

**HOUSING ELEMENT**

**AND**

**FAIR SHARE PLAN**

**OF**

**THE CITY OF OCEAN CITY**

**CAPE MAY COUNTY**

**January 2019**

**Adopted: April 3, 2019**

**HOUSING**

**ELEMENT**

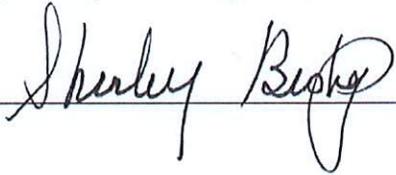
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It is certified that all copies of this document are in conformance with the one signed and sealed by Shirley M. Bishop, P.P., License # 2575

  
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**OCEAN CITY, CAPE MAY COUNTY  
HOUSING ELEMENT**

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OCEAN CITY  
CAPE MAY COUNTY

HOUSING ELEMENT

PREFACE

The City of Ocean City is located in the northeastern section of Cape May County. The City borders three municipalities: Upper Township and the City of Somers Point to the south and west and the Township of Egg Harbor and Borough of Longport to the north. Ocean City is one of the barrier islands along the Atlantic Ocean and contains 6.9 square miles. However, 60 percent of this area contains environmentally constrained wetlands, dunes, beach and waterways. The remainder of the City is almost completely developed. Ocean City is known as "America's Greatest Family Resort."

A municipality's Housing Element must be designed to achieve the goal of providing affordable housing to meet the total 1987-2025 affordable housing need comprised of the Prospective Need obligation, the Prior Round obligation and the Present Need or Rehabilitation Share. The regulations of the Council on Affordable Housing (COAH) and the Fair Housing Act delineate a municipality's strategy for addressing its present and prospective housing needs, and, as such, each municipality's Housing Element must contain the following:

1. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics and type, including the number of units affordable to low and moderate-income households and substandard housing capable of being rehabilitated;
2. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the 10 years subsequent to the adoption of the housing element, taking into account, but not necessarily limited to, construction permits issued, approvals for development and probable residential development of lands;
3. An analysis of the municipality's demographic characteristics, including, but not limited to, household size, income level and age;
4. An analysis of the existing and probable future employment characteristics of the municipality;
5. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing;

6. A consideration of the lands that are most appropriate for construction of low -and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing; including a consideration of lands of developers who have expressed a commitment to provide low-and moderate income housing;
7. A map of all sites designated by the municipality for the production of low and moderate income housing and a listing of each site that includes its owner, acreage, lot and block;
8. The location and capacities of existing and proposed water and sewer lines and facilities relevant to the designated sites;
9. Copies of necessary applications for sewer service and water quality management plans submitted pursuant to Sections 201 and 208 of the Federal Clean Water Act, 33 U.S.C. §1251, et seq.;
10. A copy of the most recently adopted municipal master plan, and where required, the immediately preceding, adopted master plan;
11. For each designated site, a copy of the New Jersey Freshwater Wetlands map where available. When such maps are not available, municipalities shall provide appropriate copies of the National Wetlands Inventory maps provided by the U.S. Fish and Wildlife Service;
12. A copy of appropriate United States Geological Survey Topographic Quadrangles for designated sites; and
13. Any other documentation pertaining to the review of the municipal housing element as may be required.

## I. INVENTORY OF HOUSING STOCK

### A. Age

Forty percent of Ocean City's housing stock was built between 1960 and 1990. Ocean City has a total housing stock of 20,253 units. The median year that a structure was built in Ocean City was 1977, according to the 2010 American Community Survey.

**TABLE 1**  
**Age of Housing Units**

<u>Dates of Construction</u>	<u>Structures</u>	<u>Percent of Total</u>
1939 or earlier	4,071	20
1940 - 1949	695	3
1950 - 1959	1,926	10
1960 - 1969	1,674	8
1970 - 1979	2,385	12
1980 - 1989	4,023	20
1990 - 1999	2,302	11
2000 - 2004	2,507	12
2005 - 2010	670	3
<b>TOTAL UNITS</b>	<b>20,253</b>	<b>100</b>

Source: 2006-2010 American Community Survey 5-Year Estimates

Units built before 1960 and containing 1.01 or more persons per room are highly correlated with substandard housing indicators. This is an index utilized in determining the Rehabilitation Share. In Ocean City, 6,692 units or 33 percent of the housing stock was built before 1960. This is generally an important indicator in calculating Ocean City's Rehabilitation Share and explains why Ocean City's Rehabilitation Share is 76 units.

### B. Condition

Rehabilitation Share is the total deficient housing signaled by selected housing unit characteristics unique to each community. It is assumed that units so indicated will be prime candidates for rehabilitation. Characteristics indicating a need for rehabilitation are:

- (1) Persons per Room. 1.01 or more persons per room in housing units built 1960 or before. These are old units that are overcrowded.
- (2) Plumbing Facilities. Inadequate plumbing sufficient for rehabilitation is indicated by incomplete plumbing facilities, i.e., lack of hot and cold piped water, flush toilet or bathtub/shower.
- (3) Kitchen Facilities. Inadequate kitchen facilities signaling rehabilitation are indicated by the non-presence of kitchen facilities within the unit, or the non-presence of one of three components: a sink with piped water, a stove or a refrigerator.

