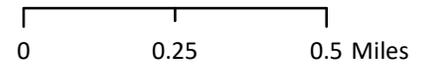


### Legend

-  2nd Round Site
-  3rd Round Sites



**BOROUGH OF EMERSON  
COUNTY OF BERGEN  
NOTICE OF ADOPTION**

**ORDINANCE NO. 1535-16**

**Introduced:** December 6, 2016

**Adopted:** December 20, 2016

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF  
EMERSON AMENDING THE CENTRAL BUSINESS DISTRICT  
REDEVELOPMENT PLAN PURSUANT TO N.J.S.A. 40A:12A-7**

**NOTICE IS HEREBY GIVEN** that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 20th day of December, 2016. A copy of Ordinance 1535-16 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**WHEREAS**, Pursuant to the Local Redevelopment and Housing Law, (N.J.S.A. 40A:12A-1 et seq.) (the "Redevelopment Law"), on February 3, 2004 the Mayor and Council of the Borough of Emerson ("Mayor and Council" or "Borough") authorized the Emerson Planning Board, now known as the Emerson Land Use Board, ("Board") to conduct a preliminary investigation and hold the requisite public hearing to determine whether a certain area located within the Central Business District, including Lots 1, 2, 3, 4 & 5 on Block 412; Lots 1, 2, 3, 4, 5, 6.01, 6.02, 7, 8, 9 & 10 on Block 419; Lots 2 & 16 on Block 420; Lots 1,10,11,12,13,14,15,16,17 &18 on Block 422; Lots 2, 3, 4, 5, & 6 on Block 603; Lots 3 & 4 on Block 606; Lots 1, 2, 4, 5.01, 5.02, 6, 7, 8, 9.01, 9.02, & 10 on Block 610; Lots 1 & 2 on Block 613; Lot 1 on Block 615; Lots 1, 16, 17, 19, 20, 21, 22, 23 & 24 on Block 616; and Lot 1 on 617.01 on the Official Tax Assessment Map of the Borough of Emerson ("Area") met the statutory criteria to be designated as "an area in need of redevelopment" as defined by the Redevelopment Law; and

**WHEREAS**, The Board conducted the requested investigation and held the requisite hearings on July 29, 2004 and August 19, 2004, which were all done on proper notice, to determine whether the studied Area met the statutory criteria to be designated as "an area in need of redevelopment"; and

**WHEREAS**, On September 7, 2004, the Board adopted a Resolution, recommending that the Mayor and Council designate the studied Area as "an area in need of redevelopment"; and

**WHEREAS**, The Mayor and Council adopted Resolution No. 242-04 on December 14, 2004 designating the Area as "an area in need of redevelopment" as well as directing the Board to prepare a redevelopment plan and forward its recommendation to the Mayor and Council; and

**WHEREAS**, The Board prepared a proposed redevelopment plan ("Redevelopment Plan") and on April 6, 2006 adopted a Resolution recommending the adoption of the Redevelopment Plan to the Mayor and Council; and

**WHEREAS**, On July 11, 2006, the Governing Body adopted Ordinance No. 1305-06 adopting the Redevelopment Plan and were determined to implement said plan; and

**WHEREAS**, On May 4, 2010, the Governing Body adopted Ordinance No. 1394-10 adopting certain amendments and reaffirming the Redevelopment Plan for the Central Business District (the "2010 Redevelopment Plan"); and

**WHEREAS**, In furtherance of redeveloping the Central Business District Redevelopment Area, on August 16, 2016 the Mayor and Council adopted Resolution No. 222-16, directing that the Board prepare revisions and/or amendments to the 2010 Redevelopment Plan pursuant to N.J.S.A. 40A:12A-7(e) and N.J.S.A. 40A:12A-7(f); and

**WHEREAS**, On September 8, 2016, the Board held a public meeting where at the Board's retained planner, Brigitte Bogart PP, AICP, CGW of Planning & Design Professionals LLC ("Planner") presented proposed amendments to the 2010 Redevelopment Plan; and

**WHEREAS**, On September 22, 2016, after review of the proposed amendments, the Board adopted a Resolution affirming and recommending amendments to the 2010 Redevelopment Plan to the Mayor and Council, which also contained its report with its findings and conclusions of facts; and

**WHEREAS**, On November 21, 2016, the Mayor and Council held a meeting whereby the Planner and designated redeveloper presented its comments and recommendations for additional amendments to the Redevelopment Plan; and

**WHEREAS**, the Mayor and Council has determined it to be in the Borough's best interests to further amend the 2010 Redevelopment Plan in order to effectuate redevelopment on certain parcels located within the Central Business District Area ("Proposed Amendments"); and

**WHEREAS**, concurrently with the introduction of this Ordinance, the Mayor and Council shall adopt a Resolution referring the Proposed Amendments to the Board in Accordance with N.J.S.A. 40A:12A-7(e) and N.J.S.A. 40A:12A-7 (f) for its report and recommendation after review of the Proposed Amendments; and

**WHEREAS**, prior to final adoption of this Ordinance, the Mayor and Council shall have reviewed the Board's report and recommendation or if the Board fails to transmit a recommendation within 45 days after referral, the Mayor and Council may act upon this Ordinance adopting the Proposed Amendments pursuant to N.J.S.A. 40A:12A-7(e).

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Emerson as follows:

**SECTION ONE: Permitted Uses.**

§ 290-68A. Principal Uses shall be deleted in its entirety and replaced with the following:

1. Retail stores.
2. Personal service businesses.
3. Eating and Drinking establishments (except drive ins)
4. Professional, financial and medical offices
5. Multi-family residential dwellings above at-grade, retail, commercial and other principal permitted uses.
6. Multi-family residential dwellings including buildings above at grade parking, only in areas where the building is behind a building that fronts on Kinderkamack Road.
7. Multi-family residential dwellings at grade only where they front on Lincoln Boulevard and only in areas where the building is behind a building that fronts on Kinderkamack Road.
8. Instructional studios spaces, including dance, artist, martial arts, music and other related studios.
9. Financial institutions
10. Childcare facilities and nursery schools.

**SECTION TWO: Area and Bulk Requirements.**

§ 290-69. Table A shall be deleted in its entirety and replaced with the following:

**TABLE A: AREA AND BULK REQUIREMENTS CBD-10 AND CBD-15**

Regulation	CBD-10	CBD-15
Minimum Lot Area	10,000 square feet (a)	15,000 square feet (a)
Minimum Lot Width	75 feet	120 feet
Minimum Lot Depth	60 feet(1)	75 feet (1)
Minimum Front Yard		
Kinderkamack	17 feet (2) (4)	15 feet (3)
Other Streets	0 feet	N/A
Maximum Front Yard		
Kinderkamack	25 feet (2)	50 feet (3)
Other Streets	15 feet	N/A
Minimum Side Yard one/both	0/0 feet	10/20 feet(1)
Minimum Rear Yard	0 feet	10 feet
Maximum Building Stories	Four	Three
Maximum Building Height		
Along Public Streets	42 feet (5)	40 feet (5)
Along the Railroad ROW	50 feet (5)	40 feet (5)
Maximum Building Coverage	85 percent	85 percent
Maximum Impervious Coverage	95 percent	90 percent

- (1) Corner parcels with rights of way located on three sides may reduce the required depth by 55% & reduced side yards of 5 feet each yard.
- (2) In accordance with the streetscape requirements set forth in Section 290-70B1 of the ordinance.
- (3) In accordance with the streetscape requirements set forth in Section 290-70B2 of the ordinance.
- (4) Measured to the curb line.
- (5) Additional Height is permitted in accordance with Section 290-70A3 and shall only be permitted on development parcels which are two (2) acres or greater. Further the 50 foot building height will only be permitted setback from the front building facade by a minimum of 5 feet in depth on buildings facing Lincoln Boulevard and Kinderkamack Road.

(a) Provided that, where an entire block is to be redeveloped pursuant to the Redevelopment Plan, the minimum lot area shall coincide with the block as depicted on that map.

### **SECTION THREE: PARKING REQUIREMENTS**

§ 290-71. Table C shall now include the footnote (a) below:

(a) If a project contains retail on the first floor with residential above, the parking requirement may be reduced to a maximum of up to 25% to account for shared parking, subject to and conditioned upon: (i) the receipt of testimony provided by the applicant's traffic/parking expert supporting such reduction; and, (ii) the Land Use Board retaining a traffic/parking consultant to support and confirm such determination, which shall be paid for by the applicant. If a development is constructed with the parking reduction then medical office space shall be a prohibited use. For the purpose of this section "medical office" shall include walk-in and urgent care clinics, other medical, dental, treatment and therapy related facilities.

### **SECTION FOUR: DESIGN STANDARDS**

§ 290-70A(3) Rooflines/building height shall be deleted in its entirety and replaced with the following:

(a) The top of all buildings must be capped by a cornice or sloping roof element other than structures utilized for parking.

(b) An additional five feet in height for ornamentation, such as parapets and cornices, is permitted. This additional height is only permitted along a maximum of 66% of the facade to encourage a varying roofline.

(c) In addition to Subsection A(3)(b) above, for each portion of a building that provides cornices and similar appurtenances for ornamental purposes, such elements may not be more than 25 feet in length each.

(d) All roof-mounted equipment shall be screened from public view by use of parapet walls.

(e) All lighting proposed on all buildings shall be designed to minimize any impact to the surrounding area. The lighting design should be consistent with the streetscape standards of the district and complimentary to the structure design.

(f) In the CBD-W zone district, 50% of a building may be four stories in height where the topography of land provides a minimum of an eight-foot change in elevation.

(g) Irrespective of other height restrictions, buildings in the area south of Ackerman Avenue may be developed with a maximum three residential stories above at-grade parking or above at-grade commercial, with a maximum height of 50 feet.

## **SECTION FIVE: Purpose and Compliance with Statutory Requirements:**

A. Purpose. The purpose of the Redevelopment Plan is to improve areas designated as being in need of redevelopment; to achieve the goals and objectives of the Master Plan as described above, to enhance the downtown commercial area, to provide for affordable housing in an appropriate location within the Borough, to provide added development near mass transit, to create additional walkable areas and reduce auto dependency, to provide for appropriate land usage, to provide public improvements including public parking, plazas and recreation facilities and to otherwise promote the public health, safety and welfare.

### B. Compliance with Statutory Requirements.

- 1) While it is not contemplated that implementation of the amendments to the Redevelopment Plan will require the relocation of businesses or persons, any relocation that may be required shall comply with the requirements of the New Jersey Relocation Assistance Law (N.J.S.A. 52:31(B)(1) et seq.) the Residential Eviction Law (N.J.S.A. 2A:18-61.1 et seq.) and any regulations adopted pursuant thereto.
- 2) The within Redevelopment Plan contemplates potential planned condemnation of properties, if required.
- 3) The within Redevelopment Plan does not require the removal of any affordable housing units.
- 4) The within Redevelopment Plan provides sufficiently complete information to establish compliance with the objectives of local zoning, redevelopment, building, land use, population density, traffic, transportation, recreation and public facilities.
- 5) The within Redevelopment Plan conforms to the New Jersey Development and Redevelopment Plan adopted pursuant to the State Planning Act and implements goals and objectives of the State Plan.
- 6) The within Redevelopment Plan complies with all provisions of the Municipal Land Use Law.
- 7) The within Plan further complies with the provisions of the Bergen County Draft Master Plan Report.
- 8) The Borough of Emerson hereby affirms that it and its designated agents will assert leadership within the community to ensure compliance with Title VI of the Civil Rights Act of 1964 and Title VII as amended in March of 1972, and with all the affirmative action requirements of the State of New Jersey, as well as regulations issued by the State of New Jersey and the Borough of Emerson.
- 9) No covenant, lease, conveyance, or other instrument shall be affected or executed by the Borough of Emerson or by a developer or any successor of a developer whereby the land within the Redevelopment District is restricted by the Borough or the developer on the basis of race, creed, color, or national origin in the sale lease, use or occupancy thereof. Appropriate covenants, running with the land, will prohibit such restrictions and shall be included in disposition instruments. There shall be no restrictions of occupancy or use of any part of the Redevelopment District on the basis of race, creed, color or national origin.

- 10) The provisions of this Redevelopment Plan and the requirements and restrictions contained herein shall be in effect for a period of thirty (30) years from the date of approval of this Ordinance by the Mayor and Council.

**SECTION SIX: Additional Provisions.**

A. Deviation Requests. The Borough may grant deviations from the regulations contained in the within Ordinance where permitted by the provisions of the Municipal Land Use Law. Notwithstanding the above, any changes to the uses permitted in the within Redevelopment Plan Ordinance shall only be permitted by an amendment to this Ordinance by the Mayor and Council upon a finding that such deviation would be consistent with and in furtherance of the goals and objectives of this Ordinance.

B. Implementation of the Plan. The Mayor and Council are also authorized to enter into an agreement with a Redeveloper to implement the provisions of the within Redevelopment Plan Ordinance. In the event the Borough does enter into such an agreement the Redeveloper shall be responsible to post sufficient escrows to cover any and all costs of the professional consultants retained by the Borough to review the proposed redevelopment project and any and all other aspects of the redevelopment process. The Redeveloper, at the Redeveloper's sole cost and expense, shall also provide all necessary engineering studies in order to construct all on-site and/or off-site improvements, municipal infrastructure improvements, capacity enhancements or upgrades or other improvements required in connection with the provisions of water, sanitary sewer, stormwater sewer, electric and gas services to the project, and, in addition, all required tie-in or connection fees. The Redeveloper shall also be responsible for providing, at the Redeveloper's sole cost and expense, all lighting, on-site and off-site traffic controls, road improvements, street trees, pavers, furniture, landscaping, and any and all other improvements required as a result of the proposed redevelopment. Any Redevelopment Agreement between the Borough and the Redeveloper will contain the terms, conditions, specifications and description of required performance guarantees pertaining to the Redeveloper's obligation to provide all improvements.

C. This Ordinance may be amended upon compliance with the requirements of State Law. In the event a Redeveloper requests any amendment of the within Ordinance, said Redeveloper shall be required to post escrows in such amounts as shall be necessary to cover all costs of the Borough's professionals in connection with the required amendment, including, but not limited to the costs of an impact study prepared by a professional planner.

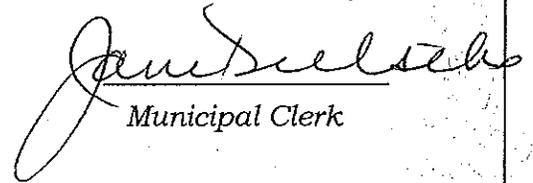
**BE IT FURTHER ORDAINED**, that the provisions of this Ordinance are hereby declared to be severable. Should any section, paragraph, subparagraph, provision, sentence, or part hereof be declared invalid or unconstitutional, said finding shall not affect any other section, paragraph, subparagraph, provision, sentence, or part thereof and the remainder of this Ordinance shall be deemed valid and effective.

**BE IT FURTHER ORDAINED**, This Ordinance shall take effect immediately following final passage, adoption and publication as provided by law.

COUNCIL	M O V E D	S E C O N D E D	A Y E S	N A Y E S	A B S E N T	A B S T A I N
DiPaola				X		
Lazar	X		X			
Downing			X			
Knoller		X	X			
Tripodi				X		
Worthington				X		
Mayor Lamatina			X			

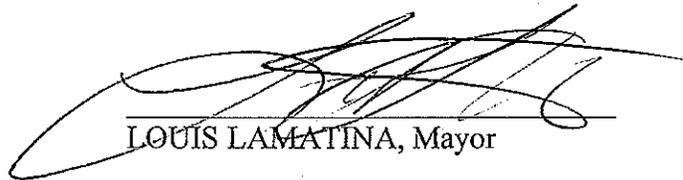
*I hereby certify that the above Resolution was duly adopted by the Borough of Emerson at a meeting held on December 20, 2016.*

Attest:

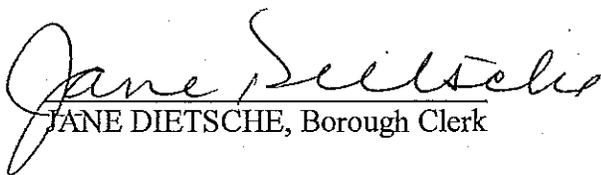
  
Municipal Clerk

Adopted: December 20, 2016

Approved: \_\_\_\_\_

  
LOUIS LAMATINA, Mayor

ATTEST:

  
JANE DIETSCH, Borough Clerk

**BOROUGH OF EMERSON  
COUNTY OF BERGEN  
NOTICE OF ADOPTION**

**ORDINANCE NO. 1548-17**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF THE BOROUGH OF EMERSON  
TO INCORPORATE TWO OF THE REZONING RECOMMENDATIONS  
SET FORTH IN THE 2017 MASTER PLAN REEXAMINATION REPORT**

**Introduced: November 21, 2017**

**Adopted: December 5, 2017**

**NOTICE IS HEREBY GIVEN** that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 5th day of December, 2017. A copy of Ordinance 1548-17 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630 .

**WHEREAS**, the Borough of Emerson Land Use Board held a work session on September 28<sup>th</sup>, 2017 and a public hearing on October 12<sup>th</sup>, 2017 on the 2017 Master Plan Reexamination Report.

**WHEREAS**, the Borough of Emerson Land Use Board adopted the 2017 Master Plan reexamination report on October 12, 2017 and further recommended the that Governing Body consider the rezoning recommendations contained therein.

**WHEREAS**, the final 2017 Master Plan Reexamination Report dated October 25, 2017 recommends that the Borough continue to work towards the revitalization of the entire downtown area so that the area surrounding Block 419 compliment the new redevelopment project.

**WHEREAS**, in furtherance of this recommendation, there were areas recommended for rezoning. It was recommended that both the southern end of the Central Business District as well as the entire IM Industrial Manufacturing District be rezoned to permit the existing uses.

**WHEREAS**, it was further recommended that mixed-use buildings be permitted as a conditional use on larger lots with the purpose of providing affordable housing in conjunction with a settlement agreement.

**WHEREAS**, all affordable units created under this ordinance will be affordable to low and moderate income households in accordance with the rules at N.J.A.C. 5:93-1 et seq. ("COAH's Second Round rules"), the Borough's Affordable Housing Ordinance at Chapter 290-63 of the Borough Code, and the Uniform Housing Affordability Controls ("UHAC") at N.J.A.C. 5:80-26.1 et seq.

**IT IS HEREBY ORDAINED** by the Mayor and Council of the Borough of Emerson, County of Bergen, and State of New Jersey, as follows:

**SECTION ONE:** Delete Section 290-21 in its entirety and replace it with the following: The

following regulations apply in the IM Business Zone:

A. Principal permitted uses:

- (1) Retail;
- (2) Service Commercial;
- (3) Educational Studios
- (4) Professional Office;
- (5) Automobile related services;
- (4) Printing and publishing;
- (5) Electrical, plumbing and building services and sales.
- (6) Wholesale sales
- (7) Warehousing
- (8) Industrial and manufacturing uses meeting the performance standards set forth in Article IX.
- (9) Light manufacturing which is characterized by less capital-intensive and more labor- intensive operations. Products made by a light industrial facility tend to be targeted toward end consumers rather than other businesses.
- (10) Assembly and Distribution
- (11) Storage facilities

B. Permitted accessory uses:

- (1) Parking and loading associated with the principal use
- (2) vehicles associated with the principal use may be parked and stored in delineated parking spaces

C. Conditional uses: none.

**SECTION TWO:** Amend Section 290-12 by adding new Overlay Zone Districts as follows:

MFRAH North            Multi-Family Residential Affordable Housing Overlay Zone District  
North

MFRAH South            Multi-Family Residential Affordable Housing Overlay Zone District  
South

**SECTION THREE:** Create a new Section 290-17.4 To read as follows: Section 290-17.4

MFRAH North            Multi-Family Residential Affordable Housing Overlay Zone District  
North

The following regulations apply to this overlay zone

- A. Purpose:** The purpose of this overlay zone is to encourage the revitalization of the areas surrounding the central business district and to provide for the construction of affordable housing units for low and moderate income persons in order to address a portion of the Fair Share obligation of the Borough of Emerson under the New Jersey Fair Housing Act, the COAH regulations, and the Mount Laurel doctrine.
- B. Principal Permitted Uses:** Mixed-use buildings with any permitted use in the underlying district and multi-family residential or office on the upper floors, multi-family senior housing and age restricted housing.
- C. Minimum Lot Area.** 1 ½ acres of land is required for the construction of a use permitted only by virtue of these overlay districts.
- D. Density.** The maximum gross density shall be as follows:
  - a. MFRAH North: 64 dwelling units per acre.
  - b. MFRAH South: 43 dwelling units per acre.

In computing the number of units permitted per acre, any portion of a unit less than 0.5 unit shall not be considered a dwelling unit.

- E. Affordable Housing Set-a-Side.** A minimum of 15% of the multi-family housing constructed for rental purposes and a minimum of 20% of the multi-family housing constructed for sale purposes shall be set-a-side for affordable housing deed restricted units. All affordable units created under this ordinance will be affordable to low and moderate-income households in accordance with the rules at N.J.A.C. 5:93-1 et seq. (“COAH’s Second Round rules”), the Borough’s Affordable Housing Ordinance at Chapter \_ of the Borough Code, and the Uniform Housing Affordability Controls (“UHAC”) at N.J.A.C. 5:80-26.1 et seq.
- F. Maximum building height.** The maximum permitted building height shall be as follows:
  - a. MFRAH North: Four (4) stories and
 

Along Public Streets	42 feet*
Along the Railroad ROW	50 feet*
  - b. MFRAH South: Three (3) stories and 40 feet

\* Additional Height is permitted in accordance with Section 290-70A3 and shall only be permitted on development parcels which are two (2) acres or greater.

- G. Area and Bulk Regulations.** All area and bulk regulations that are set forth in Section 290-69

shall apply to development proposed under this overlay district except building height and density.

**H. Design Standards.** All development proposed under this overlay district shall comply with all the design standards set forth in Section 290-70 of the Borough Code.

**I. Parking Requirements.** The required number of parking spaces shall comply with Section 290-71 of the Borough Code

**SECTION FOUR:** Rezone Block 617.01 Lots 2.01, 2.02, and 8 to the IM District.

**SECTION FIVE:** Rezone Block 616 Lot 2 to the CBD 10 District

**SECTION SIX:** Establish an Overlay District on the following Blocks and Lots:

MFRAH North overlay shall be applicable to Block 214 Lots 6,7,8.01, 8.02, and 9; Block 213 Lots 1, 2, 3, 4, 5, 6; Block 405 Lots 1, 2, 3.01, 3.02, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.

MFRAH South Overlay shall be applicable to Block 616 Lots 1, 2, 16, 17, 19, 20, 21, 22, 23, 24 and Block 617.01, Lots 2.01, 2.02 and 8.

**BE IT FURTHER ORDAINED,** that the provisions of this Ordinance are hereby declared to be severable. Should any section, paragraph, subparagraph, provision, sentence, or part hereof be declared invalid or unconstitutional, said finding shall not affect any other section, paragraph, subparagraph, provision, sentence, or part thereof and the remainder of this Ordinance shall be deemed valid and effective.

**BE IT FURTHER ORDAINED,** this Ordinance shall take effect immediately following final passage, adoption and publication as provided by law.

COUNCIL	M O V E D	S E C O N D E D	A Y E S	N A Y E S	A B S E N T	A B S E N T	<p><i>I hereby certify that the above Resolution was duly adopted by the Borough of Emerson at a meeting held on December 5, 2017.</i></p> <p><i>Attest:</i> _____</p> <p><i>Municipal Clerk</i></p>
DiPaola							
Falotico							
Lazar							
Knoller							
Downing							
Worthington							

Adopted: \_\_\_\_\_

Approved: \_\_\_\_\_

LOUIS LAMATINA, Mayor

**ATTEST:**

\_\_\_\_\_  
 JANE DIETSCHE, Borough Clerk

Block	Lot	STREETADDRESS	OWNERNAME	OWNERADDRESS	OWNERCITY	OWNER ZIP CODE	LAND AREA	Environmental Constraints PER N.J.A.C. 5:93-4.2(e)(2),		LAND AREA PER COLUMNS (A) & (D)	Open Space and Recreation per ROSI PER N.J.A.C. 5:93-4.2(e)(5).	Reasons Excluded from the RDP PER N.J.A.C. 5:93-4.2.	Sites included in the RDP calculation
								Amount of Land Constrained	Amount of Land not constrained				
1002	1.00	GOLF CLUB RD	HACKENSACK GOLF CLUB	P O BOX 417	ORADELL, N.J.	7649	5.3AC	0	5.3	5.3		Privately owned golf course	
1008	1.00	180 SOLDIER HILL RD	HACKENSACK GOLF CLUB	P O BOX 417	ORADELL, N.J.	7649	4.4 AC	0	4.4	4.4		Privately owned golf course	
1014	2.00	Forest Avenue	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	29,000 square feet	0	0.7	0.7	Yes	Washington Oak Park	
1016	5.00	10 Longview Drive	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	24,000 square feet	0	0.6	0.6	need to put on ROSI	Long View Park	
1101	6.02	OLD HOOK RD	UNITED WATER N.J.	200 OLD HOOK RD	HARRINGTON PARK, NJ	7640	35.813 AC	22.6	13.2	35.8		Public utility	
120	11.00	156 PARK AVE	SCAFFA, FRANCIS & FRANCES	160 PARK AVE	EMERSON NJ	7630	60X112 2LT	0	0.2	0.2		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
1301	3.01	OLD HOOK RD	UNITED WATER NEW JERSEY	200 OLD HOOK RD.	HARRINGTON PARK, NJ	7640	53.10 AC	18.4	34.7	53.1		Public utility	
1301	3.02	OLD HOOK ROAD	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	24.83 ACRES	13.2	11.6	24.8		Public utility	
1301	3.03	OLD HOOK ROAD	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	62.71 AC	34.1	28.6	62.7		Public utility	
1301	3.05	OLD HOOK RD	UNITED WATER N.J.	200 OLD HOOK RD	HARRINGTON PARK, NJ	7640	126.19 AC	86.5	39.7	126.2		Public utility	
1301	3.04	Main Street	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	849,222 square feet	10.4	9.1	19.5	Yes	environmentally constrained adjacent to the reservoir, conservation easement	
1301	3.06	OLD HOOK ROAD	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK, N.J.	7640	11.44 ACRES	8.44	3	11.44		Public utility	
1301	3.07	OLD HOOK ROAD	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK,N.J.	7640	1.86 ACRES	0	1.9	1.9		Public utility	
100.01	3.08	Jordan Road	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630				0		part of a Right of way	
218	18.01	74 Orchard Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7640	700 square feet	0	0.02	0.02		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
218	18.02	80 Orchard Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	1,600 square feet	0	0.04	0.04		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
218	19.00	60 ORCHARD AVE	KESILVAS, HIND	60 ORCHARD AVENUE	EMERSON NJ	7630	165X100 7LT	0	0.54	0.54		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
218	29.00	12 ORCHARD AVE	GEORGIADIS, GEORGE & EFFIE SOF	12 ORCHARD AVE.	EMERSON, NJ	7630	50X125 2LT	0	0.15	0.15		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
222	1.00	HARTLAND AVE	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK,N.J.	7640	0.34 AC	0.84	0.4	1.24		Public utility	
222	2.00	SANFORD AVE	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK,N.J.	7640	0.02 AC	0.2	0	0.2		Public utility	
301	2.00	HOPPER AVE	LEAL, HUMBERTO & VICKY	154 SANFORD AVENUE	EMERSON,N.J.	7630	75X84 3LT	0	0.2	0.2		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units. Developed with adjacent lot as single family dwelling.	
301	3.01	HOPPER AVE	N & A PROPERTY LLC	362 FOREST AVE	PARAMUS, NJ	7652	25X84 1LT	0	0.05	0.05		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units. Developed with adjacent lot as single family dwelling.	
301	3.02	HOPPER AVE	N & A PROPERTY LLC	362 FOREST AVE	PARAMUS, NJ	7652	50 X 95	0	0.13	0.13		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units. Developed with adjacent lot as single family dwelling.	
305	12.00	185 DYER AVE	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	50X83 2LT	0	0.1	0.1		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
305	19.00	199 HIGHLAND AV	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	3,344AC	2.21	1.13	3.34		Public utility	
306	20.00	185 DYER AVE	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	100X83 3LT	0	0.78	0.78		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
306	23.00	200 JEFFERSON AVE	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	225X153 9LT	0	0.21	0.21		Public utility	
307	7.02	171 HIGH ST	GERMANN, SCOTT D & ANTOINETT	171 HIGH ST	EMERSON, NJ	7630	56X100	0	0.13	0.13		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units. Developed with the adjacent lot with a single family dwelling.	
309	1.03	143 JEFFERSON AVE	PARK, SANG M & SHINOBU J	143 JEFFERSON AVENUE	EMERSON, NJ	7630	50X102 2LT	0	0.11	0.11		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
312	1.00	132 MAIN ST	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	7.1AC	5.87	1.23	7.1		Public utility	
312	3.00	17 GLENWOOD AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	360X80 1LT	0.54	0	0.54		Public utility	
312	4.00	5 GLENWOOD AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	50X75 4LT	0	0.01	0.01		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
313	11.00	31 EMWOOD DR	MRKIC, RICHARD & CHRISTINA	31 EMWOOD DR	EMERSON, NJ	7630	75X100 3LT	0	0.15	0.15		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
314	12.00	260 MAIN ST	SAR I, INC N	1455 VALLEY ROAD	WAYNE, NJ	07470	202 ACRES	0	0.2	0.2		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
315	1.00	205 MAIN ST	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	177X238 4LT	0	0.36	0.36		Public utility	
316	3.00	29 LAKEVIEW TERR	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	307X235 15LT	0.86	1.47	2.33		Public utility	
334	15.00	HIGHLAND AVE	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	790X150 32LT	2.01	1.11	3.12		Public utility	
335	13.00	150 Main Street	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	41,400 square feet	0.88	0.88	0.96	Yes	Park	
413	8.00	65 DYER AVE	FALOTICO, PAUL & MILDRED	2866 MILES AVENUE	BRONX, NY	10465	50X83 2LT	0	0.1	0.1		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units, even when combined with adjacent lot.	
413	9.00	69 DYER AVE	FALOTICO, PAUL & MILDRED	2866 MILES AVENUE	BRONX, NY	10465	50X83 2LT	0	0.12	0.12		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units, even when combined with adjacent lot.	
419	2.00	15 LINCOLN BLVD	214 KINDERDAMACK, LLC	10 DEVON ROAD	BOONTON TOWNSHIP, NJ	7005	40X100 2LT	0	0.1	0.1		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	Included in RDP under Redevelopment
419	7.00	9 Kenneth Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630		0	0.3	0.3		Part of the redevelopment of Block 419	Included in RDP under Redevelopment
420	12.00	64 Locust Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	11,700 square feet	0	0.27	0.27		developed with a house	
420	13.00	58 Locust Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	16,600 square feet	0	0.38	0.38		developed with a house	
421	13.00	58 Locust Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630				0		part of the adjacent development	
421	10.00	17 ARTHUR ST	SCHIBINGER, JOHN & ANNA	82 LOCUST AVE	EMERSON NJ	7630	25X104 1LT	0	0.07	0.07		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
421	11.00	19 ARTHUR ST	DELUCA PAULINE	792 ORADELL AVENUE	ORADELL,NJ	7649	50X103 2LT	0	0.13	0.13		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
421	8.00	11 ARTHUR STREET	SCHIBINGER, JOHN & ANNA	82 LOCUST AVENUE	EMERSON NJ	7630	75X108 3LT	0	0.22	0.22		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
421	9.00	15 ARTHUR ST	SCHIBINGER, JOHN & ANNA	82 LOCUST AVE	EMERSON NJ	7630	25X104 1LT	0	0.06	0.06		accommodated less than 5 dwelling units	
421	5.00	84 Locust	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	170 square feet	0	0.05	0.05		17 foot wide strip	
423	1.00	1 Municipal Place	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630		0	0.91	0.91		Borough hall and police station	
501.01	6.00	151 Park Avenue	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	54,700 square feet	0	1.28	1.28	Yes	Park	
501.04	17.00	foot path	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	1,300 square feet	0	0.03	0.03	need to put on ROSI	Park	
501.06	5.00	18 UNDAVENUE	PIONEER DEVELOPERS, DMR CORP	160 HOPPER AVENUE	WALDOWICK, NJ	7463	3.1AC	0	0.33	0.33		Park	To be included
501.06	6.00	foot path	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	700 square feet	0	0.02	0.02	need to put on ROSI	Park	
501.06	9.00	foot path	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	475 square feet	0	0.01	0.01	need to put on ROSI	Park	
507	3.00	205 ACKERMAN AVE	GOLDIAN RLTLY LLC	12 CLIFFORD DR	PARK RIDGE, NJ	7656	50X117 2LT	0	0.17	0.17		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
508	5.00	10 Remington Avenue	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	26,650 square feet	0	0.61	0.61	Yes	Park	
509	1.00	177 Ackerman Avenue	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	15,500 square feet	0	0.12	0.12	Yes	Park	
509	6.00	9 Remington	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	27,500 square feet	0	0.63	0.63	Yes	Park	
512	13.00	11 HOLLYWOOD AVE	LUONGO, JOSEPH & MATTHEW C.	86 PINE DR	EMERSON, NJ	7630	25X100 1LT	0	0.07	0.07		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
513	13.00	FOOT PATH	RAMAGLI, PATSY, KATHRYN & STEPHEN	97 ACKERMAN AVENUE	EMERSON, N.J.	7630	25X100	0	0.08	0.08	need to put on ROSI	accommodated less than 5 dwelling units	
515	1.00	65 Broadway	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	15,500 square feet	0	0.33	0.33	need to put on ROSI	14 foot wide strip of land	
515	5.00	131 Demarest	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	915 square feet	0	0.14	0.14	need to put on ROSI	10 foot wide strip	
515	8.00	99 Demarest	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	890 square feet	0	0.03	0.03	need to put on ROSI	12 foot wide strip	
516	1.00	125 Broadway	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	2,380 square feet	0	0.06	0.06	need to put on ROSI	11 foot wide strip	
604	15.00	83 GRAND BLVD	BANKS, GEORGE JR.	97 GRAND BLVD	EMERSON NJ	7630	50X100 2LT	0	0.12	0.12		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
608	1.00	45 Demarest	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	1,600 square feet	0	0.03	0.03		8 foot wide strip	
609	4.01	45 WORTENDYKE AVENUE	GASSIB, JOSEPH E.	435 HUDSON STREET	HACKENSACK, NJ	7601	30 ACRE	0.43	10.00	0.53			To be included in the RDP
610	9.01	2 LOUIS AVE	BURNS AND ROE GROUP INC	800 KINDERKAMACK ROAD	ORADELL, NJ	7649	142X75 6LT	0	0.10	0.53			To be included in the RDP
612	2.00	7 WORTENDYKE AVE	HACKENSACK GOLF CLUB	P O BOX 417	ORADELL NJ	7649	STRIP	0	0.08	0.08		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
616	9.01	120 Thomas Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	21,000 square feet	0	0.57	0.57		Firehouse- public purpose	
616	18.00	Thomas Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	9,600 square feet	0	3.74	3.74	Yes	Firehouse- public purpose	
616	25.00	20 Palisades	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	82,050 square feet	0	1.90	1.9		Library- public purpose	
617.01	10.00	10 WAE PAUL DR	EMERSON REAL ESTATE,LLC	99 PALISADE AVENUE	EMERSON, NJ	7630	6.0AC	7.79	0.11			To be included in the RDP	
617.01	9.00	70 WEST MAE PAUL DR	EMERSON REAL ESTATE,LLC	99 PALISADE AVENUE	EMERSON, NJ	7630	1.9AC	2.02	0.00	2.02		To be included in the RDP	
617.01	8.00	1A Palisades	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	73,000 square feet	0	1.69	1.69		DPW- public purpose	
617.01	7.00	99 Palisades	EMERSON REAL ESTATE,LLC	99 PALISADE AVENUE	EMERSON, NJ	7630	5.25 ACRES	2.71	2.41	5.12		To be included in the RDP	
617.01	7.00	99 Palisades	EMERSON REAL ESTATE,LLC	99 PALISADE AVENUE	EMERSON, NJ	7630	1.69 ACRES	0.9	0.97	1.87		To be included in the RDP	
701	2.00	9 BROAD ST	WOLF, WALTER & KAREN	147 HIGH ST	EMERSON NJ	7630	25X100 1LT	0	0.07	0.07		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units. OWNED BY THE ADJACENT OWNER AND DEVELOPED WITH SIGNLE-FAMILY RESIDENCE	
703	1.00	Main Street	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	2,950 square feet	0	0.07				

730	2.00	17 FIFTH ST	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	462X100 17LT	0	1.15	1.15	Public utility	
731	1.00	297 PALISADE AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	197 AC	0	1.42	1.42	Public utility	
732	1.00	115 RANDOLPH AVE	HACKENSACK WATER CO	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	2 3AC	2.86	0.38	2.48	Public utility	
732	2.00	125 RANDOLPH AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD RD	HARRINGTON PARK NJ	7640	183X100 7LT	0.27	0.18	0.45	Public utility	
732	3.00	143 RANDOLPH AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD D	HARRINGTON PARK NJ	7640	200X100 8LT	0.46	0.00	0.46	Public utility	
733	2.00	12 SECOND ST	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	236X100 9LT	0.54	0.00	0.54	Public utility	
733	4.00	13 FIRST ST	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	50X100 2LT	0.04	0.08	0.12	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
736	1.00	3 AURICCHIO AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	145X81 6LT	0.12	0.14	0.26		
738	4.00	265 RANDOLPH AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	50X100 2LT	0	0.08	0.08	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
738	5.00	275 RANDOLPH AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	100X100 4LT	0	0.21	0.21		
738	6.00	277 Randolph Ave	BOROUGH OF EMERSON	MAIN STREET	EMERSON NJ	7630	2,765 square feet	0	0.07	0.07	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
738	7.00	283 RANDOLPH AVE	UNITED WATER NEW JERSEY	200 OLD HOOK RD	HARRINGTON PARK NJ	7640	75X100 3LT	0	0.16	0.16	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units	
738	8.00	297 RANDOLPH AVENUE	UPG/DBA EMERSON GOLF CLUB	200 OLD HOOK ROAD	HARRINGTON PARK, NJ	7640	220 X 100	0.09	0.54	0.63	Under 22,000 SQ FT can would not produce any affordable units	
738	9.01	51 AURICCHIO AVENUE	EMERSON REAL ESTATE, LLC/HH KIM	99 PALISADE AVENUE	EMERSON, NJ	7630	3,328 AC	4.46	0.04	4.5		To be included
738	9.02	55 AURICCHIO AVENUE	UPG/DBA EMERSON GOLF CLUB	200 OLD HOOK ROAD	HARRINGTON PARK, NJ	7640	20,416 AC	21.34	2.79	24.13		To be included
901.01	1.00	175 FOREST AV	TOWN & COUNTRY DEVELAT EMERSON	O BOX 673	WESTWOOD NJ	7675	9,52AC WETLANDS	3.18	6.40	9.58		To be included
905	1.01	265 FOREST AVENUE	15 WAKELEE DRIVE CORPORATION	127 S. WASHINGTON AVENUE	BERGENFIELD, NJ	7621	.01 ACRE		0		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
905	1.02	FOREST AVENUE	DICUFFA, ALDO & DONNA	675 REPETTI STREET	WESTWOOD, NJ	7675	.02 ACRE		0		UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
905	2.02	INSIDE TRACT	KENNY, TODD & REBECCA	663 REPETTI STREET	WESTWOOD, NJ	7675	15X150 1LT	0	0.05	0.05	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
905	2.03	64 CINDY LANE	GENEN, ARTHUR & BARBARA	64 CINDY LANE	EMERSON NJ	7630	45X110 2LT	0	0.11	0.11	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
905	4.02	INSIDE TRACT	SAVARESE, MARY E (TRSTES/ETALS)	77 RECTOR STREET	METUCHEN, NJ	8840	22X75 1LT	0	0.04	0.04	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
905	5.02	INSIDE TRACT	GRUTTA, MICHAEL & JANICE	651 REPETTI ST	WESTWOOD NJ	7675	25X75 1LT	0	0.05	0.05	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
905	6.02	INSIDE TRACT	HOLZKNECHT, LOUIS J & BARBARA	645 REPETTI ST	WESTWOOD NJ		30X75 1LT	0	0.05	0.05	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
905	7.02	INSIDE TRACT	CALLAHAN, PATRICIA M.	639 REPETTI ST	WESTWOOD NJ	7675	34X100 1LT	0	0.06	0.06	UNDER 10,000 SQ FT and would therefore accommodate less than 5 dwelling units and part of a lot developed in westwood	
1201	1.00	650 OLD HOOK RD	MAREK CORP	650 OLD HOOK RD	EMERSON NJ	7640	6.4 ac	0.73	5.98	6.71		Needs to be included

## ORDINANCE \_\_\_\_\_

### **AN ORDINANCE OF THE BOROUGH OF EMERSON AMENDING AND SUPPLEMENTING CHAPTER 290 OF THE BOROUGH CODE TO ESTABLISH A TOWNSHIP-WIDE SET-ASIDE ORDINANCE AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO**

**WHEREAS**, by the governing body of the Borough of Emerson, Bergen County, New Jersey, that the Zoning Code of the Borough of Emerson is hereby supplemented to include provisions addressing the Borough's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are required when certain types of applications are approved.

**WHEREAS**, The Emerson Land Use 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 Housing Element and Fair Share Plan have been endorsed by the governing body. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Emerson that the Borough Code Chapter 290 Zoning, Article 4, Section 13. General regulations, be amended as follows:

**Section 1. Chapter 290-13.D(3) – General regulations. AHO Affordable Housing Overlay Zone, is hereby repealed and replaced with the following:**

#### **§290-13.D. AHO Affordable Housing Overlay Set-Aside Requirements.**

- (1) Purpose. The purpose of this set-aside requirement is to create a realistic opportunity for the construction of low- and moderate- income housing as land becomes available for development in the Borough of Emerson and thereby address the "unmet need" portion of the fair share housing obligation of the Borough of Emerson under the New Jersey Fair Housing Act of 1985, N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the Mount Laurel Doctrine.
- (2) Any property in the Borough of Emerson that is currently zoned for non-residential uses and subsequently receives a zoning change or use variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, or that is currently zoned for residential uses and receives a zoning change or density variance or approval of a redevelopment or rehabilitation plan to permit multi-family residential development, which multi-family residential development will yield five (5) or more new dwelling units, shall

provide an affordable housing set-aside of fifteen (15%) percent if the affordable units will be for rent and twenty (20%) percent if the affordable units will be for sale. This provision does not affect residential development on sites that are zoned for inclusionary residential development as part of the Borough's Housing Element and Fair Share Plan, which are subject to the affordable housing set-aside requirements set forth in the applicable zoning. This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Borough of Emerson to grant such rezoning, variance or other relief. A property shall not be permitted to be subdivided so as to avoid compliance with this requirement. All affordable units created pursuant to this paragraph shall be governed by the provisions of Chapter 290, Article XII Affordable Housing Regulations.

**Section 2.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**Section 3. Severability and Repealer.**

- A. If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.
- B. All ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.

**Section 4. Effective Date.**

This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

Attest:

---

Jane Dietsche, RMC  
Clerk

---

Louis Lamatina  
Mayor

## AFFIRMATIVE FAIR HOUSING MARKETING PLAN For Affordable Housing in **(REGION 1)**

### I. APPLICANT AND PROJECT INFORMATION

(Complete Section I individually for all developments or programs within the municipality.)

1a. Administrative Agent Name, Address, Phone Number		1b. Development or Program Name, Address	
1c. Number of Affordable Units: Number of Rental Units:  Number of For-Sale Units:	1d. Price or Rental Range From  To	1e. State and Federal Funding Sources (if any)	
1f. <input type="checkbox"/> Age Restricted <input type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates  Advertising: <span style="float: right;">Occupancy:</span>		
1h. County <b>Bergen, Hudson, Passaic, Sussex</b>		1i. Census Tract(s):	
1j. Managing/Sales Agent's Name, Address, Phone Number			
1k. Application Fees (if any):			

(Sections II through IV should be consistent for all affordable housing developments and programs within the municipality. Sections that differ must be described in the approved contract between the municipality and the administrative agent and in the approved Operating Manual.)

### II. RANDOM SELECTION

2. Describe the random selection process that will be used once applications are received.
--

### III. MARKETING

3a. Direction of Marketing Activity: (indicate which group(s) in the housing region are least likely to apply for the housing without special outreach efforts because of its location and other factors)
---

White (non-Hispanic)   
 Black (non-Hispanic)   
 Hispanic   
 American Indian or Alaskan Native  
 Asian or Pacific Islander   
 Other group:

3b. HOUSING RESOURCE CENTER ([www.njhousing.gov](http://www.njhousing.gov)) A free, online listing of affordable housing

3c. Commercial Media (required) (Check all that applies)

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
<b>TARGETS ENTIRE HOUSING REGION 1</b>			
Daily Newspaper			
<input type="checkbox"/>		Star-Ledger	Northern and Central New Jersey

<b>TARGETS PARTIAL HOUSING REGION 1</b>			
Daily Newspaper			
<input type="checkbox"/>		Record, The	Bergen
<input type="checkbox"/>		Jersey Journal	Hudson
<input type="checkbox"/>		Herald News	Passaic
<input type="checkbox"/>		New Jersey Herald	Sussex

<b>TARGETS PARTIAL HOUSING REGION 1</b>			
Non-Daily Newspaper			
	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
<input type="checkbox"/>		Bayonne Community News	Hudson
<input type="checkbox"/>		Northern Valley Suburbanite	Northern Bergen
<input type="checkbox"/>		Teaneck Suburbanite	Teaneck, Bergen
<input type="checkbox"/>		Twin Boro News	Northern Bergen
<input type="checkbox"/>		Shopper News	Bergen
<input type="checkbox"/>		The Ramsey Reporter	Ramsey, Bergen
<input type="checkbox"/>		The Town Journal	Franklin Lakes, Bergen
<input type="checkbox"/>		The Village Gazette	Ridgewood, Bergen
<input type="checkbox"/>		Messenger	Garfield, Bergen
<input type="checkbox"/>		Observer	Hasbrouck Heights, Bergen
<input type="checkbox"/>		Weekly News	Hasbrouck Heights, Bergen
<input type="checkbox"/>		Hawthorne Press	Hawthorne, Passaic
<input type="checkbox"/>		Journal America	Passaic

<input type="checkbox"/>		Hoboken Reporter	Hoboken, Hudson
<input type="checkbox"/>		Hudson Current	Hudson
<input type="checkbox"/>		Jersey City Register	Hudson
<input type="checkbox"/>		The Shoppers' Friend	Sussex
<input type="checkbox"/>		The Commercial Leader	Lyndhurst, Bergen
<input type="checkbox"/>		North Bergen Register	Hudson
<input type="checkbox"/>		Secaucus Reporter	Secaucus, Hudson
<input type="checkbox"/>		Weehawken Reporter	Weehawken, Hudson
<input type="checkbox"/>		West New York/Union City Reporter	West New York/Union City, Hudson
<input type="checkbox"/>		Observer	Hudson
<input type="checkbox"/>		The Commercial Leader	Lyndhurst, Bergen
<input type="checkbox"/>		The Leader Free Press	Lyndhurst, Bergen
<input type="checkbox"/>		News Leader of Rutherford	Rutherford, Bergen
<input type="checkbox"/>		North Arlington Leader	North Arlington, Bergen
<input type="checkbox"/>		Our Town	Maywood, Bergen
<input type="checkbox"/>		The Ridgewood Times – Zone 2	Midland Park/Ridgewood, Bergen
<input type="checkbox"/>		The Villadom Times Midland Park	Midland Park/Ridgewood, Bergen
<input type="checkbox"/>		The Palisadian	Bergen
<input type="checkbox"/>		Aim Community News/Aim Action Ads	Passaic
<input type="checkbox"/>		Shoppers Guide to Sussex County	Sussex
<input type="checkbox"/>		Bergen News	Bergen
<input type="checkbox"/>		Press Journal	Palisades Park, Bergen
<input type="checkbox"/>		Korean Bergen News	Bergen
<input type="checkbox"/>		Sun Bulletin	Bergen
<input type="checkbox"/>		News Beacon	Paramus
<input type="checkbox"/>		Slovak Catholic Falcon	(Slovak/English) Passaic
<input type="checkbox"/>		Independence News	Passaic
<input type="checkbox"/>		Home and Store News	Bergen
<input type="checkbox"/>		Our Town	Northern Bergen
<input type="checkbox"/>		The Glen Rock Gazette	Glen Rock, Bergen

<input type="checkbox"/>		Ridgewood News	Ridgewood, Bergen
<input type="checkbox"/>		Suburban News	Northern Bergen
<input type="checkbox"/>		Town News	Northern Bergen
<input type="checkbox"/>		Wyckoff Suburban News	Wyckoff, Bergen
<input type="checkbox"/>		The South Bergenite	Southern Bergen
<input type="checkbox"/>		Secaucus Home News	Secaucus, Hudson
<input type="checkbox"/>		The Advertiser	Sussex
<input type="checkbox"/>		The Advertiser News	Sussex
<input type="checkbox"/>		Sparta Independent	Sparta, Sussex
<input type="checkbox"/>		Sussex County Chronicle	Sparta, Sussex
<input type="checkbox"/>		The Connection Newspaper	Southern Bergen
<input type="checkbox"/>		Jewish Community News	(Jewish) Bergen
<input type="checkbox"/>		Jewish Standard	(Jewish) Bergen
<input type="checkbox"/>		Avance	(Spanish) Hudson
<input type="checkbox"/>		Continental	(Spanish) Hudson
<input type="checkbox"/>		La Tribuna de North Jersey	(Spanish) Hudson
<input type="checkbox"/>		The Argus	West Paterson, Passaic
<input type="checkbox"/>		Suburban Life	Passaic
<input type="checkbox"/>		Today Newspaper	Passaic
<input type="checkbox"/>		Community Life	Northern Bergen
<input type="checkbox"/>		Wood Ridge Independent	Wood Ridge

**TARGETS ENTIRE HOUSING REGION 1**

	<b>DURATION &amp; FREQUENCY OF OUTREACH</b>	<b>NAMES OF REGIONAL TV STATION(S)</b>	<b>CIRCULATION AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE</b>
<input type="checkbox"/>		2 WCBS-TV Cbs Broadcasting Inc.	NYC Metropolitan Area
<input type="checkbox"/>		4 WNBC NBC Telemundo License Co. (General Electric)	NYC Metropolitan Area
<input type="checkbox"/>		5 WNYW Fox Television Stations, Inc. (News Corp.)	NYC Metropolitan Area
<input type="checkbox"/>		7 WABC-TV American Broadcasting Companies, Inc (Walt Disney)	NYC Metropolitan Area

<input type="checkbox"/>		11 WPIX Wpix, Inc. (Tribune)	NYC Metropolitan Area
<input type="checkbox"/>		13 Wpix, Inc. (Tribune) Educational Broadcasting Corporation	NYC Metropolitan Area
<input type="checkbox"/>		25 WNYE-TV New York City Dept. Of Info Technology & Telecommunications	NYC Metropolitan Area
<input type="checkbox"/>		31 WPXN-TV Paxson Communications License Company, Llc	NYC Metropolitan Area
<input type="checkbox"/>		41 WXTV Wxtv License Partnership, G.p. (Univision Communications Inc.)	NYC Metropolitan Area, Spanish- language
<input type="checkbox"/>		47 WNJU NBC Telemundo License Co. (General Electric)	NYC Metropolitan Area, Spanish- language
<input type="checkbox"/>		50 WNJN New Jersey Public Broadcasting Authority	New Jersey
<input type="checkbox"/>		62 WRNN-TV Wrnn License Company, Llc	Hudson Valley
<input type="checkbox"/>		63 WMBC-TV Mountain Broadcating Corporation	Northern New Jersey, Various ethnic
<input type="checkbox"/>		66 WFME-TV Family Stations Of New Jersey, Inc.	Northern New Jersey, Christian
<input type="checkbox"/>		68 WFUT-TV Univision New York Llc	NYC Metropolitan Area, Spanish- language

**TARGETS PARTIAL HOUSING REGION 1**

<input type="checkbox"/>		8 WTNH Wtnh Broadcasting, Inc. (LIN TV Corp.)	Bergen
<input type="checkbox"/>		49 WEDW Connecticut Public Broadcasting, Inc.	Bergen
<input type="checkbox"/>		17 WEBR-CA K Licensee, Inc.	Bergen, Hudson (Christian)
<input type="checkbox"/>		26 WNXV-LP Island Broadcasting Company	Bergen, Hudson
<input type="checkbox"/>		32 WXNY-LP Island Broadcasting Company	Bergen, Hudson
<input type="checkbox"/>		35 WNYX-LP Island Broadcasting Company	Bergen, Hudson
<input type="checkbox"/>		39 WNYN-LP Island Broadcasting Company	Bergen, Hudson (Spanish)
<input type="checkbox"/>		21 WLIW Educational Broadcasting Corporation	Bergen, Hudson, Passaic
<input type="checkbox"/>		60 W60AI Ventana Television, Inc.	Bergen, Hudson, Passaic
<input type="checkbox"/>		6 WNYZ-LP Island Broadcasting Co.	Bergen, Sussex
<input type="checkbox"/>		22 WMBQ-CA Renard Communications Corp.	Hudson
<input type="checkbox"/>		34 WPXO-LP Paxson Communications License Company, Llc	Hudson

<input type="checkbox"/>		42 WKOB-LP Nave Communications, Llc	Hudson (Christian)
<input type="checkbox"/>		3 WBQM-LP Renard Communications Corp.	Hudson, Sussex
<input type="checkbox"/>		52 WNJT New Jersey Public Broadcasting Authority	Hudson, Sussex
<input type="checkbox"/>		28 WBRE-TV Nexstar Broadcasting, Inc.	Passaic, Sussex
<input type="checkbox"/>		36 W36AZ New Jersey Public Broadcasting Authority	Passaic, Sussex
<input type="checkbox"/>		16 WNEP-TV New York Times Co.	Sussex
<input type="checkbox"/>		22 WYOU Nexstar Broadcasting, Inc.	Sussex
<input type="checkbox"/>		23 W23AZ Centenary College	Sussex
<input type="checkbox"/>		38 WSWB Mystic Television of Scranton Llc	Sussex
<input type="checkbox"/>		39 WLVT-TV Lehigh Valley Public Telecommunications Corp.	Sussex
<input type="checkbox"/>		44 WVIA-TV Ne Pa Ed Tv Association	Sussex
<input type="checkbox"/>		49 W49BE New Jersey Public Broadcasting Authority	Sussex
<input type="checkbox"/>		56 WOLF-TV Wolf License Corp	Sussex
<input type="checkbox"/>		60 WBPH-TV Sonshine Family Television Corp	Sussex
<input type="checkbox"/>		64 WQPX Paxson Communications License Company, Llc (Ion Media Networks)	Sussex
<input type="checkbox"/>		69 WFMZ-TV Maranatha Broadcasting Company, Inc.	Sussex

	DURATION & FREQUENCY OF OUTREACH	NAMES OF CABLE PROVIDER(S)	BROADCAST AREA
<b>TARGETS PARTIAL HOUSING REGION 1</b>			
<input type="checkbox"/>		Time Warner Cable of Bergen & Hudson Counties	Partial Bergen
<input type="checkbox"/>		Comcast of the Meadowlands	Partial Bergen
<input type="checkbox"/>		Cablevision of New Jersey, Oakland, Ramapo, and Rockland	Partial Bergen
<input type="checkbox"/>		US Cable of Paramus-Hillsdale	Partial Bergen
<input type="checkbox"/>		Cablevision of NJ (Bayonne System), Hudson	Partial Hudson
<input type="checkbox"/>		Comcast of Jersey City, Meadowlands, NJ (Union System)	Partial Hudson

<input type="checkbox"/>		Time Warner Cable of Bergen & Hudson Counties	Partial Hudson
<input type="checkbox"/>		Cablevision of Oakland, Paterson	Partial Passaic
<input type="checkbox"/>		Hometown Online	Partial Passaic
<input type="checkbox"/>		Cable Vision of Morris, Warwick	Partial Sussex
<input type="checkbox"/>		Hometown Online	Partial Sussex
<input type="checkbox"/>		Service Electric Broadband Cable	Partial Sussex
<input type="checkbox"/>		Time Warner Cable of Bergen & Hudson Counties	Partial Bergen
<input type="checkbox"/>		Comcast of the Meadowlands	Partial Bergen
<input type="checkbox"/>		Cablevision of New Jersey, Oakland, Ramapo, and Rockland	Partial Bergen
<input type="checkbox"/>		US Cable of Paramus-Hillsdale	Partial Bergen
<input type="checkbox"/>		Cablevision of NJ (Bayonne System), Hudson	Partial Hudson
<input type="checkbox"/>		Comcast of Jersey City, Meadowlands, NJ (Union System)	Partial Hudson
<input type="checkbox"/>		Time Warner Cable of Bergen & Hudson Counties	Partial Hudson
<input type="checkbox"/>		Cablevision of Oakland, Paterson	Partial Passaic
<input type="checkbox"/>		Hometown Online	Partial Passaic
<input type="checkbox"/>		Cable Vision of Morris, Warwick	Partial Sussex
<input type="checkbox"/>		Hometown Online	Partial Sussex
<input type="checkbox"/>		Service Electric Broadband Cable	Partial Sussex
<input type="checkbox"/>		Time Warner Cable of Bergen & Hudson Counties	Partial Bergen
<input type="checkbox"/>		Comcast of the Meadowlands	Partial Bergen
<input type="checkbox"/>		Cablevision of New Jersey, Oakland, Ramapo, and Rockland	Partial Bergen
<input type="checkbox"/>		US Cable of Paramus-Hillsdale	Partial Bergen
<input type="checkbox"/>		Cablevision of NJ (Bayonne System), Hudson	Partial Hudson
<input type="checkbox"/>		Comcast of Jersey City, Meadowlands, NJ (Union System)	Partial Hudson
<input type="checkbox"/>		Time Warner Cable of Bergen & Hudson Counties	Partial Hudson
<input type="checkbox"/>		Cablevision of Oakland, Paterson	Partial Passaic

<input type="checkbox"/>		Hometown Online	Partial Passaic
<input type="checkbox"/>		Cable Vision of Morris, Warwick	Partial Sussex
<input type="checkbox"/>		Hometown Online	Partial Sussex
<input type="checkbox"/>		Service Electric Broadband Cable	Partial Sussex

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL RADIO STATION(S)	BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE HOUSING REGION 1</b>			
AM			
<input type="checkbox"/>		WFAN 660	
<input type="checkbox"/>		WOR 710	
<input type="checkbox"/>		WABC 770	
<input type="checkbox"/>		WCBS 880	
<input type="checkbox"/>		WBBR 1130	
FM			
<input type="checkbox"/>		WFNY-FM 92.3	
<input type="checkbox"/>		WPAT-FM 93.1	Spanish
<input type="checkbox"/>		WNYC-FM 93.9	
<input type="checkbox"/>		WFME 94.7	Christian
<input type="checkbox"/>		WPLJ 95.5	
<input type="checkbox"/>		WQXR-FM 96.3	
<input type="checkbox"/>		WQHT 97.1	
<input type="checkbox"/>		WSKQ-FM 97.9	Spanish
<input type="checkbox"/>		WAWZ 99.1	Christian
<input type="checkbox"/>		WBAI 99.5	
<input type="checkbox"/>		WHTZ 100.3	
<input type="checkbox"/>		WHUD 100.7	
<input type="checkbox"/>		WCBS-FM 101.1	
<input type="checkbox"/>		WQCD 101.9	
<input type="checkbox"/>		WNEW 102.7	
<input type="checkbox"/>		WKTU 103.5	

<input type="checkbox"/>		WAXQ 104.3	
<input type="checkbox"/>		WWPR-FM 105.1	
<input type="checkbox"/>		WLTW 106.7	
<input type="checkbox"/>		WBLS 107.5	
<b>TARGETS PARTIAL HOUSING REGION 1</b>			
AM			
<input type="checkbox"/>		WEEX 1230	Bergen
<input type="checkbox"/>		WKDM 1380	Bergen, Hudson (Chinese/ Mandarin)
<input type="checkbox"/>		WMCA 570	Bergen, Hudson, Passaic (Christian)
<input type="checkbox"/>		WNYC 820	Bergen, Hudson, Passaic
<input type="checkbox"/>		WRKL 910	Bergen, Hudson, Passaic (Polish)
<input type="checkbox"/>		WPAT 930	Bergen, Hudson, Passaic (Caribbean, Mexican, Mandarin)
<input type="checkbox"/>		WWDJ 970	Bergen, Hudson, Passaic (Christian)
<input type="checkbox"/>		WINS 1010	Bergen, Hudson, Passaic
<input type="checkbox"/>		WEPN 1050	Bergen, Hudson, Passaic
<input type="checkbox"/>		WVNJ 1160	Bergen, Hudson, Passaic
<input type="checkbox"/>		WLIB 1190	Bergen, Hudson, Passaic (Christian)
<input type="checkbox"/>		WADO 1280	Bergen, Hudson, Passaic (Spanish)
<input type="checkbox"/>		WWRV 1330	Bergen, Hudson, Passaic (Spanish)
<input type="checkbox"/>		WNSW 1430	Bergen, Hudson, Passaic (Portuguese)
<input type="checkbox"/>		WZRC 1480	Bergen, Hudson, Passaic (Chinese/Cantonese)
<input type="checkbox"/>		WQEW 1560	Bergen, Hudson, Passaic
<input type="checkbox"/>		WWRL 1600	Bergen, Hudson, Passaic
<input type="checkbox"/>		WWRU 1660	Bergen, Hudson, Passaic (Korean)
<input type="checkbox"/>		WMTR 1250	Passaic
<input type="checkbox"/>		WGHT 1500	Passaic
<input type="checkbox"/>		WNNJ 1360	Sussex
FM			
<input type="checkbox"/>		WSOU 89.5	Bergen, Hudson
<input type="checkbox"/>		WCAA 105.9	Bergen, Hudson (Latino)
<input type="checkbox"/>		WBGO 88.3	Bergen, Hudson, Passaic

