, at the sole option and discretion of the Borough be corrected within five business days of notification of the deficiency by the Borough.

A pre-submission conference shall take place at the Public Meeting Room at the Oceanport Borough Municipal Building at _____. The Borough reserves the right to request additional

documents after the close of the submission deadline that are deemed necessary for its decision making process for evaluating the respondents.

The Borough will evaluate the responses utilizing the evaluation criteria listed below. Personal interviews with the respondent(s) with the most compelling proposals will be scheduled during _____. The Borough Council intends to select a Developer on _____.

The Borough reserves the right to reject any or all proposals, to not select a developer and to re-advertise this RFP or another RFP for this property. Selection of a respondent as the prospective developer does not guarantee that the Borough will enter into an Agreement with the respondent or that the project will proceed in the manner described in this RFP.

Respondents are hereby notified that all information submitted as part of or in support of their response to this RFP will be available for public inspection except for financial statements. Any information other than the financial statement which a respondent considers confidential should be so marked upon submission and the Borough will either withhold it from public inspection or return it to the respondent. All costs associated with the RFP shall be borne by the respondent.

Evaluation Criteria

In evaluating the proposals and conducting interviews the Borough will consider criteria which include, but need not be limited to the following:

1. Developer's qualifications and experience in developing and managing similar affordable housing projects in an economical and efficient manner, particularly for non-age-restricted and disabled occupancy;
2. Qualifications and experience of Developer's professional team in constructing buildings;
3. Qualifications and experience of development team members and staff specifically assigned to the project;
4. Developer's experience in meeting schedules on similar projects; and
5. Developer's capacity to successfully finance the project.
6. Borough evaluation of the submitted conceptual site layout and conceptual architectural schematic.

Submission Instructions

Responses to this Request for Proposals shall be received at the office of Kimberly Jungfer, Borough Administrator and Clerk, no later than noon on _____.

Each response to this RFP shall be in a sealed envelope or container addressed to:

Kimberly Jungfer, Borough Administrator & Clerk
Oceanport Borough Municipal Building
222 Monmouth Boulevard
Oceanport, NJ 07757

And marked:

Affordable Housing Proposal

Ten (10) copies shall be submitted. Responses may be hand delivered or mailed. Fax or emailed proposals shall not be accepted.

A pre-submission conference will be held at _____ at the Public Meeting Room in the Oceanport Borough Municipal Building. Attendance at this conference is recommended, but not mandatory.

Questions will not be answered by telephone. Questions asked at any other time than the presubmission conference must be in writing directed to Ms. Junfer at the above address. Any questions received will be answered in writing, copied and sent to all prospective bidders. If you do not intend to attend the presubmission conference, please notify Ms. Junfer of your intent to submit a response so that your firm may receive copies of all answers.

Appendix I.
2012 Amended Spending Plan



Clarke Caton Hintz

2012 Amended Spending Plan

Borough of Oceanport, Monmouth County, New Jersey

October 2012

Introduction

A development fee ordinance creating a dedicated revenue source for affordable housing was originally adopted by Oceanport Borough in September 1, 2005 and approved by COAH September 19, 2005. The ordinance establishes Oceanport Borough's affordable housing trust fund for which this spending plan is prepared. On December 18, 2008 the Borough received approval by Superior Court of an amended development fee ordinance.

As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$0. From January 1, 2005 through July 17, 2008, Oceanport Borough collected an additional \$3,875 in development fees, payments in lieu of construction, other funds, and/or interest. As of July 17, 2008, Oceanport Borough collected \$3,875 and expended \$0, resulting in a balance of \$3,875.

As of December 31, 2012, Oceanport Borough collected \$109,345 and expended \$0, resulting in a balance of \$109,345. The \$109,345 collected through December 31, 2011 consists of \$109,219 in development fees and \$126 in interest.

All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in Bank of America for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

This *Spending Plan* reflects the Borough's 2012 *Amendment to the Amended Housing Element and Fair Share Plan*.

Oceanport Borough has not expended any funds on housing activity.

Revenues for Certification Period

To project revenue anticipated during the period of third round substantive certification, Oceanport considered the following:

(a) **Development fees: \$130,000**

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All 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.

(b) **Payments in lieu of Construction (PIL): \$0**

The Borough does not anticipate any payments in lieu of construction at this time.

(c) **Other funding sources: \$0**

Oceanport is not anticipating 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.

(d) **Projected interest: \$3,200**

Based on the current average interest rate, Oceanport anticipates collecting \$3,100 in interest through 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

Oceanport projects a total of \$133,200 in revenue to be collected between 2012 and December 31, 2018. All monies in the Affordable Housing Trust fund are anticipated to come from development fees and interest.