The age of Ocean City's housing stock has been presented in Table 1. Tables 2 through 4 address the other surrogates of deficient housing.

**TABLE 2**  
**Persons Per Room**

<b>Persons Per Room</b>	<b>Occupied</b>	<b>Owner Occupied</b>	<b>Renter Occupied</b>
1.01 to 1.50	29	10	19
1.51 to 2.00	20	20	0
2.01 or more	0	0	0
<b>TOTAL</b>	<b>49</b>	<b>30</b>	<b>19</b>

Source: 2006-2010 American Community Survey 5-Year Estimates

**TABLE 3**  
**Plumbing Facilities**

	<b><u>Total Units</u></b>
Complete plumbing facilities	20,072
Lacking complete plumbing facilities	181

Source: 2006-2010 American Community Survey 5-Year Estimates

**TABLE 4**  
**Kitchen Facilities**

	<b><u>Total Units</u></b>
Complete kitchen facilities	20,050
Lacking complete kitchen facilities	203

Source: 2006-2010 American Community Survey 5-Year Estimates

Based on the above, it is determined that Ocean City has 76 housing units that are substandard and occupied by low and moderate-income households.

### C. Purchase and Rental Value

Approximately 94 percent of the owner-occupied housing units in Ocean City had values over \$200,000. The median value was \$621,300. This housing value is significantly higher than \$357,000 for the state and \$337,300 for Cape May County.

**TABLE 5**  
**Owner-Occupied Housing**  
**Unit Values**

	<u>Units</u>	<u>Percent</u>
Less than \$34,999	5	0
\$35,000 - \$39,999	0	0
\$40,000 - \$49,999	35	1
\$50,000 - \$59,999	0	0
\$60,000 - \$69,999	0	0
\$70,000 - \$99,999	28	1
\$100,000 - \$124,999	32	1
\$125,000 - \$149,999	33	1
\$150,000 - \$174,999	88	2
\$175,000 - \$199,999	25	1
\$200,000 - \$249,999	231	6
\$250,000 - \$299,999	86	2
\$300,000 - \$399,999	335	8
\$400,000 - \$499,999	603	14
\$500,000 - \$749,999	1,201	29
\$750,000 - \$999,999	723	17
\$1,000,000 or more	742	18
<b>TOTAL</b>	<b>4,167</b>	<b>100</b>

Median Value \$621,300

Source: 2006-2010 American Community Survey 5-Year Estimates

Of the 2,118 rental units with cash rent in Ocean City, 1,448 or 68 percent had rents between \$600 and \$1,999 per month. The median contract rent was \$861 per month.

**TABLE 6**  
**Contract Rent Values**

<b><u>With cash rent:</u></b>	<b><u>Units</u></b>
\$0 - \$ 99	0
\$100 - \$149	44
\$150 - \$199	77
\$200 - \$249	47
\$250 - \$299	58
\$300 - \$349	23
\$350 - \$399	18
\$400 - \$449	26
\$450 - \$499	48
\$500 - \$549	34
\$550 - \$599	48
\$600 - \$649	147
\$650 - \$699	112
\$700 - \$749	86
\$750 - \$999	472
\$1,000 - \$1,249	315
\$1,250 - \$1,499	116
\$1,500 - \$1,999	200
\$2,000 - or more	0
Total	2,118

No cash rent \$247

Median contract rent \$861

Source: 2006-2010 American Community Survey 5-Year Estimates

## D. Occupancy Characteristics and Types

Sixty-two percent of the occupied housing in Ocean City is owner-occupied. However, 14,981 housing units or 72 percent are considered vacant. This is because Ocean City is a resort community and the census was taken during an off-season month.

**TABLE 7**  
**Tenure and Vacancy**

	<b>Housing Units</b>
Total Occupied	5,890
Occupied:	
Owner Occupied	3,642
Renter Occupied	2,248
Vacant:	
For rent	1,207
For sale only	258
Rented or sold, not occupied	135
For seasonal, recreational, or occasional use	12,125
Other vacant	1,256
<b>TOTAL VACANT</b>	<b>14,981</b>

Note: Total housing units do not match between tables due to varied data sources

Source: 2010 Census of Population and Housing

## E. Units Affordable to Low and Moderate Income Households

Units are affordable to low- and moderate-income households if the maximum sales price or rent is set within a specified formula as per the Uniform Housing Affordability Controls (UHAC) regulations, N.J.A.C. 5:80-26.1 *et seq.* A moderate-income household is a household whose gross family income is more than 50 percent of median income, but less than 80 percent of median income for households of the same size within the housing region. A low-income household is a household whose gross family income is equal to or less than 50 percent of median gross household income for a household of the same size within the housing region for Ocean City. Ocean City is in Region 6, which encompasses Atlantic, Cape May, Cumberland and Salem counties.