<input type="checkbox"/>		WFDU 89.1	Bergen, Hudson, Passaic
<input type="checkbox"/>		WKCR-FM 89.9	Bergen, Hudson, Passaic
<input type="checkbox"/>		WNYU-FM 89.1	Bergen, Hudson, Passaic
<input type="checkbox"/>		WFUV 90.7	Bergen, Hudson, Passaic
<input type="checkbox"/>		WFMU 91.1	Bergen, Hudson, Passaic
<input type="checkbox"/>		WNYE 91.5	Bergen, Hudson, Passaic
<input type="checkbox"/>		WRKS 98.7	Bergen, Hudson, Sussex
<input type="checkbox"/>		WRTN 93.5	Bergen, Hudson, Sussex
<input type="checkbox"/>		WHCR-FM 90.3	Bergen, Passaic
<input type="checkbox"/>		WPSC-FM 88.7	Passaic
<input type="checkbox"/>		WRHV 88.7	Passaic
<input type="checkbox"/>		WNJP 88.5	Sussex
<input type="checkbox"/>		WNTI 91.9	Sussex
<input type="checkbox"/>		WCTO 96.1	Sussex
<input type="checkbox"/>		WSUS 102.3	Sussex
<input type="checkbox"/>		WNNJ-FM 103.7	Sussex
<input type="checkbox"/>		WDHA -FM 105.5	Sussex
<input type="checkbox"/>		WHCY 106.3	Sussex
<input type="checkbox"/>		WWYY 107.1	Sussex

3d. Other Publications (such as neighborhood newspapers, religious publications, and organizational newsletters)  
(Check all that applies)

	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE HOUSING REGION 1</b>			
Bi-weekly			
<input type="checkbox"/>	Al Manassah		Arab-American
Monthly			
<input type="checkbox"/>	Sino Monthly	North Jersey/NYC area	Chinese-American
<b>TARGETS PARTIAL HOUSING REGION 1</b>			
Daily			
<input type="checkbox"/>	24 Horas	Bergen, Essex, Hudson, Middlesex, Passaic, Union Counties	Portuguese-Language

Weekly				
<input type="checkbox"/>		Arab Voice Newspaper	North Jersey/NYC area	Arab-American
<input type="checkbox"/>		La Voz	Hudson, Union, Middlesex Counties	Cuban community
<input type="checkbox"/>		Italian Tribune	North Jersey/NYC area	Italian community
<input type="checkbox"/>		Jewish Standard	Bergen, Passaic, Hudson Counties	Jewish community
<input type="checkbox"/>		El Especialito	Union City	Spanish-Language
<input type="checkbox"/>		El Nuevo	Hudson County	Spanish-Language
<input type="checkbox"/>		La Tribuna Hispana	Basking Ridge, Bound Brook, Clifton, East Rutherford, Elizabeth, Fort Lee, Greebrook, Linden, Lyndenhurst, Newark, North Plainfield, Orange, Passaic, Paterson, Plainfield, Roselle, Scotch Plains, Union, Union City, West NY	Spanish-Language
<input type="checkbox"/>		Su Guia	Bergen and Passaic	Spanish-Language
<input type="checkbox"/>		Banda Oriental Latinoamérica	North Jersey/NYC area	South American community
<input type="checkbox"/>		Ukranian Weekly	New Jersey	Ukranian community

3e. Employer Outreach (names of employers throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing) (Check all that applies)

DURATION & FREQUENCY OF OUTREACH	NAME OF EMPLOYER/COMPANY	LOCATION
Hudson County		
<input type="checkbox"/>	United Parcel Service Inc. NY Corp	492 County Ave, Secaucus
<input type="checkbox"/>	USPS	80 County Road, Jersey City
<input type="checkbox"/>	Liz Claiborne Inc	1 Claiborne Ave, North Bergen
<input type="checkbox"/>	Credit Suisse First Boston LLC	1 Pershing Plz Jersey City
<input type="checkbox"/>	HealthCare Staffing and Consult	26 Journal Square, Jersey City
<input type="checkbox"/>	Ritter Sysco Food Service	20 Theodore Conrad Dr. Jersey City
<input type="checkbox"/>	Jersey City Medical Center Inc.	50 Grand St, Secaucus
<input type="checkbox"/>	Marsh USA Inc.	121 River St, Hoboken
<input type="checkbox"/>	National Retail Systems Inc.	2820 16th St North Bergen
<input type="checkbox"/>	Community Corrections Corp	Lincoln Hwy Kearny
<input type="checkbox"/>	Marine Personnel & Provisioning Inc.	1200 Harbor Blvd Weehawken

<input type="checkbox"/>		Port Authority of NY and NJ	241 Erie St. Jersey City and 120 Academy St. Jersey City
<input type="checkbox"/>		Christ Hospital Health Service	176 Palisade Ave, Jersey City
<input type="checkbox"/>		Bayonne Hospital	29th Street and Ave E, Bayonne
<input type="checkbox"/>		Salson Logistics Inc.	2100 88th St.and 7373 West Side Ave, North Bergen, NJ
<input type="checkbox"/>		National Financial Service	1000 Plaza, Jersey City
<input type="checkbox"/>		Fleet NJ Company Development Corp.	10 Exchange Place, Jersey City
<input type="checkbox"/>		Maidenform Inc	154 Ave E, Bayonne
<input type="checkbox"/>		Lord Abbett & Company	90 Hudson City, Jersey City
<input type="checkbox"/>		Liberty Health Plan Inc.	50 Baldwin Ave Jersey City
<input type="checkbox"/>		Port Imperial Ferry Corp.	Pershing Rd Secaucus
<input type="checkbox"/>		Hudson News	1305 Paterson Plank Rd, North Bergen
<input type="checkbox"/>		Palisades General Hospital	7600 River Rd North Bergen, NJ
<input type="checkbox"/>		Equiserve Inc.	525 Washington Blvd Jersey city
<input type="checkbox"/>		Ciricorp Data Systems Incorporated	1919 Park Ave Secaucus
<input type="checkbox"/>		Meadowlands Hospital Medical Center	Meadowlands Pkwy Secaucus
<input type="checkbox"/>		Retailers & Manufacturers Dist Marking Serv.	50 Metro Way Secaucus
<input type="checkbox"/>		Dynamic Delivery Corp	125 Pennsylvania Ave Kearny, NJ
<input type="checkbox"/>		Bowne Business Communications Inc.	215 County Ave Secaucus
<input type="checkbox"/>		North Hudson Community Action Corp.	5301 Broadway West New York 07093
<input type="checkbox"/>		Goya Foods Inc.	100 Seaview Dr. Secaucus
<input type="checkbox"/>		Cristi Cleaning Service	204 Paterson Plank Rd Union, NJ
<b>Bergen County</b>			
<input type="checkbox"/>		Hackensack University Medical Center	30 Prospect Ave, Hackensack, NJ 07601
<input type="checkbox"/>		Professional Employer Group Service	2050 Center Ave Ste 336 Fort Lee
<input type="checkbox"/>		County of Bergen, NJ	1 Bergen County Plaza Hackensack, NJ 07601
<input type="checkbox"/>		Society of the Valley Hospital	223 N Van Dien Ave Ridgewood
<input type="checkbox"/>		NJ Sports & Expo Authority	50 State Highway 120 East Rutherford
<input type="checkbox"/>		Merck-Medco Managed Care LLC	100 Parsons Pond Dr. Franklin Lakes 07417
<input type="checkbox"/>		Quest Diagnostics Incorporated	1 Malcolm Ave Teterboro ,NJ 07608
<input type="checkbox"/>		AT&T	15 E Midland Ave Paramus

<input type="checkbox"/>		Englewood Hospital and Medical Center	350 Engle St. Englewood
<input type="checkbox"/>		Aramark Svcs Management of NJ Inc	50 Route 120 East Rutherford
<input type="checkbox"/>		Holy Name Hospital	718 Teaneck Road Teaneck
<input type="checkbox"/>		Doherty Enterprises Inc	7 Pearl Ct Allendale
<input type="checkbox"/>		Bergen Regional Medical Center	230 East Ridgewood Ave Paramus
<input type="checkbox"/>		Inserra supermarkets, Inc.	20 Ridge Rd Mahwah
<input type="checkbox"/>		Howmedica Osteonics Corp	59 Route 17 Allendale
<input type="checkbox"/>		Becton Dickinson & Company Corp	1 Becton Dr. Franklin Lakes
<input type="checkbox"/>		Pearson Education, Inc.	1 Lake St. Upper Saddle River
<b>Passaic County</b>			
<input type="checkbox"/>		D&E Pharmaceutical Co.	206 Macoprin Rd Bloomingdale, NJ 07403
<input type="checkbox"/>		Acme Markets	467 AllWood Rd Clifton, NJ 07012
<input type="checkbox"/>		St. Mary's Hospital	350 Boulevard Passaic, NJ 07055
<input type="checkbox"/>		Merry Maids	14 Riverside Square Mall, Bloomingdale, NJ 07403
<input type="checkbox"/>		Health Center at Bloomingdale	255 Union Ave Bloomingdale, NJ 07403
<input type="checkbox"/>		Sommers Plastic Product Co. Inc.	31 Styertowne Rd Clifton, NJ 07012
<input type="checkbox"/>		St. Joseph's Hospital	703 Main St. Paterson, NJ 07503
<input type="checkbox"/>		BAE Systems	164 Totowa Rd, Wayne, NJ 07470
<input type="checkbox"/>		Drake Bakeries Inc	75 Demarest Dr, Wayne, NJ 07470
<input type="checkbox"/>		Toys R Us National Headquarters	1 Geoffrey Way, Wayne, NJ 07470
<input type="checkbox"/>		GAF Materials Corporation	1361 Alps Rd, Wayne, NJ 07470
<input type="checkbox"/>		Valley National Bank Headquarters	1455 Valley Road Wayne, New Jersey 07470
<b>Sussex County</b>			
<input type="checkbox"/>		Selective Insurance	40 Wantage Ave, Branchville, NJ
<input type="checkbox"/>		Andover Subacute and Rehab Center	99 Mulford Rd Bldg 2, Andover, NJ
<input type="checkbox"/>		Mountain Creek Resorts	200 State Rt 94, Vernon, NJ
<input type="checkbox"/>		County of Sussex	One Spring Street, Newton, NJ 07860
<input type="checkbox"/>		Newton Memorial Hospital Inc.	175 High St, Newton, NJ
<input type="checkbox"/>		Vernon Township Board of Education	539 State Rt 515, Vernon, NJ

<input type="checkbox"/>		F.O. Phoenix (Econo-Pak)	1 Wiebel Plz, Sussex, NJ
<input type="checkbox"/>		Hopatcong Board of Education	2 Windsor Ave, Hopatcong, NJ
<input type="checkbox"/>		Saint Clare's Hospital	20 Walnut St, Sussex, NJ
<input type="checkbox"/>		Ames Rubber Corp	19 Ames Blvd, Hamburg, NJ
3f. Community Contacts (names of community groups/organizations throughout the housing region that can be contacted to post advertisements and distribute flyers regarding available affordable housing)			
Name of Group/Organization	Outreach Area	Racial/Ethnic Identification of Readers/Audience	Duration & Frequency of Outreach

#### IV. APPLICATIONS

Applications for affordable housing for the above units will be available at the following locations:		
4a. County Administration Buildings and/or Libraries for all counties in the housing region (list county building, address, contact person) (Check all that applies)		
	<b>BUILDING</b>	<b>LOCATION</b>
<input type="checkbox"/>	Sussex County Main Library	125 Morris Turnpike, Newton, NJ 07860
<input type="checkbox"/>	Hudson County Administration Building	595 Newark Avenue, Jersey City, NJ 07306
<input type="checkbox"/>	Passaic County Administration Building	401 Grand Street, Paterson, NJ 07505 (973) 225-3632
<input type="checkbox"/>	Bergen County Administration Building	One Bergen County Plaza, Hackensack, NJ 07601 (201)336-6000
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)		
4c. Sales/Rental Office for units (if applicable)		

#### V. CERTIFICATIONS AND ENDORSEMENTS

I hereby certify that the above information is true and correct to the best of my knowledge. I understand that knowingly falsifying the information contained herein may affect the (select one: Municipality's substantive certification or DCA Balanced Housing Program funding or HMFA UHORP/MONI/CHOICE funding).	
_____ Name (Type or Print)	
_____ Title/Municipality	

Signature	Date
-----------	------

# **Model Operating Manual**

For the Administration of  
**REHABILITATION UNITS**



**SAMPLE**

**Model Operating Manual  
Housing Rehabilitation Program**

*[This sample manual and the checklist of minimum topics provide the minimum criteria required for an Operating Manual for a housing rehabilitation program. Municipalities may tailor this sample manual to meet any local requirements and include all established policies, but shall not reduce the scope of this sample manual without permission from the Council on Affordable Housing (COAH). Municipalities must select an Administrative Agent experienced in the administration of a rehabilitation program. Only experienced municipal agencies or employees are acceptable if a municipality chooses in-house administration.]<sup>1</sup>*

---

<sup>1</sup> **COAH, June 2008**

# REHABILITATION PROGRAM OPERATING MANUAL CHECKLIST

## Minimum Standards

At a minimum the Rehabilitation Program Operating Manual must clearly describe the procedures and policies for the following:

	<b>Eligible Participants</b>
<input type="checkbox"/>	Categories of Participants –Owners/Renters
<input type="checkbox"/>	Income Limits – The carrying costs of the unit should meet COAH criteria.
<input type="checkbox"/>	Certification of Substandard – List Major Systems
	<b>Available Benefits</b>
<input type="checkbox"/>	Program Financing – Owners/Renters
<input type="checkbox"/>	Program Affordability Controls
<input type="checkbox"/>	Program Affordability Controls – Owner-occupied - Lien
<input type="checkbox"/>	Program Affordability Controls – Renter-occupied – Deed and may include a lien
	<b>Eligible Property Improvements</b>
<input type="checkbox"/>	Eligible property improvements - Sample related work
<input type="checkbox"/>	Ineligible property improvements
<input type="checkbox"/>	Rehabilitation Standard
<input type="checkbox"/>	Certification of Standards required
	<b>Overview of Administrative Procedures</b>
<input type="checkbox"/>	Preliminary Application/Interview – Owners/Renters
<input type="checkbox"/>	Income Eligibility and Program Certification – Documents to be submitted Owners/Renters – period of eligibility
<input type="checkbox"/>	Housing Inspection/Substandard Certification
<input type="checkbox"/>	Ineligible Properties – The total debt must be less than the appraised price.
<input type="checkbox"/>	Work Write-up and Cost Estimate
<input type="checkbox"/>	Contractor Bidding Negotiations – Min 3 Bids/Max # Bids
<input type="checkbox"/>	Contractor Signing/Pre-Construction Conference – indicate # days to begin work and complete work
<input type="checkbox"/>	Progress Inspections
<input type="checkbox"/>	Change Orders
<input type="checkbox"/>	Payment Schedule
<input type="checkbox"/>	Appeal Process – Property Improvements
<input type="checkbox"/>	Final Inspection
<input type="checkbox"/>	Recorded Mortgage, Mortgage Note, Restricted Covenant
	<b>Income Eligibility Certification</b>
<input type="checkbox"/>	Verification documentation required
<input type="checkbox"/>	Eligible Income/Ineligible Income
<input type="checkbox"/>	Appeal Process – Income Eligibility
	<b>Contractor Related Procedures</b>
<input type="checkbox"/>	Standards for contractor selection – 3 recent job references, licenses, evidence of financial stability to secure performance bond, workmen’s compensation BI \$100,000/\$300,000 PD \$50,000 minimum
<input type="checkbox"/>	# of proposals required – minimum of 3 - # of days in which to submit bid – bids must fall within max of 10% of cost estimate – award to lowest bidder
<input type="checkbox"/>	Contractor Requirements – work schedule and agreement
<input type="checkbox"/>	List of Pre-qualified Contractors

	<b>Maintenance of Records</b>
<input type="checkbox"/>	List documents to be filed
<input type="checkbox"/>	Rehabilitation Log
<input type="checkbox"/>	Monitoring Information required
	<b>Program Marketing</b>
<input type="checkbox"/>	Notice of Public Hearing
<input type="checkbox"/>	Program Flyer
<input type="checkbox"/>	Program Brochure
	<b>Rental Units</b>
<input type="checkbox"/>	Include overview of local rental process
<input type="checkbox"/>	<b>Affirmative Marketing</b>
<input type="checkbox"/>	Approved Affirmative Marketing Plan included
<input type="checkbox"/>	How will re-rentals be marketed?
<input type="checkbox"/>	Will there be a regional preference?
<input type="checkbox"/>	Who will implement marketing re-rentals?
<input type="checkbox"/>	Prepare sample marketing materials, including a sample display ad and PSA
<input type="checkbox"/>	<b>Random Selection &amp; Applicant Pool</b>
<input type="checkbox"/>	What level of verification will be completed before the lottery process – pre-application or full applications?
<input type="checkbox"/>	Will the pool of applicants be randomized each time a unit is available?
<input type="checkbox"/>	Will there be categories of applicant pools?
	<b>Matching Households to Available Units</b>
<input type="checkbox"/>	How will households be matched to available units? Will there be categories of applicant pools?
<input type="checkbox"/>	<b>Household Certification</b>
<input type="checkbox"/>	Standards for reviewing applicant household eligibility and certifying applicant households
<input type="checkbox"/>	Verification documentation required
<input type="checkbox"/>	Eligible Income/Ineligible Income
<input type="checkbox"/>	Maximum Monthly Payment
<input type="checkbox"/>	Housing Counseling
<input type="checkbox"/>	Basis for Dismissing Applications
<input type="checkbox"/>	Appeals – Income Eligibility
<input type="checkbox"/>	<b>Determining Affordable Rents</b>
<input type="checkbox"/>	Determining Initial Rents
<input type="checkbox"/>	Determining Rent Increases
<input type="checkbox"/>	<b>Application Fees</b>
<input type="checkbox"/>	<b>Violations, Defaults and Remedies</b>
<input type="checkbox"/>	<b>Maintenance of Records for Rental Program</b>
<input type="checkbox"/>	List documents to be filed
<input type="checkbox"/>	Monitoring information required
<input type="checkbox"/>	<b>Appendices</b>
<input type="checkbox"/>	Mortgage
<input type="checkbox"/>	Deed (Rental Units)



## Table of Contents

### **Introduction**

- A. Fair Housing and Equal Housing Opportunities

### **Section I. Eligible Participants**

- A. Categories of Participants
- B. Income Limits for Participation
- C. Target Neighborhood
- D. Certification of Substandard

### **Section II. Available Benefits**

- A. Program Financing
- B. Owner-occupied Units
- C. Renter-occupied Units
- D. Program Affordability Controls
- E. Owner-occupied Affordability Controls
- F. Renter-occupied Affordability Controls

### **Section III. Eligible Property Improvements**

- A. Eligible Improvements
- B. Ineligible Improvements
- C. Rehabilitation Standards
- D. Certification of Standard

### **Section IV. Overview of Administrative Procedures**

- A. Application/Interview
- B. Income Eligibility and Program Certification
- C. Housing Inspection/Substandard Certification
- D. Cost Estimate
- E. Contractor Bidding Negotiations
- F. Contract Signing/Pre-Construction Conference
- G. Progress Inspections
- H. Change Orders
- I. Payment Schedule
- J. Appeal Process – Property Improvements
- K. Final Inspection
- L. Record Mortgage Documentation and Restricted Covenant
- M. File Closing

### **Section V. Procedure for Income-Eligibility Certification**

- A. Complete a Household Eligibility Determination Form
- B. Certify the Household Income Eligibility
- C. Records Documenting Household Composition and Circumstances
- D. Appeal Process – Income Eligibility

### **Section VI. Contractor Related Procedures**

- A. Contractor Selection
- B. Number of Proposals Required
- C. Contractor Requirements

### **Section VII. Maintenance of Records and Client Files**

- A. Files To Be Maintained on Every Applicant
- B. Rehabilitation Log
- C. Monitoring Information

**Section VIII. Program Marketing**

**Section IX. Rental Procedures**

- A. Fair Housing and Equal Housing Opportunities
- B. Overview of the Affordable Housing Administration Process for Rental Units
- C. Roles and Responsibilities
- D. Affirmative Marketing
- E. Random Selection & Applicant Pool(s)
- F. Matching Households To Available Units
- G. Application Fees
- H. Maximum Monthly Payments
- I. Housing Counseling
- J. The Applicant Interview
- K. Procedure for Income-Eligibility Certification
- L. Approving or Rejecting a Household
- M. Dismissal of Applications
- N. Appeal Process – Income Eligibility
- O. Determining Affordable Rents
- P. Determining Rent Increases

**Section X. Affordability Assistance Program**

## Suggested Appendix

- A. COAH Annual Regional Income Limits Chart
- B. List of Pre-Qualified Contractors
- C. Loan Application
- D. Application for Rehabilitation Assistance
- E. Application for Rehabilitation Assistance – Rental Rehabilitation
- F. Tenant Information Application/Application
- G. Tenant Information
- H. Case File Checklist
- I. Income Cover Sheet
- J. Owner Occupied Approval Letter
- K. Rental Property Eligibility Work Sheet
- L. Rental Approval Letter
- M. Certification of Substandard
- N. Borrower's Agreement
- O. Rental Borrower's Agreement
- P. Subordination Policy Instructions
- Q. Final Work Write-up and Cost Estimate
- R. Owners Acceptance of Work Write-up
- S. Request for Rehabilitation Bid and Bid Announcement
- T. Bidding Procedures and Contractor Responsibilities
- U. Bid Acceptance Form
- V. General Contractor Application
- W. Bid Spread Sheet
- X. Notice to Proceed
- Y. Construction Agreement
- Z. Construction Agreement Addendum – Changes and Modifications
- AA. Right of Entry Document
- BB. Description of Work to be Performed
- CC. Mortgage
- DD. Mortgage Note
- EE. Rental Mortgage
- FF. Rental Mortgage Note
- GG. Deed Restriction for Rental Units – Affordable Housing Agreement – Rental Properties
- HH. Restrictive Covenant
- II. Change Order Authorization
- JJ. Contractor's Final Invoice, Release of Liens, and Warranty
- KK. Homeowner's Statement of Satisfaction – Program Inspector Final Inspection Report
- LL. Certification of Standard by Construction Code Official
- MM. Contractor's Agreement
- NN. Property Rehabilitation Agreements
- OO. Proceed to Work Order
- PP. Property Owner Sign-off Letter
- QQ. Household Eligibility Determination Form
- RR. Certification of Work Schedule
- SS. Program Brochure
- TT. Program Flyer

- UU. Notice of Public Hearing  
**For Rental Program**
- VV. COAH Annual Illustrative Rents By Housing Region
- WW. Affirmative Marketing Plan
- XX. List of HUD-Certified Housing Counseling Agencies

## INTRODUCTION

This Rehabilitation Program Operating Manual has been prepared to assist in the administration of the *[insert name of municipality]* Rehabilitation Program. It will serve as a guide to the program staff and applicants.

This manual describes the basic content and operation of the program, examines program purposes and provides the guidelines for implementing the program. It has been prepared with a flexible format allowing for periodic updates of its sections, when required, due to revisions in regulations and/or procedures.

This manual explains the steps in the rehabilitation process. It describes the eligibility requirements for participation in the program, program criteria, funding terms and conditions, cost estimating, contract payments, record keeping and overall program administration.

The following represents the procedures developed to offer an applicant the opportunity to apply to the program.

### A. Fair Housing and Equal Housing Opportunities



It is unlawful to discriminate against any person making application to participate in the rehabilitation program or rent a unit with regard to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or <http://www.state.nj.us/lps/dcr/index.html>.

## SECTION I. ELIGIBLE PARTICIPANTS

### A. Categories of Participants

Both owner-occupied and renter-occupied housing units are eligible to receive funding for rehabilitation provided that the occupants of the units are determined to be low- or moderate-income households and that the units are determined to be substandard. Owners of rental properties do not have to be low- or moderate-income households. If a structure contains two or more units and an owner, who is not income eligible, occupies one unit funding may be provided for the rehabilitation of the rest of the units if income-eligible households occupy those units. Rents must be affordable to low- or moderate-income households.

**NOTE:** Pursuant to N.J.A.C. 5:97-6.2(b)6 rental units may not be excluded from a municipal rehabilitation program. If a county administers the municipal rehabilitation program and the county program does not include rehabilitation of rental units, the municipality will need to supplement the county program with its own rehabilitation program for rental units.

## **B. Income Limits for Participation**

The occupants of the units must have incomes that fall within the income guidelines established for *[insert the name of the County]* County by the Council on Affordable Housing (COAH). These limits are revised annually as COAH figures become available and can be found in Appendix A.

For owner-occupied units, the carrying costs of the unit (taxes, mortgage, insurance *[, including the rehabilitation repayment mortgage]*) should meet COAH criteria (less than 33% of gross income for families, less than 40% of gross income for seniors).

**NOTE:** The program should strive to provide that low-income households occupy at least 50 percent of the units rehabilitated.

If the rehabilitation program is funded with state or federal funds, the regulations of these funding sources must be taken into consideration. Regarding income limits, use the lowest income limits.

## **C. Program Area**

This is a municipal-wide program. The rehabilitation property must be located in *[insert name of municipality]*.

**NOTE:** A municipality may decide to target certain neighborhoods for the program and would then list those neighborhoods here.

## **D. Certification of Substandard**

The purpose of the program is to bring substandard housing up to code. Substandard units are those units requiring repair or replacement of at least one major system. A major system is any one of the following:

1. Roof
2. Plumbing (including wells)
3. Heating
4. Electrical
5. Sanitary plumbing (including septic systems)
6. Load bearing structural systems
7. Lead paint abatement
8. Weatherization (building insulation for attic, exterior walls and crawl space, siding to improve energy efficiency, replacement storm windows and storm doors and replacement windows and doors)

Code violations will be determined by an inspection conducted by a licensed inspector.

## **SECTION II. AVAILABLE BENEFITS**

### **A. Program Financing**

Up to *[insert maximum funding available]* per unit may be available for improvements to eligible owner-occupied and renter-occupied units.

### **B. Owner-occupied Units**

*[Insert program financing here]*

### **C. Renter-occupied Units**

*[Insert program financing here]*

**NOTE:** Municipal rehabilitation investment shall average at least \$10,000 per unit in hard costs. Administrative costs may be covered in conformance with N.J.A.C. 5:97-8.9.

Financing of rehabilitation programs shall be structured to encourage rehabilitation and continued occupancy. Low interest rates and forgivable loans are encouraged. Leveraging of private financing is also encouraged if the result is low interest loans that encourage rehabilitation. If an owner-occupied housing unit is sold prior to the end of the controls on affordability, at least part of the loan shall be recaptured and used to rehabilitate another housing unit, unless the unit is sold to a low- or moderate-income household at an affordable price pursuant to N.J.A.C. 5:97-9.3

*See attached sample Program Financing options.*

### **D. Program Affordability Controls**

Ten-year controls on affordability on both owner-occupied units and rental units are required.

### **E. Owner-occupied Affordability Controls**

On owner-occupied units, the controls on affordability may be in the form of a lien.

### **F. Renter-occupied Affordability Controls**

For rental units, the controls on affordability shall be in the form of a deed restriction and may also include a lien. If a unit is vacant upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate- income household at an affordable price and affirmatively marketed pursuant to the N.J.A.C. 5:97-9. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.

### **G. Subordination [Optional]**

The municipality may agree to subordination of a loan if the mortgage company supplies an appraisal showing that the new loan plus the balance on the old loan does not exceed 95% of the appraised value of the unit. Additionally, for an owner occupied unit, the household must be re-certified as low- or moderate-income.

## **SECTION III. ELIGIBLE PROPERTY IMPROVEMENTS**

### **A. Eligible Improvements**

Housing rehabilitation funds may be used only for repairs or system replacements necessary to bring a substandard unit into compliance with municipal health, safety and building codes, applicable code violations, as well as any other cosmetic work that is reasonable and deemed necessary or is related to the necessary repairs.

At least one major system must be replaced or included in the repairs, which include one of the following:

- Roof
- Plumbing (including wells)
- Heating
- Electrical
- Sanitary plumbing (including septic systems)
- Load bearing structural systems
- Lead paint abatement
- Weatherization (building insulation for attic, exterior walls and crawl space, siding to improve energy efficiency, replacement storm windows and storm doors and replacement windows and doors)

The related work may include, but not be limited to the following:

- Interior trim work,
- Interior and/or exterior doors
- Interior and/or exterior hardware
- Window treatment
- Interior stair repair
- Exterior step repair or replacement
- Porch repair
- Wall surface repair
- Painting
- Exterior rain carrying system repair

## **B. Ineligible Improvements**

Work not eligible for program funding includes but is not limited to luxury improvements (improvements which are strictly cosmetic), additions, conversions (basement, garage, porch, attic, etc.), repairs to structures separate from the living units (detached garage, shed, barn, etc.), furnishings, pools and landscaping. If determined unsafe, stoves may be replaced. The replacement or repair of other appliances is prohibited. Rehabilitation work performed by property owners shall not be funded under this program.

## **C. Rehabilitation Standards**

Upon rehabilitation, housing deficiencies shall be corrected and the unit shall comply with the New Jersey State Housing Code, N.J.A.C. 5:28. For construction projects that require the issuance of a construction permit pursuant to the Uniform Construction Code, the unit must also comply with the requirements of the Rehabilitation Subcode (N.J.A.C. 5:23-6). In these instances, the more restrictive requirements of the New Jersey State Housing Code or the Rehabilitation Subcode shall apply. For projects that require construction permits, the rehabilitated unit shall be considered complete at the date of final approval pursuant to the Uniform Construction Code.

## **D. Certification of Standard**

All code deficiencies noted in the inspection report must be corrected and rehabilitated units must be in compliance with the standards proscribed in sub-section C above upon issuance of a certificate of completion or occupancy. The licensed inspector must certify any structure repaired in whole or in part with rehabilitation funds to be free of any code violations.

A municipality may provide for repairs in emergency situations if the conditions are stipulated in the Operating Manual.

## **E. Emergency Repairs**

A situation relating to a safety and/or health hazard for the occupants would constitute an emergency. A municipal inspector will confirm the need for such work. In emergency cases, the formal solicitation process will not be followed. A minimum of three (3) estimates will be obtained when possible for the “emergency” work. However, eligibility, as stated in Section I, subsection B, must be determined prior to soliciting estimates. Application for additional non-emergency work may be made in accordance with the procedures outlined in this Operating Manual. The funding for the emergency work and any additional rehabilitation may not exceed the program financing provisions in Section II, sub-section A.

## SECTION IV. OVERVIEW OF ADMINISTRATIVE PROCEDURES

### A. Application/Interview

Property owners interested in participating in the housing rehabilitation program may submit preliminary applications to the program staff. Preliminary applications are available at the following locations:

*[insert name and address of selected locations]*

Upon request, the program staff will mail a preliminary application to an interested property owner.

If after the program staff reviews a preliminary application an owner-occupant appears to be income eligible, an interview will be arranged with the applicant for a formal application to the program. At the time of the interview, the applicant must present required documentation. Applicants for rental rehabilitation funding must provide a list of tenants and the rents paid by each. The program staff will contact the tenants to provide evidence of income eligibility of the occupants of the units.

**Applications will be processed in the order of receipt.**

A municipality may alternatively provide for a random selection process where there is sufficient interest in the program and the process must be documented in this Operating Manual. See Random Selection process in Rental Section.

A municipality may also provide to deviate from the rank order for emergency situations, if these standards are incorporated into the Operating Manual.

Only emergency situations shall be handled out of the order of receipt *[or randomly selected list]*.

### B. Income Eligibility and Program Certification

For the households seeking a determination of income eligibility, both owner-occupants and renter-occupants, all wage earners 18 years of age or older in the household must submit appropriate documentation to document the household income, as further described below.

Property owners of both owner-occupied and renter-occupied units must submit the following documentation:

- Copy of the deed to the property.
- Proof that property taxes and water and sewer bills are current.
- Proof of property insurance, including liability, fire and flood insurance where necessary.

If after review of the income documentation submitted an applicant is determined to be ineligible, the applicant will receive a letter delineating the reasons for the determination of ineligibility. An applicant may be determined ineligible if the applicant's or each tenants'

income exceeds COAH income limits or, for owner occupied units, if the carrying costs of the unit (taxes, mortgage, insurance[~~including the rehabilitation repayment mortgage~~]) exceed COAH's criteria (less than 33% of gross income for families, less than 40% of gross income for seniors).

The program staff will arrange for a title search of all properties entering the program.

After the initial interview and the program staff has substantiated that the occupant is income-eligible, and the title search is favorable, the Eligible Certification Form will be completed and signed.

Upon confirmation of income eligibility of the applicant or the applicant's tenants, the program staff will send a letter, including the Eligible Certification Form, to the applicant certifying the applicant's and or tenant's eligibility. Eligibility will remain valid for six months. If the applicant has not signed a contract for rehabilitation within six months of the date of the letter of certifying eligibility, the applicant will be required to reapply for certification.

### **C. Housing Inspection/Substandard Certification**

Once determined eligible, the program staff will arrange for a qualified, licensed, housing/building code inspector to inspect the entire residential property.

The licensed inspector will inspect the house, take photographs, and certify that at least one major system is substandard. All required repairs would be identified.

### **D. Ineligible Properties**

If after review of the property documentation submitted and the inspection report and/or work write-up an applicant's property is determined to be ineligible, the program staff will send a letter delineating the reasons for the determination of ineligibility. An applicant's property may be determined ineligible for any one of the following reasons:

- Title search is unfavorable.
- Property does not need sufficient repairs to meet eligibility requirements.
- Real estate taxes are in arrears.
- Proof of property insurance not submitted.
- Property is listed for sale.
- Property is in foreclosure.
- Total debt on the property will exceed the value of the property.

#### *[Optional Clause]*

The municipality may disqualify properties requiring excessive repairs to meet municipal housing standards. The estimated or bid cost of repairs must exceed *[insert amount, at least 50]* percent of the estimated after-rehabilitation value of the property for the municipality to exclude the property

If after review of the property documentation submitted and the inspection report and/or work write-up an applicant's property is determined to be eligible, the inspector will then certify that the dwelling is substandard by completing and signing the Certificate of Substandard Form and submitting this to the program staff.

### **E. Cost Estimate**

The program staff will prepare or cause to be prepared a Work Write-up and Cost Estimate. This estimate will include a breakdown of each major work item by category as well as by location in the house. It will contain information as to the scope and specifics on the materials to be used. A Cost Estimate will be computed and included within the program documentation. The program staff will review the Preliminary Work Write-up with the property owner.

Only required repairs to units occupied by income eligible households will be funded through the housing rehabilitation program. If the property owner desires work not fundable through the program, including work on an owner-occupied unit of a rental rehabilitation project, work on a non-eligible rental unit in a multi-unit building or improvements not covered by the program, such work may be added to the work write-up if the property owner provides funds to be deposited in the municipality's Housing Trust Fund prior to the commencement of the rehabilitation of the property equivalent to (*110 percent or a higher percentage*) of the estimated cost of the elective work. Such deposited funds not expended at the time of the issuance of a certificate of completion/occupancy will be returned to the property owner with accrued interest.

### **F. Contractor Bidding Negotiations**

After the unit and the unit occupant have been certified as eligible, the program staff will provide a list of approved, pre-qualified trade contractors for bidding. The property owner reviews this list and selects a minimum of three and a maximum of five contractors from whom to obtain bids. The program staff and property owner will then review these bids. The lowest responsible trade contractor shall then be selected. If the property owner wishes to use a contractor other than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

<p><i>[Optional]</i> The program may permit a property owner to seek proposals from non-program participating contractors. However, the municipality must pre-approve the contractor prior to submitting a bid.</p>
---

### **G. Contract Signing/Pre-Construction Conference**

Program staff will meet with the property owner to review all bids by the various trades. This review will include a Final Work Write-up and Cost Estimate. The Contractor Agreement will be prepared by the program staff, as well as the Property Rehabilitation Agreement covering all the required terms and conditions.

The program staff will then call a Pre-Construction Conference. Documents to be executed at the Pre-construction Conference include: Contractors Agreement(s), Right of Entry Document, a Restricted Covenant, Mortgage and Mortgage Note. The property owner, program staff representative, contractor and bank representative will execute the appropriate documents and copies will be provided as appropriate. A staff member will outline project procedures to which

property owner must adhere. A Proceed to Work Order, guaranteeing that the work will commence within fifteen (15) calendar days of the date of the conference and be totally completed within ninety (90) days from the start of work, will be issued to each contractor at this Conference.

## **H. Progress Inspections**

The program staff will make periodic inspections to monitor the progress of property improvements. This is necessary to ensure that the ongoing improvements are in accordance with the scope of work outlined in the work write-up. It is the contractor's responsibility to notify the Building Inspector before closing up walls on plumbing and electrical improvements.

## **I. Change Orders**

If it becomes apparent during the course of construction that additional repairs are necessary or the described repair needs to be amended, the program staff will have the qualified professional(s) inspect the areas in need of repair and prepare a change order describing the work to be done. The applicant and the contractor will review the change order with the program staff and agree on a price. Once all parties approve of the change order and agree on the price, they will sign documents amending the contract agreement to include the change order. Additionally, if the applicant is not funding the additional cost, new financing documents will be executed reflecting the increase.

## **J. Payment Schedule**

The contract will permit three progress payments if the project costs less than \$20,000 or four progress payments if the project costs more than \$20,000. For example: \$24,000 project has four payments, with the first payment of \$10,000 and the remaining payments are divided equally. First payment is made when the project is one-quarter completed. Second payment is made when the project is one-half completed. Third at three quarters completed. Fourth and final payment upon completion.

The contractor will submit a payment request. The applicant will sign a payment approval if both the applicant and housing/building inspector *[insert the municipal governing body if the municipality elects to also require their approval]* are satisfied with the work performed. The municipality will then release the payment.

Final payment will be released once all final inspections are made, a Certificate of Occupancy is issued (if applicable) and the program staff receives a Property Owner Sign-off letter.

The contractor's performance bond will be released within *[insert minimum of three]* months after the final payment is made to the contractor.

## **K. Appeal Process**

If an applicant does not approve a payment that the housing/building inspector has approved, the disputed payment will be appealed to the municipality's *[insert municipal entity]* for a hearing. The municipality's *[insert municipal entity]* will decide if the payment shall be released to the contractor or the contractor must complete additional work or correct work completed before the

release of the payment. The municipality's *[insert municipal entity]* decision will be binding on both the applicant and the contractor

#### **L. Final Inspection**

Upon notification by the contractor that all work is complete and where required a Certificate of Occupancy has been issued, a final inspection shall be conducted and photographs taken. The program staff (or a representative), the property owner, and the necessary contractors shall be present at the final inspection to respond to any final punch list items.

#### **M. Record Restricted Covenant and Mortgage Documentation**

Program staff will file the executed Restricted Covenant and Mortgage with the County Clerk.

#### **N. File Closing**

After the final payment is made, the applicant's file will be closed by the program staff *[Insert if applicable: and submitted to the municipality upon termination of the program]*.

### **SECTION V. PROCEDURE FOR INCOME-ELIGIBILITY CERTIFICATION**

#### **A. Complete a Household Eligibility Determination Form**

If the rehabilitation program is funded with state or federal funds, the regulations of these funding sources must be taken into consideration. Regarding income limits, use the lowest income limits. For the income qualifying process, use the regulations of the funding source and modify this Operating Manual accordingly.

The program staff shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income, pursuant to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-16.1 et seq. (except for the asset test).<sup>2</sup> Income verification documentation should include, but is not limited to the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs [including both the check and the stub], including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.
- Copies of Federal and State income tax returns for each of the preceding three tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.

---

<sup>2</sup> Asset Test – N.J.A.C. 5:80-26.16(b)3 which provides that if an applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually by COAH, a certificate of eligibility shall be denied by the administrative agent, unless the applicant's existing monthly housing costs ...exceed 38 percent of the household's eligible monthly income.

- A letter or appropriate reporting form verifying monthly benefits such as
  - Social Security or SSI – Current award letter or computer print out letter
  - Unemployment – verification of Unemployment Benefits
  - Welfare -TANF<sup>3</sup> current award letter
  - Disability - Worker’s compensation letter or
  - Pension income (monthly or annually) – a pension letter
- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order or recent original letters from the court or education scholarship/stipends – current award letter.
- Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).
- Evidence or reports of income from directly held assets, such as real estate or businesses.
- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.
- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating Current Mortgage Balance. For rental property attach copies of all leases.

**NOTE:** Administrative Agents typically use a spreadsheet or worksheet similar to the one included in the Appendix to help calculate an applicant’s income. This summarizing document will also prove useful in the event there is an appeal or question by the applicant concerning the calculation or during COAH monitoring visits. The Operating Manual should include a reasonable period [30 days is recommended] to complete the submission of all required documentation and this policy should be included in the manual.

The following is a list of various types of wages, payments, rebates and credits. Those that are considered as part of the household’s income are listed under Income. Those that are not considered as part of the household’s income are listed under Not Income.

***Income***

1. Wages, salaries, tips, commissions

---

<sup>3</sup> TANF – Temporary Assistance for Needy Families

2. Alimony
3. Regularly scheduled overtime
4. Pensions
5. Social security
6. Unemployment compensation (verify the remaining number of weeks they are eligible to receive)
7. TANF
8. Verified regular child support
9. Disability
10. Net income from business or real estate
11. Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
12. Imputed interest (using a current average annual rate of two percent) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance.
13. Rent from real estate is considered income
14. Any other forms of regular income reported to the Internal Revenue Service

***Not Income***

1. Rebates or credits received under low-income energy assistance programs
2. Food stamps
3. Payments received for foster care
4. Relocation assistance benefits
5. Income of live-in attendants
6. Scholarships
7. Student loans
8. Personal property such as automobiles
9. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements
10. Part-time income of dependents enrolled as full-time students
11. Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

To calculate income, the current gross income of the applicant is used to project that income over the next 12 months.

### ***Student Income***

Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household reported to the IRS as a dependent who is enrolled in a degree seeking program for 12 or more credit hours per semester; and part-time income is income earned on less than a 35-hour workweek.

### ***Income from Real Estate***

If real estate owned by an applicant for affordable housing is a rental property, the rent is considered income. After deduction of any mortgage payments, real estate taxes, property owner insurance and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount shall be counted as income.

If an applicant owns real estate with mortgage debt, which is not to be used as rental housing, the Administrative Agent should determine the imputed interest from the value of the property. The Administrative Agent should deduct outstanding mortgage debt from the documented market value established by a market value appraisal. Based on current money market rates, interest will be imputed on the determined value of the real estate.

## **B. Records Documenting Household Composition and Circumstances**

The following are various records for documenting household information:

- Social Security records or cards. Either individual Social Security card or letter from Social Security Administration
- Adoption papers, or legal documents showing adoption in process
- Income tax return
- Birth Certificate or Passport
- Alien Registration Card

C. Certify the income eligibility of low- and moderate-income households by completing the application form. Provide the household with the original and keep a copy in the project files.

#### **D. Appeals**

Appeals from all decisions of an Administrative Agent shall be made in writing to the Executive Director of the Council on Affordable Housing (COAH), 101 South Broad Street, P.O. Box 813, Trenton, New Jersey 08615. The Executive Director's written decision, which shall be made within 15 days of receipt of an appeal, shall be a final administrative action of COAH.

## **SECTION VI. CONTRACTOR RELATED PROCEDURES**

### **A. Contractor Selection**

Contractors must apply to the program staff to be placed on the pre-approved contractors list. Contractors seeking inclusion on the list must submit references from at least three recent general contracting jobs. Contractors also must submit documentation proving financial stability and the ability to obtain performance bonds, as performance bonds will be required on every rehabilitation project. If it is ever necessary for the municipality or *[insert name of administrative agent]* to access the performance bond in order to complete a project, the contractor will be removed from the pre-approved contractors list. Contractors must carry workmen's compensation coverage and liability insurance of at least \$100,000/\$300,000 for bodily injury or death and \$50,000 for property damage. Only licensed tradesmen will be permitted to perform specialty work such as plumbing, heating and electrical.

### **B. Number of Proposals Required**

The property owner will select a minimum of three general contractors from a list of pre-approved contractors. Property owners may not select contractors who do not appear on the list.<sup>4</sup> The approved work write-up will be submitted to the selected contractors by the program staff. Contractors must visit the property and submit bids within *[insert number of days, minimum 14]* days. The contract will be awarded to the lowest bidder<sup>5</sup>, provided that the housing/building inspector or the professional who drafted the work write-up certify that the work can be completed at the price bid and that the bid is reasonably close to the cost estimate. Bids must fall within *[insert percent, maximum of 10]* percent of the cost estimate.

### **C. Contractor Requirements**

Upon notification of selection, the contractor shall submit all required insurance certification to the program staff. A contract signing conference will be called by the program staff to be attended by the property owner and contractor. At the time of Agreement execution, the contractor shall sign a Certification of Work Schedule prepared by the program staff.

---

<sup>4</sup> The program may permit a property owner to seek proposals from non-program participating contractors. However, the municipality must pre-approve the contractor prior to submitting a bid.

<sup>5</sup> If the property owner wishes to use a contractor other than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

## **SECTION VII. MAINTENANCE OF RECORDS**

### **A. Files To Be Maintained on Every Applicant**

The program staff will maintain files on every applicant. All files will contain a preliminary application. If an applicant's preliminary application is approved, and the applicant files a formal application, the file will contain at a minimum:

- Application Form
- Tenant Information Form (Rental Units Only)
- Income Verification
- Letter of Certification of Eligibility or Letter of Determination of Ineligibility

### **B. Files of applicants approved for the program will also contain the following additional documentation:**

- Housing Inspection Report
- Photographs - Before
- Certification of Property Eligibility or Determination of Ineligibility
- Proof of Homeowners Insurance
- Copy of Deed to Property

### **C. For properties determined eligible for the program where the applicants choose to continue in the program, the files shall contain the following:**

- Work Write-Up/Cost Estimate
- Copies of Bids
- Applicant/Contractor Contract Agreement
- Recorded Mortgage/Lien Documents
- Copies of All Required Permits
- Contractor Requests for Progress Payments
- Progress Payment Inspection Reports
- Progress Payment Vouchers
- Change Orders (If needed)
- Final Inspection Report
- Photographs - After
- Certification of Completion
- Certification of Release of Contractor's Bond

Individual files will be maintained throughout the process [*insert if applicable: and submitted to the municipality upon termination of the program*].

### **D. Rehabilitation Log**

A rehabilitation log will be maintained by the program staff that depicts the status of all applications in progress.

### **E. Monitoring**

For each unit the following information must be retained to be reported annually:

- Street Address
- Block/Lot/Unit Number
- Owner/Renter
- Income: Very Low/Low/Mod
- Final Inspection Date
- Funds expended on Hard Costs
- Development Fees expended
- Funds Recaptured
- Major Systems Repaired
- Unit Below Code & Raised to Code
- Effective date of affordability controls
- Length of Affordability Controls (yrs)
- Date Affordability Controls removed
- Reason for removal of Affordability Controls

#### **SECTION VIII. PROGRAM MARKETING**

The municipality will conduct a public meeting announcing the implementation of the housing rehabilitation program. For the term of the program, the municipality will include flyers once a year with the *[insert all selected: tax bills, water bills or other regular municipal mailing to all property owners]*. Program information will be available at the municipal building, library, and senior center and on the municipal website. Posters regarding the program will be placed in retail businesses throughout the municipality.

Prior to commencement of the program and periodically thereafter, the municipality will hold informational meetings on the program to all interested contractors. Each contractor will have the opportunity to apply for inclusion of the municipal contractor list.

**RENTAL PROCEDURES**  
**SECTION IX**

## SECTION IX. RENTAL PROCEDURES

Rental units are subject to the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5-80:26.1 et. seq. once the rental units are rehabilitated.

### A. Fair Housing and Equal Housing Opportunities



It is unlawful to discriminate against any person making application to participate in the rehabilitation program or rent a unit with regard to race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for mortgage or rental payments.

For more information on discrimination or if anyone feels they are a victim of discrimination, please contact the New Jersey Division on Civil Rights at 1-866-405-3050 or <http://www.state.nj.us/lps/dcr/index.html>.

### B. Overview of the Affordable Housing Administration Process for Rental Units

**NOTE:** This is a sample process only. This section of the Operating Manual should be modified to reflect the local administrative process.

- The Municipal Housing Liaison serves as an initial point of contact for unsolicited calls to the municipality about affordable housing and where appropriate directs applicants to an Administrative Agent, who may be a nonprofit agency, State agency or consultant that may administer the rehabilitation program within the municipality.
- The Administrative Agent implements the municipality's Affirmative Marketing Plan.
- The Administrative Agent serves as the initial point of contact for all inquiries generated by the affirmative marketing efforts and sends out pre-applications to interested callers.
- The Administrative Agent will accept these returned pre-applications for a specific period of time, for example, 30 to 90 days. At the end of this time period these applications will be randomly selected, through a lottery, to create a pool of applicants.
- The Administrative Agent pre-qualifies applicants in the applicant pool for income eligibility and sends either a rejection letter to those over income or a preliminary approval letter to those who appear income-eligible.
- When a unit becomes available, the Administrative Agent will interview the applicant households and proceed with the income qualification process.
- The Administrative Agent must notify applicant households in writing of certification or denial within 20 days of the determination.
- Once certified, households are further screened to match household size to bedroom size.

- Certified households that are approved for a rental affordable housing unit will sign Appendix K and any other applicable documents, which are held in the applicant file. Applicants then make an appointment with the leasing agent. Applicant households seeking rental units proceed with a credit check, which is generally conducted by the developer, affordable housing sponsor or landlord. If approved, the applicant will sign the lease, pay the first month's rent and the security deposit and receive the keys.
- The certified household moves in to the affordable rental unit.

## C. Roles and Responsibilities

### *Responsibilities of the Municipal Housing Liaison*

The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Municipal Attorney, where appropriate (see the section **Responsibilities of the Municipal Attorney**). The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in an Operating Manual. The duties of the Municipal Housing Liaison include the following duties, and may include the responsibilities for providing administrative services as described in the next Section under, Responsibilities of an Administrative Agent.

**Monitor the status of all restricted units in the municipality's Fair Share Plan.** Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community.

**Serve as the municipality's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property managers, and interested households.** The Municipal Housing Liaison serves as the municipality's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the municipality and, where applicable, the name of the Administrative Agent that manages the units and the contact information for the Administrative Agent.

**Compile, verify and submit annual reporting.** Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual COAH monitoring report. However, it is the Municipal Housing Liaison's responsibility to collect and verify this data and consolidate it into the annual report to COAH. Any requests from COAH for additional information or corrections will be directed to the Municipal Housing Liaison.

**Provide Administrative Services, unless those services are contracted out.** The responsibilities for providing administrative services are described in the next Section under, **Responsibilities of an Administrative Agent.**

## ***Responsibilities of an Administrative Agent***

The primary responsibility of an Administrative Agent is to establish and enforce affordability controls and ensure that units in their portfolio are rented to eligible households. Administrative Agents must:

**Secure written acknowledgement from all owners that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.**

**Create and adhere to an Operating Manual.** Administrative Agents are required to follow the policies and procedures of an Operating Manual, as applicable to the scope of services they have been contracted to perform.

**Implement the municipality's Affirmative Marketing Plan.** The Administrative Agent, the developer, affordable housing sponsor or owner could be responsible for implementing the Affirmative Marketing Plan adopted by the municipality. At the first meeting with the Municipal Housing Liaison, Administrative Agent, and the developer, affordable housing sponsor or owner this responsibility should be discussed. Affirmative marketing includes conducting regional outreach and advertising for available affordable units. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board or Zoning Board.

**Accept applications from interested households.** In response to marketing initiatives or by referral from the Municipal Housing Liaison, interested households will contact the Administrative Agent. The Administrative Agent will supply applicants with applications, provide additional information on available units and accept completed applications.

**Conduct random selection of applicants for rental of restricted units.** The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances, and as described in the Operating Manual.

**Create and maintain a pool of applicant households.** This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.

**Determine eligibility of households.** The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of an Administrative Agent. A written determination on a household's eligibility must be provided within twenty (20) days of the Administrative Agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is an Administrative Agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. An Administrative Agent is required to ensure that all certified applicants execute a certificate acknowledging the rights and requirements of renting an affordable unit, in the form of Appendix K of UHAC.

**Establish and maintain effective communication with property managers and landlords.** Property managers and landlords of restricted units should be instructed and regularly reminded

that the Administrative Agent is their primary point of contact. The Administrative Agent must immediately inform all property managers and landlords of any changes to the Administrative Agent's contact information or business hours.

Property managers and landlords should be instructed to immediately contact the Administrative Agent:

- Immediately upon learning that an affordable rental unit will be vacated.
- For review and approval of annual rental increases.

**Provide annual notification of maximum rents.** Each year when COAH releases its low- and moderate-income limits, rental households must be notified of the new maximum rent that may be charged for their unit. The Administrative Agent's contact information must be included on such notification in case the tenant is being overcharged.

**Serve as the custodian of all legal documents.** An Administrative Agent is responsible for maintaining originals of all legal instruments for the units in their portfolio. Throughout the duration of a control period, an Administrative Agent must maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Repayment Mortgages, Repayment Mortgage Notes, Leases and Appendix K.

**Serve as point of contact on all matters relating to affordability controls.** It is recommended that the Administrative Agent develop a system to be notified by lenders when a unit is at risk of foreclosure. In the event of a foreclosure, the Administrative Agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The Administrative Agent should seek the counsel of the municipality's attorney on legal matters that threaten the durability of the affordability controls.

**Provide annual activity reports to Municipal Housing Liaison for use in the annual COAH monitoring report.** An Administrative Agent is responsible for collecting the reporting data on each unit in their portfolio.

**Maintain and distribute information on HUD-approved Housing Counseling Programs.**

### ***Responsibilities of the Municipal Attorney***

The Municipal Attorney assists the municipality with developing, administrating, and enforcing affordability controls, including but not limited to

- Providing all reasonable and necessary assistance in support of the Administrative Agent's efforts to ensure compliance with the housing affordability controls.

### ***Responsibilities of Owners of Rental Units***

Open and direct communication between the Owners of rental units, the Municipal Housing Liaison and the Administrative Agent is essential to ongoing administration of affordability

controls. Although the Administrative Agent is required to serve as the primary point of contact with households, the Owner must provide the Municipal Housing Liaison and Administrative Agent with information on vacancies. Owners of rental units are also responsible for working with the Administrative Agent to ensure that the Municipal Housing Liaison has all necessary information to complete the annual COAH reporting.

### ***Responsibilities of Landlords and Property Managers***

Landlords and property managers must place a notice in all rental properties annually informing residents of the rent increase for the year and the contact information for the Administrative Agent.

## **D. Affirmative Marketing**

### ***Overview of the Requirements of an Affirmative Marketing Plan***

All affordable units are required to be affirmatively marketed using [*insert name of municipality*]'s Affirmative Marketing Plan. An Affirmative Marketing Plan is a regional marketing strategy designed to attract households 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 an Administrative Agent or a developer, sponsor, owner or property manager of affordable housing. The primary objectives of an Affirmative Marketing Plan are to target households who are least likely to apply for affordable housing, and to target households throughout the entire housing region in which the units are located.

[*Insert name of municipality*]'s Affirmative Marketing Plan can be found in the Appendix.

**NOTE:** Every Affirmative Marketing Plan and any revisions thereto must be adopted by resolution of the governing body, referenced by ordinance and approved by COAH. A form to help municipalities set up an Affirmative Marketing Plan is available on COAH's website for Administrative Agents. It is recommended to include the approved Affirmative Marketing Plan in the Appendix rather than in the text of the Operating Manual so that if any revision is required to the Affirmative Marketing Plan, the manual will not need to be revised, only the insertion in the Appendix.

Every Affirmative Marketing Plan must include all of the following:

- Publication of at least one advertisement in a newspaper of general circulation within the housing region; and
- Broadcast of at least one advertisement by radio or television throughout the housing region.
- At least one additional regional marketing strategy such as a neighborhood newspaper, religious publication, organizational newsletter, advertisement(s) with major employer(s), or notification through community and regional organizations such as non-profit, religious and civic organizations.

**NOTE:** Although not a requirement of UHAC, COAH encourages municipalities to list all affordable housing units in their community on the New Jersey Housing Resource Center at [www.njhousing.gov](http://www.njhousing.gov). The New Jersey Housing Resource Center is a free service to both owners and administrators of affordable housing and households seeking affordable housing opportunities.

For each affordable housing opportunity within the municipality, the Affirmative Marketing Plan must include the following information:

- The address of the project and development name, if any
- The number of rental units
- The price ranges of the rental units
- The name and contact information of the Municipal Housing Liaison, Administrative Agent, property manager or landlord
- A description of the Random Selection method that will be used to select applicants for affordable housing.
- Disclosure of required application fees, if any.

Advertisements must contain the following information for each affordable housing opportunity:

- The location of and directions to the units
- A range of prices for the housing units
- The bedroom size(s) of the units
- The maximum income permitted to qualify for the housing units
- The locations of applications for the housing units
- The business hours when interested households may obtain an application for a housing unit
- Application fees, if any

**NOTE:** It is also recommended that the following information be included in the advertisements:

- Last date applications will be accepted
- Contact number of the Municipal Housing Liaison, Administrative Agent, property

manager or landlord

- A statement concerning the availability of credit, budget and/or homeownership counseling services
- If already adopted by ordinance, a statement concerning regional preference.

COAH recommends including the following statement on all advertisements. “Visit [www.njhousing.gov](http://www.njhousing.gov) for more affordable housing opportunities.”

### ***OPTIONAL: Regional Preference***

*[Insert name of municipality]* has by ordinance provided that households that live or work in COAH Housing Region *[insert region number]* comprised of the following counties *[insert counties]* shall be selected for an affordable housing unit before households from outside this region. Units that remain unoccupied after households who live or work in the region are exhausted, may be offered to the households outside the region.

**NOTE:** Municipalities that wish to give preference to applicant households that live or work in their housing region must state this preference in the form of an ordinance. This preference cannot be limited to families that live or work in the host municipality – if preference is given, it must be given to all households that live or work in the housing region.

### ***Implementation of the Affirmative Marketing Plan***

**NOTE:** The Operating Manual must identify who will market the affordable units, the municipality or the Administrative Agent, and how frequently they will be marketed, depending on such factors as whether there will be advertising to create and maintain a central list of applicants or advertising shall be conducted for each project, or some combination thereof.

It is strongly recommended that detailed records on all marketing initiatives be maintained.

The affirmative marketing process for affordable units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the *[insert municipality or Administrative Agent]* shall undertake all of the strategies outlined in the *[insert name of municipality]*’s Affirmative Marketing Plan. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all the units have been sold. Applications for affordable housing shall be available in several locations in accordance with the Affirmative Marketing Plan. The time period when applications will be accepted will be posted with the applications. Applications shall be mailed to prospective applicants upon request.

An applicant pool will be maintained by the *[insert municipality or Administrative Agent]* for re-rentals.

**NOTE:** Alternatively, the manual may say: *An applicant pool will be maintained by each project for re-rentals.*

When a re-rental affordable unit becomes available, *[insert municipality or Administrative Agent]* applicants will be selected from the applicant pool and, if necessary, the unit will be affirmatively marketed as described above.

The selection of applicants from the applicant pool is described in more detail in this manual under the section **Random Selection & Applicant Pool(s)**.

## FREQUENTLY ASKED QUESTIONS

Question: *How often should we advertise?*

Answer: Administrative Agents responsible for new developments, or newly hired Administrative Agents, must advertise initially to create an applicant pool. For new developments, advertising should begin four months prior to the anticipated occupancy of the units. Advertising should continue monthly until all units are sold or rented. Once all vacant units are filled with eligible households, the Administrative Agent can either close the applicant pool or keep it open. If the applicant pool has sufficient eligible households for approximately two years worth of turnover, COAH recommends that the applicant pool be closed and applications no longer be accepted. In this case, advertising does not need to be conducted until four months before the applicant pool is to be reopened. If the Administrative Agent wishes to keep the applicant pool open, they must conduct some form of advertising on a monthly basis. However, all the components of the Affirmative Marketing Plan do not need to be implemented every month. One strategy can be implemented each month on a rotating basis. The next section provides more information on random selection and applicant pool maintenance to help determine how often advertising should be conducted.