Clarke Caton Hintz

Source of Funds – Housing Trust Fund 2012 through 2018

Source of Funds	2012	2013	2014	2015	2016	2017	2018	Total
Development Fees: Approved / Pending / Projected Development	\$16,000	\$16,000	\$18,000	\$20,000	\$20,000	\$20,000	\$20,000	\$130,000
Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Revenues	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest	\$200	\$500	\$500	\$500	\$500	\$500	\$500	\$3,200
Total	\$16,200	\$16,500	\$18,500	\$20,500	\$20,500	\$20,500	\$20,500	\$133,200

Clarke Caton Hintz

Administrative Mechanism to Collect and Distribute Funds

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Oceanport:

(a) **Collection of development fee revenues:**

Collection of development fee revenues shall be consistent with Oceanport's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and the Fair Housing Act (N.J.S.A. 52:27D-301).

(b) **Distribution of development fee revenues:**

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved Spending Plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

Description of Anticipated Use of Affordable Housing Funds

(a) **New construction programs and projects (N.J.A.C. 5:97-8.7)**

Oceanport will dedicate up to \$471,394 to new construction programs as follows:

Accessory Apartment Program: \$90,000

The Borough proposes a 4 unit accessory apartment program. Pursuant to N.J.A.C. 5:97-6.8(b)2., the Borough will provide a subsidy of \$20,000 for each moderate income unit created and \$25,000 for each low income units created. As such, this program will cost \$90,000. See the Borough's 2012 *Amendment to the Amended Housing Element and Fair Share Plan* for additional information on this program.

Oceanport Manor: \$100,000

This project consists of 6 existing affordable rental units and 6 approved but not yet constructed affordable rental units. The Borough agreed to provide a \$100,000 contribution to subsidize the creation of the 6 unbuilt affordable housing units. See the Borough's 2012 *Amendment to the Amended Housing Element and Fair Share Plan* for additional information on this program.

Pemberton Avenue Municipally Sponsored Construction: \$281,394

The Borough is proposing a municipally sponsored construction program on Block 113, Lot 2.02. The municipally owned property is a .25 acre property along Pemberton Avenue and East Main Street. The development shall consist of one duplex containing 2 units. The cost of the project is estimated to be \$281,394. See the Borough's 2012 Amendment to the Amended Housing Element and Fair Share Plan for additional information on this project.

(b) Affordability Assistance (N.J.A.C. 5:97-8.8)

Oceanport is required to spend a minimum of 30 percent of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis in the CTM system based on actual revenues.

Projected Minimum Affordability Assistance Requirement

Actual fees thru 12/31/2011		\$109,219
Actual interest thru 12/31/2011	+	\$126
Projected development fees, 2012 thru 2018	+	\$130,000
Projected trust fund interest, 2012 thru 2018	+	\$3,200
Less housing activity thru 6/2/2008	-	\$0
Total	=	\$242,545
30 percent requirement	x .3 =	\$72,764
Less Affordability assistance expenditures	-	\$0
PROJECTED MINIMUM Affordability Assistance Requirement	=	\$72,764
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement	÷ 3 =	\$24,255

Oceanport will dedicate \$72,764 from the affordable housing trust fund to render units more affordable, including \$24,255 to render units more affordable

BOROUGH OF OCEANPORT | 2012 AMENDED SPENDING PLAN

Clarke Caton Hintz

to households earning 30 percent or less of median income by region. The third round rules, pursuant to N.J.A.C. 5:97-8.8, state affordability assistance programs may include 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, etc.

(c) **Administrative Expenses (N.J.A.C. 5:97-8.9)**

Oceanport may use affordable housing trust fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis in the CTM system based on actual revenues.

Projected Administrative Expenses Requirement

Actual fees and interest thru 12/31/2011		\$109,345
Projected development fees and interest 2012 thru 2018	+	\$133,200
Payments-in-lieu of construction and other deposits thru 7/17/08	+	\$0
Less RCA expenditures thru 12/31/18	-	\$0
Total	=	\$242,545
20 percent maximum permitted administrative expenses	x .2 =	\$48,509
Less administrative expenditures through 5/30/2012	-	\$0
Projected allowed administrative expenditures	=	\$48,509

BOROUGH OF OCEANPORT | 2012 AMENDED SPENDING PLAN

Oceanport projects that \$48,509 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Borough Attorney, Engineer, and Planner fees related to preparing the Housing Element and Fair Share Plan and obtaining substantive certification;
- Administration fees related to rehabilitation, extension of expiring controls, and municipally sponsored construction programs;
- Affirmative Marketing;
- Income qualification of households;
- Compliance with COAH Monitoring; and
- Administration of Borough's Affordable Housing Units.