Using 2014 regional income limits adopted by COAH, a four-person Cape May County median household income is estimated at \$72,979. A moderate-income four-person household would earn a maximum of \$58,383 (80 percent of regional median) and a four-person low-income household would earn a maximum of \$36,490 (50 percent of regional median).

Income levels for one-, two-, three- and four-person households as of 2014 are given below:

**TABLE 8**  
**2014 Low and Moderate Regional Incomes**

<b>Income</b>	<b>1 person</b>	<b>2 persons</b>	<b>3 persons</b>	<b>4 persons</b>
Median	\$51,085	\$58,383	\$65,681	\$72,979
Moderate	\$40,868	\$46,707	\$52,545	\$58,383
Low	\$25,543	\$29,192	\$32,841	\$36,490

Source: COAH, 2014 Income Limits

Based on the qualifying formula in N.J.A.C. 5:80-26, the monthly cost of shelter which includes mortgage (principal and interest), taxes, insurance and homeowners or condominium association fees, may not exceed 28 percent of gross monthly household income based on a five percent down payment. In addition, moderate-income sales units must be available for at least three different prices and low-income sales units available for at least two different prices. The maximum sales prices must now be affordable to households earning no more than 70 percent of median income. The sales prices must average 55 percent of median income.

Under UHAC regulations, rents including utilities may not exceed 30 percent of gross monthly income. The average rent must now be affordable to households earning 52 percent of median income. The maximum rents must be affordable to households earning no more than 60 percent of median income. In averaging 52 percent, one rent may be established for a low-income unit and one rent for a moderate-income unit for each bedroom distribution. The utility allowance must be consistent with the utility allowance approved by HUD and utilized in New Jersey. In addition, 13 percent of restricted rental units must be affordable to households earning no more than 30 percent of median income.

Ocean City currently has the following low and moderate-income housing:

Wesley By the Bay	60 age-restricted rental units
Pecks Beach Village	60 family rental units
Bay View Manor	61 age-restricted rental units
613 Simpson Avenue	1 family for sale
625 Simpson Avenue	1 family for sale

## II. PROJECTION OF HOUSING STOCK

### A. Building Permits

According to the New Jersey Department of Labor, Residential Building Permits Issued, 3,357 building permits were issued in Ocean City from 2000 through 2009. From 2010 through 2014, there were 880 residential building permits issued.

### B. Future Construction of Low and Moderate Income Housing

Ocean City will address the future construction of low and moderate income housing in the Fair Share Plan.

## III. DEMOGRAPHIC CHARACTERISTICS

### A. Population

The population in Ocean City decreased by 23 percent between 2000 and 2010. Table 9 illustrates the figures.

**TABLE 9**  
**Population**

<b>Year</b>	<b>Population</b>
2000	15,378
2010	11,701

Note: Total population does not match between tables due to varied data sources

Sources: 2000 and 2010 Census of Population and Housing

The year-round population of Ocean City decreased by nearly 4,000 permanent residents since 2000. The decrease occurring in the year-round population can be explained in part by the redevelopment occurring in the housing stock, which combined with the increase in investment and seasonal use, reduces the availability of lower cost year-round housing.

**TABLE 10**  
**Population Characteristics**

### **SELECTED POPULATION CHARACTERISTICS**

Forty-eight percent of Ocean City's residents are 55 years of age or older. This is a significant percentage. Approximately 36.2 percent of the Cape May County population is 55 or over, while only 24.6 percent of New Jersey residents are 55 or older.

<b><u>TOTAL POPULATION</u></b>	<b><u>Number</u></b> 11,701
<b><u>SEX</u></b>	

Male	5,499
Female	6,202

AGE

	<u>Male</u>	<u>Female</u>
Under 5 years	180	189
5 to 14 years	473	455
15 to 19 years	304	273
20 to 24 years	305	256
25 to 44 years	990	961
45 to 54 years	809	938
55 to 59 years	488	545
60 to 64 years	502	562
65 to 74 years	747	869
75 to 84 years	513	763
85 years and over	188	391

Note: Total population does not match between tables due to varied data sources

Source: 2010 Census of Population and Housing

**B. Household Size and Type**

A household profile of Ocean City shows that there were 5,890 households with a total household population of 11,637 in 2010. The average number of persons per household was 1.98.