Question: *My county doesn't have a library. How do I comply with the application availability rule?*

Answer: Only 11 of New Jersey's 21 counties have a county library (a list is included on COAH's website for Administrative Agents). If one or more of the counties in a housing region do not have county libraries, applications must be made available at the county administration building.

Question: *Our affordable housing development is very small. It is unnecessary for us to conduct monthly marketing initiatives and the number of applicants in our existing pool already exceeds the two-year rule of thumb. Is there any way for us to maintain compliance without conducting monthly outreach initiatives?*

Answer: COAH suggests that you attempt to partner with other municipalities in your housing region to help defray time and cost or close the applicant pool and do not accept applications until the applicant pool contains fewer applicants and affirmative marketing is implemented.

Question: *We have moderate-income units available, but not low-income units. Can we keep only the moderate portion of the applicant pool open?*

Answer: Yes. In fact, if you regularly have a type of unit that is hard to fill, you may tailor marketing initiatives to fill that type of unit. However, households that submit applications and are not interested or eligible for the targeted unit type must be notified that they will not be placed in the applicant pool until it is reopened for their unit type.

Question: *Are all developments required to conduct affirmative marketing, or just those with a certain number of units, for example, more than five units?*

Answer: All affordable units governed by UHAC are required to be affirmatively marketed. If it is burdensome for a small development to conduct its own affirmative marketing, the municipality and Administrative Agent(s) should consider conducting the affirmative marketing for all the units within the municipality at the municipal level, not at the development level. An alternative is to contract with an Administrative Agent who will do the affirmative marketing for your units as well as other units they manage.

## E. Random Selection & Applicant Pool(s)

**NOTE:** The Operating Manual must describe the randomization process to be used. Below are two sample processes, Initial Randomization and Randomization After Certification.

### *Initial Randomization*

Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:

After advertising is implemented, applications are accepted for [*insert number of days*] days.

**NOTE:** To help analyze the impact and success of various marketing initiatives, it is recommended that the Administrative Agent ask the applicants where they learned of the housing opportunity.

At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit).

**NOTE:** The Administrative Agent may also pre-qualify applicants as soon as applications are received, and only place preliminarily income-eligible applications in the lottery, provided that applicants are notified in writing of eligibility and non-eligibility in advance of the lottery.

Households are informed of the date, time and location of the lottery and invited to attend.

**NOTE:** A municipal representative should also be invited to attend the lottery.

An applicant pool is created by listing applicants in the order selected.

Applications are reviewed for income-eligibility. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.

Eligible households are matched to available units based upon the number of bedrooms needed (and any other special requirements, such as [regional preference or] the need for an accessible unit).

If there are sufficient names remaining in the pool to fill future re-rental, the applicant pool shall be closed.

**NOTE:** Two years of turnover is a recommended standard.

When the applicant pool is close to being depleted, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The new applicant pool will be added to the remaining list of applicants.

**NOTE:** Alternatively, for future re-rentals only, the Administrative Agent can keep the applicant pool open after the initial lottery and add names to the existing list based on time and date of submission. This procedure may only be followed if the Administrative Agent engages in ongoing monthly affirmative marketing efforts according to the approved Affirmative Marketing Plan to ensure outreach to the housing region.

### ***Randomization after Certification***

Random selection is conducted when a unit is available, and only certified households seeking the type and bedroom size of the available unit are placed in the lottery. The process is as follows:

After advertising is implemented, applications are accepted for [*insert number of days*] days.

All applications are reviewed and households are either certified or informed of non-eligibility. (The certification is valid for 180 days, and may be renewed by updating income-verification information.)

Eligible households are placed in applicant pools based upon the number of bedrooms needed (and any other special requirements, such as [*regional preference or*] the need for an accessible unit)

When a unit is available, only the certified households in need of that type of unit are selected for a lottery.

Households are informed of the date, time, and location of the lottery and invited to attend.

After the lottery is conducted, the first household selected is given [*insert number of days*] days to express interest or disinterest in the unit. (If the first household is not interested in the unit, this process continues until a certified household selects the unit.)

Applications are accepted on an ongoing basis, certified households are added to the pool for the appropriate household income and size categories, and advertising and outreach is ongoing, according to the Affirmative Marketing Plan.

## F. Matching Households To Available Units

**NOTE:** This topic in the Operating Manual is frequently challenged. Think carefully about the policies entered and be sure the policies are consistent with the Federal Fair Housing Act.

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 implement the following policies:

- Provide an occupant for each unit bedroom;
- Provide children of different sex with separate bedrooms;
- Prevent more than two persons from occupying a single bedroom;
- Require that all the bedrooms be used as bedrooms; and
- Require that a couple requesting a two-bedroom unit provide a doctor's note justifying such request.

The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor.

A household can be eligible for more than one unit category, and should be placed in the applicant pool for all categories for which it is eligible.

## FREQUENTLY ASKED QUESTIONS

Question: *What happens if a moderate-income household “walks in” (when the applicant pool is closed and no affirmative marketing is being conducted) and I have a moderate unit available with no eligible moderate-income households in the applicant pool?*

Answer: If the Administrative Agent notices that a specific unit type is hard to fill and few eligible households are in the applicant pool, the Administrative Agent should conduct ongoing affirmative marketing for that unit type to ensure a steady stream of certified households and keep the list open for that unit type. The walk-in can be added to the list.

Question: *I am working with an applicant household that requires an accessible unit. Do they skip ahead on the list when an accessible unit becomes available?*

Answer: UHAC does not provide any guidance on this situation. However, COAH suggests that the Administrative Agent consider an accessible unit a unit type, just as a unit is defined by bedroom size. Therefore, if the Administrative Agent is using the initial randomization model, the first household on the randomized list that requires an accessible unit should be selected when an accessible unit becomes available. If the Administrative Agent is using the randomization after certification model, all households of the appropriate size who are in need of an accessible unit, would be selected, and randomized.

Question: *An applicant household has a daughter that has room and board at her college. Can they request a unit that is large enough for her to have a bedroom when she is at home?*

Answer: Yes. If the household has a student away at college who is still claimed as a dependent and maintains the parents’ address as a legal address, the student should be counted in the household size.

Question: *Do I have to place a one-person household in a two-bedroom unit if there is no one-bedroom units available or the applicant requests a two-bedroom unit?*

Answer: A household should not be placed in a unit where there is more than one bedroom per household member. In order to deviate from these standards, the Administrative Agent must obtain written approval from COAH. If a development does not have any one-bedroom units, for example, the Administrative Agent should inform one-person households that they will not be offered a unit unless there are no eligible households with more than one person. The Administrative Agent should also refer one-bedroom households to other Administrative Agents within the municipality or region that offer one-bedroom units. The Administrative Agent must demonstrate that every effort has been made to find a household of the appropriate size and composition and that a hardship exists that would justify deviating from the established standard.

Question: *I am working with an applicant household that consists of two parents and five children. This household is applying for a three-bedroom unit. Should this household only be offered a four-bedroom unit?*

Answer: No. The administrator must *strive* to prevent more than two people from occupying one bedroom, as outlined in N.J.A.C. 5:80-26.4(c), but may not force a family to purchase or rent a larger unit as long as it does not violate municipal regulations for over-crowding.

## **G. Application Fees**

The Administrative Agent's fee schedule can be found in the Appendix.

## **H. Maximum Monthly Payments**

The percentage of funds that a household can contribute toward housing expenses is limited. However, an applicant may qualify for an exception based on the household's current housing cost (see below). The Administrative Agent will strive to place an applicant in a unit with a monthly housing cost equal to or less than the applicant's current housing cost.

UHAC states that a certified household is not permitted to lease a restricted rental unit that would require more than 35 percent of the verified household income (40 percent for age-restricted units) to pay rent and utilities. However, at the discretion of the Administrative Agent, this limit may be exceeded if:

- The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce the household's housing costs;
- The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- The household is currently in substandard or overcrowded living conditions;
- The household documents the existence of assets, with which the household proposes to supplement the rent payments; or
- 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; and
- The household receives budget counseling.

## **I. Housing Counseling**

The Administrative Agent is responsible for providing housing counseling, or providing referrals for counseling, as a part of the Affirmative Marketing Plan and during the application process. Although housing counseling is recommended, a household is only required to attend counseling if their monthly housing expense exceeds UHAC standards. A HUD-approved housing counseling agency, or a counseling agency approved by the NJ Department of Banking and Insurance, meets UHAC's requirements for an experienced Housing Counseling Agency. If the Administrative Agent is not approved by HUD or by the NJ Department of Banking and Insurance, the Agent will make referrals to one of the HUD-approved housing counseling agencies in New Jersey. This counseling to low- and moderate-income housing applicants will focus on subjects such as budgeting, credit issues, and mortgage qualification, and is free of

charge. A list of non-profit counselors approved by HUD and/or the New Jersey Department of Banking and Insurance is included on COAH's website and is available from the Administrative Agent.

## **J. The Applicant Interview**

Ideally, the prospective applicant will be available to meet with the Administrative Agent to review the certification and random selection processes in detail and ask any questions they may have about the project or the process. However, scheduling time off from work may prove burdensome to the applicant. Applicants may also have mobility issues or special needs that also pose an obstacle to an interview. Therefore, the Administrative Agent is prepared to complete the certification process via telephone and mail. If an interview is to be conducted, the Administrative Agent will attempt to achieve the following objectives:

- Confirm and update all information provided on the application.
- Explain program requirements, procedures used to verify information, and penalties for providing false information. Ask the head of household, co-head, spouse and household members over age 18 to sign the Authorization for Release of Information forms and other verification requests.
- Review the applicant's identification and financial information and documentation, ask any questions to clarify information on the application, and obtain any additional information needed to verify the household's income.
- Make sure the applicant has reported all sources for earned and benefit income and assets (including assets disposed of for less than fair market value in the past two years). Require the applicant to give a written certification as to whether any household member did or did not dispose of any assets for less than fair market value during the past two years.

## **K. PROCEDURE FOR INCOME-ELIGIBILITY CERTIFICATION**

### **1. Complete a Household Eligibility Determination Form**

<p>If the rehabilitation program is funded with state or federal funds, the regulations of these funding sources must be taken into consideration. Regarding income limits, use the lowest income limits. For the income qualifying process, use the regulations of the funding source and modify this Operating Manual accordingly.</p>
--

The program staff shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income, pursuant to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-16.1 et seq. Income verification documentation should include, but is not limited to the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs [including both the check and the stub], including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.
- Copies of Federal and State income tax returns for each of the preceding three tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.
- A letter or appropriate reporting form verifying monthly benefits such as
  - Social Security or SSI – Current award letter or computer print out letter
  - Unemployment – verification of Unemployment Benefits
  - Welfare -TANF<sup>6</sup> current award letter
  - Disability - Worker’s compensation letter or
  - Pension income (monthly or annually) – a pension letter
- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order or recent original letters from the court or education scholarship/stipends – current award letter.
- Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).
- Evidence or reports of income from directly held assets, such as real estate or businesses.
- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.
- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating Current Mortgage Balance. For rental property attach copies of all leases.

**NOTE:** Administrative Agents typically use a spreadsheet or worksheet similar to the one included in the Appendix to help calculate an applicant’s income. This summarizing document will also prove useful in the event there is an appeal or question by the applicant concerning the calculation or during COAH monitoring visits. The Operating Manual should include a reasonable period [30 days is recommended] to complete the submission of all required documentation and this policy should be included in the manual.

---

<sup>6</sup> TANF – Temporary Assistance for Needy Families

The following is a list of various types of wages, payments, rebates and credits. Those that are considered as part of the household's income are listed under Income. Those that are not considered as part of the household's income are listed under Not Income.

### ***Income***

1. Wages, salaries, tips, commissions
2. Alimony
3. Regularly scheduled overtime
4. Pensions
5. Social security
6. Unemployment compensation (verify the remaining number of weeks they are eligible to receive)
7. TANF
8. Verified regular child support
9. Disability
10. Net income from business or real estate
11. Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
12. Imputed interest (using a current average annual rate of two percent) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner's insurance.
13. Rent from real estate is considered income
14. Any other forms of regular income reported to the Internal Revenue Service

### ***Not Income***

1. Rebates or credits received under low-income energy assistance programs
2. Food stamps
3. Payments received for foster care
4. Relocation assistance benefits
5. Income of live-in attendants
6. Scholarships

7. Student loans
8. Personal property such as automobiles
9. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements
10. Part-time income of dependents enrolled as full-time students
11. Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

To calculate income, the current gross income of the applicant is used to project that income over the next 12 months.

### ***Student Income***

Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household reported to the IRS as a dependent who is enrolled in a degree seeking program for 12 or more credit hours per semester; and part-time income is income earned on less than a 35-hour workweek.

### ***Real Estate Asset Limit***

Except for federal programs, if an applicant's primary residence, which is to be sold upon purchase of an affordable unit, has no mortgage debt and is valued at or above the regional asset limit as published annually by COAH with COAH's Annual Regional Income Limits Chart, the household must be determined ineligible for certification.

However, if the applicant's existing monthly housing costs including taxes, homeowner insurance, and condominium or homeowner association fees exceed 38 percent of the household's eligible monthly income, the household will be exempt from the asset limit.

An applicant must provide a recent, Market Value Appraisal or Realtor Comparative Market Analysis, on the home they own unless the applicant has mortgage debt on the home or can demonstrate that the existing monthly housing costs exceed 38 percent of the household's eligible monthly income, in which case the applicant is exempt from the asset limit.

Before obtaining a professional appraisal, the applicant should review the property's tax appraisal and the current market value and compare it to the asset limit to avoid any unnecessary expense. For instance, if homes are commonly selling in the applicant's neighborhood for over \$250,000, it is unlikely that an appraisal will determine a value below the asset limit. The maximum asset limit for Region 1 in 2006, for example, is \$139,396.

### ***Income from Real Estate***

If real estate owned by an applicant for affordable housing is a rental property, the rent is considered income. After deduction of any mortgage payments, real estate taxes, property owner insurance and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount shall be counted as income.

If an applicant owns real estate with mortgage debt, which is not to be used as rental housing, the Administrative Agent should determine the imputed interest from the value of the property. The Administrative Agent should deduct outstanding mortgage debt from the documented market value established by a market value appraisal. Based on current money market rates, interest will be imputed on the determined value of the real estate.

## **2. Records Documenting Household Composition and Circumstances**

The following are various records for documenting household information:

- Social Security records or cards. Either individual Social Security card or letter from Social Security Administration
- Adoption papers, or legal documents showing adoption in process
- Income tax return
- Birth Certificate or Passport
- Alien Registration Card

3. Certify the income eligibility of low- and moderate-income households by completing the application form. Provide the household with the original and keep a copy in the project files.

## **L. Approving or Rejecting a Household**

Administrative Agents must notify applicant households of their eligibility within twenty (20) days of the Administrative Agent's determination.

Households with a verified total household income that exceeds 80 percent of the regional income limit for the appropriate family size are ineligible for purchase or rental of restricted units. A letter rejecting the household's application shall be mailed to the household.

Similarly, households with a verified total household income that is within the income limits, but too low to afford any of the units administered by the Administrative Agent shall be sent a letter rejecting the household's application, and/or referring them to housing counseling *[insert if applicable: or the local Affordability Assistance Program]*.

Households with a verified total household income of less than 80 percent shall be issued a letter certifying eligibility. This certification is valid for 180 days. If the Administrative Agent is unable to place the household in a restricted unit at the conclusion of 180 days, an extension may be granted once the household's eligibility is verified.

Once the applicant is certified and matched to an available unit, the Administrative Agent must secure from the applicant a signed and notarized acknowledgement of their requirements and

responsibilities in renting a restricted unit. UHAC's Appendix K shall be forwarded to the applicants.

In addition to non-eligibility based on income, the Administrative Agent may deny a certification because of the household's failure or inability to document household composition, income, assets, sufficient funds for down payment, or any other required facts and information. A household may also be denied certification if the Administrative Agent determines that there was a willful or material misstatement of fact made by the applicant.

### **M. Dismissal of Applications**

Applications can be dismissed for the following reasons:

1. The application is not signed or submitted on time.
2. The applicant commits fraud, or the application is not truthful or complete.
3. The applicant cannot or does not provide documentation to verify their income or other required information when due.
4. The household income does not meet the minimum or maximum income requirements for a particular property.
5. The applicant owns assets that exceed the Asset Limit.
6. The applicant fails to respond to any inquiry in a timely manner.
7. The applicant is non-cooperative or abusive with the staff, property manager or landlord.
8. The applicant changes address or other contact information without informing the Administrative Agent in writing.
9. The applicant does not meet the credit standard or other requirement set forth by managers of rental properties.
10. The applicant fails to verify attendance in a credit counseling program when required to do so by the program rules.
11. The applicant does not respond to periodic update inquiry in a timely fashion.
12. The applicant fails to sign the Compliance Certification, Certificate for Applicant, Lease Document, as may be required.
13. The applicant, once approved, fails to sign the lease in a timely manner.
14. Applicants will also be removed from all lists held by the Administrative Agent once they have been approved for an affordable unit. However, these applicants may re-apply for other opportunities in that municipality once they have occupied their unit.

Applicants who are dismissed must re-apply. A minimum time period of six months applies in most situations where the applicant has been withdrawn for fraud, poor credit, uncooperative behavior or other serious matters.

Applicants are not automatically removed from rental lists if they do not respond to a Notice of Availability.

Applications may be held in abeyance for a period not to exceed 60 days if there is an error on the credit report, so that the applicant can correct the error and re-apply. Units will not be held open for that applicant. However, once the credit report is corrected, the applicant will be given a priority for the next opportunity at that property.

#### **N. Appeals**

Appeals from all decisions of an Administrative Agent shall be made in writing to the Executive Director of the Council on Affordable Housing (COAH), 101 South Broad Street, P.O. Box 813, Trenton, New Jersey 08615. The Executive Director's written decision, which shall be made within 15 days of receipt of an appeal, shall be a final administrative action of COAH.

## **FREQUENTLY ASKED QUESTIONS:**

Question: *Is it a requirement of UHAC that Administrative Agents meet with applicants in person?*

Answer: Because an applicant interview could prove to be burdensome to many households it is not a pre-requisite to purchase or occupancy, although it is encouraged. Administrative Agents should be prepared to conduct the household certification via mail.

Question: *With households filing taxes through e-filing, we are having trouble getting copies of tax returns. How can we get copies of e-filed tax returns?*

Answer: According to the IRS website, transcripts of previously filed tax returns can be ordered by completing a Form 4506-T or calling (800) 829-1040 and following the prompts in the recorded message. There is no charge for the transcript and you should receive it in 10 business days from the time they receive your request. Tax return transcripts are generally available for the current and past three years.

Question: *How can child support payments that are made in cash be documented?*

Answer: If the applicant is depositing the cash child support payments into a bank account, a series of statements from that account should be used to establish a trend of payments. If not, a notarized statement from the former spouse should be obtained to document the income.

Question: *Is it a requirement that the Administrative Agent always obtain a written statement from the household's employer(s) confirming their income and job status?*

Answer: No. However, when evaluating overtime and other income trends, such as bonuses, working directly with the employer is typically much more efficient and reliable than simply evaluating pay stubs.

Question: *Are there any potential issues with renting to a separated family that has a divorce pending?*

Answer: Yes, until a divorce is finalized, a spouse can make claim on a residence rented by the other spouse. Until a divorce is finalized, it is suggested that Administrative Agents place these types of cases on hold.

Question: *How can income eligibility be established for someone that may have been out of work for two years, but had a job during the most recent tax year?*

Answer: As long as the applicant is currently employed, a series of consecutive pay stubs (at least 3 months) should be used to establish the income of an applicant in this or similar situations.

Question: *Can an applicant for a rental unit be rejected solely because they have Section 8 rental assistance?*

Answer: No. A household receiving Section 8 assistance cannot be rejected based on this status. Discrimination such as this is illegal.

Question: *Can an applicant be required to attend and graduate from a Housing Counseling Program in order to rent a restricted unit?*

Answer: No. A household is only required to attend housing counseling if their monthly housing expense exceeds UHAC standards. Administrative Agents, however, are required to provide housing counseling or refer applicants to an approved Housing Counseling Program.

Question: *Do households with Section 8 vouchers automatically qualify for affordable housing under UHAC?*

Answer: Yes, a Section 8 voucher is acceptable for income qualification, provided the applicant meets the

criteria of the property manager or landlord. The Administrative Agent must still collect income verification documentation to match the household to an appropriately priced unit.

*Question: Can an existing moderate-income tenant be moved to a low-income unit when they can substantiate that there has been a change in their income? If so, can they bypass the random selection process?*

Answer: Yes, an existing tenant household may re-apply for a low-income unit within the same project if they can prove a change in their circumstances. If qualified, the tenant would be added to the applicant pool. The tenant should also be referred to the local Affordability Assistance Program, if available.

*Question: Does the Administrative Agent need to impute the value of a household's stocks as an asset?*

Answer: Only dividends from stock count towards a household's income. IRS Form-1099 from the previous year should be requested from the applicant if it was not part of their initial application.

*Question: Is there a maximum cost for the credit check?*

Answer: No, but the credit check is included in application fees which may total no more than five percent of the monthly rent.

*Question: In order to overcome inadequate or poor credit, can an applicant have a cosigner on a lease?*

Answer: No one outside the household, as certified by the Administrative Agent, may cosign or otherwise be party to any financing or legal instruments.

*Question: Does UHAC set a minimum income for eligibility for affordable housing?*

Answer: No, UHAC does not specify a minimum income for affordable housing units. However, an applicant household must be able to afford the unit and must not pay more than 33 percent for sale units or 35 percent for rental units of its monthly income (or 40 percent for age-restricted units), unless they meet the exemption criteria set forth in N.J.A.C. 5:80-26.7(b) or N.J.A.C. 5:80-26.13(b).

*Question: After I certify an applicant, how long is that certification valid?*

Answer: Pursuant to N.J.A.C. 5:80-26.16(b), an initial certification is valid for 180 days and may be extended for an additional 180 days once the household's eligibility is verified.

*Question: How do I document third-party assistance from a guarantor? For example, a relative is providing funds toward the applicant's monthly payments.*

Answer: In the case of a rental unit, the applicant should demonstrate regular deposits from third party assistance, or a notarized letter from the third party documenting future assistance. The Administrative Agent must receive a copy of the policy regarding guarantors from the developer, affordable housing provider or owner, so as to assure the policy is applied consistently.

*Question: If an applicant for affordable housing has a "reverse mortgage", how does an Administrative Agent count income from that mortgage?*

Answer: An applicant for affordable housing with a "reverse mortgage" would not be eligible for affordable housing unless that mortgage was satisfied or, at a minimum, a contract for sale of the market unit was in place. "Reverse mortgages" require that the mortgaged property remain the principal place of residence of the person taking the mortgage. Since this is also a requirement of affordable housing only one such residence can be owned or leased at any given time.

*Question: For the purpose of income-qualification, what is considered part-time income of full-time students?*

Answer: Under UHAC, part-time income of persons enrolled as fulltime students, who are reported as dependents to the IRS, is not included in income calculations for determining eligibility. COAH recommends stipulating in the Operating Manual the following criteria in applying this rule:

- A full-time student is a member of the household who is enrolled in a degree seeking program for 12 or more credit hours per semester; and
- Part-time income is income earned on less than a 35-hour workweek.

Please note that full-time income of full-time students is included in the income calculation.

## O. Determining Affordable Rents

To determine the initial rents the Administrative Agent uses the COAH calculators located at <http://www.nj.gov/dca/affiliates/coah/resources.calculators.html>.

**Pricing by Household Size.** Initial rents are based on targeted “model” household sizes for each size home as determined by the number of bedrooms. Initial rents must adhere to the following rules. These maximum sales prices and rents are based on COAH’s Annual Regional Income Limits Chart at the time of occupancy:

- A studio shall be affordable to a one-person household;
- A one-bedroom unit shall be affordable to a one- and one-half person household;
- A two-bedroom unit shall be affordable to a three-person household;
- A three-bedroom unit shall be affordable to a four- and one-half person household; and
- A four-bedroom unit shall be affordable to a six-person household.

Size of Unit	Household Size Used to Determine Max Rent
Studio/Efficiency	1
1 Bedroom	1.5
2 Bedrooms	3
3 Bedrooms	4.5
4 Bedrooms	6

The above rules are only to be used for setting initial rents. They are not guidelines for matching household sizes with unit sizes. The pricing of age-restricted units may not exceed affordability based on a two-person household.

**Split Between Low- and Moderate-income Rental Units.** *At least 50 percent (of the affordable units within each bedroom distribution (unit size) must be low-income units and at least 10 percent of the affordable units within each bedroom distribution must be affordable to households earning no more than 35 percent of the regional median income. The remainder of the affordable units must be affordable to moderate-income households.*

**Affordability Average.** The average rent for all affordable units cannot exceed 52 percent of the regional median income. At least one rent for each bedroom type must be offered for both low-income and moderate-income units. Calculation of the affordability average is available on COAH’s website.

**Maximum Rent.** The maximum rent of restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of the regional median income.

## **P. Determining Rent Increases**

Annual rent increases are permitted in affordable units. Rent increases are permitted at the anniversary of tenancy according to COAH's Annual Regional Income Limits Chart, available on COAH's website. These increases must be filed with and approved by the Administrative Agent. Property managers or landlords who have charged less than the permissible increase may use the maximum allowable rent with the next tenant with permission of the Administrative Agent. The maximum allowable rent would be calculated by starting with the rent schedule approved as part of initial lease-up of the development, and calculating the annual COAH-approved increase from the initial lease-up year to the present. Rents may not be increased more than once a year, may not be increased by more than one COAH-approved increment at a time, and may not be increased at the time of new occupancy if this occurs less than one year from the last rental. No additional fees may be added to the approved rent without the express written approval of the Administrative Agent.

### ***IF APPLICABLE:***

#### **Section X: LOCAL AFFORDABILITY ASSISTANCE PROGRAM**

*[Describe here any local affordability assistance program. See samples attached.]*

### **Sample Financing Options:**

- The municipality may decide to establish a loan program or a grant program.
- If a loan program, the municipality may chose for loans to be interest-free or charge interest.
- If a grant program, the municipality may chose to forgive the grant after ten years and require no repayment, but if the unit is vacated for any reason before the ten years (sale, death, foreclosure) the balance of the grant will become payable.
- The municipality may choose to require owners of rental units to contribute a percentage of the funds to rehabilitate each eligible rental unit.

### **Sample Program Financing**

Loans *[and/or grants]* will be interest-free *(or the municipality may choose to charge interest)* and due when title to the property is transferred. *[Insert if grants proposed: Grants are forgiven after 10 years and no repayment is required.]*

Should an owner-occupant die before repayment of the loan *[before 10 years for grants]*, the balance of the loan *[or grant]* will be due at the time of settlement of the estate. However, if the household inheriting the unit is income eligible and agrees to occupy the unit or even if not income-eligible agrees to rent the unit only to income-eligible households, the terms of the funding agreement shall be transferred to the inheriting household. *[Upon the transfer of title of rental units, municipalities may choose to require repayment of the funds provided or may choose to permit the transfer of the terms to the new owner(s).]* The new owner(s) must commit to keeping rental units affordable for the full 10 years specified in the original agreement.

Funding for owner-occupied units will be secured by a mortgage and mortgage note *[the municipality may chose to insert: grants may be secured through a lien]* to the municipality.

Funding for renter-occupied units will be secured by a mortgage and mortgage note to the municipality.

In situations where the non-income eligible owner(s) of eligible rental units occupies a unit in the structure to be rehabilitated, repairs to shared systems (i.e.: roof, heating, foundations, etc.) will be prorated with the owner(s) receiving no financial assistance for the owner's share.

### **Sample Program Financing:**

If the homeowner resides in his/her unit for the 10-year period after completion, the loan will be forgiven. If the homeowner decides to vacate the home prior to the completion of the term, the loan shall become payable in full upon the date of such sale or transfer. In the event of the death of the homeowner, the loan is an immediate obligation of the beneficiary unless the beneficiary meets the required income-eligibility guidelines and resides in the unit or rents to an income-eligible household.

# SAMPLE LOCAL AFFORDABILITY ASSISTANCE PROGRAMS

## **Security Deposit Assistance**

*[Municipality]* will designate *[insert amount of funds from above]* of its affordable housing trust fund as a revolving Security Deposit Assistance Fund. A *[low interest, interest-free, etc]* loan from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit.

The security deposit assistance will be in the form of a cash loan equal to the security deposit amount determined by the landlord paid to the landlord on behalf of the tenant. *[Optional: The loan will accrue interest at a below-market interest rate of five points below the prime rate at the time of the signing of the lease)].*

At the termination of the lease, the landlord will return the portion of the security deposit it determines to *[municipality]* along with the interest earned. The tenant will repay any difference between the original security deposit amount and the portion returned by the landlord *[Optional: as well as the interest accrued to the full loan amount]* to *[municipality]*. Funds returned to the municipality will be placed in the affordable housing trust fund to be used for future security deposit assistance.

## **Rental Assistance**

*[Municipality]* will designate *[insert amount of funds from above]* of its affordable housing trust fund as a Rental Assistance Fund. A rental supplement from the fund will be received by an income eligible renter with good credit standing who qualifies for a low- or moderate-income rental unit when only a unit in a higher income category is available (ie: placing a low-income household in a moderate-income unit, or placing a very-low income household in a low-income unit).

The amount of the rental supplement will be determined by *[municipality]* as the difference between the restricted rent set by the landlord and 30 percent of the renter's gross monthly income. The rental supplement will be paid directly to the landlord each month by *[municipality]* on behalf of the tenant.

Rental assistance does not need to be repaid by the tenant. If the tenant wishes to renew the lease, they must be re-income qualified and the rental supplement will be recalculated. If the tenant no longer qualifies for the rental assistance, but qualifies for the actual rent, they may renew the lease and stay in the unit, but will no longer receive rental assistance.

## **Administration**

*[Municipality]’s Affordability Assistance Programs will be administered by [if individual programs are administered by different agents or persons, list all]. After an applicant is income qualified by [insert name of entity that qualifies applicants] pursuant to COAH’s rules and the Uniform Housing Affordability Controls, or cannot be qualified due to a need for assistance, an affordability assistance application will be completed and forwarded with all necessary documentation to [insert name of affordability assistance administrator].*

The affordability assistance recipient will sign a contract with *[municipality]* which states, at a minimum: the amount of funds granted, interest information, procedures, duration and conditions of affordability assistance, and repayment information.

The availability of any Affordability Assistance Programs must be noticed to all tenants of affordable units within *[municipality]* and provided to all administrative agents of affordable units within *[municipality]*.

An income eligible occupant or applicant for an affordable unit within municipality may not be denied participation in the Affordability Assistance Program(s) unless funding is no longer available.

*[Insert any additional or more detailed procedures.]*

## Rehabilitation Program Audit Checklist

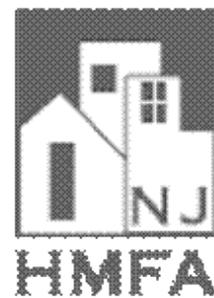
	<b>UP-TO-DATE OPERATING MANUAL</b>	<b>Comments</b>
<input type="checkbox"/>	Income Limits	
<input type="checkbox"/>	List of Pre-Qualified Contractors	
<input type="checkbox"/>	Sample Forms and Letters	
	<b>MAINTENANCE OF RECORDS</b>	
	<b>Files To Be Maintained on Every Applicant</b>	
<input type="checkbox"/>	Preliminary Application	
<input type="checkbox"/>	Application Form	
<input type="checkbox"/>	Income Verification	
<input type="checkbox"/>	Letter of Certification of Eligibility or	
<input type="checkbox"/>	Letter of Determination of Ineligibility.	
	<b>Files to be Maintained on Every Property</b>	
<input type="checkbox"/>	Housing Inspection Report.	
<input type="checkbox"/>	Photographs – Before Certification of Property	
<input type="checkbox"/>	Homeowner’s Insurance	
<input type="checkbox"/>	Property Deed	
<input type="checkbox"/>	Eligibility or Determination of Ineligibility	
<input type="checkbox"/>	Work Write-Up/Cost Estimate.	
<input type="checkbox"/>	Applicant/Contractor Contract Agreement.	
<input type="checkbox"/>	Mortgage/Lien Documents.	
<input type="checkbox"/>	Copies of All Required Permits.	
<input type="checkbox"/>	Contractor Requests for Progress Payments.	
<input type="checkbox"/>	Progress Payment Inspection Reports.	
<input type="checkbox"/>	Progress Payment Vouchers.	
<input type="checkbox"/>	Change Orders (If Needed).	
<input type="checkbox"/>	Final Inspection Report.	
<input type="checkbox"/>	Photographs - After	
<input type="checkbox"/>	Certification of Completion.	
<input type="checkbox"/>	Certification of Release of Contractor’s Bond.	
<input type="checkbox"/>	<b>Rehabilitation Log</b>	
	<b>MONITORING INFORMATION</b>	
<input type="checkbox"/>	Complete Monitoring Reporting Forms	
	<b>PROGRAM MARKETING</b>	
<input type="checkbox"/>	Annual Public Hearing Notice on Program	
<input type="checkbox"/>	Program Flyer	
<input type="checkbox"/>	Program Brochure	
<input type="checkbox"/>	Flyer mailed Annually to All Property Owners	
<input type="checkbox"/>	Program information available in municipal building, library and senior center.	
<input type="checkbox"/>	Program information posted on municipal website.	
<input type="checkbox"/>	Program posters placed in retail businesses throughout the municipality.	

## Rehabilitation Program Audit Checklist For Rental Units

<input type="checkbox"/>	<b>UP-TO-DATE OPERATING MANUAL</b>	<b>Comments</b>
<input type="checkbox"/>	Income Limits	
<input type="checkbox"/>	Sample Forms and Letters	
	<b>AFFIRMATIVE MARKETING</b>	
<input type="checkbox"/>	Copies of Ads	
<input type="checkbox"/>	Copies of PSA Requests	
<input type="checkbox"/>	Copies of Marketing Requests	
	<b>RANDOM SELECTION</b>	
<input type="checkbox"/>	Log of Applications Received	
<input type="checkbox"/>	Log of Random Selection Results	
<input type="checkbox"/>	Database of Referrals	
	<b>MAINTENANCE OF RECORDS</b>	
	<b>Files To Be Maintained on Every Applicant</b>	
<input type="checkbox"/>	Preliminary Application.	
<input type="checkbox"/>	Application Form.	
<input type="checkbox"/>	Tenant Information Form	
<input type="checkbox"/>	Income Verification	
<input type="checkbox"/>	Letter of Certification of Eligibility or	
<input type="checkbox"/>	Letter of Determination of Ineligibility	
	<b>Files To Be Maintained on Every Rental Unit</b>	
<input type="checkbox"/>	Base rent	
<input type="checkbox"/>	Identification as low- or moderate-income	
<input type="checkbox"/>	Description of number of bedrooms and physical layout	
<input type="checkbox"/>	Floor plan	
<input type="checkbox"/>	Application materials, verifications and certifications of	
<input type="checkbox"/>	all present tenants, pertinent correspondence	
<input type="checkbox"/>	Copy of lease	
<input type="checkbox"/>	Appendix K	
	<b>Files To Be Maintained on Every Property</b>	
	Deed	

# Model Operating Manual

For the Administration of  
**RENTAL UNITS**  
In Accordance with the  
Uniform Housing Affordability Controls



Jon S. Corzine, Governor, State of New Jersey

## Table of Contents

<b>INTRODUCTION</b> .....	<b>1</b>
<i>WHAT IS AFFORDABLE HOUSING?</i> .....	1
<i>WHO QUALIFIES FOR AFFORDABLE HOUSING?</i> .....	2
<i>LOCAL AFFORDABLE HOUSING PROGRAMS AND OPPORTUNITIES</i> .....	2
<b>ROLES AND RESPONSIBILITIES</b> .....	<b>3</b>
<i>A. Responsibilities of the Municipal Housing Liaison and Administrative Agent.:</i> .....	3
<i>B. Responsibilities of the Municipal Attorney</i> .....	4
<i>C. Responsibilities of Landlords and Property Managers</i> .....	4
<b>AFFIRMATIVE MARKETING</b> .....	<b>5</b>
<i>Overview of the Requirements of an Affirmative Marketing Plan</i> .....	5
<i>Regional Preference</i> .....	5
<i>Implementation of the Affirmative Marketing Plan</i> .....	5
<i>Developer, Affordable Housing Sponsor, Landlord, Property Manager</i> .....	6
<b>RANDOM SELECTION &amp; APPLICANT POOL(S)</b> .....	<b>7</b>
<b>APPLICATION FEES</b> .....	<b>8</b>
<b>HOUSEHOLD CERTIFICATION</b> .....	<b>8</b>
<i>Procedure for Income-Eligibility Certification</i> .....	8
<i>The Real Estate Asset Limit</i> .....	10
<i>Maximum Monthly Payments</i> .....	11
<i>Housing Counseling</i> .....	11
<i>The Applicant Interview</i> .....	11
<i>Records Documenting Household Composition and Circumstances</i> .....	12
<i>Approving or Rejecting a Household</i> .....	12
<i>Dismissal of Applications</i> .....	12
<i>Appeals</i> .....	13
<b>DETERMINING AFFORDABLE RENTS</b> .....	<b>14</b>
<i>Development Considerations and Compliance Issues</i> .....	14
<i>Additional Regulations for a Rental Development</i> .....	14
<i>Determining Rent Increases</i> .....	15
<b>VIOLATIONS, DEFAULTS AND REMEDIES</b> .....	<b>15</b>
<b>MAINTENANCE OF RECORDS AND APPLICANT FILES</b> .....	<b>15</b>
<i>Files To Be Maintained on Every Applicant</i> .....	15
<i>Files To Be Maintained on Every Unit</i> .....	15
<i>Files to Be Maintained on Every Project</i> .....	16
<i>Files To Be Maintained on The Applicant Pool</i> .....	16

## APPENDIX

- A. COAH Annual Illustrative Rents By Housing Region
- B. COAH Annual Regional Income Limits Chart
- C. Affirmative Marketing Plan
- D. List of HUD-Certified Housing Counseling Agencies
- E. Fee Schedule

## INTRODUCTION

This Operating Manual has been prepared to assist in the administration of rental units in the Borough of Emerson Affordable Housing Program. It will serve as a guide to the program staff.

This manual describes the basic content and operation of the program, examines program purposes and provides the guidelines for implementing the program. It has been prepared with a flexible format allowing for periodic updates of its sections, when required, due to revisions in regulations and/or procedures.

This manual explains the steps in the initial rental process and in the re-rental process. It describes the eligibility requirements for participation in the program, record keeping and overall program administration.

Implementation of any procedure, even if it is not included in this Operating Manual, shall be in accordance with the Federal Fair Housing Act and Equal Opportunities laws<sup>1</sup>, the Uniform Housing Affordability Controls (UHAC) N.J.A.C. 5:80-26.1 et seq.<sup>2</sup>, the substantive rules of the Council on Affordable Housing N.J.A.C. 5:96<sup>3</sup> and 5:97<sup>4</sup> and the affordable housing regulations of the Borough of Emerson (hereafter referred to as the “Regulations”).



In accordance with the Federal Fair Housing Act and Equal Opportunities laws it is unlawful to discriminate against any person making application to buy or rent a home with regard to age, race, religion, national origin, sex, handicapped or familial status.

## WHAT IS AFFORDABLE HOUSING?

Affordable housing, unlike market rate housing, has affordability controls limiting the price for at least 30 years. COAH considers housing “affordable” if the household pays approximately 28% or less of the household’s gross income on housing costs. Affordable housing is priced to be affordable to households earning up to 80% of the area median income for the region in which the affordable housing is located.

---

<sup>1</sup> <http://www.hud.gov/offices/fheo/FHLaws/index.cfm>

<sup>2</sup> <http://www.nj.gov/dca/affiliates/coah/regulations/uhac.html>

<sup>3</sup> <http://www.nj.gov/dca/affiliates/coah/regulations/thirdroundregs/596.pdf>

<sup>4</sup> <http://www.nj.gov/dca/affiliates/coah/regulations/thirdroundregs/597.pdf>

## WHO QUALIFIES FOR AFFORDABLE HOUSING?

In order to be eligible for affordable housing in New Jersey, a household's income must be below the income limit for the region in which the affordable housing is located, either for low or moderate levels. A moderate-income household is classified as earning between 50 percent and 80 percent of the area median income. A low-income household is classified as earning less than 50 percent of area median income. COAH has included a new category for very low-income households, which are classified as earning less than 30 percent of area median income. Municipalities are not required to provide affordable housing to very low-income households; however, at least 10 percent of all affordable rental units must be affordable to households earning 35 percent or less of median income.

The six COAH housing regions, the Borough of Emerson is located in COAH Region 1, which includes the Counties of Bergen, Hudson, Passaic, and Sussex. An applicant does not have to currently live in the region in which the applicant is interested in applying for an affordable unit. An applicant's income qualification is determined by the Region Income Limits for where the applicant wants to live.

The COAH Regional Income Limits Chart (Appendix B need to add) provides information about income limits

## LOCAL AFFORDABLE HOUSING PROGRAMS AND OPPORTUNITIES

The following affordable housing programs and opportunities are available in the Borough of Emerson

**Development 1:** *Emerson Plaza West* consists of 10 units developed by New Concepts for group housing for the developmentally disabled persons. All two bedroom units I don't know the breakdown of low versus moderate units in the development.

**Development 2:** *Veterans Housing* located at 324 Main Street consists of 14 units, all bedroom units. I don't know the breakdown of low versus moderate units

**Development 3:** *Block 419 Redevelopment* will consist of 22 units. I don't know the breakdown of low versus moderate units nor the bedroom breakdown.

**Development 4:** *Advanced Opportunities* located at 5 Pine Drive consists of 3 units. I don't know the breakdown of low versus moderate units nor the bedroom distribution.

**Development 5:** *Center for Hope and Safety* will consists of 7 units. I don't know the bedroom distribution nor the income distribution

**Development 6:** *Emerson Grand* located at 55 Emerson Plaza East consists of 4 units. I don't know the total number of units nor the bedroom distribution.

A copy of the *Borough of Emerson* Housing Element and Fair Share Plan is available at the municipal building in the Clerk's office located at 146 Linwood Avenue Emerson, New Jersey 07630.

## ROLES AND RESPONSIBILITIES

**A. Responsibilities of the Municipal Housing Liaison and Administrative Agent.** The Municipal Housing Liaison is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Municipal Attorney, where appropriate. The primary purpose of the Municipal Housing Liaison is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in this Operating Manual. The duties of the Municipal Housing Liaison include the following:

- 1. Monitor the status of all restricted units in the municipality's Fair Share Plan.** Regardless of any arrangements the municipality may have with one or more Administrative Agents, it is the Municipal Housing Liaison's responsibility to know the status of all restricted units in their community. The Municipal Housing Liaison serves as the municipality's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the municipality.
- 3. Compile, verify and submit annual reporting.** Administrative Agents are responsible for collecting much of the data that is ultimately included in an annual COAH monitoring report. This data must be collected, verified and summarized in an annual activity report for use in the annual COAH monitoring report.
- 4. Coordinate meetings with Administrative Agents and Developers/Affordable Housing Sponsors/Owners.** When a new affordable unit or series of units is in the planning process, the Municipal Housing Liaison should coordinate a meeting between the Administrative Agent and the developer, affordable housing sponsor or owner. The developer, affordable housing sponsor or owner may serve as their own Administrative Agent, if they meet the applicable requirements and are approved by the municipality and COAH. The purpose of this initial meeting is to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all COAH-related adopted local ordinances.
- 5. Review all Documents.** It is the responsibility of the Municipal Housing Liaison, in conjunction with the Municipal Attorney, to have the affordable housing provisions of any Master Deed and Public Offering reviewed for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.

Administrative Agents must secure written acknowledgement from all developers, affordable housing sponsors and owners that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

- 6. Implement the municipality's Affirmative Marketing Plan.** The Administrative Agent, the developer, affordable housing sponsor or owner could be responsible for implementing the Affirmative Marketing Plan adopted by the municipality. At the first meeting with the Municipal Housing Liaison, Administrative Agent and the developer, affordable housing sponsor or owner, this responsibility should be discussed. Affirmative marketing includes conducting regional outreach and advertising for available affordable units. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board or Zoning Board.
- 7. Accept applications from interested households.** In response to marketing initiatives or by referral from the Municipal Housing Liaison, interested households will contact the Administrative Agent. The Administrative Agent will supply applicants with applications, provide additional information on available units and accept completed applications.

8. **Conduct random selection of applicants for rental of restricted units.** The Administrative Agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and described herein.
9. **Create and maintain a pool of applicant households.** This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.
10. **Determine eligibility of households.** The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of an Administrative Agent. A written determination on a household's eligibility must be provided within **twenty (20) days** of the Administrative Agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is an Administrative Agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. An Administrative Agent is required to ensure that all certified applicants execute a Disclosure Statement acknowledging the rights and requirements of renting an affordable unit, in the form of **Appendix K of UHAC**.
11. **Establish and maintain effective communication with property managers and landlords.** The Administrative Agent must immediately inform all property managers and landlords of any changes to the Administrative Agent's contact information or business hours. Property managers and landlords should be instructed to immediately contact the Administrative Agent:
  - Immediately upon learning that an affordable rental unit will be vacated.
  - For review and approval of annual rental increases.
12. **Provide annual notification of maximum rents.** Each year when COAH releases its low- and moderate-income limits, rental households must be notified of the new maximum rent that may be charged for their unit. The Administrative Agent's contact information must be included on such notification in case the tenant is being overcharged.
13. **Serve as the custodian of all legal documents.** An Administrative Agent is responsible for maintaining originals of all legal instruments for the units in their portfolio. Throughout the duration of a control period, an Administrative Agent must maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Recapture Mortgages, Recapture Mortgage Notes and **Appendix J and K**
15. **Maintain and distribute information on HUD-approved Housing Counseling Programs.**

## **B. Responsibilities of the Municipal Attorney**

The Municipal Attorney assists the municipality with developing, administering, and enforcing affordability controls, including but not limited to:

- Assisting the Municipal Housing Liaison with the review of the affordable housing provisions of any Master Deed and Public Offering for consistency with COAH and UHAC regulations, before they are recorded and submitted to DCA for approval.
- Providing all reasonable and necessary assistance in support of the Administrative Agent's efforts to ensure compliance with the housing affordability controls, including reviewing legal documents and legal actions required on foreclosures and violations.

## **C. Responsibilities of Landlords and Property Managers**

Landlords and property managers must place a notice in all rental properties annually informing residents of the rent increase for the year and the contact information for the Administrative Agent.

## **AFFIRMATIVE MARKETING**

### **Overview of the Requirements of an Affirmative Marketing Plan**

All affordable units are required to be affirmatively marketed using the Borough of Emerson's Affirmative Marketing Plan, which can be found in **Appendix** of this document. It should be noted that every Affirmative Marketing Plan and any revisions thereto must be adopted by resolution of the governing body, referenced by ordinance and approved by COAH..

Every Affirmative Marketing Plan must address the following media:

- Publication of at least one advertisement in a newspaper of general circulation within the housing region; and
- Broadcast of at least one advertisement by radio or television throughout the housing region.
- At least one additional regional marketing strategy such as a neighborhood newspaper, religious publication, organizational newsletter, advertisement(s) with major employer(s), or notification through community and regional organizations such as non-profit, religious and civic organizations.

For each affordable housing opportunity within the municipality, the Affirmative Marketing Plan must include the following information:

- The address of the project and development name, if any
- The number of rental units
- The price ranges of the rental units
- The name and contact information of the Municipal Housing Liaison, Administrative Agent, property manager or landlord
- A description of the Random Selection method that will be used to select applicants for affordable housing.
- Disclosure of required application fees, if any.

Advertisements must contain the following information for each affordable housing opportunity:

- The location of and directions to the units
- A range of prices for the housing units
- The bedroom size(s) of the units
- The maximum income permitted to qualify for the housing units
- The locations of applications for the housing units
- The business hours when interested households may obtain an application for a housing unit
- Application fees, if any

### **Regional Preference**

The Borough of Emerson has by ordinance provided that households that live or work in COAH Housing Region One comprised of the following counties Bergen Passaic, Hudson and Sussex shall be selected for an affordable housing unit before households from outside this region. Units that remain unoccupied after households who live or work in the region are exhausted, may be offered to the households outside the region.

### **Implementation of the Affirmative Marketing Plan**

The affirmative marketing process for affordable units shall begin at least four months prior to expected occupancy. In implementing the marketing program, the Administrative Agent for the Borough of Emerson shall undertake all of the strategies outlined in the Emerson Affirmative Marketing Plans. Advertising and outreach shall take place during the first week of the marketing program and each month thereafter until all the units have been sold. Applications for affordable housing shall be available in several locations in accordance with the Affirmative Marketing Plan. The time period when applications will be accepted will be posted with the applications. Applications shall be mailed to prospective applicants upon request.

An applicant pool will be maintained by the administrative Agent for the Borough of Emerson for re-rentals.

Alternatively, the manual may say: An applicant pool will be maintained by each project for re-rentals.

When a re-rental affordable unit becomes available, the Administrative Agent for the Borough of Emerson applicants will be selected from the applicant pool and, if necessary, the unit will be affirmatively marketed as described above. The selection of applicants from the applicant pool is described in more detail in this manual under **Random Selection & Applicant Pool(s)**.

If a Developer, Affordable Housing Sponsor, is permitted to advertise the availability of affordable housing, it is recommended that the following procedures be included in the Operating Manual.

#### **Developer, Affordable Housing Sponsor, Landlord, Property Manager**

If permitted by the municipality, the developer, affordable housing sponsor, landlord or property manager may be responsible for advertising the affordable housing in accordance with the municipality's adopted Affirmative Marketing Plan. Prior to publication or broadcast, draft copies of the marketing material must be submitted to the Municipal Housing Liaison for approval. Proof of publication must be submitted, including a copy of the final advertisements with a copy of the paid bill. Public Service Announcements shall be submitted by the municipality.

## **RANDOM SELECTION & APPLICANT POOL(S)**

### ***Initial Randomization***

Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:

1. After advertising is implemented, applications are accepted for **[Insert the number of days] days**.
2. Households are informed of the date, time and location of the lottery and invited to attend. A municipal representative should also be invited to attend the lottery
3. At the end of the period, sealed applications are selected one-by-one through a lottery (unless fewer applications are received than the number of available units, then all eligible households will be placed in a unit). An applicant pool is created by listing applicants in the order selected.
4. Applications are reviewed for income-eligibility. Ineligible households are informed that they are being removed from the applicant pool or given the opportunity to correct and/or update income and household information.

**The Administrative Agent may also pre-qualify applicants as soon as applications are received, and only place preliminarily income-eligible applications in the lottery, provided that applicants are notified in writing of eligibility and non-eligibility in advance of the lottery.**

5. Eligible households are matched to available units based upon the number of bedrooms needed (and any other special requirements, such as [regional preference or] the need for an accessible unit).
6. If there are sufficient names remaining in the pool to fill future re-rental, for a minimum of two years, the applicant pool shall be closed.
7. When the applicant pool is close to being depleted, the Administrative Agent will re-open the pool and conduct a new random selection process after fulfilling the affirmative marketing requirements. The new applicant pool will be added to the remaining list of applicants.

**Alternatively, for future re-rentals only, the Administrative Agent can keep the applicant pool open after the initial lottery and add names to the existing list based on time and date of submission. This procedure may only be followed if the Administrative Agent engages in ongoing monthly affirmative marketing efforts according to the approved Affirmative Marketing Plan to ensure outreach to the housing region.**

**OR**

### ***Randomization after Certification***

Random selection is conducted when a unit is available, and only certified households seeking the type and bedroom size of the available unit are placed in the lottery. The process is as follows:

1. After advertising is implemented, applications are accepted for **[Insert the number of days] days**.
2. All applications are reviewed and households are either certified or informed of non-eligibility. (The certification is valid for 180 days, and may be renewed by updating income-verification information.)
3. Eligible households are placed in applicant pools based upon the number of bedrooms needed (and any other special requirements, such as [regional preference or] the need for an accessible unit)
4. When a unit is available, only the certified households in need of that type of unit are selected for a lottery.

5. Households are informed of the date, time, and location of the lottery and invited to attend.
6. After the lottery is conducted, the first household selected is given *[Insert the number of days]* days to express interest or disinterest in the unit. (If the first household is not interested in the unit, this process continues until a certified household selects the unit.)
7. Applications are accepted on an ongoing basis, certified households are added to the pool for the appropriate household income and size categories, and advertising and outreach is ongoing, according to the Affirmative Marketing Plan.

### **MATCHING HOUSEHOLDS TO AVAILABLE UNITS**

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 implement the following policies:

- Provide an occupant for each unit bedroom;
- Provide children of different sex with separate bedrooms;
- Prevent more than two persons from occupying a single bedroom;
- Require that all the bedrooms be used as bedrooms; and
- Require that a couple requesting a two-bedroom unit provide a doctor's note justifying such request.

The Administrative Agent cannot require an applicant household to take an affordable unit with a greater number of bedrooms, as long as overcrowding is not a factor.

A household can be eligible for more than one unit category, and should be placed in the applicant pool for all categories for which it is eligible.

### **APPLICATION FEES**

The Administrative Agent's fee schedule can be found in the Appendix.

### **HOUSEHOLD CERTIFICATION**

Before any household can rent a restricted unit, the Administrative Agent must certify the household as eligible. Certification of a household involves the verification of two critical pieces of data: 1) Household size and composition, including gender; and 2) The total income and assets for all household members over 18 years of age. The certification process begins with the applicant completing an application in its entirety and providing the required backup documentation. Once eligibility documents and data have been collected, the Administrative Agent can begin the process of calculating the household's income.

#### **Procedure for Income-Eligibility Certification**

The Administrative Agent shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income. Income verification documentation should include, but is not limited to the following for each and every member of a household who is 18 years of age or older:

- Four current consecutive pay stubs [including both the check and the stub], including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.
- Copies of Federal and State income tax returns for each of the preceding three tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.

- A letter or appropriate reporting form verifying monthly benefits such as
  - Social Security or SSI – Current award letter or computer print out letter
  - Unemployment – verification of Unemployment Benefits
  - Welfare -TANF<sup>5</sup> current award letter
  - Disability - Worker’s compensation letter or
  - Pension income (monthly or annually) – a pension letter
- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order or recent original letters from the court or education scholarship/stipends – current award letter.
- Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).
- Evidence or reports of income from directly held assets, such as real estate or businesses.
- Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.
- Current reports of assets – Market Value Appraisal or Realtor Comparative Market Analysis and Bank/Mortgage Co. Statement indicating Current Mortgage Balance. For rental property, attach copies of all leases.

The following is a list of various types of wages, payments, rebates and credits. Those that are considered as part of the household’s income are listed under Income. Those that are not considered as part of the household’s income are listed under Not Income. Restricted units constructed with Federal funds should consult the appropriate regulations, for example, HUD Section 42, to ensure compliance with applicable Federal regulations.

***Income***

1. Wages, salaries, tips, commissions
2. Alimony
3. Regularly scheduled overtime
4. Pensions
5. Social security
6. Unemployment compensation (verify the remaining number of weeks they are eligible to receive)
7. TANF
8. Verified regular child support
9. Disability
10. Net income from business or real estate
11. Interest income from assets such as savings, certificates of deposit, money market accounts, mutual funds, stocks, bonds
12. Imputed interest (using a current average annual rate of two percent) from non-income producing assets, such as equity in real estate. Rent from real estate is considered income, after deduction of any mortgage payments, real estate taxes, property owner’s insurance.
13. Rent from real estate is considered income
14. Any other forms of regular income reported to the Internal Revenue Service

---

<sup>5</sup> TANF – Temporary Assistance for Needy Families

### ***Not Income***

1. Rebates or credits received under low-income energy assistance programs
2. Food stamps
3. Payments received for foster care
4. Relocation assistance benefits
5. Income of live-in attendants
6. Scholarships
7. Student loans
8. Personal property such as automobiles
9. Lump-sum additions to assets such as inheritances, lottery winnings, gifts, insurance settlements
10. Part-time income of persons enrolled as full-time students
11. Court ordered payments for alimony or child support paid to another household shall be deducted from gross annual income

To calculate income, the current gross income of the applicant is used to project that income over the next 12 months.

### ***Student Income***

Only full-time income of full-time students is included in the income calculation. A full-time student is a member of the household who is enrolled in a degree seeking program for 12 or more credit hours per semester; and part-time income is income earned on less than a 35-hour workweek.

### **The Real Estate Asset Limit**

Except for federal programs, if an applicant's primary residence, which is to be sold upon purchase of an affordable unit, has no mortgage debt and is valued at or above the regional asset limit as published annually by COAH with COAH's Annual Regional Income Limits Chart, the household must be determined ineligible for certification.

However, if the applicant's existing monthly housing costs including taxes, homeowner insurance, and condominium or homeowner association fees exceed 38 percent of the household's eligible monthly income, the household will be exempt from the asset limit.

An applicant must provide a recent, Market Value Appraisal or Realtor Comparative Market Analysis, on the home they own unless the applicant has mortgage debt on the home or can demonstrate that the existing monthly housing costs exceed 38 percent of the household's eligible monthly income, in which case the applicant is exempt from the asset limit.

Before obtaining a professional appraisal, the applicant should review the property's tax appraisal and the current market value and compare it to the asset limit to avoid any unnecessary expense. For instance, if homes are commonly selling in the applicant's neighborhood for over \$250,000, it is unlikely that an appraisal will determine a value below the asset limit. The maximum asset limit for Region 1 in 2006, for example, is \$139,396.

### **Income from Real Estate**

If real estate owned by an applicant for affordable housing is a rental property, the rent is considered income. After deduction of any mortgage payments, real estate taxes, property owner insurance and reasonable property management expenses as reported to the Internal Revenue Service, the remaining amount shall be counted as income.

If an applicant owns real estate with mortgage debt, which is not to be used as rental housing, the Administrative Agent should determine the imputed interest from the value of the property. The Administrative Agent should deduct outstanding mortgage debt from the documented market value established by a market value appraisal. Based on current money market rates, interest will be imputed on the determined value of the real estate.

## **Maximum Monthly Payments**

The percentage of funds that a household can contribute toward housing expenses is limited. However, an applicant may qualify for an exception based on the household's current housing cost (see below). The Administrative Agent will strive to place an applicant in a unit with a monthly housing cost equal to or less than the applicant's current housing cost.

UHAC states that a certified household is not permitted to lease a restricted rental unit that would require more than 35 percent of the verified household income (40 percent for age-restricted units) to pay rent and utilities. However, at the discretion of the Administrative Agent, this limit may be exceeded if:

- The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent and the proposed rent will reduce the household's housing costs;
- The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- The household is currently in substandard or overcrowded living conditions;
- The household documents the existence of assets, with which the household proposes to supplement the rent payments; or
- 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; and
- The household receives budget counseling.

## **Housing Counseling**

The Administrative Agent is responsible for providing housing counseling, or providing referrals for counseling, as a part of the Affirmative Marketing Plan and during the application process. Although housing counseling is recommended, a household is only required to attend counseling if their monthly housing expense exceeds UHAC standards. A HUD-approved housing counseling agency, or a counseling agency approved by the NJ Department of Banking and Insurance, meets UHAC's requirements for an experienced Housing Counseling Agency. If the Administrative Agent is not approved by HUD or by the NJ Department of Banking and Insurance, the Agent will make referrals to one of the HUD-approved housing counseling agencies in New Jersey. This counseling to low- and moderate-income housing applicants will focus on subjects such as budgeting, credit issues, and mortgage qualification, and is free of charge. A list of non-profit counselors approved by HUD and/or the New Jersey Department of Banking and Insurance is included on COAH's website and is available from the Administrative Agent.

## **The Applicant Interview**

Ideally, the prospective applicant will be available to meet with the Administrative Agent to review the certification and random selection processes in detail and ask any questions they may have about the project or the process. However, scheduling time off from work may prove burdensome to the applicant. Applicants may also have mobility issues or special needs that also pose an obstacle to an interview. Therefore, the Administrative Agent is prepared to complete the certification process via telephone and mail. If an interview is to be conducted, the Administrative Agent will attempt to achieve the following objectives:

- Confirm and update all information provided on the application.
- Explain program requirements, procedures used to verify information, and penalties for providing false information. Ask the head of household, co-head, spouse and household members over age 18 to sign the Authorization for Release of Information forms and other verification requests.
- Review the applicant's identification and financial information and documentation, ask any questions to clarify information on the application, and obtain any additional information needed to verify the household's income.
- Make sure the applicant has reported all sources for earned and benefit income and assets (including assets disposed of for less than fair market value in the past two years). Require the applicant to give

a written certification as to whether any household member did or did not dispose of any assets for less than fair market value during the past two years.