Expenditure Schedule

Oceanport intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Projected Expenditure Through 2018

	Projected Units	2012	2013	2014	2015	2016	2017	2018	Total
Accessory Apartment Program	4	\$0.0	\$0.0	\$25.0	\$20.0	\$25.0	\$20.0	\$0.0	\$90.0
Oceanport Manor	6	\$0.0	\$0.0	\$100.0	\$0.0	\$0.0	\$0.0	\$0.0	\$100.0
Pemberton Avenue	2	\$0.0	\$0.0	\$281.4	\$0.0	\$0.0	\$0.0	\$0.0	\$281.4
<i>Total Programs</i>	12	\$0.0	\$0.0	\$406.4	\$20.0	\$25.0	\$20.0	\$0.0	\$471.4
Affordability Assistance	n/a	\$0.0	\$12.1	\$12.2	\$12.1	\$12.1	\$12.1	\$12.1	\$72.7
Administration	n/a	\$0.0	\$8.0	\$8.1	\$8.1	\$8.1	\$8.1	\$8.1	\$48.5
<i>Total</i>	12	\$0.0	\$20.1	\$426.7	\$40.2	\$45.2	\$40.2	\$20.2	\$592.6

Excess or Shortfall of Funds

The projected remaining funds will be allocated toward the municipally sponsored construction project.

The governing body of Oceanport has adopted a resolution agreeing to fund any shortfall of funds required for implementing the new construction programs. To the degree that the funds required for the implementation of the Borough's Fair Share Plan are not available at the time they are needed from all available affordable housing funding sources, the Borough will provide the funding needed to cover any shortfall through appropriations in the Borough's annual budget, bonding, or any other legal means, with the understanding that any future affordable housing funding which becomes available may be used to reimburse the Borough for the costs incurred. A copy of the adopted resolution is included in the Appendices to the *2012 Amendment to the Amended Housing Element and Fair Share Plan*.

Barrier Free Escrow

Collection and distribution of barrier free funds shall be consistent with Oceanport' Affordable Housing Ordinance and in accordance with N.J.A.C. 5:97-8.5.

Summary

As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$0. From January 1, 2005 through July 17, 2008, Oceanport Borough collected an additional \$3,875 in development fees, payments in lieu of construction, other funds, and/or interest. As of July 17, 2008, Oceanport Borough collected \$3,875 and expended \$0, resulting in a balance of \$3,875. As of December 31, 2012, Oceanport Borough collected \$109,345 and expended \$0, resulting in a balance of \$109,345. The \$109,345 collected through December 31, 2011 consists of \$109,219 in development fees and \$126 in interest.

Oceanport projects a total of \$133,200 in revenue to be collected between 2012 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

BOROUGH OF OCEANPORT | 2012 AMENDED SPENDING PLAN

Clarke Caton Hintz

Oceanport will dedicate up to \$471,394 to new construction programs, consisting of \$90,000 toward the accessory apartment program, \$100,000 toward Oceanport Manor and \$281,394 toward the Pemberton Avenue municipally sponsored construction project. Furthermore, the Borough will dedicate \$72,764 from the affordable housing trust fund to render units more affordable, including \$24,255 to render units more affordable to households earning 30 percent or less of median income by region. Up to \$48,509 will be available from the affordable housing trust fund for administrative purposes.

Note that the following summary table only accounts for affordable housing trust fund expenditures and is not intended to reflect the total cost of new construction programs.

2012 Spending Plan Amendment Summary

Balance as of December 31, 2011		\$109,345
Revenues 2012-2018		
Development fees	+	\$130,000
Payments in lieu of construction	+	\$0
Other funds	+	\$0
Interest	+	\$3,200
Total	=	\$242,545
Affordable Housing Trust Fund Expenditures 2012-2018		
Accessory apartment program	+	\$49,782
Pemberton Avenue	+	\$0
Oceanport Manor	+	\$100,000
Affordability Assistance	+	\$72,764
Administration	+	\$20,000
Total Projected Affordable Housing Trust Fund Expenditures	=	\$242,445

Appendix J.