**TABLE 11**  
**Household Profile 2010**

	<b>Total Number</b>
Households	5,890
Population of households	11,637
Persons per household	1.98

Source: 2010 Census of Population and Housing

**TABLE 12**  
**Household Type and Relationship**

In family households:	8,445
householder:	3,087
Male	2,208
Female	879
Spouse	2,390
child:	2,917
Natural born/adopt	2,281
step	53
grandchild	125
other relatives	99
non-relatives	167
In non-family households:	3,192
householders living alone	2,478
householders not living alone	325
Non-relatives	389
In group quarters:	64
Institutionalized population	59
Non-institutionalized population	5

Source: 2010 Census of Population and Housing

**TABLE 13**  
**Type of Housing Units by Structure**

**Units in Structure**

1, detached	6,409
1, attached	7,625
2	3,465
3 or 4	795
5 to 9	597
10 to 19	242
20 to 49	382
50 or more	725
Mobile home	13
Other	0
<b>TOTAL</b>	<b>20,253</b>

Note: Total housing units do not match between tables due to varied data sources

Source: 2006-2010 American Community Survey 5-Year Estimates

**C. Income Level**

Approximately 38 percent of the households in Ocean City earn \$44,999 and below according to the 2010 American Community Survey and 62 percent earn \$45,000 and above. Ocean City has a median household income of \$55,202, which is slightly higher than Cape May County that is \$54,292, but significantly lower than the state's median household income of \$69,811.

**TABLE 14**  
**Household Income**

<u>Household Income</u>	<u>Number</u>	<u>Percent</u>
\$0-9,999	299	5
\$10,000-\$14,999	216	3
\$15,000-\$19,999	219	3
\$20,000-\$24,999	289	5
\$25,000-\$29,999	298	5
\$30,000-\$34,999	374	6
\$35,000-\$39,999	435	7
\$40,000-\$44,999	252	4
\$45,000-\$49,999	374	6
\$50,000-\$59,999	499	8
\$60,000-\$99,999	1,455	23
\$100,000-\$149,999	866	14
\$150,000-\$199,999	370	6
\$200,000 or more	339	5
<b>TOTAL</b>	<b>6,285</b>	<b>100</b>

Median Household Income \$55,202

Note: Total households do not match between tables due to varied data sources

Source: 2006-2010 American Community Survey 5-Year Estimates

#### **D. Age**

The age of Ocean City's population has been discussed under Section III, Demographic Characteristics, A. Population.

#### **E. Marital Status**

In 2010, there were more women than men over the age of 15 years in Ocean City. There was almost the same number of females that never married as men. There were significantly more widows than widowers (737) and more divorced females than males.

**TABLE 15**  
**Sex by Marital Status - Persons 15 Years and over**

Marital Status	Total	Male	Female
Total	10,837	4,844	5,993
Never Married	2,830	1,364	1,466
Now Married	5,718	2,925	2,793
Widowed	1,223	243	980
Divorced	1,066	312	754

Note: Total population does not match between tables due to varied data sources

Source: 2006-2010 American Community Survey 5-Year Estimates

#### IV. EXISTING AND PROBABLE FUTURE EMPLOYMENT CHARACTERISTICS

Of the 5,465 Ocean City residents employed in the civilian labor force, 31 percent are in agriculture, construction, manufacturing, wholesale trade, retail trade and transportation fields and 26 percent are in educational, health and social services.

**TABLE 16**  
**Occupation**  
**Employed Persons 16 Years and Over**

	Male	Female	Total
Finance, insurance, real estate	310	190	500
Agriculture, construction, manufacturing, wholesale trade, retail trade, transportation	1,096	604	1,700
Information	19	57	76
Arts, entertainment, recreation, accommodation and food services	339	487	826
Professional, scientific and technical services	322	163	485
Educational, health and social services	611	829	1,440
Public administration	155	152	307
Other services	77	54	131
<b>Total</b>	<b>2,929</b>	<b>2,536</b>	<b>5,465</b>

Note: Total population does not match between tables due to varied data sources

Source: 2006-2010 American Community Survey 5-Year Estimates

According to the New Jersey State Data Center, Ocean City had a covered employment number of 5,508 in 2014. The number represents a tabulation of employment and wage data for employers covered under the New Jersey Unemployment Compensation Law. The program utilizes the North American Industry Classification System (NAICS) as the basis for the assignment and tabulation. NAICS provides data users with new industrial groupings that better reflect the workings of the US and New Jersey economies and allow for the improved measurement of new industries.

**TABLE 17**

**Covered Employment Status Within Ocean City- 2014**

<u>INDUSTRY</u>	<u>ANNUAL AVERAGE UNITS</u>	<u>AVERAGE</u>
Construction	50	227
Manufacturing	16	128
Wholesale trade	6	28
Retail trade	99	781
Transportation and warehousing	.	.
Information	5	29
Finance and insurance	32	382
Real estate and rental and leasing	44	212
Professional and technical services	42	193
Administrative and waste services	19	100
Educational services	5	28
Health care and social assistance	31	813
Arts, entertainment, and recreation	18	227
Accommodation and food services	120	1,060
Other services, except public administration	53	248
Unclassified entities	6	16
<b>PRIVATE SECTOR MUNICIPALITY TOTAL</b>	<b>556</b>	<b>4,506</b>
<b>FEDERAL GOVT MUNICIPALITY TOTAL</b>	<b>2</b>	<b>47</b>
<b>LOCAL GOVT MUNICIPALITY TOTAL</b>	<b>4</b>	<b>955</b>

Source: NJ Employment and Wages: 2014 Annual Report

## **V. DETERMINATION OF TOTAL OBLIGATION FOR REHABILITATION AND PRIOR ROUND**

### **A. Rehabilitation Share (Present Need)**

Ocean City has a 105-unit Rehabilitation Share.