### **Records Documenting Household Composition and Circumstances**

The following are various records for documenting household information:

- Social Security records or cards. Either individual Social Security card or letter from Social Security Administration
- Adoption papers, or legal documents showing adoption in process
- Income tax return
- Birth Certificate or Passport
- Alien Registration Card

### **Approving or Rejecting a Household**

Administrative Agents must notify applicant households of their eligibility within twenty (20) days of the Administrative Agent's determination.

Households with a verified total household income that exceeds 80 percent of the regional income limit for the appropriate family size are ineligible for purchase or rental of restricted units. A letter rejecting the household's application shall be mailed to the household.

Similarly, households with a verified total household income that is within the income limits, but too low to afford any of the units administered by the Administrative Agent shall be sent a letter rejecting the household's application, and/or referring them to housing counseling.

Households with a verified total household income of less than 80 percent shall be issued a letter certifying eligibility. This certification is valid for 180 days. If the Administrative Agent is unable to place the household in a restricted unit at the conclusion of 180 days, an extension may be granted once the household's eligibility is verified.

Once the applicant is certified and matched to an available unit, the Administrative Agent must secure from the applicant a signed and notarized acknowledgement of their requirements and responsibilities in renting a restricted unit. **UHAC's Disclosure Statement (Appendix K)** shall be forwarded to the applicants.

In addition to non-eligibility based on income, the Administrative Agent may deny a certification because of the household's failure or inability to document household composition, income, assets, sufficient funds for down payment, or any other required facts and information. A household may also be denied certification if the Administrative Agent determines that there was a willful or material misstatement of fact made by the applicant.

### **Dismissal of Applications**

Applications can be dismissed for the following reasons:

1. The application is not signed or submitted on time.
2. The applicant commits fraud, or the application is not truthful or complete.
3. The applicant cannot or does not provide documentation to verify their income or other required information when due.
4. The household income does not meet the minimum or maximum income requirements for a particular property.
5. The applicant owns assets that exceed the Asset Limit.
6. The applicant fails to respond to any inquiry in a timely manner.
7. The applicant is non-cooperative or abusive with the staff, property manager or landlord.

8. The applicant changes address or other contact information without informing the Administrative Agent in writing.
9. The applicant does not meet the credit standard or other requirement set forth by managers of rental properties.
10. The applicant fails to verify attendance in a credit counseling program when required to do so by the program rules.
11. The applicant does not respond to periodic update inquiry in a timely fashion.
12. The applicant fails to sign the Compliance Certification, Certificate for Applicant, Lease Document, as may be required.
13. The applicant, once approved, fails to sign the lease in a timely manner.
14. Applicants will also be removed from all lists held by the Administrative Agent once they have been approved for an affordable unit. However, these applicants may re-apply for other opportunities in that municipality once they have occupied their unit.

Applicants who are dismissed must re-apply. A minimum time period of six months applies in most situations where the applicant has been withdrawn for fraud, poor credit, uncooperative behavior or other serious matters.

Applicants are not automatically removed from rental lists if they do not respond to a Notice of Availability.

Applications may be held in abeyance for a period not to exceed 60 days if there is an error on the credit report, so that the applicant can correct the error and re-apply. Units will not be held open for that applicant. However, once the credit report is corrected, the applicant will be given a priority for the next opportunity at that property.

### **Appeals**

Appeals from all decisions of an Administrative Agent shall be made in writing to the Executive Director of the Council on Affordable Housing (COAH), 101 South Broad Street, P.O. Box 813, Trenton, New Jersey 08615. The Executive Director's written decision, which shall be made within 15 days of receipt of an appeal, shall be a final administrative action of COAH.

## DETERMINING AFFORDABLE RENTS

To determine the affordable rents the Administrative Agent uses the COAH calculators located at <http://www.nj.gov/dca/affiliates/coah/resources/calculators.html>.

### Development Considerations and Compliance Issues

There are several regulations that must be considered from the *development perspective* before the rents of individual units can be calculated. These requirements should be discussed at the first meeting between the Municipal Housing Liaison, Administrative Agent and developer or affordable housing sponsor. The following is a summary of the requirements for ownership projects.

**Bedroom Distribution.** The standards on the distribution of unit sizes for affordable developments require that:

- The combined number of efficiency and one-bedroom units may be no greater than 20 percent of the total low- and moderate-income units;
- At least 30 percent of all low- and moderate-income units must be two-bedroom units;
- At least 20 percent of all low- and moderate-income units are three-bedroom units; and
- The remainder, if any, may be allocated at the discretion of the developer.

**Pricing by Household Size.** Initial rents are based on targeted “model” household sizes for each size home as determined by the number of bedrooms. Initial rents must adhere to the following rules. These maximum sales prices and rents are based on COAH’s Annual Regional Income Limits Chart at the time of occupancy:

- A studio shall be affordable to a one-person household;
- A one-bedroom unit shall be affordable to a one- and one-half person household;
- A two-bedroom unit shall be affordable to a three-person household;
- A three-bedroom unit shall be affordable to a four- and one-half person household; and
- A four-bedroom unit shall be affordable to a six-person household.

Size of Unit	Household Size Used to Determine Max Rent
Studio/Efficiency	1
1 Bedroom	1.5
2 Bedrooms	3
3 Bedrooms	4.5
4 Bedrooms	6

The above rules are only to be used for setting initial rents. They are not guidelines for matching household sizes with unit sizes. The pricing of age-restricted units may not exceed affordability based on a two-person household.

### Additional Regulations for a Rental Development

In addition to the regulations covered earlier in the Section **Development Considerations and Compliance Issues**, rental projects must also comply with the following regulations:

**Split Between Low- and Moderate-income Rental Units.** At least 50 percent (of the affordable units within each bedroom distribution (unit size) must be low-income units and at least 10 percent of the affordable units within each bedroom distribution must be affordable to households earning no more than 35 percent of the regional median income. The remainder of the affordable units must be affordable to moderate-income households.

**Affordability Average.** The average rent for all affordable units cannot exceed 52 percent of the regional median income. At least one rent for each bedroom type must be offered for both low-income and moderate-income units. Calculation of the affordability average is available on COAH’s website.

**Maximum Rent.** The maximum rent of restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of the regional median income.

### **Determining Rent Increases**

Annual rent increases are permitted in affordable units. Rent increases are permitted at the anniversary of tenancy according to COAH's Annual Regional Income Limits Chart, available on COAH's website. These increases must be filed with and approved by the Administrative Agent. Property managers or landlords who have charged less than the permissible increase may use the maximum allowable rent with the next tenant with permission of the Administrative Agent. The maximum allowable rent would be calculated by starting with the rent schedule approved as part of initial lease-up of the development, and calculating the annual COAH-approved increase from the initial lease-up year to the present. Rents may not be increased more than once a year, may not be increased by more than one COAH-approved increment at a time, and may not be increased at the time of new occupancy if this occurs less than one year from the last rental. No additional fees may be added to the approved rent without the express written approval of the Administrative Agent.

### **VIOLATIONS, DEFAULTS AND REMEDIES**

In the event of a threatened breach of any of the regulations governing the affordable unit by an Owner of a rental development, the Administrative Agent shall have all the remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties that it will cause irreparable harm to the municipality, in light of the public policies set forth in the Fair Housing Act and the obligation for the provision of low- and moderate-income housing.

Upon the occurrence of a breach of any of the regulations governing the affordable units by an Owner of a rental development, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, 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.

### **MAINTENANCE OF RECORDS AND APPLICANT FILES**

Pursuant to N.J.A.C. 5:80-26.14(a)8, N.J.A.C. 5:80-26.15(c) and N.J.A.C. 5:80-26.17 current records must be maintained by the Administrative Agent and outdated records must be given to the municipality for safe-keeping. A file must be created and maintained on each restricted unit for its control period. Administrative Agents maintain detailed records on all marketing initiatives.

#### **Files To Be Maintained on Every Applicant**

The Administrative Agent will maintain files on every applicant. All files will contain a preliminary application. If an applicant's preliminary application is approved, and the applicant files a formal application, the file will be maintained throughout the process and contain at a minimum:

- Application Form.
- Tenant Information Form
- Income Verification
- Letter of Certification of Eligibility or Letter of Determination of Ineligibility.

#### **Files To Be Maintained on Every Unit**

The Administrative Agent will maintain files on every unit for the length of the affordability controls. The unit file will contain at a minimum:

- Base rent
- Identification as low- or moderate-income

- Description of number of bedrooms and physical layout
- Floor plan
- Application materials, verifications and certifications of all present owners, pertinent correspondence
- Copy of lease
- Disclosure Statement (Appendix K)

**Files to Be Maintained on Every Project**

The Administrative Agent will maintain files on every project for the length of the affordability controls. The project file will contain at a minimum:

- Condominium Master Deed
- Condominium Public Offering
- Crediting Information
- Original deed restriction
- Affordability control documents, including Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Recapture Mortgages, Recapture Mortgage Notes, Disclosure Statement (Appendix J)

**Files To Be Maintained on The Applicant Pool**

- Any changes to the applicant pool
- Any action taken with regard to the applicant pool
- Any activity that occurs that affects a particular applicant
- Current applications for all applicants whose status is active in the applicant pool
- The application, the initial rejection notice, the applicant's reply to the notice, a copy of the Administrative Agent's final response to the applicant, and all documentation of the reason the applicant's name was removed from the applicant pool.

RESOLUTION APPOINTING A MUNICIPAL HOUSING LIAISON

*[insert name of municipality, county]*

*[select only one of the following:]*

**WHEREAS**, the Governing Body of *[insert name of municipality]* petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan on *[insert date]*; and

**OR**

**WHEREAS**, *[insert name of municipality]* was granted substantive certification of its Housing Element and Fair Share Plan by the Council on Affordable Housing (COAH) on *[insert date]*; and

**WHEREAS**, *[insert name of municipality]*'s Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

**WHEREAS**, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., *[insert name of municipality]* is required to appoint a Municipal Housing Liaison for the administration of *[insert name of municipality]*'s affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.; and

**WHEREAS**, *[insert name of municipality]* has amended Chapter *[insert number]* entitled *[insert title of Chapter in Code]* to provide for the appointment of a Municipal Housing Liaison to administer *[insert name of municipality]*'s affordable housing program.

**NOW THEREFORE BE IT RESOLVED**, by the Governing Body of *[insert name of municipality]* in the County of *[insert name of County]*, and the State of New Jersey that *[insert name of municipal employee]* is hereby appointed by the Governing Body of *[insert name of municipality]* as the Municipal Housing Liaison for the administration of the affordable housing

program, pursuant to and in accordance with Sections *[insert numbers]* of *[insert name of municipality]*'s *[insert name of code]* Code.

---

*[insert name]*  
Municipal Clerk

**Department of Community Affairs  
Local Planning Services  
Supportive and Special Needs Housing Survey**

Municipality: Borough of Emerson County: Bergen  
 Sponsor: New Bridge Developer: Sonrize  
 Block: 313 Lot: 17 Street Address: 5 Pine Drive  
 Facility Name: Advancing Opportunities - Emerson

<p><b>Section 1: Type of Facility:</b></p> <p><input checked="" type="checkbox"/> Licensed Group Home</p> <p><input type="checkbox"/> Transitional facility for the homeless (not eligible for credit as affordable housing 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 type="checkbox"/> Other - Please Specify: _____</p>	<p><b>Section 2: Sources and amount of funding committed to the project:</b></p> <p><input type="checkbox"/> Capital Application Funding Unit \$ _____</p> <p><input checked="" type="checkbox"/> HMFA Special Needs Housing Trust Fund \$ <u>1,250k</u></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"/> Farmers Home Administration - Amount \$ _____</p> <p><input type="checkbox"/> Development fees - Amount \$ _____</p> <p><input type="checkbox"/> Bank financing - Amount \$ _____</p> <p><input type="checkbox"/> Other - Please specify: _____</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><b>Section 3: For all facilities other than permanent supportive housing:</b></p> <p>Total # of bedrooms reserved for: <u>3</u></p> <p>Very low-income clients/households <u>3</u></p> <p>Low-income clients/households _____</p> <p>Moderate-income clients/households _____</p> <p>Market-income clients/households _____</p>	<p><b>Section 4: For permanent supportive housing:</b></p> <p>Total # of units <u>3</u>, including:</p> <p># of very low-income units <u>3</u></p> <p># of low-income units _____</p> <p># of moderate-income units _____</p> <p># of market-income units _____</p>
<p><b>Section 5:</b></p> <p>Length of Controls: <u>5</u> years</p> <p>Effective Date of Controls: <u>5/10/2012</u></p> <p>Expiration Date of Controls: <u>___/___/___</u></p> <p>Average Length of Stay: _____ months (transitional facilities only)</p>	<p><b>Section 6:</b></p> <p><input type="checkbox"/> CO Date: <u>5/10/2012</u></p> <p>For licensed facilities, indicate licensing agency:</p> <p><input checked="" type="checkbox"/> DDD <input type="checkbox"/> DMHS <input type="checkbox"/> DHSS <input type="checkbox"/> DCA <input type="checkbox"/> DCF</p> <p><input type="checkbox"/> Other _____</p> <p>Initial License Date: <u>10/31/14</u></p> <p>Current License Date: <u>6/13/17</u></p>
<p><b>Section 7:</b></p> <p>Has the project received project-based rental assistance? ___ Yes ___ No; Length of commitment: _____</p> <p>Other operating subsidy sources: <u>NJ DDD</u>; Length of commitment: <u>Annual</u></p> <p>Is the subsidy renewable? <input checked="" type="checkbox"/> Yes ___ No</p>	
<p><b>Section 8: The following verification is attached:</b></p> <p><input checked="" type="checkbox"/> Copy of deed restriction or mortgage and/or mortgage note with deed restriction (30-year minimum, HUD, FHA, FHLB, 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><b>Section 9:</b></p> <p>Residents 18 yrs or older? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Population Served (describe): <u>Intellectually &amp; Developmentally Disabled</u></p> <p>Age-restricted? ___ Yes <input checked="" type="checkbox"/> No <u>over 18 yrs</u></p> <p>Accessible (in accordance with NJ Barrier Free Subcode)? <input checked="" type="checkbox"/> Yes ___ No</p>	



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

- 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:



Project Administrator

9/18/17

Date

Certified by:

Municipal Housing Liaison

Date



Building Department  
1 Municipal Place  
Emerson, New Jersey 07630  
(201) 262-6086 Ext. 214

## TRANSFER OF OWNERSHIP CERTIFICATE

The Borough of Emerson Ordinance 290-44.1 requires that a Transfer of Ownership Certificate shall be issued to any residential building or dwelling or part thereof prior to the sale or transfer of property. This Certificate is valid for six months from approval date below. If not issued within six months, a new application must be filed.

**Certificate No: # 12-038**

Issued to (Seller): **Linda Reczkowski**  
Buyer: **Advancing Opportunities**  
Property Address: **5 Pine Drive - Block 313, Lot 17**

This certificate complies with the State of New Jersey requirement for smoke and carbon monoxide detectors pursuant to N.J.A.C. 5:70-2.3 and N.J.A.C. 5:70-4.19 for one and two-family dwellings.

- ✓ SMOKE DETECTORS PRESENT ON ALL LEVELS
- ✓ CARBON MONOXIDE DETECTORS OUTSIDE ALL SLEEPING AREAS
- ✓ PORTABLE FIRE EXTINGUISHER WITHIN 10 FEET OF KITCHEN

Zoning Class	Comments
R-7.5 Single Family Residential	Resale

*J. F. Mura*  
Borough Official

5/10/12  
Date of Approval

**NOTICE:** This is not a "Home Inspection." The Borough of Emerson does not warrantee or guarantee as to the proper function of smoke detectors or any other equipment within the structure. This certificate does not guarantee compliance with zoning, health, property maintenance or Uniform Construction Code.

12-09-09 Deed - Esq  
V BK 01172 PG 1913 PG 1913  
John S. Hagan, Bergen County Clerk  
Recorded 10/11/2012 12:15:31 PM

"Record and Return to  
Beattie Padovano LLC  
PO Box 224  
Montville NJ 07645  
Attn: Kirby Duell Esq."

Prepared by: Thomas J. Schlegel, Esquire

DEED

This Deed is made on August 1, 2012

**BETWEEN** Advancing Opportunities, Inc., whose post office address is 1005  
Whitehead Road Extension, Suite 1, Fwing, New Jersey 08638, referred to as the Grantor;  
**AND** United Way of Bergen County, whose post office address is 6 Forest

Avenue, Paramus, New Jersey 07652, referred to as the Grantee.

The word "Grantor and Grantee" shall mean all Grantees listed above.

**Transfer of Ownership.** The Grantor grants and conveys (transfers ownership) of the  
property described below to the Grantee. This transfer is made for the sum of **One and**  
**00/100 (\$1.00)** Dollars. The Grantor acknowledges receipt of this money.

**Tax Map Reference.** (N.J.S.A. 46:15-2.1) Borough of Emerson  
Block No. 313 Lot No. 17 Account No.

( ) No property tax identification number is available on the date of this deed. (check box  
if applicable.)

**Property.** The property consists of the land and all the buildings and structures on the  
land in the Borough of Emerson, County of Bergen, and State of New Jersey. The legal  
description is:

See Schedule A attached hereto and made a part hereof.

**SUBJECT** to easements and restrictions of record.

**BEING** the same premises conveyed to Advancing Opportunities, Inc. by Deed from  
Linda Reczkowski, Surviving Tenant by the Entirety, dated May 18, 2012 recorded June  
6, 2012 in the Bergen County Clerk/Register's Office in Deed Book 01060 Page, 1973.

**BEING** commonly known as 5 Pine Drive, Emerson, New Jersey 07630.

Bergen County Clerk

V BK 01172 PG 1913

10/11/2012 12:15 PM

1 of 5

**Schedule A - Legal Description**

All that certain lot, parcel or tract of land, situate and lying in the Borough of Emerson, County of Bergen, State of New Jersey, and being more particularly described as follows:

BEGINNING at a POINT marked by a pin set in the southeasterly right-of-way line of Pine Drive, 50 feet wide, said point being the northeasterly terminus of a 25 foot radius of-way line of Main Street, 25 feet as measured at right angles to the northerly right- and from said BEGINNING POINT running: thence,

1. Along the aforesaid southeasterly right-of-way line of Pine Drive, N 25° 23' 42" E, 78.58 feet to a point marked by a pin found corner to lands N/F Matthew Ostroff and Sheryl Gamboa; thence,
2. Along the southerly line of said lands, S 75° 56' 48" E, 100.00 feet to a point marked by a pin set corner to lands N/F Carl and Nancy Russo; thence,
3. Along the northwesterly line of said lands S 25° 23' 42" W, 109.11 feet to a point marked by a pin set in the aforementioned northerly right-of-way line of Main Street; thence,
4. Along said right-of-way line, N 75° 56' 48" W, 69.47 feet to a point marked by a pin set; thence,
5. Along a curve bearing to the right in a northeasterly direction, having a radius of 25.00 feet, an arc length of 44.23 feet to the POINT and PLACE of BEGINNING.

The above described premises also being known as Lot 5 in Block 313 as shown on map entitled "Subdivision Map, Continental Woods" duly filed in the Bergen County Clerk's Office on September 28, 1953, as Map No. 4537.

According to a survey prepared by Land Map, Inc., Professional Land Surveying, Planning and Mapping Consultants, Hamilton, NJ, dated May 9, 2012, Proj. No. 12257, FOR INFORMATIONAL PURPOSES ONLY. Also known as Lot 17 in Block 313 on the Borough of Emerson Tax Map.

Bergen County Clerk

V BK 01172 PG 1914

10/11/2012 12:15 PM

2 of 5

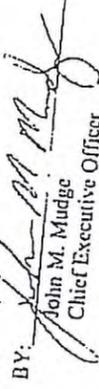
**Promises by Grantor.** The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

**Signatures.** The Grantor signs this Deed as of the date at the top of the first page. The Deed is signed and attested to by the Grantor's proper corporate officers as of the date at the top of the first page. Its corporate seal is affixed.

Attest:



Advancing Opportunities, Inc.

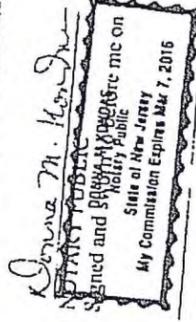
BY:   
John M. Mudge  
Chief Executive Officer

STATE OF NEW JERSEY,  
COUNTY OF Mercer

SS:

I CERTIFY that on 2012 11 20 12, Jack M. Mudge personally came before me and stated to my satisfaction, that this person:

- (a) was the maker of the attached deed; as Chief Executive Officer of
- (b) was authorized to and did execute this deed as of the entity named in this deed; and
- (c) made this Deed for \$1.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)



Bergen County Clerk

V BK 01172 PG 1915

10/11/2012 12:15 PM

3 of 5



State of New Jersey  
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION  
(C.55, P.L. 2004)

GITREN-3  
(3-12)

(Please Print or Type)

**SELLER'S INFORMATION (See Instructions, Page 2)**

Name(s) **Advancing Opportunities, Inc**  
 Current Resident Address:  
 Street: 1105 Whitehead Road Extension, Suite 1  
 City, Town, Post Office: Newark, NJ 07103

Block(n) 313  
 Lot(s) 17  
 State NJ  
 Zip Code 07038

Street Address: 5 Pike Drive  
 City, Town, Post Office: Newark, NJ  
 State NJ  
 Zip Code 07030

Seller's Percentage of Ownership 100%  
 Consideration \$1.00  
 Closing Date 07/2012

**SELLER'S ASSURANCES (Check the Appropriate Box) (Boxes 2 through 4 apply to Residents and Non-Residents)**

- I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a valid gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
- I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
- Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Fudoml Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
- Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:1-1 et seq.
- The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
- The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a curative sale. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see Instructions)
- No non-like kind property received.
- Transfer by or executor or administrator of a decedent to a devisee or heir to effect a distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of the state.
- The property being sold is subject to a short sale instituted by the mortgagee, whereby the seller has agreed not to receive any proceeds from the sale and the mortgagee will accept or proceeds paying off an agreed amount of the mortgage.
- The deed being recorded is a deed dated prior to the effective date of P.L. 2004, c. 55 (August 1, 2004), and was previously unrecorded.

**SELLER'S DECLARATION**

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I understand certain laws have expired this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box, I certify that the Power of Attorney to represent the seller has been previously recorded or is being recorded simultaneously with the deed to which this form is attached. **Advancing Opportunities, Inc.**

Date 07/2012  
 Signature *Jack H. Muller*  
 I, **Jack H. Muller**, a duly authorized officer or attorney-in-fact of **Advancing Opportunities, Inc.**

Bergen County Clerk  
 V BK 01172 PG 1916  
 10/11/2012 12:15 PM  
 4 of 5



One Airport Place  
Princeton, NJ 08540  
Tel: 609.439.9080  
Fax: 866.685.1650  
www.signatortitle-nj.com

October 14, 2013

Advancing Opportunities, Inc.  
c/o Emery Duell  
Beattie Padovano, LLC  
50 Chestnut Ridge Road, Ste. 208  
P.O. Box 244  
Montvale, NJ 07645-0244

Re: Borrower: United Way of Bergen County  
Property: 5 Pine Drive, Emerson, NJ 07630  
Our File #: STA-13-5134A

Dear Mr. Duell:

Enclosed is the following:

[ X ] Original Deed Book 1430, page 2259

Please forward to your client. Please feel free to contact us with any questions you may have or if we can be of any further assistance to you.

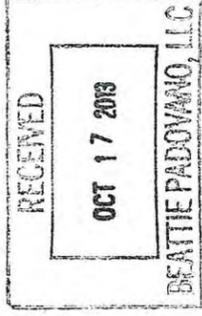
Sincerely,

SIGNATURE TITLE AGENCY, LLC

*Kathleen C. Swangler* Title Officer

Kathleen C. Swangler

Enclosure



RECORD & RETURN TO:

Signature Title Agency, LLC  
600 Alexander Road, 2nd Floor  
Princeton, NJ 08540

Prepared by:   
EMERY C. DUELL, ESQ.



13-066324.01 Deed  
V Bk: 01430 Pg: 2259-2263 Rec. Fee \$83.00  
John S. Rogan, Bergen County Clerk  
Recorded 06/20/2013 09:34:13 AM

**DEED**

This Deed is made on May 14, 2013,

14, 2013,

Consideration : \$187,500.00  
Realty Transfer Fee : \$851.25  
State Portion : \$513.75  
County Portion : \$281.25  
Municipality Portion : \$56.25

**BETWEEN:**

UNITED WAY OF BERGEN COUNTY, whose address is  
6 Forest Avenue, Paramus, NJ 07652, referred to as the  
Grantor,

**AND:**

ADVANCING OPPORTUNITIES, INC., a New Jersey  
corporation, having its principal office at 1005 Whitehead  
Road Extension, Suite 1, Ewing, NJ 08638, referred to as  
the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

**Transfer of Ownership.** The Grantor grants and conveys (transfers ownership  
of) the property described below to the Grantee. This transfer is made for the sum of ONE  
00/100 (\$1.00) DOLLAR. The Grantor acknowledges receipt of this money.

Lot 17.

**Tax Map Reference.** (N.J.S.A. 46:15-2.1) Borough of Emerson, Block No. 313,

**Property.** The property consists of the land and all the buildings and structures  
on the land in the Borough of Emerson County of Bergen, and State of New Jersey. The legal  
description is more particularly set forth on the legal description attached hereto as Schedule A  
and made a part hereof.

BEING the same premises conveyed to United Way of Bergen County by deed from Advancing  
Opportunities, Inc. dated August 1, 2012 recorded October 11, 2012 in the Bergen County  
Clerk's Office in V Book 01172 at Page 1913.

More commonly known as 5 Pine Drive, Emerson, New Jersey.

SUBJECT to restrictions and easements of record, if any, and such state of facts as an accurate  
survey would disclose.

SUBJECT to municipal and governmental regulations, if any, provided it is not the intent of the  
parties to make them restrictive covenants.

**Promises by Grantor.** The Grantor promises that the Grantor has done no act to  
encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6).  
This promise means that the Grantor has not allowed anyone else to obtain any legal rights which  
affect the Property (such as by making a mortgage or allowing a judgment to be entered against  
the Grantor).

991600\_11120580

### LEGAL DESCRIPTION

ALL that certain lot, parcel or tract of land, situate and lying in the Borough of Emerson, County of Bergen, State of New Jersey, and being more particularly described as follows:

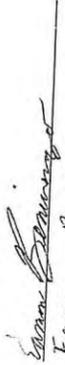
Beginning at a point on the easterly sideline of Pine Drive (50' wide), said point being distant 30.53' northerly from the intersection of the easterly sideline of Pine Drive (50' wide), produced, with the northerly sideline of Main Street (50' wide), produced and running thence:

1. Along the easterly sideline of Pine Drive, (50' wide) N 25° 23' 42" E, 78.58' to a point, thence,
2. S 75° 56' 48" E, 100.00' to a point, thence,
3. S 25° 23' 42" W, 109.11' to a point on the northerly sideline of Main Street (50' wide), thence,
4. Along the northerly sideline of Main Street (50' wide), N 75° 56' 48" W, 69.47' to a point of curvature, thence,
5. Along a curve to the right having a radius of 25.00' and a central angle of 101° 20' 30", an arc distance of 44.23' to a point of tangency on the easterly sideline of Pine Drive (50' wide), being the point and place of beginning.

Property designated as Lot 5 in Block 313 on a map entitled "Subdivision Map, Continental Woods, Formerly Erwood Acres, Borough of Emerson, Bergen County, N.J.," filed in the Bergen County Clerk's Office on September 28, 1953, as Map No. 4537.

**Signatures.** The Grantor signs this Deed as of the date at the top of the first page. If the Grantor is a corporation, this Deed is signed and attested to by its proper corporate officers and its corporate seal is affixed.

Attested by:

  
Eamon Bencivengo

UNITED WAY OF BERGEN COUNTY

By:   
THOMAS M. TORONTO, President

STATE OF NEW JERSEY )  
                                  ) SS:  
COUNTY OF BERGEN )

I CERTIFY that on May <sup>X</sup> 14, 2013, THOMAS M. TORONTO, personally came before me and acknowledged under oath, to my satisfaction that this person:

(a) this person signed, sealed and delivered the attached document as president of United Way of Bergen County, a New Jersey corporation, the corporation named in this document;

(b) the corporate seal was affixed;

(c) this document was signed and made by the corporation as its voluntary act and deed by virtue of authority from its Board of Directors;

(d) the corporation made this deed for \$1.00 as the full and actual consideration paid or to be paid for the transfer of such title (Such consideration is defined in N.J.S.A. 46:15-5).

  
Notary

MICHELE R. DEJESUS  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
ID #2241560  
MY COMMISSION EXPIRES 3/8/16



State of New Jersey  
**SELLER'S RESIDENCY CERTIFICATION/EXEMPTION**  
 (C-55, P.L. 2004)

GIT/REP-3  
 (6-10)

(Please Print or Type)

**SELLER(S) INFORMATION (See Instructions, Page 2)**

Name(s) United Way of Bergen County

Current Resident Address:

Street: 6 Forest Avenue State NJ Zip Code 07652  
 City, Town, Post Office Paramus

**PROPERTY INFORMATION (Brief Property Description)**

Block(s) 313 Lo(\$)17 Qualifier

Street Address: 5 Pine Drive

City, Town, Post Office Emerson State NJ Zip Code 07630

Seller's Percentage of Ownership 100% Consideration \$1.00 Closing Date

**SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 8 apply to Residents and Non-residents)**

1.  I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2.  The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3.  I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4.  Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5.  Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6.  The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7.  The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
8.  No non-like kind property received.
8.  Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.

**SELLER(S) DECLARATION**

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box  I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

Date 14 , 2013 Signature [Signature]  
 Date Date THOMAS TORONTO Signature President  
 (Seller) Please indicate if Power of Attorney or Attorney in Fact

UNITED WAY OF BERGEN COUNTY

**AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER**  
(Chapter 49, P.L.1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)  
**BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.**

STATE OF NEW JERSEY

**FOR RECORDER'S USE ONLY**  
Consideration \$ 187,500  
RTF paid by seller \$ 85.00  
Date 5/14/13 By [Signature]

\*Use symbol "C" to indicate that fee is exclusively for county use.

COUNTY BERGEN } SS. County Municipal Code 0214

MUNICIPALITY OF PROPERTY LOCATION Emerson

(1) PARTY OR LEGAL REPRESENTATIVE (Instructions #3 and #4 on reverse side)

Deponent, Thomas Toronto being duly sworn according to law upon his/her oath, deposes and says that he/she is the President of the Grantor in a deed dated May 14, 2013 transferring (Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.) real property identified as Block number 313 Lot number 17 located at

5 Pine Drive, Emerson and annexed thereto. (Street Address, Town)

(2) CONSIDERATION \$ 1.00 (Instructions #1 and #5 on reverse side)  no prior mortgage to which property is subject. Mortgage amount is \$ 187,500.00

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS: (Instructions #5A and #7 on reverse side)

Total Assessed Valuation ÷ Director's Ratio = Equalized Assessed Valuation

\$            ÷            % = \$             
If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE (Instruction #8 on reverse side)  
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.  
MTG V 13.37-11.58 4-1-2013  
Based on open MTG

(5) PARTIAL EXEMPTION FROM FEE (Instruction #9 on reverse side)  
NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fees, as applicable, imposed by C. 176, P.L. 1975, C. 113, P.L. 2004, and C. 66, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s)  62 years of age or over; \* (Instruction #9 on reverse side for A or B)
- B.  BLIND PERSON Grantor(s)  legally blind or,\*  
 DISABLED PERSON Grantor(s)  permanently and totally disabled  receiving disability payments  not gainfully employed\*  
Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:  
 Owned and occupied by grantor(s) at time of sale.  Resident of State of New Jersey.  
 One or two-family residential premises.  Owners as joint tenants must all qualify.

\*IN CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. **LOW AND MODERATE INCOME HOUSING** (Instruction #9 on reverse side)  
 Affordable according to H.U.D. standards.  Reserved for occupancy.  
 Meets income requirements of region.  Subject to resale controls.

(6) NEW CONSTRUCTION (Instructions #2, #10, #12 on reverse side)  
 Entirely new improvement.  Not previously occupied.  
 Not previously used for any purpose.  "NEW CONSTRUCTION" printed clearly at top of first page of the deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES (Instructions #5, #12, #14 on reverse side)  
 No prior mortgage assumed or to which property is subject at time of sale.  
 No contributions to capital by either grantor or grantee legal entity.  
 No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me this 14 day of May, 20 13  
[Signature] Notary  
**MICHELE R. DEJESUS**, three digits in Grantor's Social Security Number  
**NOTARY PUBLIC**  
**STATE OF NEW JERSEY**  
**ID #2341560**  
**MY COMMISSION EXPIRES 3/8/16**

Signature of Deponent  
THOMAS TORONTO  
6 Forest Avenue  
Paramus, NJ 07652  
Deposited Address  
XXX-XXX-9999  
Name/Company of Settlement Officer  
EMERY C. DUELL, ESQ.

Grantor Name  
6 Forest Ave. Paramus, NJ 07652  
Grantor Address at Time of Sale  
EMERY C. DUELL, ESQ.  
Name/Company of Settlement Officer

United Way of Bergen  
County

FOR OFFICIAL USE ONLY  
Instrument Number \_\_\_\_\_ Book \_\_\_\_\_ County \_\_\_\_\_  
Deed Number \_\_\_\_\_ Date Recorded \_\_\_\_\_  
Deed Dated \_\_\_\_\_ Page \_\_\_\_\_

County recording officers shall forward one copy of each RTF-1 form when Section 3A is completed to: STATE OF NEW JERSEY  
PO BOX 251  
TRENTON, NJ 08695-0251

ATTENTION: REALTY TRANSFER FEE UNIT  
The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and it may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division's website at: [www.state.nj.us/treasury/taxation/pt/localtax.shtml](http://www.state.nj.us/treasury/taxation/pt/localtax.shtml)

**Department of Community Affairs  
Local Planning Services  
Supportive and Special Needs Housing Survey**

Municipality: Borough of Emerson

County: Bergen

Sponsor: New Concepts for Living

Developer: Catcord Construction

Block: 417 Lot: 2 & 3

Street Address: 43 Emerson Plaza West

Facility Name: New Concepts for Living

<p><b>Section 1:</b> Type of Facility:</p> <p><input checked="" type="checkbox"/> Licensed Group Home</p> <p><input type="checkbox"/> Transitional facility for the homeless (<b>not eligible</b> for credit as affordable housing 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 type="checkbox"/> Other – Please Specify: _____</p>	<p><b>Section 2:</b> Sources and amount of funding committed to the project :</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"/> Farmers Home Administration – Amount \$ _____</p> <p><input type="checkbox"/> Development fees – Amount \$ _____</p> <p><input checked="" type="checkbox"/> Bank financing – Amount \$ <u>\$800,000</u></p> <p><input checked="" type="checkbox"/> Other – Please specify: <u>land donated by Emerson Borough</u></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><b>Section 3:</b> For all facilities other than permanent supportive housing:</p> <p>Total # of bedrooms reserved for:</p> <p>Very low-income clients/households _____</p> <p>Low-income clients/households _____</p> <p>Moderate-income clients/households _____</p> <p>Market-income clients/households _____</p>	<p><b>Section 4:</b> For permanent supportive housing:</p> <p>Total # of units <u>10</u>, including:</p> <p># of very low-income units <u>10</u></p> <p># of low-income units _____</p> <p># of moderate-income units _____</p> <p># of market-income units _____</p>
<p><b>Section 5:</b></p> <p>Length of Controls: <u>30</u> years</p> <p>Effective Date of Controls: <u> / /</u></p> <p>Expiration Date of Controls: <u> / /</u></p> <p>Average Length of Stay: _____ months (transitional facilities only)</p>	<p><b>Section 6:</b></p> <p><input type="checkbox"/> CO Date: <u>5/8/07</u></p> <p>For licensed facilities, indicate licensing agency:</p> <p><input checked="" type="checkbox"/> DDD <input type="checkbox"/> DMHS <input type="checkbox"/> DHSS <input type="checkbox"/> DCA <input type="checkbox"/> DCF</p> <p><input type="checkbox"/> Other _____</p> <p>Initial License Date: <u>4/30/08</u></p> <p>Current License Date: <u>5/31/17</u></p>
<p><b>Section 7:</b></p> <p>Has the project received project-based rental assistance? ___ Yes <u>X</u> No; Length of commitment: _____</p> <p>Other operating subsidy sources: _____; Length of commitment: _____</p> <p>Is the subsidy renewable? ___ Yes ___ No</p>	
<p><b>Section 8:</b> The following verification is attached:</p> <p><input checked="" type="checkbox"/> Copy of deed restriction or mortgage and/or mortgage note with deed restriction (30-year minimum, HUD, FHA, FHLB, 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><b>Section 9:</b></p> <p>Residents 18 yrs or older? <u>X</u> Yes ___ No</p> <p>Population Served (describe): <u>Developmentally Disabled</u></p> <p>Age-restricted? ___ Yes <u>X</u> No</p> <p>Accessible (in accordance with NJ Barrier Free Subcode)? <u>X</u> Yes ___ No</p>	



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

- 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: *Shawn Stults* *CEO - New Concepts* *9/19/17*  
Date

Certified by: \_\_\_\_\_ Date \_\_\_\_\_  
Municipal Housing Liaison

**Department of Community Affairs  
Local Planning Services  
Supportive and Special Needs Housing Survey**

Municipality: Borough of Emerson County: Bergen

Sponsor: Center For Hope And Safety Developer: 112 Thomas Street, Emerson NJ

Block: 616 Lot: 4.03 Street \_\_\_\_\_  
Address: \_\_\_\_\_

Facility Name: Emerson Transitional Housing

<p><b>Section 1: Type of Facility:</b></p> <p><input type="checkbox"/> Licensed Group Home</p> <p><input type="checkbox"/> Transitional facility for the homeless (<b>not eligible</b> for credit as affordable housing 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"/> Other – Please Specify: <u>Transitional Housing for Victims of Domestic Violence</u></p>	<p><b>Section 2: Sources and amount of funding committed to the project :</b></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 checked="" type="checkbox"/> HUD – Amount \$ <u>\$15,801</u></p> <p>Program <u>HUD Continuum of Care</u></p> <p><input type="checkbox"/> Federal Home Loan Bank – Amount \$ _____</p> <p><input type="checkbox"/> Farmers Home Administration – Amount \$ _____</p> <p><input type="checkbox"/> Development fees – Amount \$ _____</p> <p><input type="checkbox"/> Bank financing – Amount \$ _____</p> <p><input type="checkbox"/> Other – Please specify: _____</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><b>Section 3: For all facilities other than permanent supportive housing:</b></p> <p>Total # of bedrooms reserved for:</p> <p>Very low-income clients/households <u>7</u></p> <p>Low-income clients/households _____</p> <p>Moderate-income clients/households _____</p> <p>Market-income clients/households _____</p>	<p><b>Section 4: For permanent supportive housing:</b></p> <p>Total # of units _____, including:</p> <p># of very low-income units _____</p> <p># of low-income units _____</p> <p># of moderate-income units _____</p> <p># of market-income units _____</p>
<p><b>Section 5:</b></p> <p>Length of Controls: _____ years</p> <p>Effective Date of Controls: ___/___/___</p> <p>Expiration Date of Controls: ___/___/___</p> <p>Average Length of Stay: <u>9.4</u> months (transitional facilities only)</p>	<p><b>Section 6:</b></p> <p>xCO Date: <u>8</u> / <u>18</u> / <u>2003</u></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 type="checkbox"/> Other _____</p> <p>Initial License Date: ___/___/___</p> <p>Current License Date: ___/___/___</p>
<p><b>Section 7:</b></p> <p>Has the project received project-based rental assistance? ___ Yes <input checked="" type="checkbox"/> No; Length of commitment: _____</p> <p>Other operating subsidy sources: <u>\$15,801</u>; Length of commitment: <u>1</u> yr _____</p> <p>Is the subsidy renewable? <input checked="" type="checkbox"/> Yes ___ No</p>	
<p><b>Section 8: The following verification is attached:</b></p> <p><input type="checkbox"/> Copy of deed restriction or mortgage and/or mortgage note with deed restriction (30-year minimum, HUD, FHA, FHLB, 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><b>Section 9:</b></p> <p>Residents 18 yrs or older? ___ Yes ___ No Age-restricted? ___ Yes <input checked="" type="checkbox"/> No</p> <p>Population Served (describe): <u>Domestic Violence Victims</u> all ages</p>	





**New Search** | **Assessment Postcard**

Block: 723 Prop Loc: 22 CLINTON STREET Owner: INST. FOR PEOPLE WITH DISABILITIES Square Ft: 2009  
 Lot: 7 District: 0214 EMERSON Street: 460 WEST 34 STREET Year Built: 1950  
 Qual: 15F Class: 15F City State: NEW YORK, NY 10001 Style: RH  
 Additional Information  
 Prior Block: Acct Num: Addl Lots: EPL Code: 20 10 1  
 Prior Lot: Mtg Acct: Land Desc: 57X170 Statute: NJSAS4-4-3.6  
 Prior Qual: Bank Code: 0 Bldg Desc: 1F1G Initial: 092401 Further: 110104  
 Updated: 06/24/09 Tax Codes: 0 Class4Cd: 0 Desc: ADMINISTRATIVE BLDG.  
 Zone: Map Page: Acreage: 0.2206 Taxes: 0.00 / 0.00

Sale Date: 08/20/99 Book: 8202 Page: 103 Price: 230000 NU#: 0  
 Sale Information

Sr1a Date Book Page Price NU# Ratio Grantee

TAX-LIST-HISTORY

Year Owner Information Land/Imp/Tot Exemption Assessed Property Class

2017 INST. FOR PEOPLE WITH DISABILITIES 222600 0 380400 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 10001

2016 INST. FOR PEOPLE WITH DISABILITIES 222600 0 380400 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 10001

2015 INST. FOR PEOPLE WITH DISABILITIES 222600 0 380400 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 10001

2014 INST. FOR PEOPLE WITH DISABILITIES 222600 0 380400 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 10001

2013 INST. FOR PEOPLE WITH DISABILITIES 222600 0 380400 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 10001

2012 INST. FOR PEOPLE WITH DISABILITIES 222600 0 380400 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 100012382

2011 INST. FOR PEOPLE WITH DISABILITIES 222600 0 380400 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 10001

2010 INST. FOR PEOPLE WITH DISABILITIES 302600 0 451300 15F  
 460 WEST 34 STREET  
 NEW YORK, NY 10001

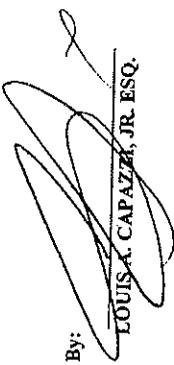
\*Click on Underlined Year for Tax List Page

**DEED - BARGAIN AND SALE**  
(Covenant as to Grantor's Acts)

Consid: 230000.00 R  
Rity: 925.00 Cnty: 230.00  
Fees: 24.00 State: 575.00  
Tot: 949.00 MPNR: 120.00

**DEED**

Prepared By:

  
LOUIS A. CAPAZER, JR. ESQ.

This Deed is made on August 20, 1999

BETWEEN

LEVON DAVTYAN, WIDOWER

Whose address is 22 Clinton Avenue, Emerson, New Jersey - referred to as Grantor

AND

THE NATIONAL INSTITUTE FOR PEOPLE WITH DISABILITIES

Whose address is about to be 22 Clinton Avenue, Emerson, New Jersey, referred to as Grantee

**TRANSFER OF OWNERSHIP.** The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of **TWO HUNDRED THIRTY THOUSAND AND 00/100 (\$230,000.00) DOLLARS.**

**TAX MAP REFERENCE.** (N.J.S.A. 46:15-1.1) Municipality of EMERSON  
Block No: 7 Lot No: 723 Account No.

[ ] No property tax identification number is available on the date of this Deed.

**PROPERTY.** The Property consists of the land and all the buildings and structures on the land in the **BOROUGH OF EMERSON, COUNTY OF BERGEN STATE OF NEW JERSEY.** The legal description is:

SEE ATTACHED DESCRIPTION

**BEING** the same premises conveyed to Grantor herein by deed from: Mousit Noradoukian and Asgik Noradoukian, his wife by their attorney-in-fact George Maranjian dated July 15, 1986 and recorded August 28, 1986 in Deed Book 7545, page 7033 in the Bergen County Clerk's office.

**PROMISES BY GRANTOR.**

The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

RECORDED - BERGEN COUNTY

99 AUG 27 AM 10:42

COUNTY CLERK

147278

BK 8202 PG 103

**FIRST AMERICAN TITLE INSURANCE COMPANY  
MID-STATE ABSTRACT COMPANY**

FILE NO. MS-113813 PAGE 5 OF 5

DAVYAN & SOLGANIK / THE NATIONAL INSTITUTE FOR PEOPLE WITH DISABILITIES /  
STATE OF NEW JERSEY DEPARTMENT OF HUMAN SERVICES

**REVISED SCHEDULE A**

**ITEM NO. 3 - DESCRIPTION OF LAND**

ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND, WITH THE BUILDINGS AND IMPROVEMENTS THEREON ERECTED, SITUATE, LYING AND BEING IN THE BOROUGH OF EMERSON, COUNTY OF BERGEN AND STATE OF NEW JERSEY;

BEING KNOWN AND DESIGNATED AS LOTS 9 AND 10 AND PART OF LOT 8, BLOCK 1, AS SHOWN ON A CERTAIN MAP ENTITLED "SUPPLEMENT TO MAP NO. 4 SHOWING PROPERTY OF N.Y. AND N.J. INVEST. CO., ETNA, BERGEN COUNTY, NEW JERSEY" WHICH MAP WAS FILED IN THE BERGEN COUNTY CLERK'S OFFICE ON JULY 24, 1894 AS FILED MAP NO. 612.

THE ABOVE PREMISES ARE MORE CURRENTLY DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY TROAST SURVEYING ASSOC., L.S., DATED JULY 1, 1999 AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF CLINTON STREET SAID POINT BEING DISTANT 150.00 FEET SOUTHWESTERLY FROM THE INTERSECTION OF SAID NORTHWESTERLY LINE OF CLINTON STREET WITH THE SOUTHWESTERLY LINE OF PALISADE AVENUE AND RUNNING;

1. ALONG SAID NORTHWESTERLY LINE OF CLINTON STREET SOUTH 35 DEGREES 00 MINUTES WEST 56.86 FEET TO A POINT;
2. NORTH 55 DEGREES 00 MINUTES WEST 171.13 FEET TO A POINT;
3. NORTH 39 DEGREES 56 MINUTES 20 SECONDS EAST 57.07 FEET TO A POINT;
4. SOUTH 55 DEGREES 00 MINUTES EAST 166.21 FEET TO A POINT IN THE NORTHWESTERLY LINE OF CLINTON STREET BEING THE POINT OR PLACE OF BEGINNING.

ALSO KNOWN AS LOT 7 IN BLOCK 723 AS SHOWN ON THE EMERSON BOROUGH TAX MAP.

JF

**DEED - BARGAIN AND SALE**  
*(Covenant as to Grantor's Acts)*

**SIGNATURES.** The Grantor signs this Deed as of the date at the top of the first page.

Witnessed:

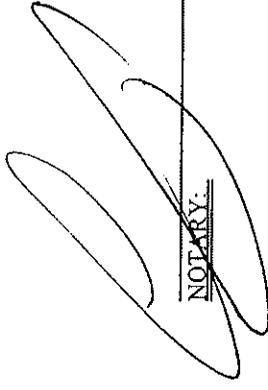
  
**LOUIS A. CAPAZZI, JR., ESQ.**  
Attorney At Law  
State Of New Jersey

  
**LEVON DAVTYAN**

**STATE OF NEW JERSEY, COUNTY OF BERGEN ss.:**

**I CERTIFY** that on August 19, 1999, Levon Davtyan, personally came before me and stated to my satisfaction that this person (or if more than one, each person):

- (a) was the maker of the attached deed;
- (b) executed this deed as his or her own act; and,
- (c) made this Deed for \$230,000.00 the full and actual consideration paid or to be paid for the transfer of title. ( Such consideration is defined in N.J.S.A.46:15-5.)

  
\_\_\_\_\_  
**NOTARY.**

**DEED - BARGAIN AND SALE**  
*(Covenant as to Grantor's Acts)*

---

DEED

**DEED**

LEVON DAVTYAN, WIDOWER

TO

Grantor

THE NATIONAL INSTITUTE FOR PEOPLE  
WITH DISABILITIES

Grantee

Dated: August 19, 1999  
**Record and Return**  
John Doyle, Esq.  
9 Robbins Street  
Toms River, New Jersey 08753

**ABSTRACTED**

BE  
LR  
00

**DEED**

Prepared By:  
C. H. Sarlo  
Charles H. Sarlo, Esq.

20348 Deed - Egrant  
Kathleen A. Borovik  
Bergen County Clerk  
Recorded 02/17/2005 12:02  
Fee 90.60

**THIS DEED** is made on this 2<sup>nd</sup> day of Dec., 2004.

**BETWEEN**, the Borough of Emerson, County of Bergen, State of New Jersey,

whose address is the Municipal Building, Linwood Avenue, Emerson, New Jersey 07630,  
**AND**, New Concepts for Living, Inc.

whose address is 68a West Passaic Street, Rochelle Park, New Jersey, 07662,  
referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and Grantees listed above.

**Transfer of Ownership.** The Grantor grants and conveys (transfers ownership of) the property described below to the Grantee. This transfer is made for the sum of Ten (\$10.00) U.S. Dollars and other good and valuable consideration, which includes a certain "Community Residence Development Agreement", dated May 24, 2002, by and between the parties, which is attached hereto and incorporate by reference into the Deed.

The Grantor acknowledges receipt of this money.

**Tax Map Reference.** (N.J.S.A. 46:15-2.1) Municipality of Emerson  
Block 417 Lot Nos. 2 and 3 Account No.

**Property.** The property consists of the land and all of the buildings and structures on the land in the Borough of Emerson, County of Bergen, and the State of New Jersey.

The legal description, prepared by Neglia Engineering Associates, dated October 10, 2003, which is attached hereto is made a part hereof.

**BEING** the same premises conveyed to the Grantor, herein by Community Developers & Management Company, L.L.C., dated January 29, 2004, and recorded March 10, 2004 in Deed Book 08664, Page 369 in the Bergen County's Clerk's Office.

**SUBJECT TO THE FOLLOWING REVERSION:**

Title of the Property shall revert to the Grantor, Borough of Emerson, County of Bergen, State of New Jersey if the Grantee ceases to maintain and rent the residential units, to be built on the Property, as a State-licensed community residence for developmentally disabled persons that also qualifies as alternate living arrangement housing under the State of New Jersey's Council of Affordable Housing regulations prior to thirty (30) years from the date of completion of construction; as set forth in Section III (2) of the "Community Residence Development Agreement", dated May 24, 2002, by and between the parties.

BK 08782 PG 238

Vested Tide Inc. # 71550

**SURVEY DESCRIPTION**

Borough of Emerson  
County of Bergen  
State of New Jersey

Beginning at a point in the easterly line of Hasbrouck Avenue at the northerly line of lands conveyed to Joan Krave and Cynthia D. Krave in Deed 6994, page 448, said point being distant 278.00 feet northerly from the intersection of said easterly line of Hasbrouck Avenue with the northerly line of Linwood Avenue; thence

- A. South 65 degrees 20 minutes east along the northerly line of said lands, 100.00 feet to the westerly line of lands conveyed to Joan Krave and Hugo Krave III, in Deed Book 7006 page 75.
- B. North 22 degrees 44 minutes East along said lands, 20.75 feet to the centerline of Park Avenue, now vacated, as the principal point or place of Beginning and running thence
  1. North 12 degrees 43 minutes 37 seconds East, 144.74 feet to a point; thence
  2. South 77 degrees 16 minutes 23 seconds East, 128.23 feet to a point; thence
  3. South 05 degrees 29 minutes 17 seconds West, 246.98 feet to a point; thence
  4. North 76 degrees 42 minutes 33 seconds West, 157.32 feet to a point; thence
  5. North 11 degrees 21 minutes 27 seconds East, 78.00 feet to a point; thence
  6. South 12 degrees 14 minutes 41 seconds West, 20.75 feet to the point or place of Beginning.

The above description being drawn in accordance with a survey made by Negtia Engineering Associates dated October 10, 2003.

NOTE: For information purposes only: Known and designated as Lot 2 & 3 in Block 417 on the current tax map of the Borough of Emerson, Bergen County, New Jersey.

VESTED TITLE, INC 648 Newark Avenue, Jersey City, NJ 07306 P: 201-656-9220 F: 201-656-4506, in NJ 1-800-637-0251  
<http://www.vested.com>, email: [vt@vested.com](mailto:vt@vested.com)

BK:08-18286-2391

**Promises by Grantor.** The Grantor Promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

**Signatures.** The Grantor signs this Deed as of the date at the top of the first page.

Witnessed by:



BOROUGH OF EMERSON,  
COUNTY OF BERGEN



By:  
Mayor of the Borough of Emerson

Witnessed by:



BOROUGH OF EMERSON,  
COUNTY OF BERGEN

By:  
Clerk of the Borough of Emerson

STATE OF NEW JERSEY, COUNTY OF BERGEN SS:

I CERTIFY that on this 27 day of Dec, 2004,  
Carole Kelly personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

(a) has been duly authorized by Resolution No. 157-04, passed by the Council of the Borough of Emerson, on July 13, 2004, to execute the within Deed on behalf of the Borough of Emerson;

(b) personally signed this Deed;

(b) signed, sealed and delivered this Deed as his or her act and deed; and

(c) made this Deed for \$10.00 as full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)



William T. Smith, Esq.  
Attorney-at-Law  
State of New Jersey

STATE OF NEW JERSEY, COUNTY OF BERGEN SS:

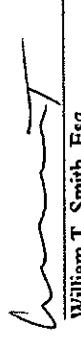
I CERTIFY that on this 28 day of Dec, 2004,  
Steve Santoro personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

(a) has been duly authorized by Resolution No. 157-04, passed by the Council of the Borough of Emerson, on July 13, 2004, to execute the within Deed on behalf of the Borough of Emerson;

(b) personally signed this Deed;

(b) signed, sealed and delivered this Deed as his or her act and deed; and

(c) made this Deed for \$10.00 as full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)



William T. Smith, Esq.  
Attorney-at-Law  
State of New Jersey

8K08782PG2401

**AFFIDAVT OF CONSIDERATION FOR USE BY SELLER**

(Chapter 49, P.L. 1968, as amended through Chapter 66, P.L. 2004)

To be recorded with deed pursuant to Chapter 49, P.L. 1968, as amended by Chapter 308, P.L. 1991 (N.J.S.A. 46:15-5 et seq.)  
**BEFORE COMPLETING THIS AFFIDAVT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.**

STATE OF NEW JERSEY

Consideration  
RTIF paid by seller \$             
Date 2/11/05 By [Signature]

**FOR RECORDER'S USE ONLY**

COUNTY OF BERGEN

} ss.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions # 3 and #4 on reverse side)

Deponent, Steven Setteducati, Mayor, being duly sworn according to law upon his/her oath, deposes and says that he/she is the CORPORATE OFFICER in a deed dated            transferring (Grantor, Grantee, Legal Representative, Corporate Officer, Officer of Title Co., Lending Institution, etc.)

real property identified as Block number 417 Lot number 2 and 3 located at in the Borough of Emerson, Bergen County, New Jersey and annexed thereto. (Street Address, Municipality, County)

(2) CONSIDERATION \$ 10.00 (See Instructions #1 and #5 on reverse side)

(3) FULL EXEMPTION FROM FEE (See Instruction #6 on reverse side)  
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through Chapter 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.

Consideration is less than \$100.00.

(4) PARTIAL EXEMPTION FROM FEE (See Instruction #7 on reverse side)  
PARTIAL EXEMPTION FROM FEE EXEMPTION FROM FEE (See Instructions #7 on reverse side)  
NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption.

Deponent claims that this deed transaction is exempt from State portions of the Basic Fee, Supplemental Fee, and General Purpose Fee, as applicable, imposed by C. 176, P.L. 1975, C. 113, P.L. 2004 and C. 66, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s)  62 years of age or over. \* (See Instruction #7 on reverse side for A or B)
- B.  BLIND PERSON Grantor(s)  legally blind or \*
- B.  DISABLED PERSON Grantor(s)  permanently and totally disabled  Receiving disability payments  Not gainfully employed\*

Senior citizens, blind or disabled persons must also meet all of the following criteria.

- Owned and occupied by grantor(s) at time of sale.  Resident of the State of New Jersey.
- One or two-family residential premises.  Owners as joint tenants must all qualify.

\*IN THE CASE OF HUSBAND AND WIFE, ONLY ONE GRANTOR NEEDS TO QUALIFY IF OWNED AS TENANTS BY THE ENTIRETY.

- C.  LOW AND MODERATE INCOME HOUSING (See Instruction #7 on reverse side)  
 Affordable according to H.U.D. standards.  Reserved for occupancy.
- Meets income requirements of region.  Subject to resale controls.

(5) NEW CONSTRUCTION (See Instructions #8 and #10 on reverse side)

- Entirely new improvement.  Not previously used for any purpose.
- Not previously occupied.  "NEW CONSTRUCTION" printed clearly at the top of the first page of the deed.

Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 66, P.L. 2004.

Subscribed and sworn to before me this 11 day of Feb, 20 04

[Signature]  
Mun Bldg, LINWOOD AVE  
Emerson, NJ 07630  
Deponent Address  
Borough of Emerson  
Mun Bldg, LINWOOD AVE  
EMERSON, NJ 07630  
Grantor Address at Time of Sale

William T. Smith  
An Attorney-at-Law of N.J.

Name/Company of Settlement Officer

FOR OFFICIAL USE ONLY			
Instrument Number	Book	County	Page
Deed Number	Deed Dated	Date Recorded	

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form, as required by law. This form may not be altered or amended without the approval of the Director. For further information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at [www.state.nj.us/treasury/taxation/rtp/caltax.htm](http://www.state.nj.us/treasury/taxation/rtp/caltax.htm).

BN-08782 PG 24



**DEED**

Borough of Emerson, County of Bergen,

Grantor,

TO

New Concepts for Living, Inc.

Grantee.

Dated: 12/22/64

Record and return to:

Charles H. Sarlo, Esq.  
314 Wood-Ridge Street  
Wood-Ridge, N.J. 07075

**ABSTRACTED**

BK 08782 PG 243

END OF DOCUMENT

RECORD & RETURN TO:  
CORPORATE PROPERTIES  
PSEG SERVICES CORPORATION  
80 PARK PLAZA  
NEWARK, N.J. 07102

Prepared by   
David K. Richter

4/17

GRANT OF EASEMENT

48177 Deed  
Kathleen A. Donovan Recording Fee 70.00  
Bergen County Clerk  
Recorded 04/21/2006 11:13

THIS INDENTURE, made this 11<sup>th</sup> day of January, 2006, between NEW CONCEPTS FOR LIVING, INC., having its office at 68a West Passaic Street, Rochelle Park, New Jersey 07662 (hereinafter called "Grantor"), and PUBLIC SERVICE ELECTRIC AND GAS COMPANY, a corporation of the State of New Jersey, having its office at 80 Park Plaza, Newark, New Jersey 07102 (hereinafter called "Grantee").

WHEREAS, Grantor is the owner in fee simple of a certain tract of real property situate in the Borough of Emerson, County of Bergen and State of New Jersey, commonly known as Block 417, Lots 2 and 3, and

WHEREAS, Grantee is a public utility of the State of New Jersey, engaged in furnishing gas service to subscribers in the State of New Jersey; and

WHEREAS, the Grantor does agree to convey an easement in perpetuity to Grantee for its use, occupancy and enjoyment in connection with the provision of gas service thereto, and for the conduct of its business in accordance with and for the purposes set forth in this Grant of Easement, for the mutual benefit of both Grantor and Grantee;

NOW THEREFORE, WITNESSETH: In consideration of these premises and the sum of ONE (\$1.00) DOLLAR, paid to the Grantor by the Grantee, the receipt of which is hereby acknowledged, and in further consideration of the mutual conditions, covenants, promises and terms hereinafter contained, it is agreed that:

Grantor does hereby grant and convey unto Grantee an easement, in, under, through, and across the hereinbefore described lands of Grantor, with full rights, privileges and authority for Grantee to enter upon same from time to time, for the purpose of inspecting, locating, relocating, installing, altering, extending, constructing, repairing, replacing, rebuilding, removing and perpetually operating, maintaining and using mains, pipes, manholes, handholes, regulator vent poles and other fixtures, appurtenances and facilities which Grantee may, in its exclusive discretion and sole judgment, deem necessary or proper for the distribution of gas to the property; together with such free and unlimited access to, egress and ingress in, from and over all points of said easement area, as is reasonable or necessary for the full use, occupancy and enjoyment of said easement. Said easement is more particularly shown on Drawing No. PR 36005-2005-N attached hereto and made a part hereof. This Easement will remain valid for as long as gas service is necessary for the Property. If Grantor or its successors or assigns no longer require gas service to the Property it may terminate this Easement by sixty (60) days written notice to Grantee. The Grantor for itself and its successors and assigns acknowledges and agrees that if it

BK090616079



terminates this Easement and afterward requires service that could have been served through this Easement, it will be required to pay for the new service to be installed on the Property.