**Governing Body Resolution of Intent to Fund
Spending Plan Shortfall for Affordable Housing Programs**

R-12-184
12-19-12

RESOLUTION NO: R-12-184

**RESOLUTION OF THE COUNCIL OF THE BOROUGH OF OCEANPORT, MONMOUTH
COUNTY, NEW JERSEY, OF INTENT TO FUND SPENDING PLAN SHORTFALL FOR
AFFORDABLE HOUSING PROGRAMS IN THE BOROUGH'S HOUSING ELEMENT & FAIR
SHARE PLAN**

WHEREAS, pursuant to the substantive regulations of the New Jersey Council On Affordable Housing (COAH), certain portions of the Borough's amended Housing Plan Element and Fair Share Plan as adopted by the Oceanport Borough Planning Board on December 5, 2012 and endorsed by the Governing Body of the Borough of Oceanport on December 5, 2012 may require a financial commitment by the Borough; and

WHEREAS, N.J.A.C. 5:97-6.7(d)6 requires a municipality to resolve to address any shortfall in the funding of its affordable housing programs as set forth in the Spending Plan and the Fair Share Plan, including its willingness to incur bonded indebtedness, if necessary, to provide the funds required for the timely implementation of the Fair Share Plan;

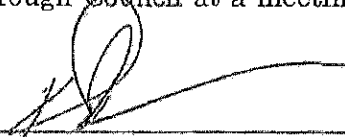
NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Oceanport, in the County of Monmouth, New Jersey, as follows:

1. To the degree that the funds required for the implementation of the Borough's Fair Share Plan, as will be more particularly set forth in the Borough's approved Spending Plan, are not available at the time they are needed from all available affordable housing funding sources, the Borough will provide the funding needed to cover any shortfall through appropriations in the Borough's annual budget, bonding, or any other legal means, with the understanding that any future affordable housing funding which becomes available may be used to reimburse the Borough for the costs incurred.



Mayor, Borough of Oceanport

I, Kim Jungfer, Borough Clerk of the Borough of Oceanport, do hereby certify that the above is a true copy of a resolution adopted by the Borough Council at a meeting held on December 19, 2012



Borough Clerk, Borough of Oceanport

Appendix K.

Affordable Housing Ordinance (draft)

ORDINANCE NO.

AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH
AND STATE OF NEW JERSEY AMENDING THE CODE OF THE BOROUGH OF
OCEANPORT TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON
AFFORDABLE HOUSING'S RULES

Section I. Affordable Housing

General Program Purposes, Procedures

§ —I. Affordable Housing Obligation.

- A. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing for the period beginning June 2, 2008 with amendments through October 20, 2008", N.J.A.C. 5:97 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill").
- B. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The Oceanport Borough 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 Borough Committee of the Borough of Oceanport. The Fair Share Plan describes the ways the Borough shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- E. The Borough shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing

Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Oceanport Borough Municipal Building 405 Mine Road, Asbury, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey.

§ —2. **Definitions.** As used herein the following terms shall have the following meanings:

"Accessory apartment" means 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" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

"Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

"Affirmative marketing" means 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" means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the 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" means a housing development all or a portion of which consists of restricted units.

"Affordable housing development" means 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)" means any mechanism in a municipal Fair Share

Plan prepared or implemented to address a municipality's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

"Agency" means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

"Age-restricted unit" means 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.

"Assisted living residence" means 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" means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

"COAH" means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

"DCA" means the State of New Jersey Department of Community Affairs.

"Deficient housing unit" means 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" means 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" means 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.

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough 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. 5:97-3.

"Housing Element" means the portion of the Borough'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. 5:97-2.3 and establishes the Borough's fair share obligation.

"Inclusionary development" means 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 non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

"Low-income household" means a household with a total gross annual household income equal to 50% or less of the median household income.

"Low-income unit" means a restricted unit that is affordable to a low-income household.

"Major system" means 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" means housing not restricted to low- and moderate-income households that may sell or rent at any price.

"Median income" means the median income by household size for the applicable county, as adopted annually by COAH.

"Moderate-income household" means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

"Moderate-income unit" means a restricted unit that is affordable to a moderate-income household.

"Non-exempt sale" means 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" means 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" means 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 COAH's adopted Regional Income Limits published annually by COAH.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

"Rent" means 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" means 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.

"UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

"Very low-income household" means a household with a total gross annual household income equal to 30% or less of the median household income.

"Very low-income unit" means a restricted unit that is affordable to a very low-income household.

"Weatherization" means 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 rehabilitation.