### **B. Prior Round Obligation**

Ocean City's obligation from the Prior Round is 411 units. The Prior Round covers the period from 1987-1999. However, Ocean City received a vacant land adjustment in COAH's grant of substantive certification on October 4, 2000 that reduced the Prior Round obligation to eight units, which became the realistic development potential (RDP), resulting in an unmet need of 403 units.

## **VI. PROSPECTIVE NEED OBLIGATION**

According to a Settlement Agreement with Fair Share Housing Center (FSHC), Ocean City has a Prospective Need Obligation of 1,276. However, both Ocean City and FSHC agreed that the Prior Round Obligation of 411 would be combined with the 1,276 Prospective Need to yield 1,687. Subtracting the 110 credits that will address the RDP together with the 60 units from the Prior Cycle Wesley by the Bay development results in an unmet need of 1,517.

## **VII. ANALYSIS OF EXISTING AND FUTURE ZONING TO ACCOMMODATE PROSPECTIVE NEED**

Ocean City believes that the existing and proposed zoning can accommodate future growth based on the affordable housing options selected.

### **A. Availability of Existing and Planned Infrastructure**

Ocean City potable water needs are supplied and distributed by the New Jersey American Water Company which owns and operates a water distribution system providing water to every street within its municipal boundaries. All dwelling units and businesses in the City are connected to the water system. New Jersey American owns and operates 10 supply wells on the island as well as storage and distribution facilities.

The resort character of Ocean City is the major contributing factor to the significant seasonal increase in summer water demand. The actual number of gallons used during the summer months is significantly larger than the winter demand and the summer season demand is the major concern for adequate future water supplies. However, the water service is sufficient for present and future redevelopment.

A 6.3 million gallon per day (MGD) capacity Secondary Wastewater Treatment Facility for Ocean City has been in operation since February 1982. The facility was re-rated at 7.3 MGD by the NJDEP in the summer of 1994. Effective with the re-issuance of the NJPDES permit renewal on April 1, 2001, the facility was again re-rated by the NJDEP at 8.24 MGD. Transmission facilities consist of four (4) regional pumping stations and approximately 52,000 lineal feet of force mains. These Transmission Facilities terminate at the Regional Wastewater Treatment Facility located at the western end of 45th Street. Treated effluent is discharged through an outfall and diffuser system which extends approximately 6,000 lineal feet from the shoreline into the Atlantic Ocean, east of the treatment facility site. The New Jersey American Water Company has been contracted and franchised by the City to own, operate and administer wastewater facilities located within the City.

The Cape May County Municipal Utilities Authority maintains the Ocean City Sewerage Treatment Plant. Based on current growth rates and existing per unit flows, the plant has sufficient capacity for present and future redevelopment.

### **B. Anticipated Demand for Types of Uses Permitted by Zoning Based on Present and Anticipated Future Demographic Characteristics:**

Seventy-five (75) percent of the city's total area is undevelopable and includes wetlands, bays, inlets, preserved land and beach. The remaining developable area is entirely developed.

Ocean City anticipated the demand for types of uses permitted by zoning based on its present and future demographic characteristics and community vision.

Ocean City has carefully reviewed anticipated demand by approving residential and non-residential developments according to market demand and sound planning principles.

### **C. Anticipated Land Use Patterns**

Ocean City adopted a Land Use Plan Element in December 2001. The plan presents proposed land uses based on both type and intensity of use and establishes a pattern of future development and redevelopment for the City.

Ocean City proposes to preserve existing single-family neighborhoods and create and increase single-family housing in the City while at the same time maintaining the City as a family-oriented resort community.

Ocean City is primarily resort residential in character with a moderately dense housing base made up of small lot, single- and two-family dwellings and a large commercial core around 9th Street and Asbury Avenue. Seasonal commercial development is located at the boardwalk from 6th to 15th Streets. A hotel and motel zone parallels the boardwalk commercial zone. Ocean City also contains one of three airports in the County.

#### **D. Economic Development Policies**

Ocean City encourages commercial and office development within the City, which will provide employment for present and future residents and contribute to a balanced economic base. In addition, the City promotes economic development by encouraging new and reinvestment in existing commercial, retail, amusement, hotel, motel and related resort activities within the City in areas suitable for such development.