Grantor does further grant and convey to Grantee the right, privilege and authority to trim, cut and remove such tree branches, roots, shrubs, plants, trees and vegetation which might, within the exclusive discretion and sole judgment of Grantee, interfere with or threaten the safe, proper or convenient use, maintenance or operation of said gas facilities within the easement area.

Grantor shall have the right to use, occupy and enjoy the surface and air space above the easement area for any purpose which does not, within the exclusive discretion and sole judgment of Grantee, interfere or threaten the safe, proper or convenient use, occupancy or enjoyment of same by Grantee including for use by other utilities. Grantor agrees, however, that no buildings or structures shall be erected over said facilities of Grantee, except a property perimeter fence for property security. Grantor shall provide access to Grantee.

Grantee shall perform all work in connection with the rights, privileges and authority herein granted and conveyed in a workmanlike manner and with a minimum of inconvenience to the Grantor; and any damage done to the land or premises of Grantor shall be promptly repaired and restored to its condition immediately prior to damage, at the sole cost and expense of Grantee.

If Grantor shall, at any time after the initial installation of said facilities, request Grantee to relocate said facilities to a different location or locations, it shall do so at such location or locations as shall be mutually satisfactory to the parties hereto, at the sole cost and expense of Grantor, Grantee to have the same rights and privileges in the new location or locations as in the former location or locations.

Grantor covenants to warrant generally the rights above granted, will execute such further assurance of the same as may be required, and that Grantee shall have the quiet possession thereof free from all encumbrances except as set forth in the First Paragraph herein.

Grantee shall defend and indemnify Grantor against, and shall save Grantor harmless from, and shall reimburse Grantor with respect to, any and all claims, demands, actions, causes of action, injuries, orders, losses, liabilities (statutory or otherwise), obligations, damages, fines, penalties, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) incurred by, imposed upon or asserted against Grantor by reason of any accident, injury (including death at any time resulting therefrom) or damage to any person or property arising out of or resulting from any negligent act or omission or willful misconduct of Grantee or by any employee, licensee, invitee or agent of Grantee.

This Grant of Easement shall be governed by and construed in accordance with the laws of the State of New Jersey.



By the acceptance if this instrument, Grantee agrees to abide by the terms and conditions herein on its part to be performed and shall be deemed signatory hereto, and the provisions of this indenture shall inure to the benefit of and be obligatory upon the respective parties hereto and their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, Grantor has duly signed and sealed these presents the day and year first above written.

(Seal)

ATTEST:

CO. H. C.

SECRETARY

1/11/06

*[Signature]*  
(Name) Richard C. Boyle  
Secretary

By: *[Signature]*  
(Name) Richard C. Boyle  
(Title) Executive Director



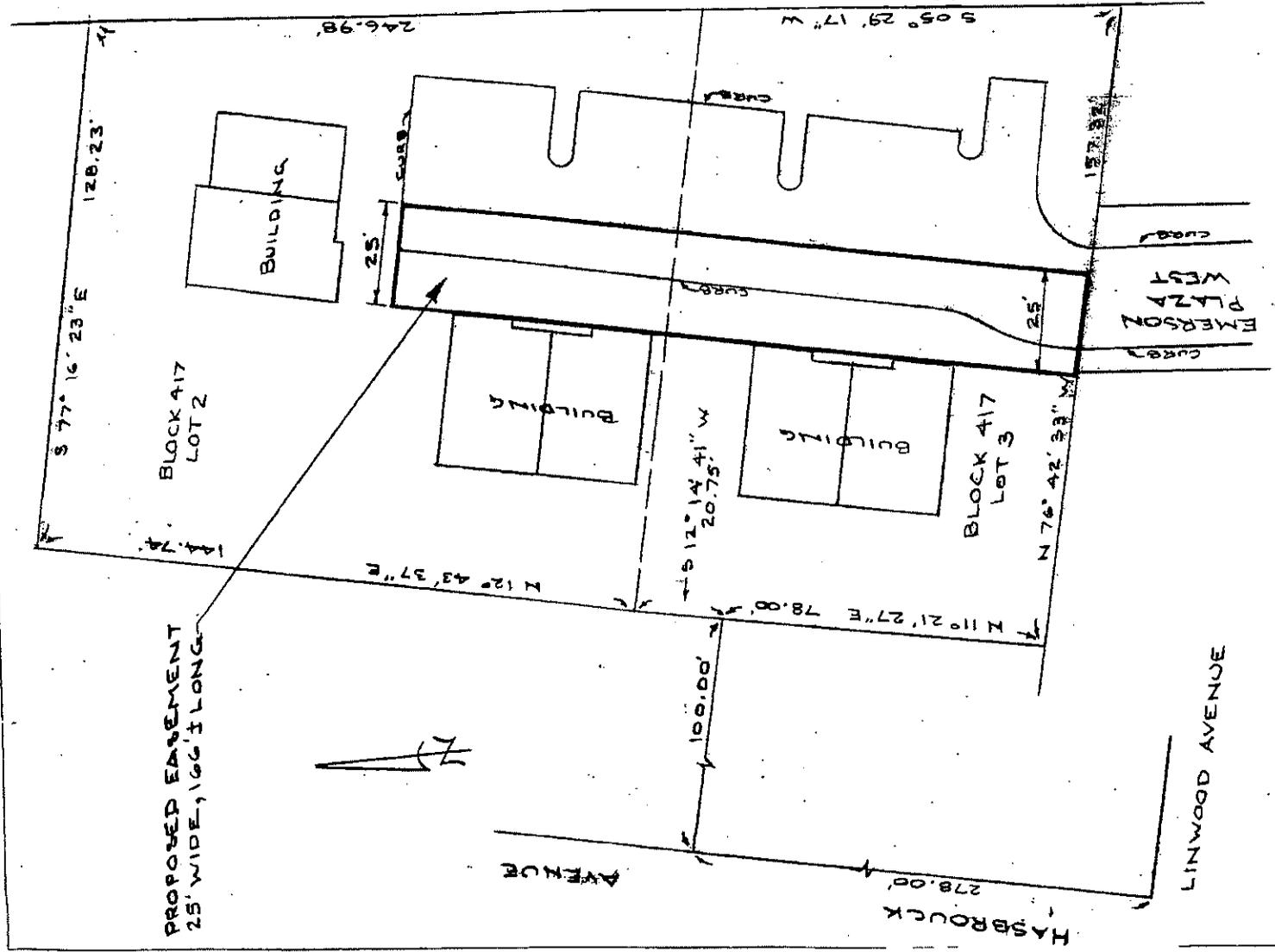
STATE OF NEW JERSEY )  
COUNTY OF BERGEN ) : SS.

BE IT REMEMBERED, that on this 11<sup>th</sup> day of JANUARY 2006, before me, the subscriber, a ~~Notary Public~~ of the State of NEW YORK, personally appeared NICHOLAS ROYCE who, I am satisfied, is EXECUTIVE DIRECTOR of NEW CENTRAL FINANCIAL corporation named in and which executed the foregoing instrument and is the person who signed said instrument as such officer for and on behalf of said corporation and sealed with its corporate seal, as the voluntary act and deed of said corporation, by virtue of authority from its Board of Directors. The full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within easement, as such consideration is defined in P.L. 1968, c. 49, Sec. 1(c), is less than \$100.00.

*[Signature]*  
Notary Public  
State of N.Y.

3 BK 09061 PG 081

*[Signature]*



**Public Service Electric & Gas Company**  
 map showing location of  
**Easement To Be Granted By**  
**NEW CONCEPTS FOR LIVING, INC.**  
 situated in the

**ABSTRACTED**

Borough of Emerson      SE-0032      County of Bergen  
 Distribution Operations - Northern      Clifton, NJ  
 Scale 1"=30'      PR-36005-2005-N      Date 12-6-2005  
 BK09061P60821

END OF DOCUMENT

RECORD & RETURN TO:  
Signature Title Agency, LLC  
600 Alexander Road, 2nd Floor  
Princeton, NJ 08540

Prepared by:   
EMERY C. DUBELL, ESQ.

  
13-068324.01 Deed  
V Bk: 01430 Pg: 2259-2263 Rec. Fee \$83.00  
John S. Hogan, Bergen County Clerk  
Recorded 06/20/2013 09:34:13 AM

**DEED**

This Deed is made on May 14, 2013,

Consideration : \$187,500.00  
Realty Transfer Fee : \$851.25  
State Portion : \$513.75  
County Portion : \$281.25  
Municipality Portion : \$56.25

**BETWEEN:** UNITED WAY OF BERGEN COUNTY, whose address is  
6 Forest Avenue, Paramus, NJ 07652, referred to as the  
Grantor,

**AND:** ADVANCING OPPORTUNITIES, INC., a New Jersey  
corporation, having its principal office at 1005 Whitehead  
Road Extension, Suite 1, Ewing, NJ 08638, referred to as  
the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

**Transfer of Ownership.** The Grantor grants and conveys (transfers ownership  
of) the property described below to the Grantee. This transfer is made for the sum of ONE  
00/100 (\$1.00) DOLLAR. The Grantor acknowledges receipt of this money.

**Tax Map Reference.** (N.J.S.A. 46:15-2.1) Borough of Emerson, Block No. 313,  
Lot 17.

**Property.** The property consists of the land and all the buildings and structures  
on the land in the Borough of Emerson County of Bergen, and State of New Jersey. The legal  
description is more particularly set forth on the legal description attached hereto as Schedule A  
and made a part hereof.

BEING the same premises conveyed to United Way of Bergen County by deed from Advancing  
Opportunities, Inc. dated August 1, 2012 recorded October 11, 2012 in the Bergen County  
Clerk's Office in V Book 01172 at Page 1913.

More commonly known as 5 Pine Drive, Emerson, New Jersey.

SUBJECT to restrictions and easements of record, if any, and such state of facts as an accurate  
survey would disclose.

SUBJECT to municipal and governmental regulations, if any, provided it is not the intent of the  
parties to make them restrictive covenants.

**Promises by Grantor.** The Grantor promises that the Grantor has done no act to  
encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6).  
This promise means that the Grantor has not allowed anyone else to obtain any legal rights which  
affect the Property (such as by making a mortgage or allowing a judgment to be entered against  
the Grantor).

991600\_1V120580

### LEGAL DESCRIPTION

ALL that certain lot, parcel or tract of land, situate and lying in the Borough of Emerson, County of Bergen, State of New Jersey, and being more particularly described as follows:

Beginning at a point on the easterly sideline of Pine Drive (50' wide), said point being distant 30.53' northerly from the intersection of the easterly sideline of Pine Drive (50' wide), produced, with the northerly sideline of Main Street (50' wide), produced and running thence:

1. Along the easterly sideline of Pine Drive, (50' wide) N 25° 23' 42" E, 78.58' to a point, thence,
2. S 75° 56' 48" E, 100.00' to a point, thence.
3. S 25° 23' 42" W, 109.11' to a point on the northerly sideline of Main Street (50' wide), thence,
4. Along the northerly sideline of Main Street (50' wide), N 75° 56' 48" W, 69.47' to a point of curvature, thence,
5. Along a curve to the right having a radius of 25.00' and a central angle of 101° 20' 30", an arc distance of 44.23' to a point of tangency on the easterly sideline of Pine Drive (50' wide), being the point and place of beginning.

Property designated as Lot 5 in Block 313 on a map entitled "Subdivision Map, Continental Woods, Formerly Emwood Acres, Borough of Emerson, Bergen County, N.J." filed in the Bergen County Clerk's Office on September 28, 1953, as Map No. 4537.

**Signatures.** The Grantor signs this Deed as of the date at the top of the first page. If the Grantor is a corporation, this Deed is signed and attested to by its proper corporate officers and its corporate seal is affixed.

Attested by:

UNITED WAY OF BERGEN COUNTY

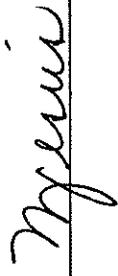
  
Eamon Bencivengo

  
By: THOMAS M. TORONTO, President

STATE OF NEW JERSEY )  
                                  ) SS:  
COUNTY OF BERGEN )

I CERTIFY that on May <sup>X</sup> 14, 2013, THOMAS M. TORONTO, personally came before me and acknowledged under oath, to my satisfaction that this person:

- (a) this person signed, sealed and delivered the attached document as president of United Way of Bergen County, a New Jersey corporation, the corporation named in this document;
- (b) the corporate seal was affixed;
- (c) this document was signed and made by the corporation as its voluntary act and deed by virtue of authority from its Board of Directors;
- (d) the corporation made this deed for \$1.00 as the full and actual consideration paid or to be paid for the transfer of such title (Such consideration is defined in N.J.S.A. 46:15-5).

  
\_\_\_\_\_  
Notary

MICHELE R. DEJESUS  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
ID #231560 3/8/16  
MY COMMISSION EXPIRES 3/8/16



State of New Jersey  
**SELLER'S RESIDENCY CERTIFICATION/EXEMPTION**  
(C-55, P.L. 2004)

(Please Print or Type)

**SELLER(S) INFORMATION (See Instructions, Page 2)**

Name(s) United Way of Bergen County  
Current Resident Address: \_\_\_\_\_  
Street: 6 Forest Avenue State NJ Zip Code 07652  
City, Town, Post Office Paramus

**PROPERTY INFORMATION (Brief Property Description)**

Block(s) 313 Lot(s) 17 Qualifier \_\_\_\_\_  
Street Address: \_\_\_\_\_  
5 Pine Drive State NJ Zip Code 07630  
City, Town, Post Office Emerson  
Seller's Percentage of Ownership 100% Consideration \$1.00 Closing Date \_\_\_\_\_

**SELLER ASSURANCES (Check the Appropriate Box) (Boxes 2 through 8 apply to Residents and Non-residents)**

1.  I am a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2.  The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3.  I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4.  Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5.  Seller is not an individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6.  The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7.  The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION). If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale (see instructions).
- No non-like kind property received.
8.  Transfer by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this state.

**SELLER(S) DECLARATION**

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box  I certify that the Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

Date 14, 2013 By: THOMAS TORONTO Signature President  
Date \_\_\_\_\_ (Seller) Please indicate if Power of Attorney or Attorney in Fact  
Date \_\_\_\_\_ UNITED WAY OF BERGEN COUNTY Signature \_\_\_\_\_  
(Seller) Please indicate if Power of Attorney or Attorney in Fact

**AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER**  
(Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 46:15-5 et seq.)

**BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.**

STATE OF NEW JERSEY

FOR RECORDER'S USE ONLY	
Consideration	\$ 187,500.
RTF paid by seller	\$ 85.00
Date	By

COUNTY BERGEN } SS. County Municipal Code 0214

MUNICIPALITY OF PROPERTY LOCATION Emerson

\*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (Instructions #3 and #4 on reverse side)

Deponent, Thomas Toronto (Name) being duly sworn according to law upon his/her oath, deposes and says that he/she is the President of the Grantor in a deed dated May 14, 2013 transferring (Grantor, Legal Representative, Corporate Officer, Officer of Title Company, Lending Institution, etc.)

real property identified as Block number 313 Lot number 17 located at

5 Pine Drive, Emerson (Street Address, Town) and annexed thereto.

(2) CONSIDERATION \$ 1.00 (Instructions #1 and #5 on reverse side)  no prior mortgage to which property is subject. Mortgage amount is \$187,500.00

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A (COMMERCIAL) PROPERTY TRANSACTIONS: (Instructions #5A and #7 on reverse side)  
Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation

\$ \_\_\_\_\_ + \_\_\_\_\_ % = \$ \_\_\_\_\_  
If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE (Instruction #8 on reverse side)  
Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 66, P.L. 2004, for the following reason(s). Mere reference to exemption symbol is insufficient. Explain in detail.  
MTC V1337-1158 4-1-2013  
Based on open mtg  
Transfer between 501(c)(3) entities for less than \$100.00.

(5) PARTIAL EXEMPTION FROM FEE (Instruction #9 on reverse side)  
NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic, Supplemental, and General Purpose Fees, as applicable, imposed by C. 176, P.L. 1975, C. 113, P.L. 2004, and C. 66, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s)  62 years of age or over. (Instruction #9 on reverse side for A or B)
  - B. { BLIND PERSON Grantor(s)  legally blind or, \*  
DISABLED PERSON Grantor(s)  permanently and totally disabled  receiving disability payments  not gainfully employed
- Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:  
 Owned and occupied by grantor(s) at time of sale.  Resident of State of New Jersey.  
 One or two-family residential premises.  Owners as joint tenants must all qualify.

\*IN CASE OF HUSBAND AND WIFE, PARTNERS IN A CIVIL UNION COUPLE, ONLY ONE GRANTOR NEED QUALIFY IF TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING (Instruction #9 on reverse side)  
 Affordable according to H.U.D. standards.  Reserved for occupancy.  
 Meets income requirements of region.  Subject to resale controls.

(6) NEW CONSTRUCTION (Instructions #2, #10, #12 on reverse side)

Entirely new improvement.  Not previously occupied.  
 Not previously used for any purpose.  "NEW CONSTRUCTION" printed clearly at top of first page of the deed.

(7) RELATED LEGAL ENTITIES TO LEGAL ENTITIES (Instructions #5, #12, #14 on reverse side)

No prior mortgage assumed or to which property is subject at time of sale.  
 No contributions to capital by either grantor or grantee legal entity.  
 No stock or money exchanged by or between grantor or grantee legal entities.

(8) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 49, P.L. 1968, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me this 14 day of May, 20 13  
Myrair Notary  
THOMAS TORONTO Signature of Deponent  
6 Forest Avenue Dependent Address  
Paramus, NJ 07652  
XXX-XXX-959 Grantor Name  
EMERY C. DUELL, ESQ. Grantor Address at Time of Sale  
EMERY C. DUELL, ESQ. Name/Company of Settlement Officer

MCHELE R. DEJESUS  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
ID #241560  
MY COMMISSION EXPIRES 3/8/16

FOR OFFICIAL USE ONLY	
Instrument Number	County
Deed Number	Book
Deed Dated	Date Recorded
	Page

County recording officers shall forward one copy of each RTF-1 form when Section 3A is completed to: STATE OF NEW JERSEY  
PO BOX 261  
TRENTON, NJ 08685-0261

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and it may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division's website at [www.state.nj.us/treasury/taxation/jp/localtax.htm](http://www.state.nj.us/treasury/taxation/jp/localtax.htm)

**DEED**

Consideration : 475000.00  
Rec'd Transfer Fee : 3680.00  
State Portion : 1840.00  
County Portion : 712.50  
Municipality Portion : 487.50

Prepared by:

Reyna N. Perron  
Reyna N. Perron

203543 Deed  
Kathleen A. Perron Recordings Fee 60.60  
Bergen County Clerk  
Registered 10/06/2003 14:54

This Deed is made on August 22, 2003

**BETWEEN** Ann Benedetto, single, Frank Paccione, single, Jeff Paccione, married,  
Karen Paccione, single, Joann Solimando and Gary Solimando, husband and wife, and Annette  
VonBartheld, married,

whose address is 112 Thomas Avenue, Emerson, New Jersey, and c/o Joann Solimando, 104  
Broadway, Emerson, New Jersey,

**AND** Shelter Our Sisters,

referred to as the Grantor,

whose post office address is about to be 112 Thomas Avenue, Emerson, New Jersey

referred to as the Grantee.

The words "Grantor" and "Grantee" shall mean all Grantors and all Grantees listed above.

**Transfer of Ownership.** The Grantor grants and conveys (transfer ownership of) the  
property described below to the Grantee. This transfer is made for the sum of Four Hundred Seventy  
Five Thousand (\$475,000.00) Dollars. The Grantor acknowledges receipt of this money.

**Tax Map Reference.** (N.J.S.A. 46:15-2.1) Borough of Emerson  
Block No. 616 Lot No. 4.03 Account No. \_\_\_\_\_

( ) No property tax identification number is available on the date of this deed. (Check box if  
applicable.)

**Property.** The property consists of the land and all the buildings and structures on the land  
in the Borough of Emerson, County of Bergen, and State of New Jersey. The legal description is:

See Schedule A attached hereto and made a part hereof.

This Deed is subject to the following: In the event that Shelter Our Sisters ceases to use this property  
as supportive housing with ten (10) years from the date hereof, 100% of the HUD funds shall be  
returned to HUD. In the event that this property is sold between the 11<sup>th</sup> through the 20<sup>th</sup> year, HUD  
shall reduce the percentage of the amount to be required to be paid to HUD by ten (10%) percent for  
each year in excess of ten (10) years.

BEING commonly known and designated as 112 Thomas Avenue, Emerson, New Jersey.

BEING the same premises conveyed to the Grantors herein by Deed from Frank Paccione and Fay  
Paccione, his wife, and Ann Benedetto, single by Deed from John O. Schaeffer and Patricia  
Schaeffer, his wife, dated July 8, 1969, and recorded in the Bergen County Clerk's Office on July 9,  
1969, in Deed Book 5323, Page 123. Frank Paccione died intestate on January 22, 1986, and Fay  
Paccione died intestate on September 23, 1990, leaving their five children, Frank Paccione, Jeff  
Paccione, Karen Paccione, Joann Solimando and Annette VonBartheld the only surviving heirs at  
law to their Estate.

8K08619P6902

*[Handwritten signature]*

DESCRIPTION



CHICAGO TITLE INSURANCE COMPANY  
THE UNIVERSITY PLAZE 14  
HOBOKEN, NJ 07030      PHONE (201)469-5000

Order No:

2403-01421

ALL THAT CERTAIN TRACT, PARCEL AND LOT OF LAND LYING AND BEING SITUATE IN THE BOROUGH OF EMERSON, COUNTY OF BERGEN, STATE OF NEW JERSEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF THOMAS AVENUE 347.01 FEET EASTERLY ALONG SAME FROM ITS INTERSECTION WITH THE EASTERLY LINE OF EAST RAILROAD AVENUE, AND 337.80 FEET EASTERLY FROM ITS INTERSECTION WITH THE EASTERLY LINE OF EMERSON PLAZA EAST, AND FROM SAID POINT RUNNING: THENCE

- 1. NORTH 25 DEGREES 00 MINUTES EAST, 147.58 FEET TO A POINT; THENCE
- 2. SOUTH 65 DEGREES 00 MINUTES EAST, 75 FEET TO A POINT; THENCE
- 3. SOUTH 25 DEGREES 00 MINUTES WEST, 147.02 FEET TO A POINT IN THE NORTHERLY LINE OF THOMAS AVENUE; THENCE
- 4. ALONG THE SAME, NORTH 65 DEGREES 25 MINUTES 30 SECONDS WEST, 75 FEET TO THE POINT AND PLACE OF BEGINNING.

THE FOREGOING DESCRIPTION BEING IN ACCORDANCE WITH A SURVEY PREPARED BY P & M SURVEYING, INC., DATED AUGUST 19, 2003.

BEING ALSO KNOWN AS (REPORTED FOR INFORMATIONAL PURPOSES ONLY):

LOT 4.03, BLOCK 616, ON THE OFFICIAL TAX MAP OF THE BOROUGH OF EMERSON.

DESP (P&M)

NR

8K08619P6903

Promises by Grantor. The Grantor promises that the Grantor has done no act to encumber the property. This promise is called a "covenant as to grantor's acts" (N.J.S.A. 46:4-6). This promise means that the Grantor has not allowed anyone else to obtain any legal rights which affect the property (such as by making a mortgage or allowing a judgment to be entered against the Grantor).

Signatures. The Grantor signs this Deed as of the date at the top of the first page.

Witnessed by:

Reyna N. Perron  
Reyna N. Perron

STATE OF NEW JERSEY, COUNTY OF BERGEN

Ann Benedetto  
Ann Benedetto (Seal)

Frank Paccione  
Frank Paccione (Seal)

Jeff Paccione  
Jeff Paccione (Seal)

Karen Paccione  
Karen Paccione (Seal)

Joann Solimando  
Joann Solimando (Seal)

Annette VonBartheld  
Annette VonBartheld (Seal)

Gary Solimando  
Gary Solimando (Seal)

I CERTIFY that on August 22, 2003

Ann Benedetto, Frank Paccione, Jeff Paccione, Karen Paccione, Joann Solimando, and Gary Solimando and Annette VonBartheld, personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personally signed this Deed;
- (b) signed, sealed and delivered this Deed as his or her act and deed; and
- (c) made this Deed for \$475,000.00 as the full and actual consideration paid or to be paid for the transfer of title. (Such consideration is defined in N.J.S.A. 46:15-5.)

Reyna N. Perron  
Reyna N. Perron, Esq.  
Attorney at Law of the  
State of New Jersey

RECORD AND RETURN TO:  
Rose Marie Manger, Esq.  
Two University Plaza  
Hackensack, NJ 07601

**ABSTRACTED**

BK 086196904

END OF DOCUMENT

Revised 4/7/2015

Record and Return to:

**Peter Yasenchak, Paralegal**

New Jersey Housing and Mortgage Finance Agency

637 South Clinton Avenue

P.O. Box 18550

Trenton, New Jersey 08650-2085

**EMERSON VETERANS SUPPORTIVE HOUSING**

**HMFA #03011**

**SSNHTF #49**

**CDBG LEASEHOLD LOAN AGREEMENT AND DEED RESTRICTION**

**between**

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

**and**

**EMERSON AFFORDABLE HOUSING, LLC**

Prepared by:

  
\_\_\_\_\_  
Robert M. Purcell  
Deputy Attorney General

**CDBG LEASEHOLD LOAN AGREEMENT AND DEED RESTRICTION**

BETWEEN

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

AND

**EMERSON AFFORDABLE HOUSING, LLC**

THIS CDBG LEASEHOLD LOAN AGREEMENT AND DEED RESTRICTION (the "Loan Agreement") is hereby made on the 18<sup>th</sup> day of March, 2016, by and between the **NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY** (the "Agency") and **EMERSON AFFORDABLE HOUSING, LLC** having its offices located at One Bergen County Plaza, Bergen, NJ 07601 (hereinafter the "Sponsor" or "Borrower;" the Agency and the Sponsor are, collectively, the "Parties").

WITNESSETH:

**WHEREAS**, in the aftermath of Superstorm Sandy, the United States Congress enacted the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, approved January 29, 2013 (the "Act") to aid in the recovery of the State of New Jersey (the "State"); and

**WHEREAS**, on April 29, 2013, the Department of Housing and Urban Development ("HUD") approved the Action Plan of the State (the "Action Plan"), which demonstrated how the State intended to expend the disaster relief funds; and

**WHEREAS**, the New Jersey Department of Community Affairs ("DCA") received a grant of CDBG funds provided by HUD pursuant to the Act and DCA allocated a portion of such funds to the Agency; and

**WHEREAS**, on June, 2013, the DCA and Agency executed a Subrecipient Agreement in respect to the implementation and administration of the Community Development Block Grant ("CDBG") program; and

**WHEREAS**, consistent with the Action Plan, the Agency created the Fund for Restoration of Multi-Family Housing, and the Sandy Special Needs Housing Assistance Fund ("CDBG-DR Programs"); and

**WHEREAS**, the Agency approved, at its board meeting on April 25, 2013, the CDBG-DR Programs' guidelines, as subsequently amended (collectively the "Guidelines"); and

**WHEREAS**, the Borrower seeks to construct 14 rental units and related facilities for a project commonly known as Emerson Veterans Housing, NJHMFA #03011 (the "Project") and has requested construction and permanent financing from the Agency, which will be administered by the Agency; and

**WHEREAS**, the Borrower has met the eligibility requirements of the CDBG-DR Programs, in accordance with the requirements of the Guidelines; and

**WHEREAS**, contemporaneously herewith Borrower has executed a Note, Mortgage and other loan documents evidencing a CDBG leasehold loan from the Agency (hereinafter referred to as the "CDBG Loan"); and

**WHEREAS**, to evidence its understanding of the terms and conditions of the CDBG Loan and the CDBG Program requirements the Sponsor shall execute this Loan Agreement, a Mortgage and a Note in favor of the Agency that describe the terms and conditions of the CDBG Loan; and

**WHEREAS**, in consideration of the receipt of the CDBG financing, the Sponsor understands that the Project will be subject to tenant affordability restrictions and Agency oversight;

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants herein contained the Parties do hereby covenant and agree each with the other as follows:

- 1. Applicable Law:** This Loan Agreement shall be governed by and construed in accordance with the Disaster Relief Appropriations Act, 2013, Public Law 113-2 and any Treasury, HUD or DCA regulations, guidelines and applicable notices and bulletins thereto (the "Act") and the laws and regulations of the State of New Jersey including, but not limited to, the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. (the "Fair Housing Act"), New Jersey Administrative Code, and the CDBG Guidelines (the "Guidelines" or "CDBG Guidelines"), all as may be amended and supplemented from time to time. Collectively these authorities are the "Applicable Law". To the extent possible, these authorities shall be construed in such a manner as to complement one another and not conflict. However, in the event of a conflict, the most restrictive authority shall prevail.
- 2. Superiority:** Should any of the terms and conditions of this Loan Agreement conflict with those of the Mortgage and/or the Note, the provisions of this Loan Agreement shall prevail, except with respect to the CDBG Loan Agreement Addendum attached hereto (the "CDBG Addendum," which shall prevail over this Loan Agreement in the event of direct conflict.
- 3. Amendments:** The parties agree to make no changes, amendments and/or to seek suspension or termination of this Loan Agreement without the prior written approval of the Agency.

4. **Proceeds:** Proceeds from the CDBG Loan shall be paid to the Sponsor at such times and in such manner as such funds are advanced by the Agency in accordance with payment procedures outlined in this Loan Agreement.

5. **Definitions:** Capitalized terms used herein shall have the following meanings:

"**Act**" means the Disaster Relief Appropriations Act, 2013 (Public Law 113-2, as amended from time to time, and the regulations, guidelines and notices promulgated by HUD thereunder.

"**Affordable**" means the rents for units at the Project complies with the requirements of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-301, and the regulations promulgated thereunder, including but not limited to the standards set forth in N.J.A.C. 5:80-26.12.

"**Agency**" means the New Jersey Housing and Mortgage Finance Agency or its authorized officer or representative.

"**Agency Financing**" means the construction and/or permanent mortgage loan(s) authorized by the Agency Board of Trustees for the Project.

"**Architect**" means the Architect of Record as designated by the Construction Contract.

"**Borrower**" means EMERSON AFFORDABLE HOUSING, LLC, a New Jersey limited liability company.

"**Code**" means the Internal Revenue Service Code of 1986, as it may, from time to time, be amended.

"**Commissioner**" means the Commissioner of the DCA.

"**Construction Completion Date**" means the date specified for completion of all stages of the work under the Construction Contract, which is May 1, 2017, unless otherwise modified pursuant to the terms of the Construction Contract.

"**Construction Contract**" means the contract between the Borrower and the Contractor, for the construction /rehabilitation of the Project.

"**Construction Lender**" means the Agency (or insert other lender, as applicable) in its role as Lender of \$2,500,000 to the Borrower for the acquisition, and/or construction/rehabilitation of the Project, which construction loan is secured by a first mortgage.

"**Construction Loan**" means the construction loan made to the Borrower by the Construction Lender to finance a portion of the cost of the acquisition and construction/rehabilitation of the Project as evidenced by a Note and secured by a Mortgage.

**"Construction Period"** means the time period prior to the issuance of a Certificate of Occupancy for all of the units constructed on the premises.

**"Contractor"** means Belmont Construction, Inc. (construction), a New Jersey corporation and Matina and Son, Inc. (site work), a New Jersey corporation.

**"Day"** means calendar day unless otherwise indicated.

**"Draw Schedule"** means the schedule of all sources and uses of funding for the project to which this CDBG financing is provided.

**"Energy Star"** means the Agency's Energy Star program.

**"Event of Default"** means any of the events set forth in Section 24 of this Loan Agreement.

**"Land"** means the real property of the Project, described in Schedule "A" attached hereto.

**"Loan Documents"** means this Loan Agreement, the Mortgage, the Note and any other documents executed by Borrower related to the CDBG Loan.

**"Mortgage"** means the CDBG Leasehold Mortgage and Security Agreement that secures the CDBG Loan and the CDBG Leasehold Note and the terms of which, by reference hereto, are incorporated herein.

**"Mortgaged Premises"** means the Project and the leasehold interest in the Land that secure the CDBG Loan and Note.

**"NJAG"** means New Jersey Affordable Green Homes program and its requirements.

**"Note"** means the interest-bearing, conditional, non-recourse promissory leasehold note that contains the promise of the Borrower to pay the sum of money stated therein at the times stated therein, evidences the obligation of the Borrower to repay the CDBG Loan, and the terms of which, by reference hereto, are incorporated herein.

**"Payment and Performance Bonds"** mean the bond or bonds securing the payment of the Contractor's obligations to subcontractors and workers relating to the construction of the Project and the performance of the Work pursuant to this Loan Agreement and the Construction Contract. This definition shall also include any letter of credit, maintenance or warranty bond or other form of performance guarantee acceptable to the Agency.

**"Placed in Service Date"** means the date that the first unit is made available to the public for occupancy.

**"Plans and Specifications"** means the plans and specifications for the Project submitted by the Architect.

**"Project"** means the leasehold interest in the real property as more specifically described in Schedule "A" attached hereto, and all improvements constructed thereon and personal property and fixtures located thereon pursuant to the Construction Contract.

**"Qualified Project Period"** means the period beginning on the first day on which 10 percent of the residential units in the Project are occupied and ending on the latest of--

- (i) the date which is 15 years after the date on which 50 percent of the residential units in the Project are occupied,
- (ii) the first day on which no tax-exempt private activity bond issued with respect to the Project is outstanding, or
- (iii) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937 terminates, if applicable.

**"Recapture"** means the Project's loss of CDBG Funds not yet disbursed to it for failure to comply with the March 18, 2018 expenditure requirement as set forth at Section 11 hereof.

**"Recapture Date"** means the specific date or dates by which all of the CDBG Funds must be expended pursuant to the Act. Any CDBG Funds not expended by the Recapture Date will be recaptured and no longer available for use by the Project and may result in rescission of all CDBG Funds previously disbursed to the Project. For this Project, all CDBG Funds must be expended by March 18, 2018.

**"Rules and Guidelines"** includes all administrative rules, criteria, notices and program guidelines promulgated by the Agency to implement the CDBG Loan Program.

**"Specifications"** means the Project Specifications and all additions hereafter issued by the Architect as provided in the Loan Documents, together with such other addenda as may be agreed upon by the parties.

**"Subcontractor"** means those who directly contract with the Contractor to perform any part of the Work (as hereinafter defined), including those who furnish substantial on-site labor, or substantial on-site labor and materials, but shall not include anyone furnishing materials without furnishing on-site labor.

**"Tax Credits"** means low income housing tax credits that the Project may receive pursuant to the Code, if applicable.

**"Title Company"** means the New Jersey licensed title insurance firm that provides title insurance to the Agency for the CDBG Loan.

6. **The Act/Rules:** In addition to complying with any other laws, rules, regulations and other authorities that may be applicable to the performance of this Loan Agreement, the Sponsor shall comply with all applicable provisions of the Act, the Rules and Guidelines.

7. **Federal Low Income Housing Tax Credits:** In addition to complying with any other laws, rules and regulations that may be applicable to the performance of this Loan Agreement, the Sponsor shall comply with all applicable provisions of the statutes, regulations, rules, and other authorities governing federal low income housing tax credits ("Tax Credits"), including but not limited to, 26 U.S.C.A. § 42, 26 C.F.R. §§1.42-1 et seq., and N.J.A.C. 5:80-33.1 et seq.
8. **Agency Financing:** In addition to complying with any other laws, rules and regulations that may be applicable to the performance of this Loan Agreement, in the event the Project is receiving Agency Financing, the Sponsor shall comply with all applicable provisions of all statutes, rules, guidelines, policies, procedures and other authorities governing and regulating such Agency construction and/or permanent financing, including, but not limited to, N.J.S.A. 55:14K-1 et seq., N.J.A.C. 5:80-1.1 et seq., and the Agency Multifamily Underwriting Guidelines as currently in effect.
9. **Affordable Units:** The Sponsor will acquire/construct/rehabilitate 14 units, of which the Sponsor agrees to rent 100% of the units at the Project to tenants whose income does not exceed fifty (50%) percent of the area's median income ("AMI") adjusted for family size as median income is defined by the United States Department of Housing and Urban Development, from time to time.
10. **Affordability Period; Advance Amortization Payments:** The Parties agree that this Project shall be primarily subject to the affordability restrictions governing and elected by the Sponsor with respect to any Tax Credits and Agency construction and/or permanent financing that this Project is receiving. Additionally, this Project shall be subject to the following affordability requirements:
  - a. The units funded by the CDBG Loan ("Project Units") shall remain affordable for a period of 30 years ("Affordability Period"). The Affordability Period shall commence simultaneously with that of the Agency Financing.
  - b. Because the public purposes of the Agency include maximizing the period during which the residential units in the Project are available to persons of low and moderate income, any advance principal repayment shall not release the Borrower from any obligation incurred under the Note or under any agreement with the Agency that contains obligations that provide that a percentage of the units remain affordable to persons of low- and moderate-income for the Project's full Affordability Period. Such obligations shall remain whether or not Borrower has tendered to or deposited with the Agency an amount otherwise sufficient to pay the CDBG Loan, including interest accrued and payable, in full.
  - c. In addition, CDBG Loan requirements include the obligation of the Borrower to allocate 5% of units to be accessible for persons with mobility impairments, and an additional 2% of units to be accessible for persons with hearing and/or vision impairments.

**11. Timetable:** The timetable for this Project is as follows:

Financing closing date(s):	March 18, 2016
Construction start date:	May 2, 2016
Construction completion date:	May 1, 2017

**THE PARTIES AGREE THAT TIME IS OF THE ESSENCE AND THAT ALL CDBG PROCEEDS MUST BE EXPENDED NO LATER THAN MARCH 18, 2018. THE BORROWER SHALL IMMEDIATELY NOTIFY THE AGENCY IN WRITING WITHIN TEN DAYS OF ANY EVENT AFFECTING THE PROJECT'S IMPROVEMENTS COMPLETION, TIMETABLE, AND/OR FINANCING. FAILURE TO MEET THE ABOVE TIMETABLE MAY RESULT IN AN EVENT OF DEFAULT AS SET FORTH IN SECTION 24 HEREIN AND THE AGENCY'S EXERCISE OF ITS REMEDIES SET FORTH IN SECTION 25 OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, RECAPTURE OF ALL CDBG FUNDS COMMITTED TO THE PROJECT.**

**12. Construction of Project and Determination of Actual Project Cost.** The Borrower covenants, warrants and agrees to diligently proceed with the construction/rehabilitation of the Project in accordance with the Plans and Specifications for the Project as approved by the Agency.

No substantial revision of the approved Plans and Specifications, which revision would either (a) affect the nature of the Project as described in Section 3 of the Mortgage, or (b) in the aggregate increase the cost of the Project as shown on the Project Development Budget, may be made without the prior express written consent of the Agency. Construction of the Project shall at all times be subject to the inspection, review and approval of the Agency or its duly authorized representatives. Any such inspection, review or approval of the Agency shall be solely for its benefit for the purpose of assuring that the programs and goals of the Agency and the CDBG Program are being fulfilled and shall not be construed as making the Agency a party to any contract to which it is not already in connection with the construction of the Project, nor shall it relieve the Borrower of any of its obligations under this Loan Agreement, the Mortgage or the Note.

Upon completion of the Project, the Borrower shall certify to the Agency or its designee, successor and/or assign the actual cost of the Project. This cost certification shall be performed by a Certified Public Accountant chosen by the Borrower and approved by the Agency. The cost certification must be independent as defined by the American Institute of Certified Public Accountants. The Borrower shall, promptly upon completion of the cost certification, forward it to the Agency, its designee, successor and/or assign. Costs associated with the preparation of the cost certification shall be borne by the Borrower.

**13. Termination:** In the event of termination of this Loan Agreement and the other Loan Documents due to an Event of Default of the Sponsor, the Agency, at its sole discretion, may require part or all of the CDBG Loan funds advanced to be returned to the Agency within 90

days of the date of termination or as otherwise required by HUD; however, the Sponsor agrees that even in the event of such termination, all affordability restrictions created hereunder shall continue in full force and effect for the full Affordability Period as set forth in Section 10 hereof.

**14. Use of Funds and Method of Payment:** Funds provided for under this Loan Agreement will be used only for the purposes described in the Agency form 10, or as otherwise approved by the Agency.

The following items must be submitted to the Agency to begin drawdowns:

- 1) Original, executed Note;
- 2) Copy of the executed Mortgage;
- 3) Copy of this executed Loan Agreement;
- 4) Proof from the Sponsor of all required insurances as outlined in this Loan Agreement, the Mortgage and the Note and as further required by the Agency and/or the Department;
- 5) Completed requisition AIA G702/G703 forms for CDBG funds, with continuation sheets, to be signed by the Architect of record unless otherwise approved by the Agency;
- 6) Certification of compliance with the provisions of the CDBG Addendum.

Approved draws on CDBG Loan proceeds [and NJAG funds] under this Loan Agreement are to be paid by the Agency within fifteen (15) business days of the Agency's receipt of each requisition and shall be paid in accordance with the following process, or as may be otherwise authorized, in writing, by the Agency:

- 1) Draws should be made in accordance with the Draw Schedule, and in accordance with the Schedule of Values or Trade Payment Breakdowns, unless otherwise approved by the Agency.
- 2) For each draw, the Agency shall require a completed CDBG Form of Requisition, along with any back-up documentation, as required. Additionally, a copy of the CDBG Requisition Form shall be sent to the Construction Lender or Lead Lender simultaneously with the submission to the Agency. A copy of any requisition submitted to the Construction Lender or Lead Lender shall also be sent simultaneously to the Agency.
- 3) For each draw, the Agency shall request a construction rundown search from the Title Company retained on behalf of the Project. Upon notice from the Title Company that there are no encumbrances against the title except as may be expressly approved by the Agency and review of such rundown by the Agency, checks shall be issued to the designated vendors as authorized by the Sponsor, unless otherwise agreed upon, in writing, by the Agency and the Sponsor.
- 4) The Sponsor will submit to the Agency the final development cost audit and a certificate of occupancy for all of the units constructed/rehabilitated on the Mortgaged Premises, along with satisfying the Agency's document checklist requirements for final mortgage close-out.
- 5) Additionally, the following items are required to be submitted to the New

Jersey Green Homes Office in connection with the NJAG program:

- Job/Site meeting minutes to date;
- Final Energy Star inspection reports;
- Proof of Energy Star certification (Energy Star certificate);
- Developer/Architect to submit a one-page narrative describing experiences and lessons learned as it relates to the green high performance features
- Upon request, Sponsor to provide copies of invoices for NJAG funded materials or systems and copies of any certifications such as FSC or Smartwood chain of custody certificates;
- New Jersey Green Homes Office Fuel Release form from each tenant household.

15. **Use of Insurance Proceeds:** The Sponsor covenants and agrees to cause the buildings on the Land and any improvements thereto and the fixtures and articles on the Land and any improvements thereto and the fixtures and articles of personal property covered by the Mortgage to be insured against loss by fire and by such other hazards as may be required by the Agency or its successors and/or assigns for the benefit of the Agency, as approved by the Agency and in accordance with the current Agency insurance requirements. Such insurance shall be written by such companies, in such amounts and in forms as are satisfactory to the Agency. The Sponsor will assign and deliver the certificates of insurance along with the insurance policies to the Agency. Such policies shall provide that the insurer may not cancel the policy and will not refuse to renew the policy except after thirty (30) days written notice to the Agency. If the Agency shall not receive evidence satisfactory to it of the existence of effective insurance coverage as required by the Agency, the Agency may (but shall not be required to) obtain such coverage, and the Sponsor will reimburse the Agency, on demand for any premiums paid for insurance procured by the Agency, and until so reimbursed, the amount of such premiums shall be added to the principal of the Note and bear interest at a rate equal to the yield rate on a 30-year U.S. Treasury bond at the time of making of such payment(s) by the Agency.

In the event of substantial damage to the Project by the occurrence of an insured casualty or the taking of a substantial portion of the Project by condemnation, if, in the sole judgment of the Agency (which judgment shall be conclusive), (a) the Project can be replaced or restored in whole or in part to a condition at least comparable to that of the Project immediately prior to the insured casualty or taking, and (b) the Project as so replaced will produce sufficient income to meet the then obligations of the Sponsor under the Mortgage and the Note, the proceeds of insurance or condemnation, if sufficient, to the extent necessary for the purpose, shall be made available to the Sponsor upon satisfaction by the Sponsor of the conditions precedent to disbursements, for such replacement or restoration. To the extent the Project is not replaced or restored, such proceeds shall be applied to the indebtedness secured hereby after payment of fees and charges due and payable (as defined and provided for in the Mortgage). Nothing in this Section shall affect the lien of the Mortgage or the liability of the Sponsor for payment of the entire balance of the Mortgage indebtedness.

16. **Liens:** The Sponsor covenants, warrants and agrees to maintain its right, title and interest in the Mortgaged Premises (including the Project and Land) and all items enumerated in Section 5 of the Mortgage free and clear of all liens and security interests except the liens of the Mortgage, and the liens of other mortgagees described in Section 3 of the Mortgage and those exceptions identified and set forth in a certain title commitment issued by Main Street Title and Settlement Services, LLC numbered MS-86827 OR and dated October 22, 2015, as approved by the Agency. The Agency shall be furnished with a current standard ALTA form of title insurance policy with extended coverage, insuring that the Mortgage is a valid first leasehold lien on the Land and Project. Prior to any disbursement under this Loan Agreement and the Mortgage, the Sponsor shall provide evidence satisfactory to the Agency of the recording of the Mortgage. Except with the written consent of the Agency, the Sponsor will not install any item of tangible personal property as a part of the fixtures or furnishings of the Project that is subject to a purchase money lien or security interest.

17. **Encumbrances and Sale of Project:**

- a. The Sponsor covenants, warrants and agrees not to sell, lease or otherwise encumber the Mortgaged Premises, or any part thereof, or the rents or revenues thereof without the prior written consent of the Agency, except by leasing to eligible residential tenants.
- b. The Agency may allow certain "permitted encumbrances" on the Mortgaged Premises, which means (i) utility, access and other easements and rights of way, restrictions and exceptions that do not, individually or in the aggregate, materially impair the utility or value of the property affected thereby for the purposes for which it is intended; (ii) liens for taxes at the time not delinquent, (iii) liens for taxes which, if delinquent, are being contested in good faith and for which the Sponsor has provided security satisfactory to the Agency, (iv) liens superior to or subordinate to the lien of the Mortgage securing any monies loaned in connection with the Project or other monies loaned to the Sponsor by the Agency and any department, agency, public corporation or commission of the United States, the State of New Jersey or a political subdivision of the State of New Jersey.
- c. The Sponsor acknowledges and agrees that failure by the Sponsor to comply with Loan Agreement stipulations, standards, or conditions may give the Agency just cause to suspend this Loan Agreement and withhold further payments, prohibit additional obligations of Project funds pending corrective action, disallow all or part of the cost associated with the noncompliance, terminate this Loan Agreement or seek any other remedies that may be legally available.

18. **Inspection:** The Sponsor covenants, warrants and agrees to permit the Agency, its agents or representatives, to inspect the Mortgaged Premises at any and all reasonable times with or without notice.

19. **Statutory Powers and Restrictions:** The CDBG Loan provided for herein shall be subject to statutory and regulatory restrictions contained in the Act and accompanying regulations and guidelines, and in connection therewith the Agency shall have the powers set forth in the

Act as have been delegated by the Department, and the Sponsor hereby consents to such restrictions and powers and agrees to be bound thereby. Such powers and restrictions shall be in addition to and not in limitation of the rights of the Agency expressly set forth in the Loan Documents and in the statutes and regulations of the Agency. The Borrower covenants and agrees to comply with the CDBG rules, regulations, and guidelines. If any provision of this Loan Agreement shall be determined to be inconsistent with the CDBG Program rules, regulations and guidelines that have not been waived, the CDBG Program rules shall govern. The CDBG Program specifically requires that the Sponsor adhere to the requirements set forth in the CDBG Addendum for the improvement work to be done at the Project, and such provisions are incorporated herein. In addition, the Parties confirm the following understandings:

- (a) The Agency and the Sponsor hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth in this Agreement touch and concern the Land in that the Sponsor's legal interest in the Project and Land is rendered less valuable thereby. The Agency and the Sponsor hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the Project and leasehold interest in the Land by enhancing and increasing the enjoyment and use of the Project and the Land by the tenants, contemplated under this Agreement and by furthering the public purposes for which the CDBG Loan is made. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project and Land. Except as provided in subsection (b) below, the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the Land and hereof and shall pass to and be binding upon the Sponsor's assigns and successors in title to the Land or Project. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or the Land or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Project or Land are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Project and Land. The Borrower will have good and marketable leasehold title to the land of the Project upon which it will be located, free and clear of any lien or encumbrance affecting such leasehold interest, except for encumbrances approved by the Agency in writing.
- (b) Upon termination of the "Affordability Period" set forth in Section 10 of this Agreement, the said covenants, reservations and restrictions shall expire and in such event, the Agency shall, at the expense of the Sponsor, execute any and all instruments reasonably required to evidence the record of cancellation or discharge of the aforesaid covenants, reservations and restrictions.
- (c) All terms and conditions of the attached CDBG Addendum are true and correct, and Borrower, its agents, licensees, invitees, contractors, architects, subcontractors and all other parties involved with the Project

shall comply with the terms in the Addendum before, during and after completion of the Project. A violation of the Addendum shall constitute a default under the Loan Documents and shall entitle the Agency to immediately declare the Mortgage due and payable.

20. **Energy Star:** All project owners must participate in the Agency's Energy Star program.
21. **Accounting in Event of Default:** Upon the occurrence of an Event of Default and within five (5) business days of demand therefor by the Agency, the Sponsor will furnish to the Agency in writing a statement of the principal amount remaining due on the Note together with a statement of any defenses which may exist as to any liability of the Sponsor under the Loan Documents.
22. **Personal Liability:** The Agency agrees, on behalf of itself and any future holder of this Loan Agreement, the Note and the Mortgage, that the liability of the Sponsor, any general or limited partner, member or shareholder of the Sponsor and their respective heirs, representatives, successors and assigns, for the payment and performance of its obligations hereunder and under the Note and the Mortgage, shall be limited to the collateral pledged under the Mortgage and that the Agency shall have no right to seek a personal judgment against the Sponsor, any general or limited partner, member or shareholder of the Sponsor or their respective heirs, representatives, successors and assigns, individually, but shall look only to such collateral for the payment and performance of such obligations; provided, however, that the Agency shall retain the right to exercise any and all remedies granted to it under the Loan Documents. The foregoing limitation of liability shall not apply to any party to the extent such party has committed fraudulent, criminal or other unlawful acts.
23. **Assignment by the Agency:** The Sponsor hereby consents to any assignment of the CDBG Loan and the Loan Documents by the Agency.
24. **Defaults:** Each of the following shall be an Event of Default:
  - (a) failure of the Sponsor to pay when due any installment of principal or interest on the CDBG Loan or any other payment required by the Sponsor to the Agency or any other person pursuant to the terms of the Loan Documents;
  - (b) commission by the Sponsor of any act prohibited by the terms of the Loan Documents, failure by the Sponsor to perform or observe in timely fashion any action or covenant required by any of the terms of the Loan Documents, or failure by the Sponsor to produce satisfactory evidence of compliance therewith;
  - (c) the filing by the Sponsor under any federal or state bankruptcy or insolvency law or other similar law of any petition in bankruptcy or for reorganization or composition with creditors or the making of an assignment for the benefit of creditors;
  - (d) the filing against the Sponsor under any federal or state bankruptcy or insolvency law or other similar law of a petition seeking the Sponsor's adjudication as a

bankrupt or the appointment of a receiver or other custodian for the benefit of its creditors which shall not be dismissed within thirty (30) days of the filing thereof, or the adjudication of the Sponsor as a bankrupt, or the appointment by court order of a custodian (such as a receiver, liquidator or trustee) of possession of the Sponsor or any of its property for the benefit of its creditors and such order remains in effect or such possession continues for more than thirty (30) days;

- (e) the occurrence of substantial destruction of the Project by an uninsured casualty;
- (f) any representation in conjunction with the CDBG Loan, the Loan Documents or the Project by or on behalf of the Sponsor that is false or misleading in any material respect or any covenant or warranty of the Sponsor that is breached;
- (g) any breach by the Sponsor of its obligations or any failure to observe its covenants under any superior mortgage or note that results in an event of default thereunder, or the Sponsor's failure to observe the covenants as contained in any deed restriction associated with such superior mortgage or note, if applicable;
- (h) failure to obtain or retain the Agency Financing, if applicable;
- (i) failure to obtain or retain Tax Credits, if applicable;
- (j) failure to expend CDBG funds by March 18, 2018; or
- (k) use of CDBG funds for a use not permitted by Act, Rules and Guidelines; or
- (l) violation of the provisions of the CDBG Addendum.

An event set forth in subsection(g) of this Section shall not constitute an Event of Default until the prohibited act, failure to perform or observe, or breach shall remain uncured for a period of thirty (30) days after Agency's written notice to Sponsor, specifying such prohibited act, failure or breach and requesting that it be remedied, unless the Agency shall agree in writing to an extension of such time prior to its expiration, and further so long as the event does not trigger a breach of the CDBG Program. If the prohibited act, failure, or breach stated in each notice is correctable but cannot be corrected within the 30 day period, the Agency may consent to an extension of up to 120 days from the delivery of the written notice referred to herein if corrective action is instituted by the Sponsor within the initial 30 day period and diligently pursued.

Within five (5) business days of receiving notice from the Agency that it believes an Event of Default has occurred with respect to the Project, time being of the essence, the Sponsor shall furnish to the Agency, HUD and DCA, in writing, a statement of any defenses which it claims may exist as to any liability of the Borrower hereunder.

- 25. Remedies:** Upon the occurrence of any Event of Default, the Agency, subject to any superior mortgages(s), may, at its option, take any one or more of the following actions or remedies and failure to exercise any remedy or take any action enumerated shall not

constitute a waiver of such right or preclude a subsequent exercise by the Agency of any such remedy:

- a. Rescind any CDBG Funds if not expended by the Recapture Date as described in Section 11 hereof;
- b. declare the entire principal sum of the CDBG Loan, together with all other liabilities of the Sponsor under the Note and the Mortgage, to be immediately due and payable;
- c. cease making disbursements to the Sponsor or withhold or suspend, in whole or in part, funds awarded under the program or recover misspent funds following an audit;
- d. apply any reserves held by the Agency or the balance in the accounts for Project disbursements and revenues, or any combination of these moneys, to the payment of the Sponsor's liabilities hereunder;
- e. foreclose the lien of the Mortgage on the Mortgaged Premises. In any action to foreclose, the Agency shall be entitled to the appointment of a receiver of the rents and profits of the Project as a matter of right and without notice, with power to collect the rents, uses, and profits of the Project, due and becoming due during the pending of the foreclosure suit, such rents and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured and evidenced by the Loan Documents without regard to the value of the Project or the solvency of any person or persons liable for the payment of the mortgaged indebtedness. The Sponsor, for itself and any subsequent owner, hereby waives any and all defenses to the application for a receiver as set forth above and hereby specifically consents to such appointment without notice, but nothing herein contained is to be construed to deprive the holder of the Mortgage of any other right, remedy or privilege it may now have under the law to have a receiver appointed. The provisions for the appointment of a receiver of the rents and profits and the assignment of such rents and profits, is made an express condition upon which the CDBG Loan hereby secured is made. Upon such foreclosure, the Agency shall have the right to have a receiver appointed for the Project and the rentals from the Project;
- f. take possession of all or part of the Mortgaged Premises, subject to rights of permitted superior lienholders;
- g. without judicial process, collect all rents and other revenue including federal and state subsidies as the agent of the Sponsor (which upon the occurrence of any Event of Default the Agency is deemed to have been irrevocably appointed by the Sponsor), and apply them at the Agency's option to the liabilities of the Sponsor under this Loan Agreement;
- h. take possession of equipment, appliances and other tangible personal property in which a security interest has been granted by the Loan Documents and dispose of the

same in any commercially reasonable manner. The Agency shall have the option to dispose of any such equipment and personal property either separately from the Mortgaged Premises or in conjunction with a sale of the Mortgaged Premises, and the Sponsor agrees that either method of disposition shall be commercially reasonable; and/or

- i. sue the Sponsor for a mandatory injunction or other equitable relief requiring performance by the Sponsor of any of its obligations under the Loan Documents. The Sponsor agrees with the Agency that the Agency's remedy at law for the violation or the nonperformance of the Sponsor's obligations under the Loan Documents is not adequate by reason, among other things, of the Agency's public purpose to provide adequate, safe and sanitary dwelling units for families of low and moderate income; and/or
- j. If the event constitutes a violation of the CDBG Program to the extent that the Agency is required to refund monies disbursed to the Borrower back to DCA/HUD/the Federal Government, then the Borrower shall be responsible for refunding such monies to the Agency.

Notwithstanding the above enumeration of remedies, the agency shall have available to it any remedies provided to it by law.

**26. Expenses Due to Default:** All reasonable expenses (including reasonable attorney's fees, costs and allowances) incurred in connection with an action to foreclose the Mortgage or in exercising any other remedy provided by the Loan Documents, including the curing of any Event of Default, shall be paid by the Sponsor, together with interest at a rate equal to the yield rate on a 30-year U.S. Treasury bond at the time of making of such payment(s) by the Agency. Any such sum or sums and the interest thereon shall be a further lien on the Mortgaged Premises and shall be secured by the Mortgage.

**27. Amendments, Notices, Waivers:**

- a. This Loan Agreement may be amended only by an instrument in writing executed and acknowledged on behalf of the Agency and the Sponsor in such manner that the instrument may be recorded. No waiver by the Agency in any particular instance of any Event of Default or required performance by the Sponsor and no course of conduct of the Parties or failure by the Agency to enforce or insist upon performance of any of the obligations of the Sponsor under this Loan Agreement or the other Loan Documents at any time shall preclude enforcement of any of the terms of this Loan Agreement or the other Loan Documents thereafter.
- b. Any provision of this Loan Agreement and the other Loan Documents requiring the consent or approval of the Agency prior to the taking of any action or the omission of any action requires such consent by the Agency in writing signed by a duly authorized officer of the Agency. Any such consent or approval, unless it expressly states otherwise, is limited to the particular action or omission referred to therein and does not apply to subsequent similar actions or omissions.

- c. Notice provided for under this Loan Agreement and the other Loan Documents shall be given in writing signed by a duly authorized officer and any notice required to be given hereunder shall be given by courier, regular mail, or by certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the Parties hereto:

Borrower: Emerson Affordable Housing, LLC  
One Bergen County Plaza  
Bergen, NJ 07601

Copy to Owner's Counsel: Huntington Bailey, LLP  
Attn.: Holly Schepisi, Esq  
373 Kinderkamack Road  
Westwood, NJ 07675

Agency: **New Jersey Housing and Mortgage Finance Agency**  
637 S. Clinton Avenue  
P.O. Box 18550  
Trenton, New Jersey 08650-2085  
Attention: Director of Finance

28. **Severability:** The invalidity of any part or provision of this Loan Agreement shall not affect the validity of the remaining portions thereof.

29. **Disclaimer of Warranties, Liability, Indemnification:**

- a. The Sponsor acknowledges and agrees that (i) the Agency has not heretofore and does not make any warranty or representation, either express or implied as to the value, condition, or fitness for particular purpose or fitness for any use of the Mortgaged Premises or any portion thereof or any other warranty or representation with respect thereto; (ii) in no event shall the Agency or its agents or employees be liable or responsible for any incidental, indirect, special, consequential, or punitive damages in connection with or arising out of this Loan Agreement, the Loan Documents or the development of the Project or the existence, functioning or use of the Project or any items or services provided for in the Mortgage; and (iii) during the term of this Loan Agreement and to the fullest extent permitted by law, the Sponsor shall indemnify and hold the Agency harmless against, and the Sponsor shall pay any and all liability, loss, cost, damage, claims, judgments or expense of any and all kinds or nature and however arising, imposed by law, which the Sponsor and the Agency may sustain, be subject to, or be caused to incur by reason of any claim, suit or action based upon personal injury, death or damage to property, whether real, personal or mixed, or upon or arising out of contracts entered into by the Sponsor, or arising out of the Sponsor's ownership of the Project or out of the development, or management of the Project.