§ —3. **New Construction.** The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

- A. **Phasing.** Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units <u>Completed</u>	Minimum Percentage of Low- and Moderate- Income <u>Units Completed</u>
25	0
25+1	10
50	50
75	75
90	100

- B. **Design.** In inclusionary developments, to the extent possible, low- and moderate- income units shall be integrated with the market units.
- C. **Utilities.** Affordable units shall utilize the same type of heating source as market units within the affordable development.
- D. **Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:**
1. Affordable units in a development shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
 2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
 3. Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low income households.
 4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;

- (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and
 - (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
5. 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.

E. Accessibility Requirements:

- 1. 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 N.J.A.C. 5:97-3.14.
- 2. 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:
 - (a) An adaptable toilet and bathing facility on the first floor;
 - (b) An adaptable kitchen on the first floor;
 - (c) An interior accessible route of travel on the first floor;
 - (d) An interior accessible route of travel shall not be required between stories within an individual unit;
 - (e) 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; and
 - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-3.11a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that the Borough 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.

(2) To this end, the builder of restricted units shall deposit funds within the Borough of Oceanport's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

(3) The funds deposited under paragraph (2) herein, shall be used by the Borough 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.

(4) 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 Borough of Oceanport.

(5) 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 N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Oceanport'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.

(6) 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 and N.J.A.C. 5:97-3.14.

F. Maximum Rents and Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.
2. 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.

3. 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.
 - (a) At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
4. 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.
5. 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:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;

- (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
- 7. 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.
 - 8. 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.
 - 9. 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.
 - 10. The rent of 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. 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.
 - 11. 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.

§ —4. 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.

§ —5. Reserved.

§ —6. Reserved.

§ —7. Reserved.

§ —8. Reserved.

§ —9. Reserved.

Affordable Unit Controls and Requirements

§ —10. Purpose.

The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

§ —11. Affirmative Marketing.

- A. 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 covers the period of deed restriction.
- B. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 4, comprised of Monmouth, Middlesex and Somerset Counties.
- C. The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- D. 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.

- E. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- F. 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 Borough of Oceanport.

§ —-12. Occupancy Standards.

- A. 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:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§ —-13. Selection of Occupants of Affordable Housing Units.

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 *et seq.*

§ —-14. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

- D. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- E. 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 that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ —15. 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:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. 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.
- D. 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.

§ —16. Buyer Income Eligibility.

- A. 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.
- B. 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.

§ —17. Limitations on indebtedness secured by ownership unit; subordination.

- A. 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.
- B. 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).

§ —18. Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. 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.
- D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

§ —19. Price Restrictions for Rental Units; Leases.

- A. 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.

- B. 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.
- C. 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 Ordinance.

§ —-20. Tenant Income Eligibility.

- A. 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:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. 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:
 - 1. 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;
 - 2. 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;
 - 3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed 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.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ __-21. Conversions.

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

§ __-22. Reserved.

§ __-23. Reserved.

§ __-24. Reserved.

**ARTICLE III
Administration**

§ __-25. Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison for the Borough of Oceanport is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Borough Committee and be subject to the approval of the Court or COAH, as appropriate.
- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Oceanport.
- C. The Municipal Housing Liaison must meet COAH's requirements for qualifications, including initial and periodic training.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Oceanport, including the following responsibilities which may not be contracted out to the Administrative Agent:
 1. Serving as the municipality's primary point of contact for all inquiries

from the State, affordable housing providers, Administrative Agents and interested households;

2. The implementation of the Affirmative Marketing Plan and affordability controls.
3. When applicable, supervising any contracting Administrative Agent.
4. Monitoring the status of all restricted units in the Borough of Oceanport's Fair Share Plan;
5. Compiling, verifying and submitting annual reports as required by COAH;
6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

§ —26. Administrative Agent.

- A. The Borough shall designate by resolution of the Borough Committee, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- C. The Administrative Agent 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, 16 and 18 thereof, which includes:
 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 2. Affirmative Marketing;
 3. Household Certification;

4. Affordability Controls;
5. Records retention;
6. Resale and re-rental;
7. Processing requests from unit owners; and
8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
9. The Administrative Agent shall, as delegated by the Borough Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ —27. Enforcement of Affordable Housing Regulations.

- A. 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.
- B. 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:
 - I. 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:
 - (a) A fine of not more than \$500.00 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;

(b) 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 Borough of Oceanport Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) 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.

2. 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.

C. 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.

D. 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.

- E. 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.
- F. 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.
- G. 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.
- H. 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.

§ __-28. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

Section 2. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 3. Severability. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or

holding of any Court of competent jurisdiction that any such portion of this Ordinance is unconstitutional, void or ineffective for any cause or reason, shall not affect any other portion of this Ordinance.

Section 4. **Effective Date.** This ordinance shall take effect upon its passage and publication, as required by law.