#### **E. Constraints on Development**

1. State and federal regulations: Ocean City is under the jurisdiction of the Coastal Area Facilities Review Act (CAFRA). As such, Ocean City is included in the barrier island designation. CAFRA regulations discourage development, which will encroach upon beaches, dunes, wetlands or open water areas. CAFRA regulations also regulate the intensity of development.
2. Land ownership patterns: The majority of the City is residential. Of the occupied housing stock, 62 percent were owned while 38 percent were rental housing. Of the 20,871 total housing units, 72 percent were vacant when the 2010 census was taken. This is because Ocean City is a resort community and the census was taken during the off-season.

There is a continuing and growing trend toward purchases of homes by non-occupants. Many of the homes are purchased as second homes and/or for rental purposes.

3. Incompatible land uses: One of the principal objectives of the Land Use Plan was to find solutions to problems identified with one-and-two-family development in the City. One of the major issues is the need for context-sensitive and neighborhood specific development standards. The City is concerned with the incompatible nature of much of the infill development and is reviewing zoning solutions to this concern.
4. Sites needing remediation: There are no known sites needing remediation.

5. Environmental Constraints: Over 60 percent of Ocean City is environmentally constrained by wetlands, dunes, beach and waterways.
6. Ocean City is a coastal barrier island. Development and redevelopment in the City are constrained by the natural barriers of the Atlantic Ocean, beaches, dunes, coastal wetlands and back-bay complex. The island is considered to be fully developed, with little vacant land. Future development will occur as existing properties are redeveloped.

## VIII. PLAN ENDORSEMENT

Ocean City initiated the Plan Endorsement process with a pre-petition meeting on April 12, 2005. The City filed a petition with the NJSPC in August 2007, pursuant to N.J.A.C. 5:85-7, seeking to amend the State Plan Policy Map of the State Plan to have the City of Ocean City designated as a Regional Center under the State Plan. In a report dated February 11, 2008, the Executive Director of the former New Jersey Office of Smart Growth (NJOSG) recommended approval of the petition, pending the resolution of issues to be resolved through the Action Plan.

The City adopted Resolution #09-45-369 on March 20, 2009 to enter into the MOU with NJOSG. Since then, the City has worked actively with the state to move through the Action Plan. The Plan Implementation Committee of the NJSPC conducted a public hearing on the petition filed by the City on November 23, 2009 and recommended that the City be designated as a Regional Center. On November 24, 2009, the NJSPC considered the petition submitted by the City and the recommendation of NJOSG, and adopted Resolution No. 2009-07, designating the City a Regional Center.

Ocean City's Master Plan creates the Ocean City Regional Center utilizing center-based development with an environs protection strategy. The Regional Center was approved by the NJDEP on April 19, 2010 as having achieved center-based development and a high level of resource protection. The City is a CAFRA Regional Center.

**Fair Share Plan**

**City of Ocean City  
Cape May County**

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## I. PREFACE

A municipality's affordable housing obligation is cumulative and includes affordable housing need for the period 1987 to 2025. The affordable housing obligation consists of three components:

- Present Need (Rehabilitation Share) (2010)
- Prior Round Obligation (1987-1999)
- Third Round Obligation (2000-2025)

A municipality's Present Need (Rehabilitation Share) is a measure of old, crowded, deficient housing that is occupied by low- and moderate-income households. Present Need numbers from each Prior Round are replaced with the latest round numbers because the numbers are updated with each decennial census.

A municipality may receive credit for rehabilitation of low- and moderate-income deficient housing units completed after April 1, 2010 provided the units were rehabilitated up to the applicable code standard, the capital cost spent on rehabilitating a unit was at least \$10,000 and the units have the appropriate controls on affordability to ensure they remain affordable during the required period of time.

Rehabilitation credits cannot exceed the Present Need and can only be credited against the rehabilitation component, not the new construction component. The Ocean City Rehabilitation number is 105.

The Prior Round Obligation is the new construction obligation from 1987-1999 and is 411.

The Third Round Obligation covers the period from 1999-2025. Ocean City's Third Round Obligation of 1,276 is the result of a Settlement Agreement with Fair Share Housing Center (FSHC).

## II. PRESENT NEED (REHABILITATION SHARE)

The purpose of a rehabilitation program is to renovate deficient housing units. Deficient housing units are defined as units with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing, (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems. Upon rehabilitation, the housing deficiencies must be corrected and the unit must comply with the applicable code standard.

A municipality must demonstrate that it has the capability to administer a rehabilitation program by either designating an experienced employee to administer the program or entering into an agreement with a governmental agency or private consultant to administer all or some of the program. A municipality must provide the consultant or municipal employee's credentials to administer the program as well as a procedures manual.

Rental units cannot be excluded from a municipal rehabilitation program. There must be at least 10-year affordability controls placed on both owner-occupied units and rental units. For owner occupied units, the controls may be in the form of a lien filed with the appropriate property's deed. For rental units, the controls must be in the form of a deed restriction and may also include a lien. Units rehabilitated after April 1, 2010 are eligible for credits against the Present Need (Rehabilitation Share).