- b. It is mutually agreed by the Sponsor and the Agency that the Agency and its directors, officers, agents, servants and employees shall not be liable for any action performed under this Loan Agreement or the other Loan Documents, and that the Sponsor shall hold them harmless from any claim or suit of whatever nature.
- c. Any claims asserted against the Agency shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. (except for N.J.S.A. 59:13-9 thereof) and the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.
30. **Counterparts:** This Loan Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
31. **Venue:** If any legal action should be filed by the Borrower against the Agency in connection with the CDBG Loan, this Loan Agreement, or the other Loan Documents, the venue and forum for such action shall be the Superior Court of New Jersey, Mercer County.
32. **Filing:** This Loan Agreement shall be duly recorded in the Office of the Clerk for the county in which the Land is located at the sole cost and expense of the Borrower.
33. **Equal Opportunity and Non-Discrimination:** The Sponsor covenants, warrants and agrees that it will comply with the Agency guidelines with respect to equal opportunity and non-discrimination in its purchase of goods and services for the operation and maintenance of the Project throughout the term of this Loan Agreement.
34. **Applicability and Conflict of Terms and Conditions:** The terms and conditions of this Loan Agreement are applicable for the entire term of this Loan Agreement (as set forth in Section 10 hereof) unless otherwise set forth in this Loan Agreement. In the event of any conflict or inconsistency between the terms and conditions of any of the Loan Documents and this Agreement, the terms and conditions of this Loan Agreement shall prevail, except with respect to the terms contained in the CDBG Addendum. Notwithstanding the foregoing, the Sponsor agrees that the Agency may render a decision concerning the intent and/or applicability of any term or condition of the Loan Documents and unless such decision is found to be arbitrary or capricious by a court of competent jurisdiction, the Agency decision shall be final.
35. **Miscellaneous:** Unless the context clearly requires otherwise, as used in this Loan Agreement and the other Loan Documents, words of the masculine, feminine or neutral gender shall be construed to include any other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. The Loan Documents and all the terms and provisions thereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Loan Agreement and the other Loan Documents have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or

provisions hereof or be considered or given any effect in construing the Loan Documents or any provisions thereof or in ascertaining intent, if any question of intent shall arise.

**SEE CDBG LOAN AGREEMENT ADDENDUM ANNEXED HERETO AND MADE A PART HEREOF**

---

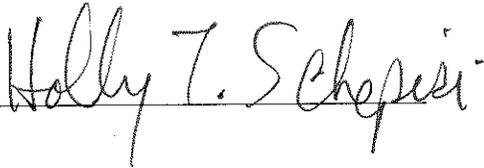
**THIS SPACE INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, this Loan Agreement is duly executed by the Sponsor and Agency on the date first set forth above and, by signing below; the Sponsor acknowledges that it has received a true copy of this Loan Agreement, without charge.

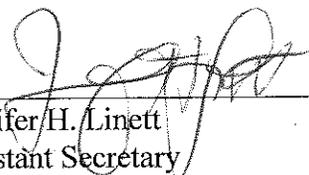
ATTEST:

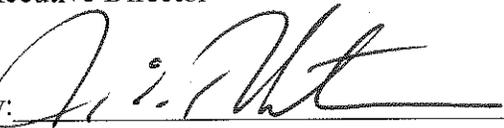
BORROWER:

Emerson Affordable Housing, LLC  
By: Housing Development Corporation of  
Bergen County, a New Jersey non-profit  
corporation  
Its manager and sole member

  
\_\_\_\_\_

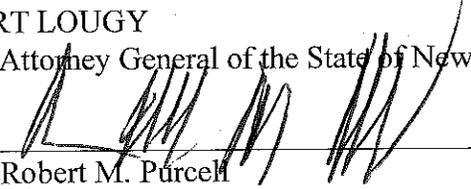
  
\_\_\_\_\_  
Lynn Bartlett  
Executive Director

  
\_\_\_\_\_  
Jennifer H. Linett  
Assistant Secretary

By:   
\_\_\_\_\_  
James E. Robertson  
Chief of Legal and Regulatory Affairs

*This Loan Agreement has been reviewed and Approved as to form only.*

ROBERT LOUGY  
Acting Attorney General of the State of New Jersey

By:   
\_\_\_\_\_  
Robert M. Purcell  
Deputy Attorney General



# OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

## ALTA Loan Policy of Title Insurance

### SCHEDULE A

File No. **MS-86827 OR**

#### LEGAL DESCRIPTION

All that certain lot, parcel or tract of land, situate and lying in the Borough of Emerson, County of Bergen and State of New Jersey being more particularly described as follows:

BEING known and designated as being substantially the same as a Lot now or formerly of Alfred Beiling in Block 304 as shown on a certain map entitled "Subdivision Map Continental Woods, Formerly Emwood Acres, Borough of Emerson, Bergen County, New Jersey" filed in the Bergen County Clerk's Office on September 28, 1952 as Map No. 4537.

BEGINNING at a point in the westerly sideline of Main Street, a fifty foot right-of-way (50.00' R.O.W.), said point being distant one hundred ninety-seven and seventy-eight hundredths of a foot northerly along various courses from the intersection formed by the intersection of the westerly sideline of Main Street and the northerly sideline of Eagle Drive, a sixty foot right-of-way (60.00' R.O.W.) if both sidelines were projected to form said intersection and running thence

1. North seventy degrees, one minute and seventeen seconds West (N. 70 degrees 1 minute 17 seconds W.), a distance of three hundred sixty-two and ninety-four hundredths of a foot (362.94') to a point, thence
2. North nineteen degrees, fifty-eight minutes and forty-three seconds East (N. 19 degrees 58 minutes 43 seconds and one hundredth of a foot (169.01') to a point, thence
3. South seventy degrees, one minute and seventeen seconds East (S. 70 degrees 01 minute 17 seconds E.), a distance of four hundred fifty-one and fifty-eight hundredths of a foot (451.58') to a point in the westerly sideline of Main Street, thence
4. Along the westerly sideline of Main Street in a southwesterly direction, South forty-one degrees, three minutes and forty-three seconds West (S. 41 degrees 03 minutes 43 seconds W.), a distance of one hundred eighteen and thirty-six hundredths of a foot (118.36') to a point, thence
5. Still along the westerly sideline of Main Street in a southwesterly direction on a curve to the right being described as having a radius of seven hundred ten and six hundredths of a foot ( $R=710.06'$ ), an arc length of seventy-four and fifty-six hundredths of a foot ( $L=74.56'$ ) and a central angle of six degrees, one minute ( $A=6$  degrees 01 minute 00 seconds) to the point and place of BEGINNING.

The above description is drawn in accordance with a survey made by Loram Surveyors, LLC, dated 4/28/2014.

FOR INFORMATIONAL PURPOSES ONLY: Also known as Lot 3 in Block 304 on the Borough of Emerson Tax Map.

FOR INFORMATIONAL PURPOSES ONLY: BEING COMMONLY KNOWN AS 324 Main Street, Emerson, NJ 07630

## CDBG LOAN AGREEMENT ADDENDUM

**WHEREAS**, the Borrower, **EMERSON AFFORDABLE HOUSING, LLC**, seeks to construct 14 rental units and related facilities for a project commonly known as Emerson Veterans Supportive Housing, NJHMFA #03011 (the "Project") and has requested construction and permanent financing from the New Jersey Housing and Mortgage Finance Agency (the "Agency"), which will be administered by the Agency; and

**WHEREAS**, contemporaneously herewith Borrower has executed a Note, Mortgage, Loan Agreement and other loan documents evidencing a CDBG loan from the Agency (hereinafter referred to as the "CDBG Loan"); and

**WHEREAS**, in the aftermath of Superstorm Sandy, the United States Congress enacted the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, approved January 29, 2013) to aid in the recovery of the State of New Jersey (the "State"); and

**WHEREAS**, on April 29, 2013, the Department of Housing and Urban Development ("HUD") approved the Action Plan of the State (the "Action Plan"), which demonstrated how the State intended to expend the disaster relief funds ("Action Plan"); and

**WHEREAS**, consistent with the Action Plan, the Agency created the Fund for Restoration of Multi-Family Housing, and the Sandy Special Needs Housing Assistance Fund ("CDBG-DR Programs"); and

**WHEREAS**, the Agency approved, at its board meeting of April 25, 2013, the CDBG-DR Programs' guidelines as subsequently amended (collectively the "Guidelines"); and

**WHEREAS**, the Borrower has met the eligibility requirements of the CDBG-DR Programs, in accordance with the requirements of the Guidelines and in accordance with the terms and conditions of this Addendum; and

**WHEREAS**, in order for the Borrower to be eligible to receive and utilize the CDBG Loan, it must also certify that it will comply with certain provisions of the Guidelines as are set forth below;

**NOW, THEREFORE**, Borrower, for and in consideration of the CDBG Loan, and intending to be legally bound hereby, agrees that the Mortgage shall be amended to include

the following provisions and that these provisions shall be paramount and controlling as to the rights and obligations of the Borrower and the Agency and shall supersede any other provisions of the Mortgage and other Loan Documents to the contrary:

## STANDARD PROVISIONS

### GENERAL

#### 1. Borrower's Representations

- (i) Borrower has been duly organized and validly exists, has power to enter into the Mortgage, Loan Agreement and other Loan Documents and this Addendum and has authorized the signing of the Loan Documents and this Addendum and taking the actions contemplated by this Addendum.
- (ii) To the best of the Borrower's knowledge, and upon due inquiry, there is no action or proceeding, pending or threatened, against the Borrower before any court or administrative agency that might adversely affect the ability of the to perform its obligations under the Loan Documents and this Addendum and all consents, authorizations, and approvals of governmental bodies or agencies required in connection with the performance of the Borrower's obligations under the Loan Documents and this Addendum have been obtained and will be obtained whenever required hereunder or by law.
- (iii) Neither the execution and delivery of the Loan Documents nor this Addendum and the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of the Loan Documents and this Addendum is prevented, limited by, or conflicts with or results in a breach of, the terms, conditions, or provisions of any corporate restrictions or any evidence of indebtedness, agreement, or instrument of whatever nature to which the is bound, or constitutes a default under any of the foregoing.
- (iv) All statements, representations and warranties made by Borrower in the Loan Documents were true when made, are true, in all material respects, as of the date hereof, and shall remain and be true and correct during the term of the Loan Documents, it being understood by Borrower that all such statements, representations and warranties have been relied upon by the Agency as an inducement to make the Agency funding and shall continue to be relied upon by the Agency in administering the Agency funding. Borrower further understands and agrees that, if, during the term of the Mortgage and other Loan Documents, any such statements, representations and warranties become untrue or false, it shall have a duty to immediately notify the Agency in writing of such fact.
- (v) Borrower represents that it has at all times relevant to the CDBG Loan been represented by advisors of its own selection, including, but not limited to, attorneys at law and/or certified public accountants; that it has not relied upon any statement, representation, warranty, agreement or information provided by the Agency; that it acknowledges that it is informed by its advisors of its respective rights, duties, and obligations with respect to the transaction which is the subject

- of the Loan Documents under all applicable laws, and that it has no set-offs, defenses or counterclaims against the Agency with respect to the transaction.
- (vi) The representations and warranties made in this Paragraph shall survive the expiration or earlier termination of the Loan Documents.
  - (vii) If during the duration of the Loan Documents the Borrower becomes aware of any facts, occurrences, information, statements, or events that render any of the foregoing representations or warranties herein untrue or materially misleading or incomplete, it shall immediately notify the Agency in writing of such facts, occurrences, information, statements or events.

## 2. WARRANTIES AND COVENANTS

- (i) Borrower shall use the Agency funding solely in connection with funding the Project. The Agency funding may be used solely for the purposes contemplated by the Mortgage and other Loan Documents.
- (ii) In relation to the Project, Borrower shall comply with all Federal, State and municipal laws, rules and regulations applicable to all activities it performs and those that are performed on its behalf.
- (iii) Borrower acknowledge that the use of small businesses, minority owned firms and women's business enterprises for contractors, suppliers, labor and products is preferred and agrees that, to the extent feasible and as represented in its Proposal, it shall use such businesses in connection with the Project.
- (iv) Borrower agrees that all hired Contractors and Sub-contractors are not on the Federal excluded parties list.
- (v) Borrower shall execute an agreement with each Contractor containing labor standards and other required provisions, such as equal opportunity and general conditions. This may be accomplished by the execution of a CDBG Contractor's Addendum as provided to Borrower by the Agency.
- (vi) Borrower acknowledges that all construction work will have received environmental approval from the New Jersey Department of Environmental Protection ("DEP") and/or the Agency prior to the commencement of any construction.

## 3. ASSIGNMENTS

Borrower shall not assign its interests in the Loan Documents to another without the prior written consent of the Agency. ~~Unless otherwise indicated by the Agency in writing, any obligations hereunder shall become the obligations of any assignee or successor of the Borrower.~~

## 4. MISCELLANEOUS

- (i) **Forum and Venue.** Unless otherwise provided, all actions related to the matters which are the subject of this Addendum shall be formed and venue in a court of competent jurisdiction in Mercer County New Jersey.
- (ii) **Entire Agreement.** This Addendum along with the Loan Documents and any documents referred to herein constitute the complete understanding of the Agency

and the Borrower (hereinafter, collectively referred to as the "Parties") and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the Parties with respect to the subject matter of this Addendum.

- (iii) **Severability.** Whenever possible, each provision of this Addendum shall be interpreted in such manner as to be effective and valid pursuant to applicable law, but if any provision of the Loan Documents or this Addendum is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Addendum, unless the Agency shall in its sole and absolute discretion deem the invalidated provision essential to the accomplishment of the public purposes served by the Loan Documents and this Addendum, in which case the Agency has the right to terminate the Loan/Loan Documents and all benefits provided to Borrower hereunder upon the giving of sixty (60) days prior notice.
- (iv) **Compliance with All Applicable Law.** Failure to expressly reference any applicable federal or State regulation, statute, public law, Executive order, agency directive or OMB Circular will not exempt Borrower from compliance with such applicable law or regulation, and all applicable provisions not included will be deemed as inserted herein.
- (v) **Amendments or Modifications.** The Loan Documents and this Addendum may only be amended in writing executed by both Parties. Such Amendments or Modifications shall become effective only upon execution of same by both Parties.
- (vi) **Notices.** All notices, requests and other communications shall be in writing and shall be deemed duly given [when personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid] to the addresses set forth hereunder

Agency: **New Jersey Housing and Mortgage Finance Agency**  
637 South Clinton Avenue  
PO Box 18550  
Trenton, New Jersey 08550-2085  
Attention: Director, Multifamily Lending

Borrower: Emerson Affordable Housing, LLC  
One Bergen County Plaza  
Bergen, NJ 07601

- (vii) **Contractual Liability Act.** The rights and remedies of the under the Loan Documents and this Addendum shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., the provisions of which are incorporated herein by reference. While this statute is not applicable by its terms to claims arising under the Loan Documents Borrower agrees that it shall be applicable to claims arising under this Addendum or any other documents associated with this Project. Further, it is acknowledged by the parties that the

Agency is a public entity covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq.

## **UNIFORM ADMINISTRATIVE REQUIREMENTS**

Borrower shall adhere to the following administrative requirements:

### 1. DUPLICATION OF BENEFITS

Borrower will adhere to 76 FR 71060 (published November 16, 2011) regarding duplication of benefit requirements applicable to the Community Development Block Grant-Disaster Recovery (“CDBG-DR”) program.

### 2. CONFLICT OF INTEREST

Borrower has reviewed and shall adhere to the Agency’s Conflict of Interest policy, which incorporates both the State Conflict of Interest Law, N.J.S.A. 52:13D-1 et seq. and applicable federal law. It will abide by and enforce the conflict of interest requirement set forth in 24 CFR §570.611, 24 CFR §85.36 and 24 CFR §84.42. No one who exercises any functions or responsibilities, or who is in a position to participate in a decision-making process or gain inside information, may obtain a financial interest or benefit from a CDBG-assisted activity (or have a financial interest in any Loan, contract, sub-contract, or agreement with respect to a CDBG assisted facility.)

### 3. HATCH ACT

Borrower covenants that no Agency funding shall be used to finance the use of facilities or equipment for political purposes, or engage in other partisan activities (e.g. candidate forums, voter transportation, or voter registration). It will comply with the provisions of the Hatch Act that limit the political activity of employees and the HUD regulations governing political activity at 24 CFR §570.207.

### 4. RELIGIOUS ACTIVITY

Borrower will comply with HUD rules prohibiting the use of CDBG funds for inherently religious activities, as set forth in 24 CFR §570.200(j), except for circumstances specified in the HUD Allocations, Common Application, Waivers, and Alternative Requirements for Grantees Receiving Community Development Block Grant (CDBG) Disaster Recovery Funds in Response (March 5, 2013). Funding for rehabilitating or reconstructing a storm-damaged or destroyed building may be appropriate where a facility is not used exclusively for the benefit of the religious congregation (i.e., a homeless shelter, food pantry, adult literacy or child care center). When used for both religious and secular purposes, CDBG-DR funds may pay the portion of eligible rehabilitation or construction costs attributable to the non-religious use.

## 5. RECORDS

- (i) Borrower will give the State and HUD, and any of their representatives or agents, access to and the right to examine all records, books, papers, or documents related to the Agency funding.
- (ii) All records required by the Loan Documents and this Addendum, including financial records, ledgers, bank statements, contracts, invoices and receipts related to the Agency funding must be retained for five years from Project Closeout, which is deemed after the affordability period has expired. However, if any litigation, claim, or audit is started before the expiration of the five (5) year period, then records must be retained for five (5) years after the litigation, claim, or audit is resolved. All of Borrower's books and records relating to the Agency funding will be located at One Bergen County Plaza, Bergen, NJ 07601.
- (iii) Borrower will notify the Agency in writing of any change in the location of such books and records prior to any such relocation. Borrower agrees to grant access to inspect, copy, audit and examine at all reasonable times these records to any representative of the Agency, State, Inspector General, HUD and General Accounting Office of the United States.

## 6. LOBBYING

Borrower certifies that no federally appointed funds will be used for lobbying purposes regardless of level of government.

## 7. DRUG FREE WORKPLACE

Borrower will comply with the drug-free workplace requirements contained at 24 CFR, Part 24, and Subpart F and established by the Drug-Free Workplace Act

## 8. COMPLIANCE WITH LAW

Borrower agrees to comply with the following requirements:

- a. Borrower agrees to comply with all applicable federal, State and local laws, regulations and policies governing the Agency funding available under the Loan Documents and this Addendum to supplement rather than supplant funds otherwise available.
- b. Borrower agrees that its Contractor and Sub-Contractors are not and will not be on the list of excluded from Federal Procurement or Non-procurement Programs promulgated in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24 (CDBG funds may not be provided to excluded or disqualified persons).
- c. Borrower shall comply with the following mandatory provisions relating to **FINANCIAL MANAGEMENT AND PROCUREMENT:**

1. If you are a non-profit, guidelines for financial and compliance audits of federally assisted programs which are OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations), revised, and administrative requirements for non-profits, 24 C.F.R. Part 84.
  2. 24 CFR 570.490: Recordkeeping requirements, which requires that all records be kept for a minimum of five years after grant close-out ; and
  3. Borrower will comply with all requirements imposed by the State concerning special requirements of law, program requirements, and other administrative requirements.
- d. Borrower will adhere to 24 CFR Section 570.489(j) regarding change of use of real property. These standards apply to real property within Owner's control which was acquired in whole or in part using CDBG-DR funds in excess of the small purchase procurement threshold in 24 CFR 85.36. These standards apply from the date CDBG-DR funds are first spent until five years after the closeout of the Program.

Borrower may not change the use or planned use of any property (including the beneficiaries of such use) from that for which the acquisition or improvement was made, without first providing citizen review and comment and either:

1. The new use meets one of the national objectives and is not a building for the general conduct of government;
2. The requirement of 24 CFR Section 570.489(j) are met.

## 9. ENVIRONMENTAL IMPACT

Borrower may not begin any Project Activities without prior written consent of the Agency, as follows.

**For all activities undertaken, Borrower agrees to provide information as needed to the DEP and/or the Agency for site-specific activities.**

**This will include, but is not limited to:**

- a. Providing the names of all facilities receiving federal assistance so that the DEP and/or the Agency can ensure that the facilities are not listed on the United States Environmental Protection Agency's (EPA) list of violating;
- b. Providing site-specific information regarding the age, location and prior ground disturbance of all facilities assisted, to determine compliance requirements with

Section 106 of the National Historic Preservation Act of 1966, and the Preservation of Archaeological and Historical Data Act of 1966. And the provisions of 24 CFR Part 55 and Executive Order 11988, as amended by Executive Order 12148, relating to evaluation of flood hazards;

- c. Complying with the flood insurance purchase requirement of Section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. §4001 et seq., which requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of HUD as an area having special flood hazards. For purposes herein, the phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect federal funding. Additionally:
- I. *Flood insurance purchase requirements.* HUD does not prohibit the use of CDBG-DR funds for [existing residential buildings] in the Special Flood Hazard Area (SFHA) (or "100-year" floodplain). With respect to flood insurance, a HUD-assisted [homeowner] for a property located in the SFHA must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program. Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) mandates the purchase of flood insurance protection for any HUD assisted property within the SFHA.
  - II. *Future Federal assistance to Borrowers remaining in a floodplain.* (1) Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) prohibits flood disaster assistance in certain circumstances. No Federal disaster relief assistance may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance and the person has subsequently failed to obtain and maintain flood insurance. Borrower may not receive CDBG disaster assistance for the repair, replacement, or restoration if it has failed to meet this requirement.
  - III. In the event of transfer of any property having received CDBG-DR assistance, the Borrower will notify the transferee in writing of the requirements to 1) Obtain flood insurance, if the property is not insured as of the date of transfer; 2) Maintain flood insurance; 3) Require the transferor, if there is failure to notify the transferee, to reimburse the federal government in the amount of any subsequent disaster relief assistance if such funds are expended on the property after the date of transfer.
  - IV. Borrower will cooperate with the DEP and/or the Agency so that all assisted properties will be elevated, repaired, reconstructed or newly-constructed (including both commercial and residential properties) in

accordance with the newly-released FEMA Base Flood Elevation Maps (reference table 2-6 in the state's Action Plan).

- V. In accordance with 24 CFR 58.6(b), Borrower acknowledges that the Agency will not provide any Agency funding to a small business that had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance and the small business failed to obtain and maintain such insurance.
- VI. The Borrower acknowledges that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities, issued by the EPA pursuant to 40 CFR 15.20.
- VII. Prompt notice must be given of any notification received from the Director, Office of Federal Activities, and EPA, indicating that a facility utilized or to be utilized for the Loan under consideration is to be listed on the EPA list of Violating Facilities.
- VIII. In no event shall any amount of assistance provided under this ADDENDUM be utilized with respect to a facility which has given rise to a conviction under section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.
- IX. The Borrower agrees to comply with all the requirements of section 114 of the Clean Air Act, as amended (42 USC 1857c-8-0 and section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said section 114 and 308, and all regulations and guidelines issued thereunder.
- X. The Borrower acknowledges that all work has ceased on the Project pending final DEP and/or Agency environmental review approval.
- XI. Borrower will comply with:
1. Executive Order 11990, Protection of Wetlands;
  2. the Coastal Zone Management Act Sections 307( c)(d);
  3. In relation to water quality:
    - a. Executive Order 12088, as amended by Executive Order 12580, relating to the prevention, control and abatement of water pollution;
    - b. The Safe Drinking Water Act of 1974 (42 U.S.C. §§ 201, 300(f) et seq. and U.S.C. §349), as amended, particularly Section 1424(e) (42 U.S.C. §§ 300h-303(e)), which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and

- c. Executive Order 12088, as amended by Executive Order 12580, relating to the prevention, control and abatement of water pollution; The Federal Water Pollution Control Act of 1972, as amended, including the Clean Water Act of 1977, Public Law 92-212 (33 U.S.C. §1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.
4. The Endangered Species Act of 1973 (50 CFR 402), as amended;
5. The Fish and Wildlife Coordination Act of 1958, as amended;
6. Wild and Scenic Rivers Act of 1968 {Sections 7(b) and (c)}, as amended;
7. Executive Order 11738, providing for administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans, and EPA regulations (40 CFR part 15);
8. The Clean Air Act of 1970 (Sections 176(c), (d), and 40 CFR 6, 51, 93), which prohibits engaging in, supporting in any way, or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards;
9. The Farmland Protection Policy Act, 7 U.S.C.A. §4201 et seq., which requires recipients of federal assistance to minimize the extent to which their projects contribute to the unnecessary and irreversible commitment of farmland to nonagricultural uses;
10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994;
11. Noise abatement and control requirement found at 24 CFR 51B;
12. Provisions of 24 CFR 51C, explosive and flammable operations;
13. Provisions of 24 CFR 58.5(i) relating to toxic chemicals and radioactive materials;
14. [Sections 1012 and 1013 of Title X of the Housing and Community Development Act of 1992 (Public Law 102-550, as amended). The regulation appears within Title 24 of the Code of

Federal Regulation as part 35 (codified in 24 CFR 35). The purpose of this regulation is to protect young children from lead-based paint hazards in housing that is financially assisted by the Federal government or sold by the government. This regulation applies only to structures built prior to 1978. It will also comply with the Lead Safety Housing Regulation covering prohibited methods of paint removal (24 CFR Part 35.140) and occupant protection (24 CFR Part 35.1345);]

15. Borrower will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901, et seq.);
  16. Borrower will comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871).
- XII. Borrower agrees that the use of lead-based paint, that is any paint containing more than 1%- lead by weight, is strictly prohibited from use on any interior surface or exterior surface in any building being rehabilitated. Additionally, any evidence of a health hazard, which is, defined as cracking, scaling, peeling and loose lead-based paint must be treated to prevent the ingestion of the contaminated paint. It is further necessary to assume that any of the above conditions constitute an immediate or potential hazard and must be corrected using appropriate methods as detailed in Title IV of the Lead Based Paint Poisoning Prevention Act.

#### 10. LABOR STANDARDS

1. Borrower will adhere to the labor standards requirement set forth in 24 CFR §570.603 and any other regulations issued to implement such requirements;
2. Borrower will comply with Section 110 of the Housing and Community Development Act of 1974, as amended and as set forth in 24 CFR §570.603;
3. Borrower will comply with the Davis-Bacon Act, as amended (40 U.S.C. §3141 et seq.);
4. Borrower acknowledges that the prevailing wage rate shall be determined by the Davis-Bacon Act and not State prevailing wage pursuant to N.J.S.A. 55:14K-42;
5. Borrower will comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §327 et seq.), requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of

not less than one and one-half times their basic wage rates for all hours worked in excess of forty in a work-week;

6. Borrower will comply with the Federal Fair Labor Standards Act (29 U.S.C. §201 et seq.), requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week;
7. Borrower will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3);
8. Borrower will comply with the following HUD regulations and/or guidance:
  - 24 CFR 570.489(l): Debarment and suspension.
  - 24 CFR 570.603: Labor standards.
  - 24 CFR 570.609: Use of debarred, suspended, or ineligible contractors or sub-recipients.
  - Form HUD 4010 Federal Labor Standards Provisions
9. Borrower will comply with the following United States Department of Labor regulations in parallel with HUD requirements above:
  - 29 CFR Part 1: Procedures for Predetermination of Wage Rates.
  - 29 CFR Part 3: Contractors and Sub-contractors on Public Building or Public Work Financed In Whole or In Part by Loans or Grants from the United States.
  - 29 CFR Part 5: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also, Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contracts Work Hours and Safety Standards Act).
  - 29 CFR Part 5: Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also, Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contracts Work Hours and Safety Standards Act).
  - 29 CFR Part 6: Rules of Practice for Administrative Proceedings Enforcing Labor Standards in Federal and Federally Assisted Construction Contracts and Federal Service Contracts.
  - 29 CFR Part 7: Practice before the Administrative Review Board With Regard to Federal and Federally Assisted Construction Contracts.

## 11. EQUAL OPPORTUNITY

*For Contracts above \$10,000:*

1. During the Agency funding term, the Borrower agrees as follows:
  - a) It will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. It will take affirmative

action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. It agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.

- b) It will, in all solicitations or advertisements for employees, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- c) It will send to each labor union or representative of workers with which it has a collective bargaining agreement or other Contract or understanding, a notice to be provided advising the said labor union or workers' representatives of their commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d) It will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- e) It will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f) In the event of the Borrower's noncompliance with the nondiscrimination clauses of this Addendum or with any of the said rules, regulations, or orders, this Loan may be canceled, terminated, or suspended in whole or in part and the Borrower may be declared ineligible for further Government Contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g) It agrees to include the provisions a through f in this Equal Opportunity Section in every contract, sub-contract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, sub-contractor or vendor.
- h) It agrees to comply with Executive Order 11246 as to maintaining non-segregated facilities and establishments and does not permit employees to perform services at any location under their control where segregated facilities are maintained.

*For Loans \$10,000 and below:*

- a) Borrower shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. It shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- b) It shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. They shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- c) The Borrower and all contractors and sub-contractors shall incorporate the foregoing requirements in all contracts.

## 12. ACQUISITION AND RELOCATION

Borrower agrees to comply with the following statutes and regulations:

1. Title II (Uniform Relocation Assistance) and Sections 301-304 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Chapter 61), and HUD implementing instructions at 24 CFR Part 42 and 24 CFR §570.606;
2. Section 104(d) of the Housing and Community Development Act of 1974, as amended;
3. It will comply with 42 U.S.C. 3537c (Prohibition of Lump Sum Payments);
4. It will comply with 49 CFR Part 24 (Uniform Relocation and Real Property Acquisition ("URA") for Federal and Federally-Assisted Programs);
5. URA Fixed Residential Moving Cost Schedule;
6. 24 CFR Part 42 (Displacement, Relocation Assistance and Real Property Acquisition for HUD and HUD-Assisted Programs); and
7. 24 CFR 570.606 (Displacement, Relocation, Acquisition and Replacement of Housing).

Borrower agrees to provide relocation assistance to those that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-DR assisted

project, with the exception of:

1. The one-for-one replacement requirements at Section 104(d)(2)(A)(i)–(ii) and (d)(3) and 24 CFR 42.375 which have been waived by HUD;
2. The relocation assistance requirements at section 104(d)(2)(A) and 24 CFR 42.350 to the extent that they differ from the requirements of the URA and implementing regulations at 49 CFR part 24, as modified by the Act for activities related to disaster recovery;
3. Arms-length voluntary purchase requirements at 49 CFR 24.101(b)(2)(i)–(ii) are waived to the extent that they apply to an arm’s length voluntary purchase carried out by a person who uses funds allocated under this Addendum and does not have the power of eminent domain;
4. Rental assistance to a displaced person: The requirements at sections 204(a) and 206 of the URA, and 49 CFR 24.2(a)(6)(viii), 24.402(b)(2), and 24.404 are waived to the extent that they require the Borrower to use 30 percent of a low-income displaced person’s household income in computing a rental assistance payment if the person had been paying more than 30 percent of household income in rent/utilities without “demonstrable hardship” before the project;
5. Tenant-based rental assistance requirements of sections 204 and 205 of the URA, and 49 CFR 24.2(a)(6)(ix) and 24.402(b) are waived to the extent necessary to permit a Borrower to meet all or a portion of a Borrower’s replacement housing financial assistance obligation to a displaced tenant by offering rental housing through a tenant-based rental assistance (TBRA) housing program subsidy, provided that the tenant is provided referrals to comparable replacement dwellings in accordance with 49 CFR 24.204(a) where the owner is willing to participate in the TBRA program, and the period of authorized assistance is at least 42 months;
6. Moving expense requirements at section 202(b) of the URA and 49 CFR 24.302; the Borrower may instead choose to establish a “moving expense and dislocation allowance” under a schedule of allowances that is reasonable takes into account the number of rooms in the displacement dwelling; and

---

The regulation at 24 CFR 570.606(d) is waived to the extent that it requires optional relocation policies to be established; units of local government receiving CDBG-DR funds may establish separate optional policies.

### 13. FAIR HOUSING AND NON-DISCRIMINATION

Any act of unlawful discrimination committed by Borrower or failure to comply with the following statutory and regulatory obligations when applicable shall be grounds for termination of the Loan and this Addendum or other enforcement action; and Borrower agrees to comply with:

1. Title VI of the Civil Rights Act of 1964 and as amended in 1988, 42 U.S.C. §200d et seq., as amended, and the regulations issued pursuant thereto (24 CFR Part1), which provide that no person in the United States shall on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Project receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extended to the Borrower, this assurance shall obligate the Borrower, or in the case of any transfer of such property, and transferee, for the period during which the property or structure is used for another purpose involving the provision of similar services or benefits.
2. Architectural Barriers Act of 1968, as amended 42 U.S.C. § 4151 et seq.
3. Title IX of the Education Amendments Act of 1972, as amended 20 U.S.C. §1681 et seq.
4. Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. §701, which provides that no otherwise qualified individual shall, solely by reason of his or her handicap be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program receiving federal funding assistance, with special provisions for Grantees with 15 or more employees requiring a formal, written grievance procedure for resolution of complaints.
5. Section 508 of the Rehabilitation Act of 1973 as amended 29 U.S.C. §794, requiring that electronic and information technology be accessible to people with disabilities, including employees and members of the public.
6. Section 109 of Title I of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part §570.602), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under that Part. Section 109 further prohibits discrimination to an otherwise qualified individual with a handicap, as provided under Section 504 of the Rehabilitation Act of 1973, as amended, and prohibits discrimination based on age as provided under the Age Discrimination Act of 1975. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR Part 6.
7. Section 104(b) (2) of the Housing Community Development Act of 1974, implementing Section 109.
8. Age Discrimination Act of 1975 (42 U.S.C. 1601 et seq.), prohibiting discrimination on the basis of age.
9. Title II of the Americans with Disabilities Act of 1990, prohibiting discrimination and ensuring equal opportunity for persons with disabilities in employment, and commercial facilities.

10. Title III of the Americans with Disabilities Act of 1990 (42 U.S.C.A. § 12101 et seq.).
11. Borrower must use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of the Loan Documents. As used in this Addendum, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Borrower may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.
12. Section 3, Housing and Urban Development Act of 1968. Section 3 requirements will apply to all individual properties assisted with these funds if amounts exceed \$100,000, regardless of the actual amount spent on each individual unit/property. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Addendum, shall be a condition of the Federal financial assistance provided under the Loan Documents and binding upon the Borrower and third-party entities. The Borrower certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

These responsibilities include:

- a. Making efforts to meet the minimum numerical goals found at 24 CFR Part 135.30;
- b. Complying with the specific responsibilities at 24 CFR Part 135.32; and
- c. Submitting Annual Summary reports in accordance with 24 CFR Part 135.90.

---

**The following language must be included in all contracts and sub-contracts if the award exceeds \$100,000:**

- a. The work to be performed under the contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- b. Borrower will comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by its execution of this Addendum Borrower certifies that it is under no contractual or other impediment that would prevent it from complying with the part 135 regulations.
- c. The Borrower agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Borrower's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- d. The Borrower agrees to include this section 3 clause in every sub-contract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the contract or in this section 3 clause, upon a finding that the contractor is in violation of the regulations in 24 CFR part 135. The Borrower will not sub-contract with any sub-contractor where the Borrower has notice or knowledge that the sub-contractor has been found in violation of the regulations in 24 CFR part 135.
- e. The Borrower will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor or sub-contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Borrower's obligations under 24 CFR part 135.
- f. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of the Loan, and debarment or suspension from future HUD assisted contracts and loans.

Borrower will further comply with:

- a. Executive Order 11246: EEO and Affirmative Action Guidelines for Federal Contracts Regarding Race, Color, Gender, Religion, and National Origin, September 25, 1965 and Executive Order 11375: Amending Executive Order No. 11246, October 13, 1967, which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted construction contracts. Further contractors

and sub-contractors on federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training and apprenticeship.

During the performance of the Loan Documents, the Borrower agrees as follows:

- i. It will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. It will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. It agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- ii. It will, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- iii. It will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Agency contracting officer, advising the labor union or workers' representative of the Borrower's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- iv. It will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- v. It will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant

thereto, and will permit access to his books, records, and accounts by the Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- vi. In the event of the Borrower's noncompliance with the nondiscrimination clauses of this Addendum or with any of such rules, regulations, or orders, the Loan cancelled, terminated, accelerated or suspended in whole or in part and the Borrower may be declared ineligible for further Government loans and/or contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
  
  - vii. It will include the provisions of paragraphs (1) through (7) in every contract and sub-contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each contractor, sub-contractor or vendor. It will take such action with respect to any contract or sub-contract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the Borrower becomes involved in, or is threatened with, litigation with a contractor, sub-contractor or vendor as a result of such direction, it may request the United States to enter into such litigation to protect the interests of the United States.
- 
- b. Executive Order 12086: Consolidation of Contracts compliance functions for equal employment opportunity, October 5, 1978.
  - c. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994.
  - d. Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency, August 11, 2000.

And Borrower affirms it will comply with implementing regulations for the above:

- I. 24 Code of Federal Regulations Part 1: Nondiscrimination in Federally Assisted Programs of HUD.
- II. 24 Code of Federal Regulations Part 5.105: Other Federal Requirements.
- III. 24 Code of Federal Regulations Part 6: Nondiscrimination in Programs, Activities Receiving Assistance under Title I of the Housing and Development Act of 1974.
- IV. 24 Code of Federal Regulations Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the HUD.
- V. 24 CFR Code of Federal Regulations Parts 50.4 (l) and 58.5 (j): Environmental Justice.
- VI. 24 Code of Federal Regulations Part 91.325(b) (5): Compliance with Anti-discrimination laws.
- VII. 24 Code of Federal Regulations Part 91.520: Performance Reports.
- VIII. 24 CFR Part 121: Collection of Data.
- IX. 24 CFR Part 135: Economic Opportunities for Low- and Very Low-Income Persons.
- X. 24 CFR Part 146: Non-discrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.
- XI. 24 Code of Federal Regulations Part 570.487(e): Contractual Barriers Act and Americans with Disabilities Act (State Community Development Block Grant grantees).
- XII. 24 Code of Federal Regulations Part 570.490(a) (b): Recordkeeping requirements.
- XIII. 24 Code of Federal Regulations 570.491: Performance Reviews and Audits.
- XIV. 24 Code of Federal Regulations Part 570.495(b): HCDA Section 109 nondiscrimination.
- XV. 24 Code of Federal Regulations Part 570.506(g): Fair Housing and equal opportunity records.
- XVI. 24 Code of Federal Regulations Part 570.608 and Part 35: Lead-Based Paint.

- XVII. 24 Code of Federal Regulations Part 570.614: Contractual Barriers Act and Americans with Disabilities Act.
- XVIII. 24 Code of Federal Regulations Part 570.904: Equal Opportunity and Fair Housing Review.
- XIX. 24 Code of Federal Regulations Part 570.912: Nondiscrimination compliance.

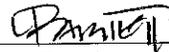
13. Section 503 of the Rehabilitation Act of 1973 requires the following clauses in all contracts and sub-contracts involving federal funds of \$10,000 or more.

1. Borrower will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Borrower agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. Borrower agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the Borrower's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the Act.
4. Borrower agrees to post in conspicuous places, available to employees and applicants for employment, notices stating the Borrower's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. Borrower will notify each labor union or representative of workers with which it has a collective bargaining agreement or other Loan Documents understanding, that the Borrower is bound by the terms of Section 503 of the Rehabilitation of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. Borrower will include the provisions of this clause in every contract, sub-contract or purchase order of \$10,000 or more of federal funding unless exempted by rules, regulations, or orders of the (federal)

secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each contractor, sub-contractor or vendor. The Borrower will take such action with respect to any contract, sub-contract and purchase order as the director of the Office of Federal Loan Documents Compliance Programs may direct to enforce such provisions, including action for non-compliance (41 CFR 60-741.4.4).

**BORROWER:**

Emerson Affordable Housing, LLC  
By: Housing Development Corporation of  
Bergen County, a New Jersey non-profit  
corporation  
Its manager and sole member



---

Lynn Bartlett  
Executive Director



Peter J. O'Connor, Esq.  
Kevin D. Walsh, Esq.  
Adam M. Gordon, Esq.  
Laura Smith-Denker, Esq.  
David T. Rammler, Esq.  
Joshua D. Bauers, Esq.

November 21, 2017

Wendy Rubinstein  
DeCotiis, FitzPatrick, Cole & Giblin, LLP  
Glenpointe Center West  
500 Frank W. Burr Blvd., Ste. 31  
Teaneck, New Jersey 07666

**Re: In the Matter of the Application of the Borough of Emerson, County of Bergen, Docket No. BER-L-6300-15**

Dear Ms. Rubinstein:

This letter memorializes the terms of an agreement reached between the Borough of Emerson (the Borough or "Emerson"), the declaratory judgment plaintiff, and Fair Share Housing Center (FSHC), a Supreme Court-designated interested party in this matter in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015)(Mount Laurel IV) and, through this settlement, a defendant in this proceeding.

#### **Background**

Emerson filed the above-captioned matter on July 8, 2015 seeking a declaration of its compliance with the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq. in accordance with In re N.J.A.C. 5:96 and 5:97, supra. Through the declaratory judgment process, the Borough and FSHC agreed to settle the litigation and to present that settlement to the trial court with jurisdiction over this matter to review, recognizing that the settlement of Mount Laurel litigation is favored because it avoids delays and the expense of trial and results more quickly in the construction of homes for lower-income households.

#### **Settlement terms**

The Borough and FSHC hereby agree to the following terms:

1. FSHC agrees that the Borough, through the adoption of a Housing Element and Fair Share Plan conforming with the terms of this Agreement (hereafter "the Plan") and through the implementation of the Plan and this Agreement, satisfies its obligations under the Mount Laurel doctrine and Fair Housing Act of 1985, N.J.S.A. 52:27D-301 et seq., for the Prior Round (1987-1999) and Third Round (1999-2025).
2. At this time and at this particular point in the process resulting from the Supreme Court's Mount Laurel IV decision, when Third Round fair share obligations have yet to be definitively determined, it is appropriate for the parties to arrive at a settlement regarding a municipality's Third Round present and prospective need instead of doing so through plenary adjudication of the present and prospective need.
3. FSHC and the Borough hereby agree that Emerson's affordable housing obligations are as follows:

Rehabilitation Share (per Kinsey Report <sup>1</sup> )	20
Prior Round Obligation (pursuant to N.J.A.C. 5:93)	74
Third Round (1999-2025) Prospective Need (per Kinsey Report, as adjusted through this Agreement)	234

4. For purposes of this Agreement, the Third Round Prospective Need shall be deemed to include the Gap Period Present Need, which is a measure of households formed from 1999-2015 that need affordable housing, that was recognized by the Supreme Court in In re Declaratory Judgment Actions Filed By Various Municipalities, 227 N.J. 508 (2017).
5. FSHC and the Borough agree that Emerson does not accept the basis of the methodology or calculation proffered by FSHC's consultant, David N. Kinsey, PhD, P.P., F.A.I.C.P. The Parties agree to the terms in this agreement solely for purposes of settlement of this action. Although the Borough does not accept the basis of the methodology or calculations proffered by FSHC's consultant, FSHC contends and is free to take the position before the Court that the 234 Third Round obligation should be accepted by the Court because it is based on the Prior Round methodology and reflects a reduction from Dr. Kinsey's May 2016 calculation of the Borough's Third Round prospective need.
6. The Borough's efforts to meet its present need include the following: Upon approval of this Settlement Agreement by the Court, the Borough will reserve at least \$200,000 (\$10,000 per unit hard costs) of its affordable housing trust fund account to complete up to 20 rehabilitations through the Affordable Critical Home Repair Program Agreement between the Borough and Habitat for Humanity of Bergen County, Inc. which shall include an experienced affordable housing rehabilitation program administrative agent. This is sufficient to satisfy the Borough's present need obligation of 20 units.
7. As noted above, the Borough has a Prior Round prospective need of 74 units. The Borough received a Prior Round vacant land adjustment with a RDP of 20, leaving a remaining unmet need of 54 units. The Borough has met its Prior Round RDP of 20 through the following compliance mechanisms:

Project	Senior	Rental	Street Address	Block and Lot	Credits
RCA with Ridgefield					5
New Concepts (Group Home / ALA)		X	43 Emerson Plaza West	Block 417, Lots 2 & 3	10
Rental Bonus Credits					5
<b>Total Prior Round Credits</b>					<b>20</b>

<sup>1</sup> David N. Kinsey, PhD, PP, FAICP, NEW JERSEY LOW AND MODERATE INCOME HOUSING OBLIGATIONS FOR 1999-2025 CALCULATED USING THE NJ COAH PRIOR ROUND (1987-1999) METHODOLOGY, May 2016.

8. The municipality, as calculated in Exhibit A to this Agreement, has a realistic development potential (RDP) of 53 units. That RDP will be satisfied as follows, as will be more fully described in Borough's Housing Element and Fair Share Plan:

Project	Senior	Rental	Street Address	Block and Lot	Credits
Veterans Housing (Group Home / ALA)		X	324 Main St	Block 304, Lot 3	14
Block 419 Project*		X		Block 419	29
Advancing Opportunities (Group Home / ALA)		X	5 Pine Drive	Block 313, Lot 17	3
Center for Hope and Safety (Group Home / ALA)		X			7
Emerson Grand		X	55 Emerson Plaza East	Block 616, Lot 16	4
Rental Bonus Credits					14
<b>Total Third Round Credits</b>					<b>71</b>

\* The Block 419 Project has a minimum 15% set-aside, or 22 units, with an option for off-site provision or payment-in-lieu for the remaining 7 units. If such option is exercised, the Borough will show at the midpoint review how it will provide a realistic opportunity for the remaining 7 units, in accordance with the provisions of this Agreement.

9. The Borough is providing a realistic opportunity for the Block 419 Project through its prior issuance of a Request for Proposals from redevelopers on January 8, 2016; publishing a ranking of the redeveloper respondents, and then executing a Redevelopment Agreement, First Amendment to Redevelopment Agreement and Second Amendment to Redevelopment Agreement (hereinafter collectively referred to as "Redevelopment Agreement" and attached hereto as Exhibit B) with Emerson Redevelopers Urban Renewal, LLC (Redeveloper), the selected redeveloper ranked the highest in the review by the Governing Body. The Redeveloper has been pursuing good faith negotiations with each of the property owners within the Block 419 Project area, and currently holds options for all but two of the properties. In the event the Redeveloper is not able to purchase one or more property(s) through good faith negotiations prior to the end of the first quarter of 2018, the Redeveloper shall request that the Borough assist it in purchasing such or acquiring such properties as permitted under N.J.S.A. 40A:12A-8(c), N.J.S.A. 20:3-1 et al., N.J.S.A. 52:27D-301 et al. and/or any other laws that grant the Borough the authority to acquire such properties. The Borough will expeditiously undertake good faith negotiations with any remaining property owner(s), and in the event that good faith negotiations are unsuccessful, the Borough is committed to moving to immediately acquire the property(ies) through eminent domain.

10. The Third Round RDP of 53, subtracted from the Third Round obligation of 234 units, plus the prior Round RDP of 20, subtracted from the Prior Round obligation of 74, results in an unmet need of 235 (181-unit Third Round unmet need plus a 54-unit Prior Round unmet need) which shall be addressed through the following mechanisms, as will be more fully described in the Borough's Housing Element and Fair Share Plan:

- a. 17 surplus credits from the above Third Round mechanisms;
  - b. The adoption of the Multi-Family Residential Affordable Housing Overlay Zone District North ("MFRAH North") inclusionary zoning district, on the following sites: Block 214, Lots 6, 7, 8.01, 8.02, and 9; Block 213, Lots 1-6; Block 405, Lots 1, 2, 3.01, 3.02, 4-14. The MFRAH North District will allow for a maximum gross density of 64 dwelling units per acre and will require a minimum of 15% of the multi-family housing constructed for rental purposes and a minimum of 20% of the multi-family housing constructed for sale purposes be set aside for affordable housing deed restricted units;
  - c. The adoption of the Multi-Family Residential Affordable Housing Overlay Zone District South ("MFRAH South") inclusionary zoning district on the following sites: Block 616; Lots 1, 2, 16, 17, 19-24; and Block 617.01, Lots 2.01, 2.02 and 8. The MFRAH South District will allow for a maximum gross density of 43 dwelling units per acre and will require a minimum of 15% of the multi-family housing constructed for rental purposes and a minimum of 20% of the multi-family housing constructed for sale purposes be set aside for affordable housing deed restricted units;
  - d. As an additional mechanism to address unmet need, the Borough will adopt a mandatory set-aside ordinance in a form satisfactory to FSHC and the Special Master, so as to establish zoning standards that provide for an inclusionary zoning requirement on future multifamily residential development at a density of at least six (6) units per acre, yielding at least five (5) new dwelling units in the Borough that become permissible through planning board approval, zoning board approval, or a new or amended redevelopment or rehabilitation plan. The Borough will require a set-aside of at least 15 percent of all units in rental developments as affordable, and 20 percent of all units in for-sale developments as affordable, with at least 50 percent of the units in each development being affordable to low-income households including 13 percent in rental developments affordable to very-low-income households, with all such affordable units including the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, and all other applicable law. Language shall be included in the Ordinance to explicitly address that developers cannot, for example, subdivide a project into two lots and then make each of them a number of units just below the threshold. This ordinance does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of the Borough to grant such rezoning, variance, or other relief.
11. The Borough agrees to require 13% of all units referenced in this Agreement, excepting those units that were constructed or granted preliminary or final site plan approval prior to July 1, 2008, to be very low income units, with half of the very low income units being available to families. Based upon the agreed Third Round RDP of '53, there is a requirement for 8 units to be reserved for very low income households. The Borough will comply with those requirements as follows:
- a. At least three (3) units at the JMF Redevelopment will provide for very low income family housing. If all 29 affordable units will be built on-site, then four (4) will be very low income units.
  - b. The three (3) beds at Advancing Opportunities provide very low income housing.
  - c. The seven (7) bedrooms at the Center for Hope and Safety provide very low income housing;

- d. 13% very low income set-aside of the total affordable units would be imposed on each development within the MFRAH North and the MFRAH South and resulting from the mandatory set-aside ordinance.
12. The Borough shall meet its Third Round Prospective Need in accordance with the following standards as agreed to by the Parties and reflected in the table in paragraph 8 above:
    - a. Third Round bonuses will be applied in accordance with N.J.A.C. 5:93-5.15(d).
    - b. At least 50% of the units addressing the Third Round Prospective Need shall be affordable to very-low-income and low-income households with the remainder affordable to moderate-income households.
    - c. At least 25% of the Third Round Prospective Need shall be met through rental units, including at least half in rental units available to families.
    - d. At least half of the units addressing the Third Round Prospective Need in total must be available to families.
    - e. The Borough agrees to comply with an age-restricted cap of 25% and to not request a waiver of that requirement. This shall be understood to mean that in no circumstance may the municipality claim credit toward its fair share obligation for age-restricted units that exceed 25% of all units developed or planned to meet its cumulative prior round and third round fair share obligation.
  13. The Borough shall add to the list of community and regional organizations in its affirmative marketing plan, pursuant to N.J.A.C. 5:80-26.15(f)(5), Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, the Bergen County Chapter of the NAACP, and Bergen County Urban League, and shall, as part of its regional affirmative marketing strategies during its implementation of the affirmative marketing plan, provide notice to those organizations of all available affordable housing units. The Borough also agrees to require any other entities, including developers or persons or companies retained to do affirmative marketing, to comply with this paragraph.
  14. All units shall include the required bedroom distribution, be governed by controls on affordability and affirmatively marketed in conformance with the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et. seq. or any successor regulation, with the exception that in lieu of 10 percent of affordable units in rental projects being required to be at 35 percent of median income, 13 percent of affordable units in such projects shall be required to be at 30 percent of median income, and all other applicable law. The Borough as part of its HEFSP shall adopt and/or update appropriate implementing ordinances in conformance with standard ordinances and guidelines developed by COAH to ensure that this provision is satisfied. Income limits for all units that are part of the Plan required by this Agreement and for which income limits are not already established through a federal program exempted from the Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26.1 shall be updated by the Borough annually within 30 days of the publication of determinations of median income by HUD as follows:
    - a. Regional income limits shall be established for the region that the Borough is located within (i.e. Region 1) based on the median income by household size, which shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD. To compute this regional income limit, the HUD determination of median county income for a family of four is multiplied

by the estimated households within the county according to the most recent decennial Census. The resulting product for each county within the housing region is summed. The sum is divided by the estimated total households from the most recent decennial Census in the Borough's housing region. This quotient represents the regional weighted average of median income for a household of four. The income limit for a moderate-income unit for a household of four shall be 80 percent of the regional weighted average median income for a family of four. The income limit for a low-income unit for a household of four shall be 50 percent of the HUD determination of the regional weighted average median income for a family of four. The income limit for a very low income unit for a household of four shall be 30 percent of the regional weighted average median income for a family of four. These income limits shall be adjusted by household size based on multipliers used by HUD to adjust median income by household size. In no event shall the income limits be less than those for the previous year.

- b. The income limits attached hereto as Exhibit C are the result of applying the percentages set forth in paragraph (a) above to HUD's determination of median income for FY 2017, and shall be utilized until the Borough updates the income limits after HUD has published revised determinations of median income for the next fiscal year.
- c. The Regional Asset Limit used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)3 shall be calculated by the Borough annually by taking the percentage increase of the income limits calculated pursuant to paragraph (a) above over the previous year's income limits; and applying the same percentage increase to the Regional Asset Limit from the prior year. In no event shall the Regional Asset Limit be less than that for the previous year.
- d. The parties agree to request the Court prior to or at the fairness hearing in this matter to enter an order implementing this paragraph of this Agreement.

15. All new construction units shall be adaptable in conformance with P.L.2005, c.350/N.J.S.A. 52:27D-311a and -311b and all other applicable law.

16. As an essential term of this Agreement, within one hundred and twenty (120) days of Court's approval of this Agreement, the Borough shall introduce an ordinance or ordinances providing for the amendment of the Borough's Affordable Housing Ordinance and Zoning Ordinance to implement the terms of this Agreement and the zoning contemplated herein and adopt a Housing Element and Fair Share Plan and Spending Plan in conformance with the terms of this Agreement.

17. The parties agree that if a decision of a court of competent jurisdiction in Bergen County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an obligation for the Borough for the period 1999-2025 that would be lower by more than ten (10%) percent than the total prospective Third Round need obligation established in this Agreement, and if that calculation is memorialized in an unappealable final judgment, the Borough may seek to amend the judgment in this matter to reduce its fair share obligation accordingly. Notwithstanding any such reduction, the Borough shall be obligated to adopt a Housing Element and Fair Share Plan that conforms to the terms of this Agreement and to implement all compliance mechanisms included in this Agreement, including by adopting or leaving in place any site specific zoning adopted or relied upon in connection with the Plan adopted pursuant to this Agreement; taking all

steps necessary to support the development of any 100% affordable developments referenced herein; maintaining all mechanisms to address unmet need; and otherwise fulfilling fully the fair share obligations as established herein. The reduction of the Borough's obligation below that established in this Agreement does not provide a basis for seeking leave to amend this Agreement or seeking leave to amend an order or judgment pursuant to R. 4:50-1. If the Borough prevails in reducing its prospective need for the Third Round, the Borough may carry over any resulting extra credits to future rounds in conformance with the then-applicable law.

18. The Borough shall prepare a Spending Plan within the period referenced above, subject to the review of FSHC and approval of the Court, and reserves the right to seek approval from the Court that the expenditures of funds contemplated under the Spending Plan constitute "commitment" for expenditure pursuant to N.J.S.A. 52:27D-329.2 and -329.3, with the four-year time period for expenditure designated pursuant to those provisions beginning to run with the entry of a final judgment approving this settlement in accordance with the provisions of In re Tp. Of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563). On the first anniversary of the granting of a Final Judgment of Compliance and Repose or judicial equivalent to substantive certification and on every anniversary of that date thereafter through the end of the period of protection from litigation referenced in this Agreement, the Borough agrees to provide annual reporting of trust fund activity to the New Jersey Department of Community Affairs, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs. The reporting shall include an accounting of all housing trust fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended. Such forms shall be provided to the Borough prior to the compliance hearing.
19. On the first anniversary of the granting of a Final Judgment of Compliance and Repose or judicial equivalent of substantive certification, and every anniversary thereafter through the end of this Agreement, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by the Council on Affordable Housing or any other forms endorsed by the Special Master and FSHC. Such forms shall be provided to the Borough prior to the compliance hearing.
20. The Fair Housing Act includes two provisions regarding action to be taken by the Borough during the ten-year period of protection provided in this Agreement. The Borough agrees to comply with those provisions as follows:
  - a. For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its implementation of the Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented.

- b. For the review of very low income housing requirements required by N.J.S.A. 52:27D-329.1, within 30 days of the third anniversary of a Final Judgment of Compliance and Repose or judicial equivalent of substantive certification,, and every third year thereafter, the Borough will post on its municipal website, with a copy provided to Fair Share Housing Center, a status report as to its satisfaction of its very low income requirements, including the family very low income requirements referenced herein. Such posting shall invite any interested party to submit comments to the municipality and Fair Share Housing Center on the issue of whether the municipality has complied with its very low income housing obligation under the terms of this settlement.
21. FSHC is hereby deemed to have party status in this matter and to have intervened in this matter as a defendant without the need to file a motion to intervene or an answer or other pleading. The parties to this Agreement agree to request the Court to enter an order declaring FSHC is an intervenor, but the absence of such an order shall not impact FSHC's rights.
  22. This Agreement must be approved by the Court following a fairness hearing as required by Morris Cty. Fair Hous. Council v. Boonton Twp., 197 N.J. Super. 359, 367-69 (Law Div. 1984), aff'd o.b., 209 N.J. Super. 108 (App. Div. 1986); East/West Venture v. Borough of Fort Lee, 286 N.J. Super. 311, 328-29 (App. Div. 1996). The Borough shall present its planner as a witness at this hearing. FSHC agrees to support this Agreement at the fairness hearing. In the event the Court approves this proposed settlement, the parties agree the Borough will receive a Judgment of Compliance and Repose or "the judicial equivalent of substantive certification and accompanying protection as provided under the FHA," as addressed in the Supreme Court's decision in In re N.J.A.C. 5:96 & 5:97, 221 N.J. 1, 36 (2015), which shall be determined by the trial judge and both parties agree not to appeal the decision of the trial judge as to whether the Borough receives a Judgment of Compliance and Repose or the judicial equivalent of substantive certification. The "accompanying protection" shall remain in effect through July 1, 2025. If this Agreement is rejected by the Court at a fairness hearing it shall be null and void.
  23. The Borough agrees to pay FSHC's attorneys fees and costs in the amount of \$7,500 within thirty (30) days of the Court's approval of this Agreement pursuant to a duly-noticed fairness hearing.
  24. If an appeal is filed of the Court's approval or rejection of this Agreement, the Parties agree to defend the Agreement on appeal, including in proceedings before the Superior Court, Appellate Division and New Jersey Supreme Court, and to continue to implement the terms of this Agreement if the Agreement is approved before the trial court unless and until an appeal of the trial court's approval is successful, at which point the Parties reserve their right to rescind any action taken in anticipation of the trial court's approval. All Parties shall have an obligation to fulfill the intent and purpose of this Agreement.
  25. This Agreement may be enforced through a motion to enforce litigant's rights or a separate action filed in Superior Court, Bergen County. A prevailing movant or plaintiff in such a motion or separate action shall be entitled to reasonable attorney's fees.
  26. Unless otherwise specified, it is intended that the provisions of this Agreement are to be severable. The validity of any article, section, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, clauses or provisions hereof. If

any section of this Agreement shall be adjudged by a court to be invalid, illegal, or unenforceable in any respect, such determination shall not affect the remaining sections.

27. This Agreement shall be governed by and construed by the laws of the State of New Jersey.
28. This Agreement may not be modified, amended or altered in any way except by a writing signed by each of the Parties.
29. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same Agreement.
30. The Parties acknowledge that each has entered into this Agreement on its own volition without coercion or duress after consulting with its counsel, that each party is the proper person and possess the authority to sign the Agreement, that this Agreement contains the entire understanding of the Parties and that there are no representations, warranties, covenants or undertakings other than those expressly set forth herein.
31. Each of the Parties hereto acknowledges that this Agreement was not drafted by any one of the Parties, but was drafted, negotiated and reviewed by all Parties and, therefore, the presumption of resolving ambiguities against the drafter shall not apply. Each of the Parties expressly represents to the other Parties that: (i) it has been represented by counsel in connection with negotiating the terms of this Agreement; and (ii) it has conferred due authority for execution of this Agreement upon the persons executing it.
32. Any and all Exhibits and Schedules annexed to this Agreement are hereby made a part of this Agreement by this reference thereto. Any and all Exhibits and Schedules now and/or in the future are hereby made or will be made a part of this Agreement with prior written approval of both Parties.
33. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof except as otherwise provided herein.
34. No member, official or employee of the Borough shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law, absent the need to invoke the rule of necessity.
35. Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date upon which all of the Parties hereto have executed and delivered this Agreement.
36. All notices required under this Agreement ("Notice[s]") shall be written and shall be served upon the respective Parties by certified mail, return receipt requested, or by a recognized overnight or by a personal carrier. In addition, where feasible (for example, transmittals of less than fifty pages) shall be served by facsimile or e-mail. All Notices shall be deemed received upon the date of delivery. Delivery shall be affected as follows, subject to change as to the person(s) to be notified and/or their respective addresses upon ten (10) days notice as provided herein:

**TO FSHC:**

Adam M. Gordon Esq.  
Fair Share Housing Center  
510 Park Boulevard  
Cherry Hill, NJ 08002  
Phone: (856) 665-5444

Telecopier: (856) 663-8182  
E-mail: adamgordon@fairsharehousing.org

**TO THE BOROUGH:**

Wendy Rubinstein  
DeCotiis, FitzPatrick, Cole & Giblin, LLP  
Glenpointe Center West  
500 Frank W. Burr Blvd., Ste. 31  
Teaneck, New Jersey 07666  
Phone: (201) 928-1100  
Telecopier: (201) 928-0588  
Email: wrubinstein@decotiislaw.com

**WITH A COPY TO THE  
MUNICIPAL CLERK:**

Jane Dietsche  
1 Municipal Place  
Emerson, NJ 07630  
Phone: (201) 262-6086  
Telecopier: (201)-262-0938  
Email: clerk@emersonnj.org

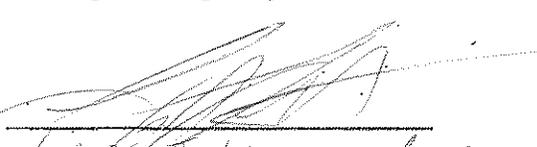
Please sign below if these terms are acceptable.