As mentioned above, the municipal investment for the rehabilitation of a unit must be at least \$10,000 per unit. Documentation must also be submitted demonstrating adequate funding source(s) and a resolution of intent to bond in the event there is a shortfall of funds.

A municipality is also required to prepare and submit a rehabilitation manual that summarizes the administration of the rehabilitation program including an affirmative marketing plan. The affirmative marketing program must clearly describe the outreach efforts to be used in implementing the program.

Ocean City's Present Need (Rehabilitation Share) is 105 units.

It should be noted that Ocean City expended \$650,000 to replace 40 deteriorating roofs (a major system) at Peck's Beach Village, a public housing authority complex administered by the Ocean City Housing Authority (OCHA) in 2012. The rehabilitation was funded by the Ocean City Trust Account. All residents were income eligible as the complex is public housing. The funding documentation is in Exhibit A.

To address the remaining 65 units, Ocean City has contracted with TRIAD, an experienced agency, to prepare manuals for the administration of both a rental and owner-occupied rehabilitation program. TRIAD will administer the owner-occupied rehabilitation program. The OCHA will administer the rental rehabilitation program. The contract with TRIAD and the Shared Services Agreement (SSA) with OCHA for the rental rehabilitation are in Exhibit B. The funding will come from the Ocean City Trust Account. In addition, the Operating Manual is an Attachment to the Fair Share Plan.

### **III. PRIOR ROUND OBLIGATION**

Ocean City's Prior Round obligation is 411 units.

### **IV. THIRD ROUND OBLIGATION**

FSHC has calculated Ocean City's Third Round Obligation to be 1,276 units.

## V. COMBINED PRIOR ROUND AND THIRD ROUND OBLIGATIONS

As per the Settlement Agreement, Ocean City and FSHC agreed that both obligations would be combined and Ocean City would prepare a plan to address the 1,687 unit obligation. (411 + 1,276).

The Fair Share Plan includes the projects and strategies to address an affordable housing obligation. The Fair Share Plan is based upon the municipal fair share obligation calculated by FSHC in the Settlement Agreement. The planning board adopts the Housing Element and Fair Share Plan and both are endorsed by the governing body prior to the petition to the Court. The proposed implementing ordinances (Exhibits M - O) must be adopted prior to the Compliance Hearing.

The Fair Share Plan encompasses all of the proposals addressing the affordable housing obligation. COAH rules have a number of different provisions regarding the development of affordable housing. The options available to meet the 1999-2025 fair share obligation include:

- Municipal zoning
  - Zoning for inclusionary development
  - Redevelopment districts/sites
- Municipally sponsored new construction and 100 percent affordable developments
- Alternative living arrangements:
  - Permanent supportive housing
  - Group homes
  - Congregate housing
  - Residential health care facilities
  - Transitional facilities for the homeless
- Accessory apartments
- Market to Affordable Program
- Municipally sponsored rental program
- Assisted living residences
- Extension of expiring controls on existing affordable units
- Age-restricted housing

### A. Realistic Development Potential (RDP)

Because there is insufficient vacant and developable land in Ocean City, a vacant land inventory was undertaken. As a result, Ocean City and FSHC agreed to a realistic development potential (RDP) of 59 units for the combined obligations based on the following calculations:

RDP	Units
Prior Round RDP	8
Block 1606, Lots 2-6(2.7 acres)and Block 1506, Lot 1(0.62 acres)=3.32x 30=100 x .20 = 20 *	20
Block 702, Lots, 19+23(.84+17 acres)= 1.01 acres x 64.36= 65 x .20=13 *	13
Block 70.13, Lots 1,101-23 Bay Rd. .84 acres x 6=5x.20=1	1
Block 1206, Lot 2, 1205 Haven Ave 0.66 acres x7= 4.62x .20 = 1	1
Ocean City Housing Authority Redevelopment Parcels (20 +40+20=80÷5=16	16
<b>TOTAL</b>	<b>59</b>

\* The agreed to density on the starred sites is solely for the purpose of settlement and is no indication that the City believes that the increased densities are appropriate in these locations.