Sincerely,



Adam M. Gordon, Esq.  
Counsel for Intervenor/Interested Party  
Fair Share Housing Center

On behalf of the Borough of Emerson, with the authorization  
of the governing body:



Louise S. Lomonaco, Mayor  
Dated: 11/29/17

**EXHIBIT A: THIRD ROUND VACANT LAND ADJUSTMENT**

*(The following table content is extremely faint and largely illegible due to low contrast and scan quality. It appears to be a list of land parcels with associated data columns.)*

Parcel ID	Area (Acres)	Current Use	Proposed Use	Value
100-1-1-1-1	1.2	Vacant	Residential	\$150,000
100-1-1-1-2	0.8	Vacant	Residential	\$100,000
100-1-1-1-3	2.5	Vacant	Residential	\$300,000
100-1-1-1-4	1.5	Vacant	Residential	\$180,000
100-1-1-1-5	3.0	Vacant	Residential	\$360,000
100-1-1-1-6	1.8	Vacant	Residential	\$216,000
100-1-1-1-7	0.5	Vacant	Residential	\$60,000
100-1-1-1-8	1.0	Vacant	Residential	\$120,000
100-1-1-1-9	2.0	Vacant	Residential	\$240,000
100-1-1-1-10	1.5	Vacant	Residential	\$180,000
100-1-1-1-11	0.7	Vacant	Residential	\$84,000
100-1-1-1-12	1.1	Vacant	Residential	\$132,000
100-1-1-1-13	0.9	Vacant	Residential	\$108,000
100-1-1-1-14	1.3	Vacant	Residential	\$156,000
100-1-1-1-15	1.6	Vacant	Residential	\$192,000
100-1-1-1-16	0.6	Vacant	Residential	\$72,000
100-1-1-1-17	1.4	Vacant	Residential	\$168,000
100-1-1-1-18	1.7	Vacant	Residential	\$204,000
100-1-1-1-19	0.8	Vacant	Residential	\$96,000
100-1-1-1-20	1.2	Vacant	Residential	\$144,000

**BOROUGH OF EMERSON: RDP DETERMINATION - NOVEMBER 21, 2017**

Block	Lot	Street Address / Development	Total Area	Unconstrained Area	Estimated Development Potential Density	Total Units	Number of Affordable Units With 20% Set Aside
<b>PRIOR ROUND RDP</b>							
1201	1	1650 Old Hook Road / Marek Farm	6.71	6.71	14 DU / AC *	90	18
417	2,3	43 Emerson Plaza West / New Concepts	0.83	0.83	14 DU / AC *	12	2
<b>* PER COURT ORDER FROM PRIOR ROUND</b>							
<b>THIRD ROUND RDP</b>							
<b>BURNS AND ROE GROUP SITE</b>							
610	9.01	2 Lois Avenue	0.53	0.47			
613	2.7	Lois Avenue	1.09	0.97			
<b>EMERSON GOLF CLUB PARCELS</b>			<b>Subtotal</b>	<b>1.44</b>	<b>8 DU / AC</b>	<b>12</b>	<b>2</b>
617.01	7.01	99 Pallsades	5.13	5.13			
617.01	7.03	99 Pallsades	1.87	1.87			
<b>OTHER DEVELOPMENT</b>			<b>Subtotal</b>	<b>7.00</b>	<b>8 DU / AC</b>	<b>56</b>	<b>11</b>
616	1.6	55 Emerson Plaza East / Emerson Grand	0.59		34 DU / AC	20	4
609	3	R2-ARC Contributory Site	~0.9		36 DU / AC	36	7
<b>REDEVELOPMENT</b>							
<b>419</b>							
	1	19 Lincoln Blvd			64 DU / AC		
	2	15 Lincoln Blvd					
	3	3 Lincoln Blvd					
	4	214 Kinderkamack Road					
	5	200 Kinderkamack Road					
	6.01	190 Kinderkamack					
	6.02	184 Kinderkamack Road					
	7	9 Kenneth Ave					
	8	182 Kinderkamack Road					
	9	176 Kinderkamack Road					
	10	78 Linwood Ave			147	29	
<b>THIRD ROUND RDP</b>							
							<b>53</b>

**EXHIBIT B: REDEVELOPMENT AGREEMENT**

---

---

Exh. B

**SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT**

This Second Amendment to Redevelopment Agreement is made this 20 day of

Nov., 2017 by and between the

**BOROUGH OF EMERSON**

146 Linwood Ave., Emerson, NJ 07630  
a municipal corporation of the State of New  
Jersey, located in the County of Bergen,  
(hereinafter referred to as "Borough")

**AND**

**EMERSON REDEVELOPERS URBAN RENEWAL, LLC**

a limited liability corporation of the State of New Jersey, having an office  
at 80 S. Jefferson Road, Suite 202, Whippany, NJ 07981  
(hereinafter referred to as "EMRED" or "Redeveloper")

**WHEREAS**, the Borough and Redeveloper entered into a Redevelopment Agreement on  
or about June 14, 2016 (the "Redevelopment Agreement") for the redevelopment of certain areas  
within the Central Business District Redevelopment Area, attached hereto as **Exhibit A**; and

**WHEREAS**, the Borough and the Redeveloper are desirous of amending and  
supplementing the Redevelopment Agreement to reflect their mutual understanding with respect  
to the implementation of the development and requirement of affordable housing units to be built  
on-site;

**WHEREAS**, the Borough and Redeveloper have agreed to amend and supplement the  
Redevelopment Agreement upon the terms and conditions set forth herein;

**NOW, THEREFORE**, for and in consideration of the promises and other good and  
valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties  
hereto agree as follows:

1. All terms not defined in this Amendment shall have the same meaning as set forth in the Redevelopment Agreement.

2. The purpose and intent of this Amendment is to amend and supplement the affordable housing requirements.

3. Article 1, Section 1.01 entitled "Definitions" is amended as follows:

"Affordable Housing Requirements" shall mean the fair share housing requirement for the Project as established pursuant to the requirements of the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and all other applicable laws, and regulations promulgated by the Council on Affordable Housing and local ordinances that may be applicable to the Project. The ~~maximum~~ obligation shall be at least 20% set aside **[in accordance with Borough Ordinance 290-13.D]** and of which no less than 15% ~~may~~ **[shall]** be built on **[site]** and the remainder shall be provided for by any of the following options to: **(i) construct affordable units on-site; or (2) construct the affordable units elsewhere within the Borough ("Off-site"); or (3) make a payment in lieu of constructing the affordable units; or (4) provide a combination of a payment in lieu and on-site or Off-site construction. and/or offsite**

4. Article 4.01 entitled Project Costs is amended as follows:

All costs of implementing and Completing the Project including but not limited to the cost of obtaining all Governmental Approvals, the cost of the acquisition of the Property **[including the use of eminent domain to acquire the property under any authorizing statutes and/or regulations]**, any Remediation costs . . .

5. Article 4, Section 4.03.1 entitled "Alternate COAH Location" is deleted in its entirety and will be "intentionally left blank".

6. Article 5.01 entitled "Property" shall be amended and supplemented as follows:

. . . In the event the Redeveloper is not able to purchase any property set forth in Exhibit A the Redeveloper shall request that the Borough assist it in purchasing such or acquiring such properties as permitted under N.J.S.A. 40A:12A-8(c) **[, N.J.S.A. 20:3-1 et al., N.J.S.A. 52:27D-301 et al. and/or any other laws authorizing the Borough to acquire such properties.]** The Redeveloper shall pay and reimburse the Borough for any and all costs it may incur in assisting the Redeveloper in purchasing or acquiring such properties . . .

---

7. In all other respects, the Redevelopment Agreement remains in full force and effect.

8. This Second Amendment together with the First Amendment, any applicable Land Use Board Resolution(s), any Orders or Directives of any authorized Borough Official and the Redevelopment Agreement represents the entire understanding of the Borough and Redeveloper with respect to the subject matter of this Second Amendment. No further change or modification shall be effective unless in writing and signed by the Borough and the Redeveloper.

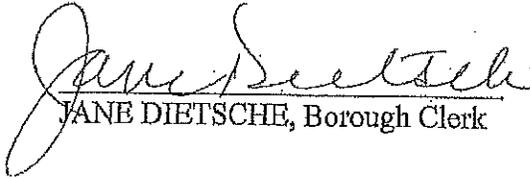
9. All the provisions of this Second Amendment to Redevelopment Agreement shall survive and shall remain in full force and effect, despite the expiration or completion of any other provisions of the Redevelopment Agreement or any other extinguishing or superseding event or document.

**IN WITNESS WHEREOF**, Redeveloper has hereunto caused this Second Amendment to Redevelopment Agreement to be signed by its proper authorized parties and has caused its proper seals, if any, to be affixed hereto. The Borough of Emerson has caused this instrument to be signed by its Mayor and attested by its Borough Clerk and does cause its proper corporate seal to be affixed as of the date and year first above written.

---

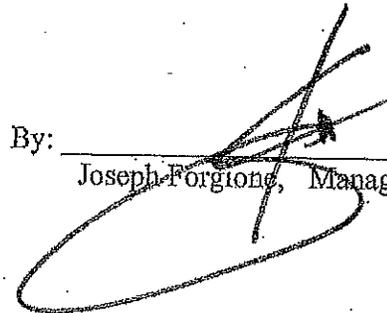
Witnessed and Attested to:

**BOROUGH OF EMERSON**

  
By: JANE DIETSCHÉ, Borough Clerk

  
LOUIS J. LAMATINA, Mayor

**EMERSON REDEVELOPERS URBAN RENEWAL, LLC**

By:   
Joseph Forgiato, Managing Member

**MUNICIPAL ACKNOWLEDGMENT**

STATE OF NEW JERSEY :

: SS

COUNTY OF BERGEN :

I CERTIFY that on 11/20, 2017,

JANE DIETSCHÉ personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the Municipal Clerk of the Borough of Emerson, the Municipal Corporation named in this document;

(b) this person is the attesting witness to the signing of this document by the proper Corporate Officer who is Louis J. Lamatina, the Mayor of the Municipal Corporation;

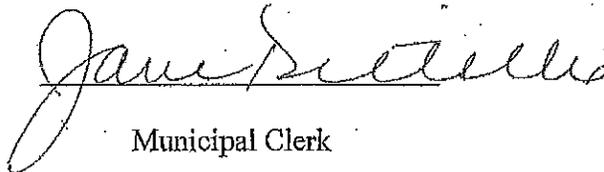
(c) this document was signed and delivered by the Municipal Corporation as its voluntary act duly authorized by a proper Resolution of its Municipal Council;

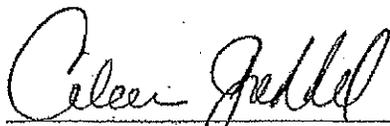
(d) this person knows the proper seal of the corporation which was affixed to this document; and

(e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on

11/20 2017.

  
Municipal Clerk



Notary Public, State of New Jersey

COLEEN A. GODDEL  
NOTARY PUBLIC - NEW JERSEY  
COMMISSION # 50086730  
MY COMMISSION EXPIRES AUGUST 23, 2022



**EXHIBIT A**

**Redevelopment Agreement**

**FIRST AMENDMENT TO REDEVELOPMENT AGREEMENT**

This First Amendment to Redevelopment Agreement is made this 4 day of October 2016 by and between the

**BOROUGH OF EMERSON**  
146 Linwood Ave., Emerson, NJ 07630  
A municipal corporation of the State of New Jersey, located in the County of Bergen, (hereinafter referred to as "Borough")

**AND**

**EMERSON REDEVELOPERS URBAN RENEWAL, LLC**  
A limited liability corporation of the State of New Jersey, having an office at 80 S. Jefferson Road, Suite 202, Whippany, NJ 07981 (hereinafter referred to as "EMRED" or "Redeveloper")

**WHEREAS**, the Borough and Redeveloper entered into a Redevelopment Agreement on or about June 14, 2016 (the "Redevelopment Agreement") for the redevelopment of certain areas within the Central Business District Redevelopment Area; and

**WHEREAS**, the Borough and the Redeveloper are desirous of amending and supplementing the Redevelopment Agreement to reflect their mutual understanding with respect to the implementation of the Redeveloper's proposal submitted to the Borough and the Borough's Redevelopment Plan;

**WHEREAS**, the Borough and Redeveloper have agreed to amend and supplement the Redevelopment Agreement upon the terms and conditions set forth herein;

**NOW, THEREFORE**, for and in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

---

1. All terms not defined in this Amendment shall have the same meaning as set forth in the Redevelopment Agreement.

2. The purpose and intent of this Amendment is to amend and supplement the description of the properties to be redeveloped to reflect the Redeveloper's proposal submitted to the Borough and in accordance with the Borough's Redevelopment Plan.

3. The property descriptions listed in Exhibit A of the Redevelopment Agreement, attached hereto as Exhibit A, is amended and supplemented to include the following additional information:

<u>Property Owner</u>	<u>Block</u>	<u>Lot</u>	<u>Property Address</u>
182 Emerson, LLC	419	9	176 Kinderkamack

3. The Funding Agreement attached to the Redevelopment Agreement as Exhibit E, shall be amended and supplemented, attached hereto as Exhibit B, to include Block 419, Lots 7 and 9 as redevelopment properties and are made part of the first "WHEREAS" clause, which shall now be deemed amended to read as follows:

WHEREAS, ERD seeks to redevelop the following property located in the Borough of Emerson identified on the Tax Maps of the Borough as Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9, and 10.

4. In all other respects, the Redevelopment Agreement remains in full force and effect.

5. This First Amendment together with the proposal, the Land Use Board Resolution(s), any Orders or Directives of any authorized Borough Official and the Redevelopment Agreement ~~represents the entire understanding of the Borough and Redeveloper with respect to the subject~~ matter of this First Amendment and the Redevelopment Agreement. No further change or modification shall be effective unless in writing and signed by the Borough and the Redeveloper.

6. All the provisions of this First Amendment to Redevelopment Agreement shall survive and shall remain in full force and effect, despite the expiration or completion of any other provisions of the Redevelopment Agreement or any other extinguishing or superseding event or document.

IN WITNESS WHEREOF, Redeveloper has hereunto caused this First Amendment to Redevelopment Agreement to be signed by its proper authorized parties and has caused its proper seals, if any, to be affixed hereto. The Borough of Emerson has caused this instrument to be signed by its Mayor and attested by its Borough Clerk and does cause its proper corporate seal to be affixed as of the date and year first above written.

Witnessed and Attested to:

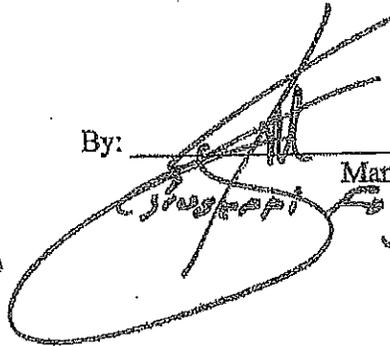
**BOROUGH OF EMERSON**

  
JANE DIETSCHKE, Borough Clerk

By:   
LOUIS J. LAMATINA, Mayor

Attested to:

**EMERSON REDEVELOPERS URBAN RENEWAL, LLC**

By:   
Joseph Fugère  
Managing Member

MUNICIPAL ACKNOWLEDGMENT

STATE OF NEW JERSEY:

: SS

COUNTY OF BERGEN :

I CERTIFY that on Oct. 6, 2016,

JANE DIETSCHKE personally came before me, and this person acknowledged under oath, to my satisfaction, that:

(a) this person is the Municipal Clerk of the Borough of Emerson, the Municipal Corporation named in this document;

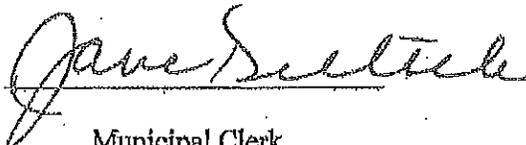
(b) this person is the attesting witness to the signing of this document by the proper Corporate Officer who is Louis J. Lamatina, the Mayor of the Municipal Corporation;

(c) this document was signed and delivered by the Municipal Corporation as its voluntary act duly authorized by a proper Resolution of its Municipal Council;

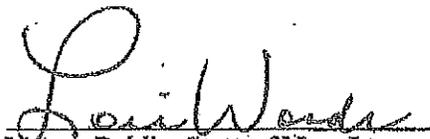
(d) this person knows the proper seal of the corporation which was affixed to this document; and

(e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on  
Oct. 6, 2016.



Municipal Clerk

  
Notary Public, State of New Jersey

**LORI A. WOODS**  
NOTARY PUBLIC, State of New Jersey  
No. 2459726  
Qualified in Bergen County  
Commission Expires Oct. 14, 2020



EXHIBIT A

Property Description

<u>Property Owner</u>	<u>Block</u>	<u>Lot</u>	<u>Property Address</u>
Angelo and Jane Giambona	419	1	19 Lincoln Blvd.
214 Kinderkamack, LLC	419	2	15 Lincoln Blvd.
214 Kinderkamack, LLC	419	3	9 Lincoln Blvd.
214 Kinderkamack, LLC	419	4	214 Kinderkamack
Dolores, Della Volpe Trust	419	6.01	190 Kinderkamack
Yaghoob Pousty	419	6.02	184 Kinderkamack
Borough of Emerson	419	7	
182 Emerson, LLC	419	8	182 Kinderkamack
182 Emerson, LLC	419	9	176 Kinderkamack
182 Emerson, LLC	419	10	78 Linwood

---

EXHIBIT B

Amended and Supplemented Funding Agreement

FUNDING AGREEMENT

THIS FUNDING AGREEMENT is dated this 4 day of Oct, 2016 among the BOROUGH OF EMERSON, a municipal corporation with offices at 146 Linwood Ave., Emerson, NJ 07630 (the "Borough") and EMERSON REDEVELOPERS, LLC, with offices located at 80 S. Jefferson Road, Suite 202, Whippany, NJ 07981 (hereinafter referred to as "ERD");

W-I-T-N-E-S-S-E-T-H:

WHEREAS, ERD seeks to redevelop the following property located in the Borough of Emerson identified on the Tax Maps of the Borough as Block 419; Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9, and 10 (the "Property"); and

WHEREAS, the Borough wishes to designate a redeveloper for the Redevelopment Area encompassing the Property; and

WHEREAS, ERD proposes to design, develop, finance and construct 134 units and 13,000 square feet of retail space ("the Project") and accordingly has requested the Borough consider appointing ERD as redeveloper for the Property; and

WHEREAS, ERD has agreed to pay the Application Fee as set forth herein and bear the costs for the Borough's professionals to assist the Borough in reviewing, among other things, whether ERD should be designated redeveloper for the Property, and in connection therewith has agreed to establish an escrow fund with the Borough to provide for the payment of professional fees, costs and expenses related thereto incurred by the Borough (the "Interim Costs");

NOW, THEREFORE, for and in consideration of the mutual promises, representations, covenants and agreements contained herein and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby and to bind its successors and assigns, do mutually promise, covenant and agree as follows:

1. Payment of Interim Costs.

Immediately upon the execution of this Funding Agreement, ERD shall pay Ten Thousand Dollars (\$10,000) (the "Escrow") to the Borough and the Borough shall deposit such funds into an escrow account established by it for the payment of the Interim Costs. Prior to the Borough's withdrawal of funds from the Escrow for the payment of the Interim Costs, the Borough shall provide ERD with a copy of each invoice reflecting Interim Costs to be paid. Unless ERD promptly (within fifteen (15) days of its receipt of any such copy) provides a written objection to any invoiced item as not being an Interim Cost, the Borough shall be free to withdraw funds from the Escrow for the payment of such invoiced services. If, when and as often as may occur that the Escrow is drawn down to or below Three Thousand Five Hundred Dollars \$3,500 then ERD, upon the Borough's request, shall immediately provide to the Borough

for deposit an additional amount sufficient to replenish the escrow to Ten Thousand Dollars (\$10,000) for use in accordance with these terms.

Interim Costs, for the purposes of this Funding Agreement, shall include the reasonably incurred out-of-pocket fees, costs and expenses incurred by the Borough (both before and after execution hereof) in reviewing the proposed development of the Property, including, but not limited to, fees for legal, engineering, planning and financial advisory services, including subsequent investigations and studies as may be reasonably determined and agreed to by the parties.

2. Application Fee -- Prior to the execution of a formal Redeveloper's Agreement the Borough shall impose a non-refundable fee in an amount to be determined based on the final concept plan, with any adjustment to the fee to be paid, if appropriate, when the Redevelopment Agreement is executed.

3. Notice. Any notice provided to the Borough hereunder shall be submitted in writing to:

Jane Dietsche, RMC, Borough Clerk  
146 Linwood Ave.  
Emerson, NJ 07630

with copies to:

Douglas F. Doyle  
Decotils, Fitzpatrick & Cole, LLP  
Glenpointe Centre West  
500 Frank W. Burr Blvd, Suite 31  
Teaneck, NJ 07666

Notices to ERD shall be submitted in writing to:

Emerson ReDevelopers, LLC  
Attn: Kevin X. Codey, Vice President of Land Acquisitions  
80 South Jefferson Road, Suite 202  
Whippany, NJ 07981

with copies to:

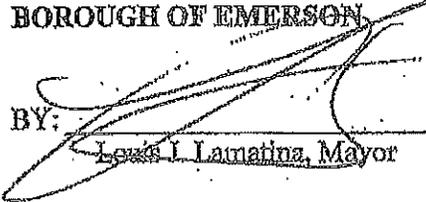
Carleton R. Kempf, Esq.  
6 Hampshire Court  
Springfield, NJ 07081

---

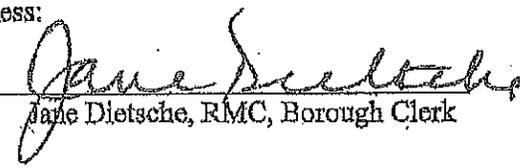
4. General - This Funding Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings between the parties. This Funding Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

IN WITNESS WHEREOF, the Parties hereto have caused this Funding Agreement to be executed, all as of the date first above written.

BOROUGH OF EMERSON

BY:   
Louis I. Lamatina, Mayor

Witness:

By:   
Jane Dietsche, RMC, Borough Clerk

AND

EMERSON REDEVELOPERS, LLC

BY:   
Name: Giuseppe Formone  
Title: Managing Director

**REDEVELOPMENT AGREEMENT**

**BY AND BETWEEN**

**THE BOROUGH OF EMERSON**

**AND**

**EMERSON REDEVELOPERS URBAN RENEWAL, LLC**

**Dated: June 27, 2016**

**THIS REDEVELOPMENT AGREEMENT** (the "Agreement") made this \_\_\_ day of June 2016 by and between

**THE BOROUGH OF EMERSON**, Bergen County, New Jersey, a municipal corporation with offices located at 146 Linwood Avenue, Emerson, New Jersey 07630 (hereinafter referred to as "Borough");

AND

**EMERSON REDEVELOPERS URBAN RENEWAL, LLC**, a limited liability corporation of the State of New Jersey, having an office at 80 S. Jefferson Road, Suite 202, Whippany, NJ 07981 (hereinafter referred to as the "EMRED" or "Redeveloper")

**WITNESSETH**

**WHEREAS**, capitalized terms used herein shall have the meaning given to them above, below or in Section 1.01; and

**WHEREAS**, all Block and Lot references used in this Agreement shall refer to Blocks and Lots appearing on the official tax maps of the Borough; and

**WHEREAS**, the Borough Governing Body authorized the Planning Board to conduct a preliminary investigation pursuant to N.J.S.A. 40A:12A-6 of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., (the "Act") to determine whether certain parcels of land in the Borough and located in the Borough constituted areas in need of redevelopment; and

**WHEREAS**, the Planning Board undertook said investigation and conducted a public hearing, all in accordance with N.J.S.A. 40A:12A-6; and

**WHEREAS**, thereafter the Planning Board found that, among others, the property described in the attached **Exhibit A** (the "Property" or "Properties") satisfied certain statutory criteria and thus constituted an area in need of redevelopment in accordance with N.J.S.A. 40A:12A-5 and N.J.S.A. 40A:12-6; and

**WHEREAS**, on September 7, 2004, the Borough Governing Body adopted Resolution No. 199-04, accepting the findings of the Planning Board and designating the Property as an area in need of redevelopment (the "Central Business District Redevelopment Area", as defined herein); and

WHEREAS, on April 3, 2006, the Borough adopted Ordinance No. 1305-06, adopting a Redevelopment Plan for the Central Business District Redevelopment Area; and

WHEREAS, the Borough Council is the Redevelopment Entity for the Central Business District Redevelopment Area; and

WHEREAS, on January 8, 2016, the Borough solicited proposals from redeveloper's to redevelop the Central Business District Redevelopment Area;

WHEREAS, EMRED together with other redeveloper's responded and submitted proposals to redevelop the Central Business District Redevelopment Area;

WHEREAS, JMF Properties responded (and ultimately formed EMRED to be the redevelopment entity) and other potential redevelopers made presentations to the Mayor and Council (the designated Redevelopment Agency) over the course of several meetings and the Mayor and Council selected EMRED with whom to negotiate a potential Redeveloper's Agreement;

WHEREAS, EMRED proposes to design, develop, finance and construct the Project as defined herein on the Property; and

WHEREAS, the Redeveloper agrees that the Property was legally and lawfully designated as an area in need of redevelopment in accordance with N.J.S.A. 40A:12A-1 et. seq., and such designation is unappealable and that the Property meets the statutory criteria as an area in need of redevelopment; and

WHEREAS, in furtherance of the Redeveloper's agreement that the designation of the area in need of redevelopment is legally valid and enforceable, and Redeveloper's waiver of the aforementioned notice, the Redeveloper has submitted to the Borough the Borough's form of application and executed a Funding Agreement with the Borough to pay the Borough's application fee and reimburse the Borough for its professional fees, costs and expenses associated with reviewing and assisting the Borough in connection with the proposed development of the Property, including but not limited, fees for legal services (including but not limited to negotiating the Redevelopment Agreement), professional planning services, engineering services, and financial advisory services and the Borough has designated the Redeveloper as the redeveloper for purposes of redeveloping the Property in accordance with the proposed concept plan attached hereto as **Exhibit B**; and

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project, the Borough has determined to enter into this redevelopment agreement with the Redeveloper (the "Redevelopment Agreement");

---

~~WHEREAS, JMF Properties has agreed to guaranty EMRED's financial obligations under this Redevelopment Agreement.~~

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereto do hereby covenant and agree, each with the other, as follows:

## ARTICLE 1.

### DEFINITIONS

**1.01. Definitions.** As used in this Agreement the following terms set forth in this Article shall have the meanings ascribed to such terms below. Terms listed below in the singular form shall include the plural and words listed in the plural shall include the singular. Whenever the context may require, any pronoun that is used in this Agreement shall include the corresponding masculine, feminine and neuter. Unless otherwise noted, the words "include," "includes" and "including" when used in this Agreement shall be deemed to be followed by the phrase "without limitation". The words "agree," "agreements," "approval" and "consent" when used in this Agreement shall be deemed to be followed by the phrase "which shall not be unreasonably withheld or unduly delayed," except or unless the context may otherwise specify or dictate. All references to Sections, Articles or Exhibits shall refer to Sections, Articles or Exhibits in this Agreement.

"Act" shall mean the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

"Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct common Control with such Person. For purposes of this definition the term "Control", as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management, operations and policies of such Person, whether through the ownership of voting securities or by contract.

"Affordable Housing Requirements" shall mean the fair share housing requirement for the Project as established pursuant to the requirements of the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and all other applicable laws, and regulations promulgated by the Council on Affordable Housing and local ordinances that may be applicable to the Project. The maximum obligation shall be 20% set aside and may be built on and/or offsite.

"Borough" shall mean the Borough of Emerson.

"Borough Costs" shall mean the reasonable out of pocket expenses incurred by the Borough for the fees and costs of any outside professional consultant, attorney, contractor or vendor retained by the Borough in connection with the Project which are

identified by the Funding Agreement executed by the Parties simultaneous to the execution of this Agreement.

**"Agreement"** shall mean this Redevelopment Agreement between the Borough and the Redeveloper.

**"Applicable Laws"** shall mean any and all federal, state and local laws, ordinances, approvals, rules, regulations and requirements including, but not limited to, the Act, the Municipal Land Use Law, the Redevelopment Plan, regulations promulgated by the Council on Affordable Housing, ("COAH"), construction codes including construction codes governing access for people with disabilities, fire codes, zoning codes, health or sanitary codes, pollution and environmental laws, rules and regulations applicable to the Project, Property and/or Project Plan or any aspect thereof.

**"Building Permit"** shall mean a building permit issued by or on behalf of the Borough pursuant to applicable Law.

**"Certificate of Completion"** shall mean a certificate from the Borough in recordable form issued, at the request of the Redeveloper, acknowledging that the Redeveloper has performed all of its duties and obligations under this Agreement, and has completed construction of the Project in accordance with the requirements of this Agreement.

**"Certificate of Occupancy"** shall mean the written certificate issued by the Borough of Emerson in accordance with N.J.S.A. 52:27D-133 relative to a unit of residential space constructed as part of the Project indicating that the subject unit of residential space has been completed in accordance with the construction permit, the Uniform Construction Code and all other Applicable Laws.

**"Commencement of Construction" or "Commence Construction"** shall mean the undertaking by the Redeveloper of any actual physical construction of any new structure, Improvements, Public Improvements and other infrastructure included as a component of any phase of the Project other than any activities related to the preparation of the site for such construction, or any activities related to the environmental remediation, mitigation or clean up of same.

**"Commencement Date"** shall mean the date on which the construction force and machinery is mobilized for construction on the Project as further set forth in Sections 5.04 and 5.09.

**"Completion Date" or "Completion of Construction"** shall mean the earlier of:  
(i) the date on which the Redeveloper receives a Certificate of Completion as provided for in Section 5.08 of this Agreement or 24 months from the Commencement Date, whichever is sooner.

**"Construction Period"** shall mean the period beginning on the Commencement Date and ending on the Completion Date.

**"Construction Plan"** shall mean the architectural and engineering plans prepared by the Redeveloper in conformance with the approved Final Site Plan, which plans shall be prepared in accordance with Applicable Laws and are to be submitted to the Borough for review and approval prior to the issuance of the necessary permits for Commencement of Construction.

**"Control"** (also referred to as **"Controlled by"** and **"under common Control with"**) shall be used with respect to any Person, and shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

**"Days"** shall mean calendar days when such term is used to denote time.

**"Declaration of Restrictions"** shall be a recordable document which includes (a) the provisions of Sections 3.02 to 3.05 inclusive and (b) the prohibition against transfers as set forth in Article 6 and (c) the Borough's remedies as set forth in Article 8.

**"Deeds"** shall mean any deed of conveyance from the Borough or any third Party to the Redeveloper conveying any parcel(s) of property owned or acquired by the Borough or such third party, pursuant to the terms and conditions of this Agreement.

**"Effective Date"** shall mean the date this Agreement is last executed by either the authorized officer of the Borough or by the authorized representative of the Redeveloper.

**"Emergency Municipal Services Building Project"** shall mean the new building the Borough will develop to relocate the volunteer ambulance corp as well as the police department facilities

**"Escrow Account"** shall be as defined in Section 4.02 and include amounts deposited by Redeveloper to cover the Borough's Costs.

**"Event of Default"** shall be as set forth in Article 8 hereof.

**"Final Site Plan"** shall mean the plan submitted to the Planning Board for Final Site Plan approval in accordance with the Redevelopment Plan and Applicable Law.

**"Financial Institution"** shall mean a bank, savings bank, savings and loan association, mortgage lender or insurance company, pension fund, real estate investment trust, investment bank, mutual fund or similarly recognized reputable source of construction and permanent financing for the Project, chartered under the laws of the United States of America, or any State thereof.

**"Force Majeure"** (also **"Event of Force Majeure"**) as used throughout this Agreement this term applies to all time limitations and other obligations and shall mean any acts of God, fire, volcano, earthquake, hurricane, blizzard, infectious disease, technological disaster, catastrophe, large scale infestation of any type, tremors, flood, explosion, release of nuclear radiation, release of biotoxic or of biochemical agents, the elements, war, blockade, riots, mob violence or civil disturbance, any act or acts of terrorism or terroristic threat, an inability to procure goods or services or a general shortage of labor, equipment, facilities, energy, materials or supplies in the open market, failure of transportation, strikes, walkouts, actions of labor unions, governmentally imposed moratoriums, court orders, laws, rules, regulations or other orders of governmental or public agencies, bodies and authorities or any other similar cause not within the reasonable control of the Parties including legal inability to comply resulting from a change of law including municipal laws regulating land use and construction, any legal requirements under any applicable environmental laws, as well as all known and unknown rules and regulations of the Federal Environmental Protection Agency and the NJDEP, clearances, approvals or permits typical of the development process, any legal proceedings, decisions or decrees that adversely affect the Parties' ability to reasonably perform the obligations of and/or benefit from the terms of this Agreement, any economic conditions that may adversely affect the real estate market or may affect the Redevelopment Area, the Project or any of the individual phase(s) of this Project as demonstrated by an independent market study prepared by a qualified financial consultant selected by the Party seeking the benefit of Force Majeure provided that the qualified financial consultant is approved by the non-benefiting party using its reasonable judgment, in advance of the preparation of the independent market study, or any unreasonable delay in the Redeveloper's receipt of any necessary Governmental Approvals not within the Redeveloper's control.

**"Funding Agreement"** shall mean that agreement required by Borough Ordinance which obligates the Redeveloper to fund and pay for any and all professional fees the Borough may incur in order to complete this Project, a copy of which is attached hereto as **Exhibit E**.

**"Governmental Agency"** shall mean any federal, state, county or municipal legislative, administrative, executive or governing body, office, agency, department, commission, authority, court, or tribunal and any successor thereto, exercising executive, legislative, judicial, advisory or administrative functions of or pertaining to government, including, without limitation, the Borough of Emerson, the County of Bergen, the State of New Jersey and/or the United States of America.

**"Governmental Applications"** shall mean any and all submissions, plans, drawings, diagrams, supporting documentation or other proofs or presentations that are transmitted to any Governmental Agency for the purpose of obtaining any and all Governmental Approvals required to complete the Project.

---

**"Governmental Approvals"** shall mean any and all authorizations, permits, licenses or certificates issued by any Governmental Agency or quasi-governmental entity

(including outside agencies) as a result of the submission of a Governmental Application required in order to implement the Project or any aspect thereof in accordance with this Agreement and the Redevelopment Plan, for the construction of the Project including, without limitation: the Site Plan Approval with respect to the Building Permit; environmental approvals; sewerage capacity approvals and any and all other necessary permits, licenses, consents and approvals required for construction and operation of the Project under Applicable Law. No approval shall be final until the time for appeal shall have run without the filing of an appeal, or, in the event an appeal is filed, until such appeal is resolved fully in favor of Redeveloper and the time for further appeals shall have run without the filing of any further appeal. No Governmental Approval shall contain any condition which would materially and adversely affect the development, construction or operation of the Project or the finances thereof.

**"Governing Body"** shall mean the Borough Council of the Borough of Emerson, together with any successor(s) thereto.

**"Impositions"** shall mean all taxes, assessments (including, without limitation, all assessments for public improvements or benefits), water, sewer or other rents, rates and charges, license fees, permit fees, inspection fees and other authorization fees and charges, in each case, whether general or special, which are levied upon any portion of the Project or on any of the improvements constructed thereon.

**"Improvements"** shall mean all buildings, appurtenances, structures physically within or upon the Property, together with any work on site or off-site, reasonably on-site and, if any, off-site improvements, constructed on or installed in connection with the construction of the Project in accordance with the Concept Plans attached hereto as **Exhibit B**, including but not limited to grading site drainage, walkways, hook-ups and service laterals from buildings to curbs for water, sewer, storm water and other utilities, parking, lighting within parking areas, landscaping and fire hydrants, all constructed in accordance with the Redevelopment Plan, Governmental Approvals and Applicable Laws.

**"Mortgagee"** shall mean an Institution that holds a Mortgage on the Property.

**"Municipal Land Use Law" or "MLUL"** shall mean the Municipal Land Use Law *N.J.S.A.40:55D-1, et seq.*

**"NJDEP"** shall mean the State of New Jersey Department of Environmental Protection, together with any successor(s) in interest thereto.

**"Offsite/OnSite Improvement Share"** shall mean the amount Redeveloper shall pay for the Offsite and Onsite improvements that the Borough or other third parties shall make which will benefit Redeveloper as well as on site improvements which will benefit other property owners, all as fully set forth in **Exhibit F**.

---

**Party/Parties:** Shall mean individually, the Borough, the Redeveloper or a

Person as defined herein and shall mean collectively, the Borough and Redeveloper.

"Person(s)" shall mean any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or corporation, trust, unincorporated association, institution, public or governmental body, or any other entity.

"PILOT" shall mean a long term exemption pursuant to N.J.S.A. 40A:20-1 et seq.

"Planning Board" shall mean the Land Use Board of the Borough, pursuant to N.J.S.A. 40:55D-23.

"Project" shall mean the development, design, financing and construction of the Improvements and the Public Improvements by Redeveloper on the Property.

"Project Costs" shall be as defined in Section 4.01.

"Project Milestones" shall mean the date(s) or deadline(s) established for Project tasks to be completed by the Redeveloper in a timely manner as set forth in the Redevelopment Project Schedule attached hereto as Exhibit C.

"Project Schedule" shall mean the schedules set forth in the Redevelopment Project Schedule attached hereto as Exhibit C, that contain the Project Milestones for the development, construction and completion of the Project, as applicable.

"Property" or "Properties" shall mean the Blocks and Lots as located on Borough tax maps, as listed in Exhibit A, subject to a subdivision of the land for the construction of the Facility as referenced in this Agreement.

"Plan" or "Redevelopment Plan" shall mean the Redevelopment Plan adopted by Borough Ordinance on April 3, 2006, or any subsequent Redevelopment Plan as same may be amended from time to time.

"Project Plan" shall mean the concept plan annexed hereto as Exhibit B for the Project.

"Public Improvements" shall include but not be limited to all such improvements that benefit the public, including by way of example, roadways, sanitary sewers, stormwater facilities, water mains, fire hydrants, utilities poles, piping and conduits (such as telephone, fiber optic, electric, and natural gas), curbs, sidewalks, retaining walls, conservation easement areas, and retention or detention basins but shall exclude parking decks, and other private improvements.

"Redeveloper" shall mean Emerson Redevelopers, LLC having its corporate offices at 80 S. Jefferson Road, Suite 202, Whippany, NJ 07981. The members of Redeveloper are listed in Exhibit D.

**"Redevelopment Area"** shall mean the area designated by the Borough Council as the Central Business District Redevelopment Area pursuant to a Borough Resolution No. 199-04 adopted on September 7, 2004.

**"Redevelopment Project Schedule"** shall mean the Project Schedule and Reporting Requirements which sets forth the respective tasks and completion dates of various phase-related activities, which is attached hereto as **Exhibit C**.

**"State"** shall mean the State of New Jersey.

**"Survey"** shall mean the standard process by which a qualified land surveyor licensed to perform such services within the State of New Jersey prepares location measurements of a parcel or parcels of property in order to ascertain the size of same and its location and relationship to adjoining parcels and to locate all structures, improvements, easements, and restrictions on the properties.

**"Tolling Event"** shall mean: (i) an act or omission by one Party or a third Party that has a material and adverse effect on the other Party's ability to perform any obligation, requirement, commitment, or responsibility prescribed under this Agreement; or (ii) any extension granted by either Party to the other Party, to extend any proposed date to perform in this Agreement; or (iii) any reasonable request by one Party to the other to extend the time for performance of any obligation, requirement, commitment or responsibility arising pursuant to this Agreement.

**"Borough"** shall mean the Borough of Emerson, Bergen County, New Jersey.

**"Borough Council"** shall mean the governing body of the Borough of Emerson.

**"Transfers"** shall be as defined in Section 6.03.

**"Transferee"** shall mean any Third-Party (other than unit purchasers in the ordinary course of business) to whom an interest in the Project Premises, the Improvements or rights in or under this Agreement is conveyed, transferred, leased, encumbered, acquired or assigned, by sale, merger, consolidation, reorganization, foreclosure or otherwise, including a trustee in bankruptcy or assignee for the benefit of creditors.

## ARTICLE 2.

### REPRESENTATIONS AND WARRANTIES

**2.01 Representations and Warranties by the Redeveloper.** The Redeveloper hereby makes the following representations and warranties to the Borough for the purpose of inducing the Borough to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true, to the best of its knowledge, as of the date hereof:

(1) Redeveloper has the legal capacity to enter into this Agreement and perform each of the undertakings set forth herein and in the Redevelopment Project Schedule as of the date of this Agreement.

(2) Redeveloper is duly organized and a validly existing legal entity under the laws of the State of New Jersey and all necessary consents have been duly adopted to authorize the execution and delivery of this Agreement and to authorize and direct the persons executing this Agreement to do so for and on the Redeveloper's behalf.

(3) Redeveloper represents that the Project will create economic development on blighted property, in the form of job creation, increased real estate tax ratables, improvements to the Property, and an increase in the quality of life of the surrounding properties through the implementation of the Improvements.

(4) Redeveloper represents that it has the technical and financial expertise and ability to complete the Project in accordance with the Project Schedule established in Exhibit C.

(5) No receiver, liquidator, custodian or trustee of Redeveloper shall have been appointed as of the effective Date, and no petition to reorganize Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper shall have been filed as of the effective Date.

(6) No adjudication of Bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute that is applicable to the Redeveloper shall have been filed.

(7) No indictment has been returned against Redeveloper or any official, principal or member of Redeveloper.

(8) There is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which questions the authority of the Redeveloper to

enter into the Agreement or any action or act taken or to be taken by the Redeveloper pursuant to this Agreement.

(9) Redeveloper's execution and delivery of this Agreement and its performance hereunder will not constitute a violation of any operating, partnership and/or stockholder agreement of Redeveloper or of any agreement, mortgage, indenture, instrument or judgment, to which Redeveloper is a party.

(10) Redeveloper shall make its good faith efforts to award contracts and/or subcontracts wherever reasonably feasible to local business enterprises, where competitive bids and prices are offered by such enterprises, which may have a limited record of such activity, but which, in the judgment of Redeveloper, can competently provide the goods and services required by redeveloper. Redeveloper shall further make its best efforts to utilize local employees on the Project, and shall ensure that contractors and subcontractors retained by the Redeveloper make similar efforts, including cooperation with the Borough as set forth in subsection (10) immediately below.

(11) Redeveloper shall cooperate fully with the Borough in efforts by the Borough or its designees to recruit, screen, train, and refer qualified local and/or minority employees and subcontractors to Redeveloper and its general contractor or contractors, including providing information to the Borough or its designee with respect to the disposition of applicants for employment or subcontracts referred by the Borough or its designee to Redeveloper.

(12) All materials and documentation submitted by the Redeveloper and its agents to the Borough and its agents were, at the time of submission, and as of the Effective Date, materially accurate, and the Redeveloper shall continue to inform the Borough of any material or adverse changes in the documentation submitted. The Redeveloper acknowledges that the facts and representations contained in the information submitted by the Redeveloper are a material factor in the decision of the Borough to enter into this Agreement.

(13) Redeveloper and the resources available to it through its principal are financially and technically capable of developing, designing, financing and constructing the Project.

(14) There is no pending, or to the best of the Redeveloper's knowledge, threatened litigation, action or proceeding that would (i) prevent or delay the Redeveloper from performing its duties and obligations hereunder and/or (ii) question the validity of this Agreement or any essential element upon which this Agreement depends.

(15) Redeveloper acknowledges that it has had the opportunity to review all official documents contained in the public record relating to the Borough's designation of the Property as "an area in need of redevelopment", and the Borough's selection of the Redeveloper to undertake the redevelopment of the Property, all in accordance with

N.J.S.A. 40A:12A-1 et seq., (collectively the "Official Acts"). The Redeveloper hereby waives any and all causes of action it may have, or seek to prosecute against the Borough and the Borough Planning Board, in the event that the Redeveloper's rights as set forth in this Agreement are affected by any determination of a court of competent jurisdiction that one or more of the Official Acts, or any portion thereof, is invalid. Further, Redeveloper hereby waives any and all causes of action it may have to challenge the "Official Acts", including, by way of example and not limitation, any challenge Redeveloper may have regarding notice (pursuant to Harrison Redevelopment Agency vs. De Rose) and/or the Local Redevelopment and Housing Law. These waivers shall survive any termination of this agreement.

(16) Notwithstanding the foregoing, the Borough and Redeveloper may determine that it is in the interest of the Project to re-study the Central Business District Redevelopment Area or particular properties located within the Central Business District Redevelopment Area to confirm that they continue to be blighted and otherwise meet the criteria pursuant to N.J.S.A. 40A:12A-1 et seq. Redeveloper shall reimburse the Borough for such costs associated with this work as set forth in Section 4.01.

**2.02. Representations and Warranties by the Borough.** The Borough hereby makes the following representations and warranties for the purpose of inducing the Redeveloper to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the date hereof:

(1) The Borough has the legal power, right and authority to enter into this Redevelopment Agreement and the instruments and documents referenced herein to which the Borough is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.

(2) With the exception of the items or tasks which shall be a condition precedent to the Effective Date of this Agreement, upon the approval by the Governing Body of this Agreement, all requisite action has been taken by the Borough and all requisite consents have been obtained in connection with the entering into this Redevelopment Agreement and the instruments and documents referenced herein to which the Borough is party, and the consummation of the transaction contemplated hereby, and to the best of the Borough's knowledge and belief are authorized by all Applicable Laws. To the best knowledge of the Borough there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Borough entering into or performing its obligations under this Redevelopment Agreement.

(3) This Redevelopment Agreement is duly executed by the Borough, and is valid and legally binding upon the Borough and enforceable in accordance with its terms on the basis of laws presently in effect and the execution and delivery thereof shall not, ~~with due notice or the passage of time, constitute a default under or violate the terms of~~ any indenture, agreement or other instrument to which the Borough is a party.

(4) There is no action, proceeding or investigation now pending, nor any basis known or believed to exist which questions the validity of this Agreement or the authority of the Borough to enter into the Agreement or any action or act taken or to be taken by the Borough pursuant to this Agreement.

(5) The Borough agrees to support any applications for Governmental Approvals that are consistent with the terms of the Redevelopment Plan and this Agreement, and to execute any documents required to obtain such approvals and otherwise to cooperate with the Redeveloper with respect to the Governmental Approvals, provided that nothing contained in this Article 2.02 of this Agreement shall be deemed: (i) to constitute an approval of all or any portion of the Project for which Governmental Applications have been submitted or are required or approval of any Governmental Application seeking a financial incentive including but not limited to, the PILOT, (ii) a waiver of the ability of the Planning Board, or any other governmental or administrative entity, from exercising its statutorily authorized responsibilities with respect to the Governmental Applications or Governmental Approvals. Notwithstanding the foregoing, this Agreement shall not be deemed to be in full force and effect until such time as Redeveloper receives an approved PILOT agreement, mutually satisfactory to both parties.

(6) No official or employee of the Borough has any personal interest, direct or indirect, in this Agreement.

(7) Nothing exists that would prevent Governmental Applications from being deemed complete. Including without limitation taxes.

### **2.03. Mutual Representations.**

(1) The Borough and Redeveloper agree that the Project as defined herein does not constitute a "Public Works Contract" as defined in N.J.S.A. 10:5-31 and the completion of the Project does not constitute a "Public Work" as defined in N.J.S.A. 34:11-56.26 (the "Prevailing Wage Law").

(2) In the event that any contractual provisions that are required by Applicable Laws have been omitted, then the Borough and Redeveloper agree that this Agreement shall be deemed to incorporate all such clauses by reference and such requirements shall become a part of this Agreement. If such incorporation occurs and results in a change in the obligations or benefits of one of the parties, the Borough and Redeveloper agree to act in good faith to mitigate such changes in position.

## ARTICLE 3.

### COVENANTS AND RESTRICTIONS

**3.01. Covenants and Restrictions.** Redeveloper agrees to record the Declaration of Covenants and Restrictions on the Property in the office of the Bergen County Clerk within thirty (30) days of the fulfillment of all contingencies set forth in Article 12.

**3.02. Description of Covenants.** The Declaration of Covenants and Restrictions shall also state that the Redeveloper and its successors and assigns shall:

(a) Devote the Property to the uses specified in the Redevelopment Plan and shall not devote the Property to any other uses without the approval of the Borough;

(b) To the extent provided for by the Applicable Laws to not discriminate upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or marital status in the sale, lease, use or occupancy of the Property or any Improvements, buildings or structures erected or to be erected thereon, or any portion thereof;

(c) To the extent provided for by the Applicable Laws, in the sale, lease or occupancy of the Property or any portion thereof, not effectuate or execute any covenant, lease agreement, conveyance or other instrument whereby the land or any Improvement, building or structure erected or to be erected thereon is restricted upon the basis of age, race, color, creed, religion, ancestry, national origin, sex or marital status, and the Redeveloper, its successors and Transferee(s) shall comply with all State and local laws prohibiting discrimination or segregation by reason of age, race, color, creed, religion, ancestry, national origin, sex or marital status; and

(d) That the Redeveloper and its Transferee(s) shall not sell, lease or otherwise Transfer the Property, or any portion thereof, without the written consent of the Borough not to be unreasonably withheld, as set forth in Article 6 hereof other than those Transfers deemed to be the Permitted Transfers pursuant to Article 6 hereof.

**3.03. Effect and Duration of Covenants.** It is intended and agreed that the agreements and covenants set forth in Section 3.02 shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Borough, its successors and assigns, against the Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Project or any part thereof until a Certificate of Completion has been issued. However, such agreements and covenants shall be binding on the Redeveloper itself, each successor in interest to the Redeveloper and each party in possession or occupancy, respectively, but only for such period as the Redeveloper or such successor or party shall be a lessée or be in possession or occupancy of the Property, the buildings and structures thereon or any part thereof.

**3.04. Enforcement by the Parties.** Both Parties shall have the right, in the event of any breach of any of the aforesaid covenants or of any of the other terms and conditions of this Agreement, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which they or any other beneficiaries of such agreement or covenant may be entitled. In the event a party is successful in enforcing any of its rights hereunder, such unsuccessful party shall pay and reimburse the successful party for all of its reasonable attorneys fees together with any costs and expense incurred by the successful party in enforcing its rights hereunder.

**3.05. Redevelopment Area Upon Completion.** Upon issuance of a Certificate of Completion, the conditions that were found and determined to exist at the time the Property was determined to be in need of redevelopment shall be deemed to no longer exist; the Property shall no longer be subject to eminent domain as a result of such determinations conditions and the requirements of N.J.S.A. 40A:12A-9 shall be deemed to have been satisfied with respect to the Property. The Borough shall release the recorded documents and designations on a Phase by Phase basis provided that the Redeveloper has subdivided the Property to facilitate the Phase by Phase release of same.

#### ARTICLE 4.

##### COSTS ASSOCIATED WITH THE PROJECT

**4.01. Project Costs.** All costs of implementing and Completing the Project, including but not limited to the cost of obtaining all Governmental Approvals, the cost of the acquisition of the Property, any Remediation costs (including the costs of operation, maintenance, reporting and monitoring that may be associated with any engineering controls and institutional controls), the cost of designing and constructing the Project (including the costs of any construction observation services) all Improvements, all financing costs, all marketing and leasing costs for the Project and the Borough Costs as limited by the Funding Agreement, (collectively, the "Project Costs") shall be borne by Redeveloper. Except if otherwise specifically set forth herein, the Borough shall not be responsible for any costs associated with the Project. The Project Costs are estimated to be Thirty Million Dollars (\$30,000,000.00). Detailed breakdowns of the hard and soft cost of this Project shall be provided by the Redeveloper to the Borough no later than the issuance of a building permit for the Phase 1 Project.

**4.01.1 Offsite/Onsite Improvement Share.** Redeveloper shall pay for the Offsite and Onsite improvements that the Borough or other third parties shall construct or install which will benefit Redeveloper as well as on site improvements which will benefit other property owners, all as fully set forth in **Exhibit F**, which may be amended or adjusted from time to time based on the actual costs of construction and a final determination by the Borough Engineer of this Redeveloper's Offsite/Onsite Improvement Share.

---

**4.02. Borough Costs and Application Fees.** Redeveloper has executed a Funding Agreement with the Borough that addresses the timing and payment of the Borough Costs which is attached hereto and incorporated herein as **Exhibit E**.

**4.03. Affordable Housing Requirement.** The Parties recognize and acknowledge that the Project will generate a fair share housing requirement for Redeveloper pursuant to the Affordable Housing Requirements established by the State of New Jersey and the Council on Affordable Housing. Redeveloper and the Borough agree that Redeveloper shall satisfy the affordable housing obligations resulting from Redeveloper's development of the Project in accordance with the State's Affordable Housing Requirements. The obligation shall be fixed as of the start of each of the Phases of the Project. The presumptive percentage of set aside units to be built shall be twenty percent (20%). However, the Redeveloper may request that the Borough seek a determination from either the courts or COAH to determine the definitive affordable housing set aside for the Project. If the Redeveloper elects to have the Borough seek a determination from either the courts or COAH, the Redeveloper shall pay for all of the Borough's professional fees associated with seeking such determination, including but not limited to legal fees (together with costs and expenses), as well as the fees, costs and expenses of planners, engineers, financial advisers, COAH experts, and any other professional or advisory services required to obtain the determination (collectively the "Professional Fees"). The payment or reimbursement for such Professional Fees shall be made pursuant to the Funding Agreement the Redeveloper has previously executed. The Escrow established pursuant to such Funding Agreement shall be replenished as necessary and as required pursuant to the terms of the Funding Agreement and the Funding Agreement is deemed amended and supplemented to include the provisions of this Section 4.03 as if fully set forth within the Funding Agreement.

**4.03.1 Alternate COAH Location.** The Redeveloper and the Borough shall explore alternative sites to accommodate all of the Low and Moderate Housing obligations associated with this Project at another location in the Borough, subject to any necessary court approval and such court approval to be funded by Redeveloper as set forth in **Section 4.03** hereinabove.

**4.04. Emergency Municipal Services Building.** The Borough has dedicated and shall transfer Block 419 Lot 7 to Redeveloper for the Project ("Dedicated Lot") which is currently utilized by the Borough Ambulance Corp and has a fair market value of \$500,000. In consideration therefore the Redeveloper shall construct at its sole cost and expense an Emergency Municipal Services Building as defined hereinabove. The Borough shall provide the Redeveloper the property as well as all of the site plans, architectural and engineering plans at the Borough's sole cost and expense and upon the completion of the building the Borough shall pay and reimburse Redeveloper all of the costs associated with the construction of the Emergency Municipal Services Building, less the direct and allocatable costs associated with Ambulance portion of the building as the parties may agree, which in no case shall exceed the fair market value of the Dedicated Lot. In the event the parties cannot agree on such reimbursable costs to the

Redeveloper, the party's attorneys shall select a retired Judge from Bergen County to mediate and definitively determine such costs to be reimbursed to the Redeveloper and such costs for such mediator shall be shared by the parties equally.

## ARTICLE 5.

### THE PROJECT

**5.01. Property.** The Property is located in the Borough and presently identified in the Borough tax maps on the Blocks and Lots described in **Exhibit A**, subject to any necessary subdivision. The Project is depicted in the Concept Plan for the Project attached hereto as **Exhibit B** and shall be constructed in accordance with the Redevelopment Project Schedule set forth in **Exhibit C**. The Redeveloper and Borough each covenant and agree to perform the obligations set forth in the Redevelopment Project Schedule set forth in **Exhibit C**. The Redeveloper covenants and agrees that it will construct the Project in accordance with the Redevelopment Plan. All Improvements to be situated upon the Property (i.e., sidewalks, utilities and site lighting, off street parking, roadways, pilings, foundations, footings, open space, walkways, landscaping, etc.) and other construction identified as Improvements shall be installed by the Redeveloper at its sole cost and expense as the Project requires. The Redeveloper shall negotiate for the purchase of any properties set forth in **Exhibit A** that it does not currently own or control at its sole cost and expense. In the event the Redeveloper is not able to purchase any property set forth in **Exhibit A** the Redeveloper shall request that the Borough assist it in purchasing such or acquiring such properties as permitted under N.J.S.A. 40A:12A-8(c). The Redeveloper shall pay and reimburse the Borough for any and all costs it may incur in assisting the Redeveloper in purchasing or acquiring such properties. The Borough shall adopt the necessary Ordinances to vacate Kenneth Avenue within sixty (60) days from the date the Redeveloper obtains Governmental Approvals.

**5.02. Governmental Approvals.** The Redeveloper shall make all Governmental Applications and receive all Governmental Approvals required under Applicable Laws in order to construct the Project in accordance with the Redevelopment Project Schedule. Issuance of a Building Permit shall be conclusively presumed to be in compliance with all Governmental Applications and Governmental Approvals that are prerequisites to the issuance of such Building Permit.

**5.03. Site Work.** The Redeveloper at its sole expense shall install upon or in the Property all necessary site preparation, including pilings and , filling and all on-site infrastructure. Notwithstanding anything contained herein, the Borough shall not be responsible for any costs associated with any Improvements necessary for the development and construction of the Project. The costs of developing the Project and Facilities, and of constructing all Improvements thereon, including, but not limited to, all required Public Improvements, shall be borne entirely by the Redeveloper; provided, however, that Redeveloper's contributions for offsite improvements may be subject to pro-ration in accordance with Applicable Laws. Notwithstanding the foregoing, the Borough shall not be responsible for any costs associated with any Improvements necessary for the development and construction of the Project

**5.04. Commencement and Completion Schedule.** The Redeveloper agrees to commence construction of the project within 120 days of Government Approvals and thereafter diligently prosecute the Project to completion in accordance with the Redevelopment Project Schedule set forth in **Exhibit C** and this Article but in no case later than 24 months from the Commencement Date. Redeveloper understands that the Borough will require strict compliance with the Project Milestones, deadlines and time periods for the various activities and actions to be taken by the Redeveloper hereunder, as set forth in **Exhibit C**, subject to the occurrence of a Force Majeure Event. The Borough agrees to cooperate fully with Redeveloper regarding all Governmental Approvals. Redeveloper acknowledges that a failure to meet a Project Milestone shall be a material breach of this Agreement that will subject the Redeveloper to Termination of this Agreement as permitted in Articles 8 & 9. The Parties acknowledge and agree that the Redeveloper may need to modify the Redevelopment Project Schedule. The Borough shall, upon the written request of the Redeveloper, consider modifications of the dates set forth in the Redevelopment Project Schedule. The Borough agrees to consider and render a decision with respect to any such modification, within a period of sixty (60) days following receipt of a written request by the Redeveloper. Failure to diligently prosecute the Project to Completion may cause the Borough to notify the Redeveloper that it is in default of its obligations hereunder, and to pursue all lawful remedies against the Redeveloper. Similarly, the Borough agrees to commence and diligently prosecute its obligations as set forth in the Redevelopment Project Schedule.

**5.05. Progress Reports.** For so long as this Redevelopment Agreement shall remain in effect, Redeveloper shall make quarterly reports to the Borough as to the actual progress of Redeveloper with respect to development, planning and construction of both the Project, and such other matters as the Borough shall reasonably request be addressed in such reports, including but not limited to the reporting requirements set forth in **Exhibit C**.

**5.06. Public Improvements and Utility Relocation.** The Borough and the Redeveloper hereby agree that the Redeveloper will make the Public Improvements consistent with the Plan which shall include, but shall not be limited to installation of concrete curbing, sidewalks, roadway base/surface, sewers, drainage, grading, street lighting, street furniture, signage, utilities, plantings and appropriate traffic control signals as may be required by the Governmental Approvals or Applicable Laws. Notwithstanding anything contained herein to the contrary, Borough shall not be responsible for any costs associated with any Public Improvements necessary for the development and construction of the Project. The costs of developing the Project and all Public Improvements thereon, including, but not limited to, all required Public Improvements or utility relocations, shall be borne entirely by the Redeveloper. In addition, Redeveloper shall install at its sole cost and expense the Storm Water Pipe as more fully described and set forth in **Exhibit G**.

**5.07. Performance Bond.** If the Planning Board does not require that the Redeveloper post a Bond for the Public Improvements as a condition of the site plan approval issued by the Planning Board, then prior to the Commencement of Construction, Redeveloper shall provide the Borough with a bond (the "Bond" the "Performance Guaranty"), in an amount equal to the cost of Public Improvements. The Bond must be issued by an insurance or surety company authorized to conduct business in the State of New Jersey, rated A+ or better by A.M. Best and listed in the most current U.S. Treasury Circular 570. The Bond must name the Borough as an obligee, and Redeveloper shall deliver a copy of the Bond to the Borough on or before the Commencement Date. If an Event of Default occurs, the Borough will use the Performance Guaranty to complete construction of the Public Improvements or to remove any structure on the Property, in its sole discretion, subject to the right to cure of the mortgagee as set forth in Article 9.03. Redeveloper shall receive a credit against the Bond for any bond required to be posted in satisfaction of the requirements of the Land Use Law, in the event that the Bond required by the Planning Board does not completely encompass the Public Improvements contemplated by this Redevelopment Agreement.

**5.08. Certificates of Occupancy and Certificate of Completion.** Upon completion of construction in accordance with the Governmental Approvals and Applicable Laws, the Redeveloper shall apply to the appropriate governmental officer or body for a Certificate of Occupancy for the Project or a portion thereof. The Certificate of Occupancy, when issued, shall constitute evidence that Redeveloper has fully performed its obligations under Governmental Approvals as to the Project or a portion thereof. Following the issuance of the Certificate of Occupancy and the satisfaction of the terms and conditions of this Agreement, the Borough agrees to issue a Certificate of Completion, in proper form for recording, which shall acknowledge that the Redeveloper has performed all of its duties and obligations under this Agreement and has completed construction of the Project or a portion thereof in accordance with the requirements of this Agreement. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction and termination of the agreements and covenants in this Agreement and the Redevelopment Plan with respect to the obligations of the Redeveloper to construct the Project or a portion thereof within the dates for the completion of same. Within 30 days after written request by the Redeveloper, the Borough shall provide the Redeveloper with the Certificate of Completion or a written statement setting forth in detail the reasons why it believes that Redeveloper has failed to complete the Project or a portion thereof in accordance with the provisions of this Agreement or is otherwise in default under this or any other applicable agreement and what reasonable measures or acts will be necessary in the opinion of the Borough in order for the Redeveloper to be entitled to the Certificate of Completion.

**5.09 Project Schedule.** With respect to the Project, Redeveloper shall meet the deadlines and timeframes for the completion set forth in the Redevelopment Project Schedule set forth in Exhibit C. Redeveloper shall construct the Project using all commercially reasonable methods to prosecute the uninterrupted construction of the Project. Failure to prosecute the uninterrupted construction of the Project shall constitute an Event of Default. It shall be an Event of Default for Redeveloper to fail to complete

Construction of the Project such that a Certificate of Completion is not issued by the Borough in accordance with the Redevelopment Project Schedule set forth in Exhibit C.

**5.10 Project Modifications.** The Redeveloper hereby acknowledges and agrees that the development and construction of the Project shall be in accordance with the Project Schedule set forth in Exhibit C. The Redeveloper may not modify, alter or amend the approved Final Site Plan at any time without the express prior written approval of the Borough which shall not be unreasonably withheld, conditioned or delayed, subject to the provisions of the Applicable Laws; provided, however, that the Redeveloper may make those modifications, alterations and amendments to the Final Site Plan or Construction Plans, as the case may be, that are "minor" in nature. The Borough reserves its right to contest any material modifications that may potentially arise in the course of the construction of the Project.

**5.11 Suspension of Construction.** If the Redeveloper shall abandon or substantially suspend construction activities on the Project for a period of 120 consecutive days, the rights and remedies of the Parties shall be governed by the provisions of Article 8 of this Agreement.

**5.12 Insurance.** The Redeveloper shall maintain or cause to be maintained at its own cost and expense, with responsible insurers, the following kinds and the following amounts of insurance with such variations as shall reasonably be required to conform to customary insurance practice and in no case less than the amounts indicated below and certificates, or full copies of policies must be furnished as noted below:

(a) Builder's Risk Insurance for the benefit of the Redeveloper and the Borough, as its respective interests may appear, during the term of construction which will protect against loss or damage resulting from "ALL Risk" or "Special Form" f The limits of liability will be equal to One Hundred (100%) percent of the insurable replacement cost value of the Project (comments on this may follow), including items of labor and materials connected therewith, whether in or adjacent to the structure insured, and materials in place or to be used as part of the permanent construction. Is this meant so say replacement cost endorsement Is loss of use an issue for the borough?

(b) COMPREHENSIVE GENERAL LIABILITY LIMITS \$1,000,000/2,000,000 combined single limit "CSL" covering Bodily injury, Property damage and Personal Injury -including explosion, collapse, underground utilities, contractual, independent contractors, and Products/Completed Operations coverage for all premises and work to be completed under the redevelopment agreement.

(c) Worker's Compensation Insurance coverage in the amount of:  
Coverage A - New Jersey Statutory  
Coverage B -- 500,000/500,000/500,000

the full statutory liability of the Redeveloper;

(d) ENVIRONMENTAL INSURANCE (Pollution Liability)- \$5,000,000/\$5,000,000- covering Bodily Injury, Property Damage, pollution or environmental harm including cleanup cost arising out of the work to be performed under this contract. The policy must contain a separation of insureds clause and include the Borough of Emerson as an **additional Named Insured**.

(e) Requirement that contractor's sub-contractors hired by redeveloper maintain certain insurance and name the Borough as additional insured.

(f) Railroad Protective-Insurance- Requirements Equal to that required by the Railroad if applicable.

(g) Such other insurance, in such amounts and against such risks, as is customarily maintained by the Redeveloper with respect to other similar properties owned or leased by it, including automobile insurance.

The before mentioned policies listed in B,C,D & E above shall name the **Borough of Emerson**, it's elected officials, agents, employees, officers, affiliates, directors, members, partners, consultants, and subcontractors of each and any of all such as **additional insureds**, and the insurance afforded to these additional insureds shall be primary coverage and noncontributory for all claims covered thereby.

The Redeveloper shall file with the Owner before commencing with the redevelopment work under this Agreement, original Certificates of Insurance, or policies where required, which certificates shall bear the following information:

1. Name and address of the insured.
2. Title and Location of the operations to which the insurance applies
3. The number of the policy and the type or types of insurance in force thereunder on the date borne by such Certificate.
4. The expiration date of policy and the limit or limits of liability thereunder on the date borne by such certificate.
5. A statement that the insurance of the type afforded by the policy applies to all of the operation on and at the site of the project which are undertaken by the insured during the performance of his contract.
6. Indication of Insured, additional insured and Co-insured Parties.
7. A statement as to the exclusions of the policy, if any.
8. A statement showing the method of cancellations provided for by the policy. If cancellations may be affected by the giving of notice to the insured by the insurer, the policy shall provide for the lapse of such number of days following the giving of such notice that in the ordinary course of transmission the insured will have actually received such notice at least thirty (30) days before the cancellation becomes effective. Notice of cancellation shall also be delivered to Owner not less than thirty (30) days prior to such lapse or termination.

**5.13 Indemnification and Defense.** (a) The Redeveloper agrees to indemnify and hold harmless the Borough against, and the Redeveloper shall pay for, any and all liability, loss, cost, damage, claims, judgments, legal fees and costs or expenses, of any and all kinds or nature and however arising, imposed by law, which the Borough may sustain, be subject to or be caused to incur by reason of any claim, suit or action based upon personal injury, death, or damage to property, whether real, personal or mixed, resulting from the Redeveloper's activities in constructing the Project or the Redeveloper's actual breach of contracts entered into by the Redeveloper which directly relate to the construction of the Project, or resulting solely from the Redeveloper's ownership of the Property, or resulting from the acquisition, construction or installation of the Project. Further, said indemnification shall include but not be limited to any and all claims by workmen, employees and agents of the Redeveloper and unrelated third parties, which claims result from the construction of the Project, the maintenance and functioning of the Improvements and Public Improvements or any other activities of the Redeveloper within the Property during the construction of the Project. Neither the Borough or its Council Members, commissioners, officers, agents, servants or employees shall be liable in any event for any action performed under this Agreement, except for any claim or suit arising from negligent, intentional or willful acts of the Borough, its Council Members, commissioners, officers, agents, servants or employees.

(b) The Redeveloper, at its own cost and expense, shall defend any and all such claims, suits and actions, as described in and for which indemnification is required by this Section 5.13, which may be brought or asserted against the Borough, its Council Members, commissioners, officers, agents, servants or employees; but this provision shall not be deemed to relieve any insurance company which has issued a policy of insurance as may be provided for in this Agreement from its obligation to defend the Redeveloper, the Borough and any other insured identified in such policy of insurance in connection with claims, suits or actions covered by such policy. Any cost for reasonable attorneys' fees in situations where it is necessary for the Borough to engage its own attorneys, reasonable experts' testimony costs and all reasonable costs to defend the Borough or any of its Council Members, commissioners, officers, agents, servants, or employees shall be reimbursed to it by the Redeveloper in connection with such indemnification claim. The Borough shall give the Redeveloper notice of any such claim for which indemnification under this Agreement is sought (together with copies of any documents received) within Fifteen (15) Days of the Borough's receipt of same.

**5.14 Project Signage.** Redeveloper shall work with the Borough to place signage on the Property within 30 days of obtaining Governmental Approvals that contains a rendering or renderings of the finished Project, and indicates that the Project is made possible in the community as a result of the efforts of the Redeveloper and Borough. The Borough will provide the Redeveloper with the exact specifications and locations for any signage produced in accordance with the Article.

**5.15 Project Renderings.** Redeveloper shall make renderings of the finished Project available to the Borough for use at public presentations, and to further market the Borough for economic development.

## ARTICLE 6

### PROHIBITIONS

**6.01. Prohibition Against Transfers of Interests in Redeveloper.** Prior to completion of the Project as evidenced by the issuance of a Certificate of Completion, and without the prior written approval of the Borough, which approval shall not be unreasonably withheld, Redeveloper agrees for itself and any successor in interest that:

- (1) There shall be no transfer by any owner of any equity interest in Redeveloper, or by any successor in interest to such owner, of any interest in Redeveloper.
- (2) Nor shall any such owner or successor in interest suffer any such transfer to be made, except due to death, but excluding transfers among existing members;
- (3) Nor shall such owner or successor in interest make, or suffer to be made, any other change in the ownership of any equity interest in Redeveloper except as hereinabove provided, or with respect to the identity of the parties in control of Redeveloper or the relative degrees of their control, by any other method or means, whether by increased capitalization, merger with another corporate, partnership or limited liability entity, or otherwise. With respect to this provision, Redeveloper and the party(ies) signing the Agreement on behalf of Redeveloper represent that each party has authority of all its owners to agree to this provision on their behalf and to bind them with respect thereto. For the purpose of this Agreement, the term "owners" is defined to include the general partners of a partnership, the stockholders of a corporation or the members of a limited liability company.
- (4) If approval of the Borough is sought for a transfer, Redeveloper will pay an administrative fee equivalent to One Thousand Dollars (\$1,000.00), and shall pay in addition thereto, any Borough Costs associated obtaining the Borough's approval.

The following transfers of interests in the Redeveloper shall be deemed to be approved without any approval by the Borough: (a) assignments among the principals of Redeveloper and their immediate family members; and (b) assignments by the principals of Redeveloper for estate planning and tax purposes.

**6.02. Transfer of Redevelopment Agreement.** Redeveloper further agrees for itself, its successors and assigns, that prior to the completion of the Project or any portion thereof, as evidenced by the issuance of a Certificate of Completion it will not make or create, or suffer to be made or created, any sale, assignment, conveyance, lease or transfer in any other mode or form (collectively, the "Transfers") of its interests in the ~~Project or its interest in this Agreement, without the prior written approval of the~~ Borough, except as provided below, which consent shall not be unreasonably withheld.

In the event that the Borough consents to a Transfer, the Transferor shall be released from the obligations of this Agreement only to the extent or limit of the authorized Transfer.

**6.03. Exemption from Prohibited Transfers.** Notwithstanding the foregoing, and with the consent of the Borough, it shall not constitute a prohibited transfer, for purposes of Section 6.02 if after Final Site Plan Approval has been obtained, Redeveloper assigns its rights under this Agreement upon the following conditions: (i) the assignee of Redeveloper must be an entity controlling, controlled by, or under common control of Redeveloper including but not limited to an urban renewal entity formed by Redeveloper pursuant to N.J.S.A. 40A:20-4; (ii) the assignee of Redeveloper shall assume all of the obligations of Redeveloper hereunder, but Redeveloper shall remain primarily liable for the performance of Redeveloper's obligations, (iii) a copy of the fully executed written assignment and assumption agreement shall be promptly delivered to the Borough, and (iv) such assignment does not violate any of the Government Approvals.

In addition, nothing contained in this Agreement shall prohibit, nor require the consent of the Borough, to transfer individual condominium units to the ultimate purchaser of such units.

**6.04. Consent to Permitted Transfers.** The Borough hereby consents, without the necessity of further approvals or payment of the administrative fee set forth in Section 6.01(4) from any entity, to the following Transfers: (i) a Mortgage or related security granted by Redeveloper to a Mortgagee for the purpose of obtaining the financing necessary to enable Redeveloper to perform its obligations under this Agreement with respect to Completion of the Project and any other purpose authorized by this Agreement and (ii) any Mortgage or Mortgages and other liens and encumbrances granted by Redeveloper to a Mortgagee for the purpose of financing costs associated with the development, construction, and marketing of the Project. With respect to any of the Transfers listed in this Section 6.04, Redeveloper shall provide to the Borough written notice of at least fifteen (15) days prior to such Transfer, including a description of the nature of such Transfer, and the name(s) and address(es) of the transferee and any parties, individuals and/or entities comprising such Transfers.

**6.05. Prohibition Against Speculative Development.** Because of the importance of the development of the Property to the general welfare of the community, Redeveloper represents and agrees that Redeveloper's undertakings pursuant to this Agreement are, and will be used, for the purpose of the redevelopment of the Property as provided herein and not for speculation in land holding.

**6.06 Conditions of Transfer.** In the event that the Redeveloper requests the Borough's prior written approval for a transfer of interest the Borough shall be entitled to require, as a condition of approval of any transfer that (i) the proposed Transferee will have qualifications and financial responsibility necessary and adequate to fulfill the obligations undertaken in this Agreement with respect to the transferred portion of the Project and other obligations pursuant to Governmental Approvals or any part of such obligations that may pertain to the transferred interest or the transferred portion of the

Project, as determined from (1) Audited financial statements indicating (a) net worth or (b) unencumbered lines of credit; or evidence of loan commitments sufficient to carry out the relevant aspect of the Project; and (2) Submission of letters of recommendation from reputable Parties for whom the prospective transferee has undertaken a comparable development, stating that the proposed transferee of the relevant aspect of the Project possesses the competence and integrity to undertake same; and (ii) any proposed transferee, by instrument in writing reasonably acceptable to the Borough, will, for itself and its Transferees, and expressly for the benefit of the Borough, have expressly assumed all of the relevant obligations of the Redeveloper under this Agreement with respect to the Project and agrees to be subject to all the Covenants and Restrictions to which the Redeveloper is subject; and (iii) the Transferee will comply with such other reasonable conditions as the Borough may find necessary in order to achieve and safeguard the purposes of the Redevelopment Plan.

**6.07 Transfers in Violation of this Agreement:** Any Transfer in violation of this Agreement shall be deemed to be an Event of Default and shall be null and void *ab initio*. The occurrence of such Event of Default shall entitle the Borough to seek all available remedies under the terms of this Agreement, including the right to terminate this Agreement, and all other remedies available under the Applicable Law(s).

## ARTICLE 7.

### PROJECT AND MORTGAGE FINANCING

**7.00 Submission of Financial Package.** In the event that the Redeveloper intends to seek financing for the Project the Redeveloper represents that it shall use its best efforts to obtain sufficient financing for all costs associated with the Project. The Redeveloper represents that such financing may be a combination of debt financing, equity financing and an equity contribution of the Redeveloper and may be obtained in coordination with the phased development of the Project. On or prior to the earlier to occur of (i) ninety (90) days after the Redeveloper has obtained all Governmental Approvals with respect to the applicable phase of the Project, or (ii) ninety (90) days prior to Commencement of Construction on such phase of the Project, the Redeveloper shall submit a financial package that the Redeveloper believes to be complete that describes the anticipated sources of funding for that phase of the Project, including, but not limited to, commitments to construction financing required for that Phase of the Project and a representation regarding any equity capital necessary for the Commencement of Construction of the relevant phase of the Project.

**7.01. Mortgage.** Except as to financing conducted through recognized chartered banks and/or licensed insurance lenders or by an Affiliate of the Redeveloper, the Redeveloper shall request authority from the Borough (which shall not be unreasonably withheld) in writing in advance of any proposed financing secured by a mortgage or other similar lien instrument, which it proposes to enter into with respect to the Project, or any part thereof, and in any event Redeveloper shall promptly notify the Borough of any encumbrance or lien that has been created on or attached to the Project in

connection with any financing of the Project obtained by Redeveloper; or, by involuntary act of the Redeveloper or others, upon obtaining knowledge or notice of same.

**7.02. Obligations of Mortgagee.** Notwithstanding any of the provisions of this Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by this Agreement, including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through any such holder or (b) any other purchaser at foreclosure sale (other than the holder of the mortgage itself) shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion; provided that nothing in this Article or any other Article or provision of this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any Project thereon, other than those uses provided or permitted under the Redevelopment Plan, Governmental Approvals and Applicable Law.

**7.03. Notice of Default to Mortgagee and Right to Cure.** Whenever the Borough shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Redevelopment Agreement, the Borough shall at the same time deliver to each lender (or equity participant in Redeveloper) a copy of such notice or demand, provided that the Redeveloper has delivered to the Borough a written notice of the name and address of such lender and equity participant. Each such lender shall (insofar as the rights of the Borough are concerned) have the right at its option within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default with respect to that portion of the Project which is being financed by such lender and which is subject to being cured and to add the cost thereof to the debt and the lien which it holds, or to the obligations of the lessees under any lease-back or of the guarantor under any other conveyance for financing.

Notwithstanding the foregoing, in the event of any breach or default with respect to the deadlines for commencement and completion of construction of the Project set forth in Section 5.08, the Borough agrees that any notice to a Mortgagee will not be served simultaneously with the notice to the Redeveloper, but instead will be served forty five (45) days after notice of breach or default to Redeveloper if Redeveloper has not cured the breach or default.

**7.04. Estoppel Certificate.** Within forty five (45) days following written request therefore by the Redeveloper, or of any lender, purchaser, tenant or other party having an interest in the Project, the Borough shall issue a signed estoppel certificate either stating this Redevelopment Agreement is in full force and effect and that there is no default or breach under this Redevelopment Agreement, or stating the nature of the default or breach or event, if any. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured. No more than a reasonable number of estoppel certificates may be requested per year.

## ARTICLE 8.

### EVENTS OF DEFAULT

8.01. **Events of Default.** Any one or more of the following shall constitute an Event of Default hereunder, subject to Force Majeure and tolling as provided elsewhere in this Agreement:

(1) Failure of Redeveloper or the Borough to observe and perform any covenant, condition, representation, warranty or agreement hereunder, and continuance of such failure for a period of thirty (30) days, after receipt by the defaulting party of written notice from the non-defaulting party specifying the nature of such failure and requesting that such failure be remedied, unless such delay is the direct cause of a governmental entity relating to an issue over which the Redeveloper has no control, or is not otherwise responsible for such governmental entities actions concerning the default or delay.

(2) (i) Redeveloper shall have applied for or consented to the appointment of a custodian, receiver, trustee or liquidator of all or a substantial part of its assets; (ii) a custodian shall have been legally appointed with or without consent of Redeveloper; (iii) Redeveloper, (A) has made a general assignment for the benefit of creditors, or (B) has filed a voluntary petition in bankruptcy or a petition or an answer seeking an arrangement with creditors or has taken advantage of any insolvency law; (iv) Redeveloper has filed an answer admitting the material allegations of a petition in any bankruptcy or insolvency proceeding; or (v) Redeveloper shall take any action for the purpose of effecting any of the foregoing; (vi) a petition in bankruptcy shall have been filed against Redeveloper, and shall not have been dismissed for a period of ninety (90) consecutive days; (vii) an Order for Relief shall have been entered with respect to or for the benefit of Redeveloper, under the Bankruptcy Code; (viii) an Order, judgment or decree shall have been entered, without the application, approval or consent of Redeveloper, by any court of competent jurisdiction appointing a receiver, trustee, custodian or liquidator of Redeveloper, or a substantial part of its assets and such order, judgment or decree shall have continued unstayed and in effect for any period of ninety (90) consecutive days; (ix) Redeveloper shall have suspended the transaction of its usual business.

(3) Redeveloper shall default in or violate its obligations with respect to the construction of the Project in accordance with this Agreement, the Redevelopment Plan, the Redevelopment Project Schedule, Governmental Approvals or Applicable Laws or including but not limited to failure to comply with the Commencement of Construction and Completion of Construction, shall abandon or substantially suspend construction work and any such default, violation, abandonment or suspension shall not be cured, ended, or remedied within thirty (30) days after written demand by the Borough to do so ~~(provided that it shall not be an event of default if Redeveloper is proceeding with due diligence to remedy the same as soon as practicable).~~

(4) The Project shall not be complete, as evidenced by the issuance of a Certificate of Completion on the Completion Date.

(5) Redeveloper, its successor or assigns shall fail to pay any application or permit fees in furtherance of any Governmental Approvals, or connection fees resulting therefrom, or real estate taxes, assessments, or PILOTs (as defined herein) on the Property or any part thereof when due, shall fail to pay any payments required under this Agreement, or shall place on the Property any encumbrance or lien unauthorized by this Redevelopment Agreement, or shall suffer any levy or attachment to be made, or any materialmen's or mechanics' lien, or any other unauthorized encumbrance or lien to attach and such real estate taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the Borough made for such payment, removal, or discharge, within thirty (30) days after written demand by the Borough to do so.

(6) There is, in violation of this Redevelopment Agreement, a transfer or assignment as prohibited in Article 6.

(7) The Redeveloper fails to make a payment of any sums payable to the Borough, as same shall become due and payable, and such failure to pay shall have continued for a period of (30) days after Redeveloper's receipt of written notice specifying its failure to make such payment.

**8.02. Remedies of Borough Upon Event of Default.** Whenever any Event of Default of Redeveloper shall have occurred and be continuing after the expiration of any applicable cure period, the Borough may seek to terminate this Agreement. Upon termination of this Agreement the Borough shall have the right to specific performance, injunction or any other remedy available at law or in equity and the right to use the Performance Bond to complete construction of any Public Improvements. The Borough's remedies are not limited to those set forth in this Agreement; the Borough retains at all times its delegated governmental powers to undertake enforcement action to stop, abate and ameliorate any issue or circumstance affecting the public health, public safety and public welfare of its residents.

**8.03. Remedies of Redeveloper Upon Event of Default.** Whenever any Event of Default of the Borough shall have occurred and be continuing, the Redeveloper may seek specific performance, injunction or any other remedy available at law or in equity.

**8.04. Restoration of Status.** In case the Borough or Redeveloper, as applicable, shall have proceeded to enforce its rights under this Redevelopment Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Borough or Redeveloper, as applicable, then and in every such case, Redeveloper and the Borough shall be restored ~~respectively to their several positions and rights hereunder, and all rights, remedies and~~

powers of Redeveloper and the Borough shall continue as though no such proceedings had been taken.

**8.05. Failure or Delay by Either Party.** Except as otherwise expressly provided in this Redevelopment Agreement or the Project Milestones attached hereto as **Exhibit B**, any failure or delay by either party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

**8.06. Remedies Cumulative.** No remedy conferred by any of the provisions of this Redevelopment Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

**8.07 Certificate of No Default.** The Redeveloper shall deliver to the Borough on each anniversary of the Effective Date, a certificate signed by its authorized representative to the effect that (a) the Redeveloper is not aware of any condition, event or act which constitutes a violation of this Agreement or which would constitute an Event of Default, and (b) no condition, event or act exists which, with notice or lapse of time, or both, would constitute an Event of Default; or (c) if any such condition, event or act exists, specifying same.

## ARTICLE 9.

### TERMINATION RIGHTS

**9.01 Additional Termination Rights of Borough** In the event that the Redeveloper substantially abandons or suspends construction of the Project for a period in excess of One Hundred Eighty (180) Days as a result of a Tolling Event not caused by the act or omission of the Borough hereunder or a period in excess of One Hundred Twenty (120) Days not resulting from the occurrence of Event of Force Majeure or other Tolling Event, then, whether or not an Event of Default by the Redeveloper has been declared by the Borough, the Borough shall have the right to terminate this Agreement.

Nothing in this Section 9.01 shall prevent the Borough from declaring that an Event of Default by the Redeveloper hereunder has occurred or from pursuing any of its other remedies hereunder.

## ARTICLE 10.

**INTENTIONALLY OMITTED**

## ARTICLE 11.

### DELAYS

**11.01. Force Majeure.** For the purposes of any of the provisions of this Agreement, neither the Borough nor Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of, or in default with respect to its obligations hereunder because of any delay in the performance of such obligations arising from an Event of Force Majeure as defined herein. It is the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Borough or Redeveloper shall be extended for the period of the delay.

**11.02 Notice of Event of Force Majeure.** The Party who seeks the benefit of the above described modification/extension shall, within Thirty (30) Days after that Party's actual discovery of any such Event of Force Majeure or other Tolling Event, notify the other Party in writing of the Event of Force Majeure or the Tolling Event, and of the cause(s) thereof, and therein a modification/extension of the term and an extension for the period of the enforced delay. The performance or non-performance by the Parties or either of them of any obligation, requirement, commitment or responsibility set forth in this Agreement shall not be deemed to be the Event of Default pursuant to this Agreement where such performance, failure of performance or delay in performance is/are the result of an Event of Force Majeure or other Tolling Event; provided, however, that the Event of Force Majeure or other Tolling Event was not the result of any unlawful action or non-action of the Party relying on such Event of Force Majeure or other Tolling Event as justification for the non-performance, failure of performance or delay in performance of the subject obligation, requirement, commitment or responsibility. Where either Party alleges that as a result of an Event of Force Majeure or a Tolling Event the aggrieved Party is unable to perform or not perform any aspect of this Agreement, the aggrieved Party shall send proper written notice to the other identifying the Event of Force Majeure or Tolling Event alleged to have occurred.

## ARTICLE 12.

### CONTINGENCIES

**12.01 Governmental Approvals Contingency.** In addition to the terms and conditions concerning the Redeveloper's obligation to obtain Governmental Approvals:

(1) Redeveloper agrees to proceed in good faith and at its own cost and expense to obtain all Governmental Approvals to develop and construct the Project in accordance with the Redevelopment Project Schedule. Redeveloper agrees that it shall ~~not seek any use variances pursuant to N.J.S.A. 40:55D-70(d) in connection with its~~ applications for the Governmental Approvals.

(2) No Governmental Approval shall be deemed "final" until (i) the time for all appeals has run without the filing of an such appeal or (ii) in the event an appeal is filed, all such appeals have been resolved fully in favor of Redeveloper and the time for filling any further appeals has expired without the filling of any such appeals.

(3) In the Event that Redeveloper's application for any Governmental Approval is denied, Redeveloper shall have the option, in its sole discretion, to appeal that denial at Redeveloper's sole cost and expense.

(4) In the event that any application by Redeveloper for a Governmental Approval is denied and either (i) the time for appeal has expired without Redeveloper filing an appeal from such denial or (ii) Redeveloper has filed an appeal from such denial and said appeal has been resolved against Redeveloper, either party shall have the option to terminate this Agreement by providing notice to the other party to that effect.

(5) In the event the Borough is unable to purchase and/or acquire properties Redeveloper could not purchase, Redeveloper shall have the right to terminate this Agreement.

#### ARTICLE 13.

#### COOPERATION AND COMPLIANCE

**13.01. Implementation of Agreement and Redevelopment Plan.** The parties hereto agree to cooperate with each other and to provide all necessary and reasonable documentation, certificates and consents in order to satisfy the terms and conditions hereof and the terms and conditlons of the Plan. The Borough further agrees to cooperate as may be reasonably requested by any mortgagee of the Redeveloper in connection with obtaining financing for the Project; provided, however, that all Borough Costs associated with such action shall be borne by the Redeveloper.

#### ARTICLE 14.

#### MISCELLANEOUS

**14.01. Conflict of Interest.** No member, official or employee of the Borough shall have any direct or indirect interest in this Redevelopment Agreement, nor participate in any decision relating to the Agreement that is prohibited by law.

**14.02. No Consideration For Agreement.** The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Redevelopment Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. ~~The Redeveloper further warrants it has not paid or incurred~~

any obligation to pay any officer or official of the Borough, any money or other consideration for or in connection with this Redevelopment Agreement.

**14.03. Non-Liability of Officials and Employees of the Borough.** No member, official or employee of the Borough shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Borough, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Redevelopment Agreement.

**14.04. Non-Liability of Officials and Employees of the Redeveloper.** No member, officer, shareholders, director, partner or employee of the Redeveloper, and no member, officer, shareholders, director, partner or employee of the members of the Redeveloper or the members of the Redeveloper shall be personally liable to the Borough, or any successor in interest, in the event of any default or breach by the Redeveloper or for any amount which may become due to the Borough, or their successors, on any obligation under the terms of this Redevelopment Agreement.

**14.05. Inspection of Books and Records.**

(1) The Borough shall have the right at all reasonable times to inspect the books and records of the Redeveloper pertinent to the purposes of this Redevelopment Agreement, including but not limited to construction contracts, books and records, leases, insurance policies, and agreements.

(2) The Redeveloper shall have the right at all reasonable times to inspect the books and records of the Borough pertinent to the purposes of this Redevelopment Agreement.

(3) Such inspections must be performed at a time and in a manner as to not unreasonably interfere with the business operations of the party whose books and records are being inspected and be for a legitimate business purpose affecting the material interest of the party seeking the inspection.

**14.06. Approvals by the Borough and the Redeveloper.** Wherever this Redevelopment Agreement requires the approval or consent of the Borough or the Redeveloper, or any officers, agents or employees of either the Borough or the Redeveloper, such approval shall not be unreasonably withheld or conditioned, and approval or disapproval shall be given within the time set forth in this Agreement, or, if no time is given, within fifteen (15) days, unless formal action of the Governing Body is required, in which case, within forty five (45) days.

**14.07. Modification of Agreement.** No modification, waiver, amendment, discharge, or change of this Redevelopment Agreement shall be valid unless the same is in writing, duly authorized, and signed by the Redeveloper and the Borough.

**14.08. Notices and Demands.** A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (and receipt acknowledged) to the parties at their respective addresses set forth herein, or at such other address or addresses with respect to the parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this Section 14.08. Notice shall be effective upon the earlier of receipt or refusal.

**BOROUGH OF EMERSON AGENCY**  
Robert Hoffmann, Borough Administrator  
Municipal Building  
146 Linwood Avenue  
Emerson, New Jersey 07630

With a copy to:

Douglas F. Doyle  
DeCotiis, Fitzpatrick, & Cole, LLP  
500 Frank W. Burr Boulevard  
Teaneck, New Jersey 07666  
Facsimile Number 201-928-0588

And

Emerson Redevelopers, LLC and JMF Properties  
c/o JMF Properties  
80 S. Jefferson,  
Whippany, NJ 07981

With a copy to:

Carl Kempf  
6 Hampshire Court  
Springfield, NJ 07081

**14.9 Title of Articles and Sections.** The titles of the several Articles and Sections of this Agreement, as set forth in the Table of Contents or at the heads of said Articles and Sections, are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions:

**14.10. Severability.** The validity of any Articles, clause or provision of this Agreement shall not affect the validity of the remaining Articles, clauses or provisions hereof.

**14.11. Successors Bound.** This Agreement shall be binding upon the respective parties hereto and their successors and assigns provided however, that this Agreement may not be assigned by either party during the Construction Period.

**14.12. Governing Law.** This Agreement shall be governed by and construed by the laws of the State of New Jersey. Any legal action filed in this matter shall be heard in Superior Court of New Jersey, Bergen County Vicinage.

**14.13. Borough Approvals.** All approvals or disapprovals required by the Borough shall, unless otherwise stated herein, be valid if given in writing by the Mayor or his designee.

**14.14. Counterparts.** This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

**14.15. Exhibits.** Any and all Exhibits annexed to this Agreement are hereby made a part of this Agreement by this reference thereto.

**14.16. Reporting.** Notwithstanding anything contained herein to the contrary, Redeveloper's reporting requirement as to progress of construction shall be the reports required in Exhibit C.

**14.17. Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior oral and written agreements between the parties with respect to the subject matter hereof.

**14.18. Effective Date.** Anything herein contained to the contrary notwithstanding, the effective date of this Agreement shall be the date this Agreement has been last executed by either the Redeveloper or Borough whichever party shall execute last.

**14.19. Review by Counsel.** This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey without regard to or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Redeveloper and the Borough have combined in their review and approval of same.

**14.20. Eminent Domain** The Borough agrees that it will not exercise any powers of eminent domain against the Property that is owned or controlled by EMRED or its transferee, unless EMRED breaches this Agreement or is otherwise in default, in which case, EMRED waives its right to object to or challenge the Borough's right to acquire EMRED's property through eminent domain.

---

**14.21. First Source Employment.** Until the issuance of the Certificate of Completion Redeveloper shall make good faith efforts to employ, and shall provide in its

contracts with its General Contractors that they must make good faith efforts to employ qualified residents of the Borough in the construction of the Project. Redeveloper's good faith efforts will include without limitation cooperating with the Borough in job fairs and similar endeavors and giving adequate consideration to potential employees and businesses as referred by the Borough. In addition, consistent with market wages and to the extent it is commercially feasible, Redeveloper shall make good faith efforts that qualified residents of the Borough and businesses located in the Borough are afforded a fair opportunity to be employed in the operation of the Project. Inclusion of the requirements of this section in Redeveloper's general contract agreements shall fully satisfy this obligation of Redeveloper under this section. Redeveloper, in its sole discretion, shall determine if, and the extent to which, it shall employ qualified residents of, or businesses located in, the Borough, and the extent, if at all, to which Redeveloper shall use union labor for the construction of the Project.

**14.22. Equal Employment Opportunity.** The Redeveloper agrees that during the construction of the Improvements:

(a) To the extent required by Applicable Law, the Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Redeveloper will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause and any such notices provided by the Borough which are consistent therewith.

(b) To the extent required by Applicable Law, the Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) To the extent required by Applicable Law, subcontractors and suppliers to the Project shall to the extent that it is commercially feasible include qualified and certified minority enterprises.

(d) To the extent required by the Applicable Law, the obligations in this Section shall be binding on all contractors and subcontractors to the extent that any work is done by any contractor or subcontractor, and any contract entered into by the Redeveloper shall so provide.

**14.23 Drafting Ambiguities; Interpretation.** In interpreting any provision of this Agreement, no weight shall be given to, nor shall any construction or interpretation be influenced by, the fact that counsel for one of the Parties drafted this Agreement, each

Party acknowledging that it and its counsel have had an opportunity to review this Agreement and have contributed to the final form of same.

**14.24 Withholding of Approvals.** All approvals, consents and acceptances required to be given or made by any Person or party, shall not be unreasonably withheld or delayed.

**14.25 Recitals Incorporated; Definitions Incorporated.** The Recitals to this Agreement and the Definitions contained in this Agreement are incorporated by reference into this Agreement, as if set forth at length herein.

**14.26 Limitation on Liability.** Notwithstanding anything to the contrary in this Agreement, any liability(ies), commitments, obligations and/or responsibility or responsibilities of any type or kind whatsoever (whether actual, contingent, consequential or otherwise) (hereinafter referred to collectively as "Liability") of the Redeveloper in, resulting from, or relating in any way to this Agreement shall be those of the Redeveloper only. Nothing in this Agreement, arising out of, or related in any way to this Agreement or to the Project or any aspect thereof shall, in any way, give the Borough or any other Person recourse to, or be construed to impose, directly or indirectly, any Liability on any Person other than the Redeveloper.

The foregoing limitation on Liability shall apply to, but is not limited to, (i) any Affiliate of the Redeveloper or of the Redeveloper's members, (ii) any member, shareholder, manager, officer, director, partner, managing member, vendor, venturer, trustee, employee, agent, and/or other representative (hereinafter collectively referred to as the "Agent") of the Redeveloper or of the Redeveloper's members, (iii) any Agent of any Affiliate of the Redeveloper or of the Redeveloper's members, (iv) any Affiliate of any Agent of the Redeveloper or of the Redeveloper's members, (v) any Agent of any Agent of the Redeveloper or of the Redeveloper's members, (vi) any Person directly or indirectly holding, controlling and/or owning any interest in the Redeveloper or in the Redeveloper's members, in any Agent or Affiliate of the Redeveloper or of the Redeveloper's members, in any Agent of any Affiliate of the Redeveloper or of the Redeveloper's members, and/or in any Affiliate of any Agent of the Redeveloper or of the Redeveloper's members, and/or (vii) any successors and/or assigns of any of the Parties referenced in subsections (i) through (vi), above unless the Parties have assumed an interest in the Project in accordance with a Permitted Transfer and Article 6 hereof.

The Borough understands and acknowledges that its respective acceptance of the Limitation on Liability set forth in this Section is a condition precedent to the Redeveloper's execution of this Agreement and constitutes specifically bargained-for consideration. The terms of this Section shall in no way limit the indemnification of the Borough as provided for in Article 5 hereof.

**14.27 Borough's Limitation on Liability.** Any liabilities, obligations or ~~responsibilities of any type or kind (contingent or otherwise) herein are solely those of~~ the Borough. No member, director, employee, officer, representative or agent of the

Borough shall be liable to the Redeveloper or any other Person for any matter arising out of or related to the payment or performance of any such liabilities, obligations or responsibilities of the Borough in this Agreement.

**14.28 Limitation on Third Parties.** Nothing in this Agreement is intended to nor shall create any rights for or confer any benefits on any third person or party.

**14.29 No Brokerage Commissions.** The Borough and the Redeveloper each represent one to the other that no real estate broker initiated, assisted, negotiated or consummated this Agreement as broker, agent, or otherwise acting on behalf of either the Borough or the Redeveloper, and the Borough and the Redeveloper shall indemnify each other with respect to any claims made by any person, firm or organization claiming to have been so employed by the indemnifying party.

**14.30 Maintenance.** The Redeveloper shall be responsible for the maintenance and security of each parcel of property contained within the Property subject to the terms of this Agreement subsequent to its acquisition of title to each such parcel of property and until such time as the Redeveloper no longer owns or leases the Property or any portions thereof.

**14.31 Lender Changes.** If the Redeveloper's Financial Institution(s) requires modifications of the terms of this Agreement, the Borough shall reasonably cooperate with the Redeveloper in approving such modifications, so long as such modifications, do not materially and substantially change the rights or obligations of the Borough as set forth in this Agreement and, in the reasonable opinion of the Borough, do not materially impair the objectives and interest of the Borough or render the completion of the Project or any Phase thereof in jeopardy.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

**BOROUGH OF EMERSON**

By: \_\_\_\_\_

Name: Louis Lamatina

Title: Mayor

**REDEVELOPER**

**EMERSON REDEVELOPERS URBAN RENEWAL, LLC**

By: \_\_\_\_\_

Name: Joseph Forgiione

Title: Managing Member

**EXHIBIT A**  
**Property Description**

<u>Property Owner</u>	<u>Block</u>	<u>Lots</u>	<u>Property Address</u>
Angelo and Jane Giambona	419	1	19 Lincoln Blvd.
214 Kinderkamack, LLC	419	2	15 Lincoln Blvd.
214 Kinderkamack, LLC	419	3	9 Lincoln Blvd.
214 Kinderkamack, LLC	419	4	214 Kinderkamack
Borough of Emerson	419	7	
Dolores, Della Volpe Trste	419	6,01	190 Kinderkamack
Yaghoob Pousty	419	6,02	184 Kinderkamack
182 Emerson, LLC	419	8	182 Kinderkamack
182 Emerson, LLC	419	10	78 Linwood

**Exhibit B**  
**Concept Plan**







## Exhibit C

### Project Schedule and Reporting Requirements

#### Project Schedule

By Redeveloper - Attached

#### Reporting Requirements:

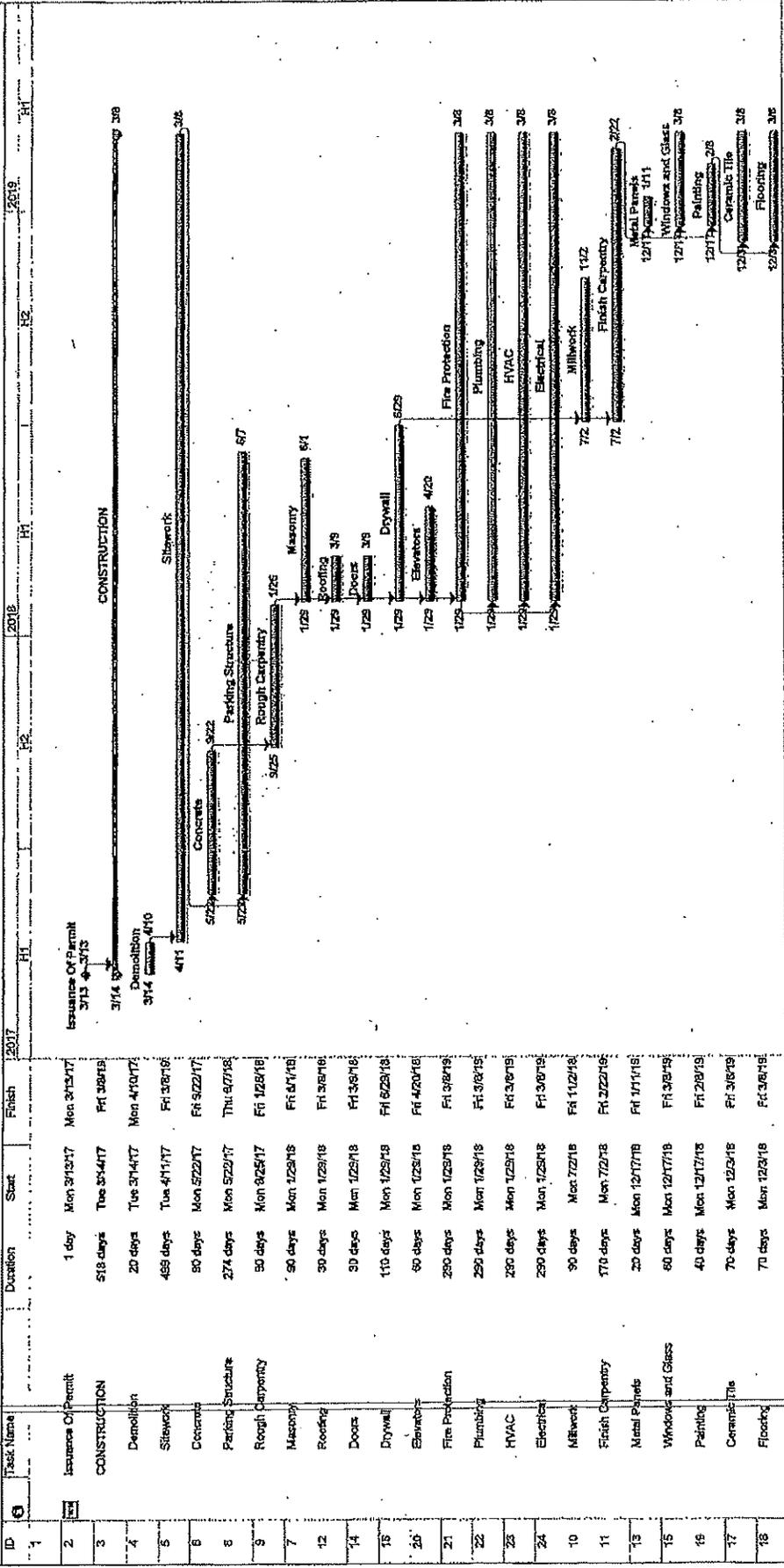
Based on the attached Project Schedule, in addition, on or before the first day of each month after the Commencement Date, redeveloper shall provide report for the prior month to date identifying the following:

1. Status of property acquisition (if still applicable).
2. Status of application to Land Use Board (if still applicable);
3. Status of posting bonds and schedule for Commencement Date (if applicable);
4. Public Improvements performed to date;
5. Other private improvements performed to date;
6. Schedule for Public Improvements and non-public work to be performed in the following month;
7. Anticipated Completion Date and any explanation of revisions to the Anticipated Completion date from previous Monthly Reports;

# EMERSON MIXED USED DEVELOPMENT

KINDERKAMACK ROAD, EMERSON, NEW JERSEY

## PRELIMINARY CONSTRUCTION SCHEDULE



ID	Task Name	Duration	Start	Finish	Progress	Summary	External Tasks	Deadline
1	Issuance of Permit	1 day	Mon 3/13/17	Mon 3/13/17	100%	Summary	External Milestones	6
2	CONSTRUCTION	518 days	Tue 3/14/17	Fri 3/8/19	0%	Project Summary		
3	Demolition	20 days	Tue 3/14/17	Mon 4/10/17	0%			
4	Sitework	458 days	Tue 4/11/17	Fri 3/8/19	0%			
5	Concrete	90 days	Mon 5/22/17	Fri 8/22/17	0%			
6	Parking Structure	274 days	Mon 5/22/17	Thu 9/27/18	0%			
7	Rough Carpentry	90 days	Mon 8/25/17	Fri 1/28/18	0%			
8	Masonry	90 days	Mon 1/22/18	Fri 5/1/18	0%			
9	Roofing	30 days	Mon 1/22/18	Fri 3/8/18	0%			
10	Doors	30 days	Mon 1/22/18	Fri 3/8/18	0%			
11	Drywall	110 days	Mon 1/22/18	Fri 6/23/18	0%			
12	Elevators	90 days	Mon 1/22/18	Fri 4/20/18	0%			
13	Fire Protection	290 days	Mon 1/22/18	Fri 3/8/19	0%			
14	Plumbing	290 days	Mon 1/22/18	Fri 3/8/19	0%			
15	HVAC	290 days	Mon 1/22/18	Fri 3/8/19	0%			
16	Electrical	290 days	Mon 1/22/18	Fri 3/8/19	0%			
17	Millwork	90 days	Mon 7/23/18	Fri 11/2/18	0%			
18	Finish Carpentry	170 days	Mon 7/23/18	Fri 3/22/19	0%			
19	Metal Panels	20 days	Mon 12/17/18	Fri 1/11/19	0%			
20	Windows and Glass	60 days	Mon 12/17/18	Fri 3/8/19	0%			
21	Painting	40 days	Mon 12/17/18	Fri 2/8/19	0%			
22	Ceramic Tile	70 days	Mon 12/17/18	Fri 3/8/19	0%			
23	Flooring	70 days	Mon 12/17/18	Fri 3/8/19	0%			

**Exhibit E**  
**Funding Agreement**

FUNDING AGREEMENT

THIS FUNDING AGREEMENT is dated this 6 day of <sup>May</sup> ~~April~~, 2016 among the BOROUGH OF EMERSON, a municipal corporation with offices at 146 Linwood Ave., Emerson, NJ 07630 (the "Borough") and EMERSON REDEVELOPERS, LLC, with offices located at 80 S. Jefferson Road, Suite 202, Whippany, NJ 07981 (hereinafter referred to as "ERD");

W-I-T-N-E-S-S-E-T-H:

WHEREAS, ERD seeks to redevelop the following property located in the Borough of Emerson identified on the Tax Maps of the Township as Block 419; Lots 1, 2, 3, 4, 6, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 (the "Property"); and

WHEREAS, the Borough wishes to designate a redeveloper for the Redevelopment Area encompassing the Property; and

WHEREAS, ERD proposes to design, develop, finance and construct 134 units and 13,000 square feet of retail space ("the Project") and accordingly has requested the Borough consider appointing ERD as redeveloper for the Property; and

WHEREAS, ERD has agreed to pay the Application Fee as set forth herein and bear the costs for the Borough's professionals to assist the Borough in reviewing, among other things, whether ERD should be designated redeveloper for the Property, and in connection therewith has agreed to establish an escrow fund with the Borough to provide for the payment of professional fees, costs and expenses related thereto incurred by the Borough (the "Interim Costs");

NOW, THEREFORE, for and in consideration of the mutual promises, representations, covenants and agreements contained herein and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby and to bind its successors and assigns, do mutually promise, covenant and agree as follows:

1. Payment of Interim Costs.

Immediately upon the execution of this Funding Agreement, ERD shall pay Ten Thousand Dollars (\$10,000) (the "Escrow") to the Borough and the Borough shall deposit such funds into an escrow account established by it for the payment of the Interim Costs. Prior to the Borough's withdrawal of funds from the Escrow for the payment of the Interim Costs, the Borough shall provide ERD with a copy of each invoice reflecting Interim Costs to be paid. Unless ERD promptly (within fifteen (15) days of its receipt of any such copy) provides a written objection to any invoiced item as not being an Interim Cost, the Borough shall be free to withdraw funds from the Escrow for the payment of such invoiced services. If, when and as

often as may occur that the Escrow is drawn down to or below Three Thousand Five Hundred Dollars \$3,500 then ERD, upon the Borough's request, shall immediately provide to the Borough for deposit an additional amount sufficient to replenish the escrow to Ten Thousand Dollars (\$10,000) for use in accordance with these terms.

Interim Costs, for the purposes of this Funding Agreement, shall include the reasonably incurred out-of-pocket fees, costs and expenses incurred by the Borough (both before and after execution hereof) in reviewing the proposed development of the Property, including, but not limited to, fees for legal, engineering, planning and financial advisory services, including subsequent investigations and studies as may be reasonably determined and agreed to by the parties.

2. Application Fee - Prior to the execution of a formal Redeveloper's Agreement the Borough shall impose a non-refundable fee in an amount to be determined based on the final concept plan, with any adjustment to the fee to be paid, if appropriate, when the Redevelopment Agreement is executed.

3. Notice. Any notice provided to the Borough hereunder shall be submitted in writing to:

Jane Dietsche, RMC, Borough Clerk  
146 Linwood Ave.  
Emerson, NJ 07630

with copies to:

Douglas F. Doyle  
Decofis, Fitzpatrick & Cole, LLP  
Glenpointe Centre West  
500 Frank W. Burr Blvd, Suite 31  
Teaneck, NJ 07666

Notices to ERD shall be submitted in writing to:

Emerson ReDevelopers, LLC  
Attn: Kevin X. Codey, Vice President of Land Acquisitions  
80 South Jefferson Road, Suite 202  
Whippany, NJ 07981

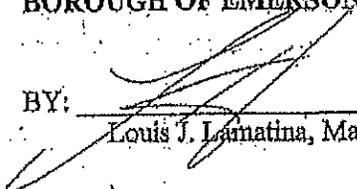
with copies to:

Carleton R. Kempf, Esq.  
6 Hampshire Court  
Springfield, NJ 07081

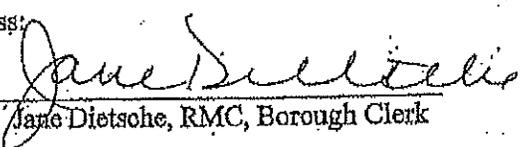
4. General. This Funding Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings between the parties. This Funding Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

IN WITNESS WHEREOF, the Parties hereto have caused this Funding Agreement to be executed, all as of the date first above written.

**BOROUGH OF EMERSON**

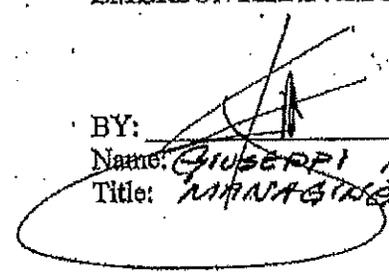
BY:   
Louis J. Lamatina, Mayor

Witness:

By:   
Jane Dietsche, RMC, Borough Clerk

AND

**EMERSON REDEVELOPERS, LLC**

BY:   
Name: GIUSEPPI FORGNONE  
Title: MANAGING MEMBER

**Exhibit F**  
**Offsite/Onsite Improvement Share**

**DEVELOPER ESTIMATE**

**BOROUGH OF EMERSON, KINDERKAMACK ROAD PROJECT**

**ROAD CONSTRUCTION COSTS ON NORTHWEST CORNER, REQUIRED BY BERGEN COUNTY**

1. Cost share estimate items, # 1-25, portion of the 30 % costs borne by Borough	= \$13,200
2. Roadway widening & excavation, 3 feet wide X 900 feet frontage, 2,700 SF = 300 SY X \$100/ SY	= \$30,000
3. Milling, centerline to existing curbline, 15 feet wide X 900 feet frontage, 13,500 SF / 9	= \$ 6,000
= 1,500 SQ X \$4-SY =	
4. Paving, centerline to existing curbline, 15 feet wide X 900 feet frontage, 13,500 SF / 70	= \$14,625
= 195 Tons X \$75 / Ton =	
5. Concrete curb with excavation, 900 LF X \$25/ LF	= \$22,500
6. Concrete sidewalk with excavation, 4 FT X 900 LF= 3,600 SF = 400 SY X \$60/ SY	= \$24,000
7. Drainage changes for road widening, 3 X \$6,000	= \$18,000
8. Traffic control during construction, signs, barricades & police	= \$33,000
9. Traffic Signs	= \$ 1,000
10. Pavement striping, markings and eradication	= \$10,000
11. Relocate traffic signal pole and foundation at Linwood Ave.	= \$20,000
12. Topsoil and seeding, between curb and sidewalk	= \$ 5,000
13. Linwood Ave railroad crossing contribution, ( portion of \$410,000 NJ Transit Estimate)	= \$61,500
	<b>Bergen County Total = \$258,825</b>
	<b>10% Contingency <u>Say \$285,000</u></b>

**CONSTRUCTION COSTS ON NORTHWEST CORNER, REQUIRED BY EMERSON**

1. 42 inch drainage line from Linwood Ave to Lincoln Blvd, 650 LF X \$225/ LF	= \$146,250
2. Lincoln Ave drainage work, upsize pipes	= \$ 10,000
3. 3 New drainage chambers, 42 inch pipe, 3 X \$7,000	= \$ 21,000
<b>STREETSCAPE ITEMS</b>	
4. Expand Paver Sidewalks, 6 FT Add. X 900 FT = 5,400 SF= 600 SY X \$120/ SY	= \$ 72,000
5. Streetscape Lighting, 9 Lights and wiring at \$7,000/ each	= \$ 63,000
6. Street trees, 5 X \$ 500	= \$ 2,500
7. Amenities, benches, trash receptacles	= \$ 10,000
	<b>Emerson Total = \$ 324,750</b>
	<b>10 % Contingency Say \$ 357,000</b>

**Total Estimate \$ 642,000**

Soft Costs, Including surveying, engineering, attorney fees, property acquisition, utility layout, test pits, etc.

\$ 75,000  
**TOTAL \$ 717,000**

**Exhibit G**  
**Storm Water Pipe**

1. 42 Inch drainage line from Linwood Ave to Lincoln Blvd, 650 LF
2. Lincoln Ave drainage work, upsize pipes
3. 3 New drainage chambers, 42 inch pipe

**EXHIBIT C: 2017 INCOME LIMITS**

**2017 AFFORDABLE HOUSING REGIONAL INCOME LIMITS BY HOUSEHOLD SIZE**

Prepared by Affordable Housing Professionals of New Jersey (AHPNJ) - August 2017

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

Region	Income Level	Household Size								Max Increase Rents**	Max Increase Sales***	Regional Asset Limit****	
		1 Person	*1.5 Person	2 Person	*3 Person	4 Person	*4.5 Person	5 Person	6 Person				7 Person
Region 1 Bergen, Hudson, Passaic and Sussex	Median	\$80,271	\$84,576	\$88,882	\$77,482	\$86,102	\$89,546	\$92,990	\$99,878	\$106,766	\$113,655		
	Moderate	\$48,127	\$51,661	\$55,195	\$61,993	\$66,882	\$71,637	\$76,392	\$79,908	\$85,413	\$90,924		
	Low	\$30,136	\$32,288	\$34,441	\$38,746	\$43,051	\$44,773	\$46,495	\$49,939	\$53,383	\$56,827	1.7%	\$166,493
Region 2 Essex, Morris, Union and Warren	Very Low	\$18,081	\$19,573	\$20,964	\$23,248	\$25,891	\$27,897	\$29,903	\$29,968	\$32,090	\$34,096		
	Median	\$65,953	\$70,663	\$75,373	\$84,736	\$94,218	\$97,987	\$101,755	\$109,283	\$116,830	\$124,368		
	Moderate	\$52,762	\$56,531	\$60,299	\$67,837	\$75,374	\$78,389	\$81,404	\$87,434	\$93,464	\$99,494	1.7%	\$180,756
Region 3 Humboldt, Middlesex and Somerset	Low	\$32,976	\$35,332	\$37,687	\$42,398	\$47,109	\$49,988	\$50,878	\$54,646	\$58,415	\$62,184		
	Very Low	\$19,786	\$21,199	\$22,612	\$25,439	\$28,265	\$29,395	\$30,527	\$32,788	\$35,049	\$37,310		
	Median	\$73,780	\$79,050	\$84,320	\$94,860	\$105,400	\$109,515	\$113,632	\$122,264	\$130,896	\$139,528	1.7%	\$200,698
Region 4 Mercer, Monmouth and Ocean	Moderate	\$59,024	\$63,240	\$67,456	\$75,888	\$84,320	\$87,693	\$91,066	\$97,811	\$104,557	\$111,302		
	Low	\$36,890	\$39,525	\$42,160	\$47,430	\$52,700	\$54,808	\$56,916	\$61,132	\$65,348	\$69,564		
	Very Low	\$22,134	\$23,715	\$25,296	\$28,458	\$31,620	\$32,885	\$34,150	\$36,679	\$39,209	\$41,738	1.7%	\$177,413
Region 5 Burlington, Camden and Gloucester	Median	\$66,022	\$70,738	\$75,454	\$84,885	\$94,317	\$98,090	\$101,862	\$109,408	\$116,953	\$124,498		
	Moderate	\$52,817	\$56,590	\$60,363	\$70,308	\$75,454	\$78,472	\$81,490	\$87,526	\$93,562	\$99,598	1.7%	\$177,413
	Low	\$33,011	\$35,569	\$37,727	\$42,448	\$47,158	\$49,045	\$50,931	\$54,704	\$58,476	\$62,249		
Region 6 Atlantic, Cape May, Cumberland and Salem	Very Low	\$19,807	\$21,221	\$22,635	\$25,465	\$28,295	\$29,427	\$30,559	\$32,922	\$35,086	\$37,249		
	Median	\$38,240	\$62,400	\$66,560	\$74,880	\$83,200	\$86,528	\$89,856	\$96,512	\$103,168	\$109,824		
	Moderate	\$48,592	\$49,920	\$53,248	\$59,904	\$66,560	\$69,222	\$71,885	\$77,210	\$82,534	\$87,858	1.7%	\$154,194
Region 6 Atlantic, Cape May, Cumberland and Salem	Very Low	\$17,472	\$18,720	\$19,968	\$22,464	\$24,960	\$25,958	\$26,957	\$28,954	\$30,950	\$32,947		
	Median	\$51,085	\$54,734	\$58,383	\$65,681	\$72,979	\$75,998	\$78,817	\$84,635	\$90,454	\$96,272		
	Moderate	\$40,868	\$43,787	\$46,706	\$52,545	\$58,383	\$60,718	\$63,054	\$67,724	\$72,395	\$77,065	1.7%	\$136,680
Region 6 Atlantic, Cape May, Cumberland and Salem	Low	\$25,543	\$27,367	\$29,192	\$32,940	\$36,689	\$37,949	\$39,409	\$42,328	\$45,247	\$48,166		
	Very Low	\$15,326	\$16,420	\$17,515	\$19,704	\$21,894	\$22,769	\$23,645	\$25,397	\$27,148	\$28,900		
	Moderate	\$80	\$80	\$80	\$80	\$80	\$80	\$80	\$80	\$80	\$80		

\* These columns are for calculating the pricing for one, two and three bedroom sale and rental units as per N.J.A.C. 5:80-26.4(a).  
 \*\* This column is used for calculating the pricing for rent increases for units as per N.J.A.C. 5:97-9.3. The increase for 2015 was 2.3%, the increase for 2016 was 1.1% and the increase for 2017 is 1.7% (Consumer price index for All Urban Consumers (CPI-U); Regions by expenditure category and commodity and service group). Landlords who did not increase rents in 2015 or 2016 may increase rent by up to the applicable combined percentage from their last rental increase for that unit. In no case can rent for any particular apartment be increased more than one time per year.  
 \*\*\* This column is used for calculating the pricing for resale increases for units as per N.J.A.C. 5:97-9.3. As per 5:97-9.3(b), The price of owner-occupied low and moderate income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.  
 Low income tax credit developments may increase based on the low income tax credit regulations.  
 \*\*\*\* The Regional Asset Limit is used in determining an applicant's eligibility for affordable housing pursuant to N.J.A.C. 5:80-26.16(b)(3).  
 Note: Since the Regional Income Limits for Region 6 in 2016 were higher than the 2017 calculations, the 2016 income limits will remain in force for 2017. See N.J.A.C. 5:97-9.2(c).