### B. Compliance Mechanisms

The 59- unit RDP will be addressed as per the Settlement Agreement as seen below:

Developments/Compliance Mechanisms	Details/Status	Units	Bonuses
613 Simpson Avenue and 626 Simpson Avenue, single family for sale homes, Block 607 Lot 10 and Block 608, Lot 15 respectively.	These 2 family for-sale units were developed in 2002. Ocean City will provide evidence of affirmative marketing, deed restrictions and the low/moderate income split.	2	
Municipally sponsored family units- 224 Simpson Avenue/ a duplex (2 units) 240-44 Haven Avenue- 2 duplexes (4 units) 36 <sup>th</sup> and Bay Avenue Street End-2 duplexes (4 units)	Ocean City will develop 10 affordable two- and three-bedroom family rental units at identified locations.	10	
Market- to-Affordable Program	Ocean City will acquire and make affordable either as for sale or rental units, 3	3	

	affordable homes through a Market-to-Affordable Program.		
100% affordable senior rentals at Bayview Manor site (601 West Avenue) Block 605, Lot 1	This site will be developed in collaboration with the OCHA.	20	
100% affordable family rentals at Peck's Beach Village- North Site, Block 310, Lot 14 & Block 309, Lots 1 & 2	This site will be developed in collaboration with the OCHA.	40	15
100% affordable family rental at Peck's Beach Village- South site, Block 409, Lot 1 & Block 410, Lot 12	This site will be developed in collaboration with the OCHA.	20	
		Units	Bonuses
		95	15
			110

The 95 units and 15 bonuses totaling 110 are the result of a Settlement Agreement with FSHC.

### C. 613 and 626 Simpson Avenue

Ocean City previously received a vacant land adjustment in 2000 from COAH for an RDP of eight units. To address the eight unit RDP, Ocean City proposed to construct eight single family homes in the 600 block of Simpson Avenue. However, only two homes were constructed in 2002. The one home at 613 Simpson Avenue is a two bedroom, moderate income home and the second home at 625 Simpson Avenue is a three bedroom, moderate income home. The homes have 30 year deed restrictions:

A review of the COAH files indicated that there was a problem with finding a low income purchaser and, as a result, Ocean City substituted a moderate income purchaser so as to proceed with the program.

According to the Settlement Agreement with FSHC, Ocean City is to provide evidence of affirmative marketing and the deed restrictions. The COAH grant of substantive certification in 2000 states that Ocean City submitted and COAH approved the affirmative marketing plan. A review of the COAH files did not produce any of the submitted documents that were included in the grant of final substantive certification. However, there was nothing in the file to indicate that the adopted and approved affirmative marketing plan was not followed. Documents and deeds relating to the two Simpson Avenue homes are in Exhibit C.

#### **D. Municipally Sponsored Family Rental Units + Market To Affordable (M2A) Program**

Ocean City will develop 10 affordable, two and three bedroom family rental units at the following locations:

224 Simpson Ave- 1 duplex (2 units)  
246-44 Haven Avenue- 2 duplexes (4 units)  
36<sup>th</sup> + Bay Avenue Street End- 2 duplexes (4 units)

Total- 10 units

All of the above sites are available and have clear title as they are owned by Ocean City. All are developable in that they have access to water and sewer infrastructure and are consistent with the applicable area wide water quality management plans. The sites are approvable in that they may be developed for low and moderate income housing. The relevant zoning is in Exhibit D. Finally, the sites are suitable as they are adjacent to compatible land uses and have appropriate accesses.

The 224 Simpson Avenue site has frontage on Simpson Avenue and access via an alley. The 246-44 Haven Avenue site has frontage on Haven Avenue with access via an alley. The 36<sup>th</sup> + Bay Avenue Street End site has access via 36<sup>th</sup> Street. Exhibit E.

The funding for the development will be from the Ocean City Trust Account that currently has a balance of \$5,375,566.83. In addition, Ocean City has adopted a Resolution of Intent to Bond for any shortfall.

The OCHA will be the owner and general sponsor for the 10-unit municipal program. The OCHA will release an RFP for a qualified contractor. The Spending Plan has allocated \$3,386,350.63 for the 10 units. A copy of the contract with the developer, the pro forma and a construction and implementation schedule will be provided once a contractor is selected. TRIAD Associates will initially serve as the Administrative Agent. Once the 10 units are occupied, they will be turned over to OCHA to serve as the administrative agent. TRIAD has prepared an operating manual which is an Attachment to the Fair Share Plan. As per the Settlement Agreement, the homes must be constructed by August 28, 2020.

In addition, Ocean City will undertake three for sale units via a Market to Affordable Program. As agreed, the three units will be created by August 28, 2020 which is two years after the approval of the Settlement Agreement. Ocean City has executed a contract with TRIAD Associates to serve as the administrative agent for the program. The relevant documentation including the contract is in Exhibit F.

Funding for the housing will come from the Ocean City Trust Account. TRIAD has indicated that \$350,000 should be allocated for the M2A Program. Accordingly, \$350,000 is allocated in the Spending Plan.

It should be noted that prior to the Fairness Hearing, Ocean City submitted the required minimum documentation for both the municipally-sponsored and the M2A Programs.

#### **E. Partnership with the Ocean City Housing Authority (OCHA)**

Ocean City will partner with the OCHA to develop and expand the affordable housing stock that will result in 80 units of 100 percent affordable rental housing. The OCHA sites meet all the necessary criteria for development.

This partnership includes the following: 100-percent senior rentals at Bayview Manor site (601 West Avenue), Block 605 Lot 1 (20 units); 100% affordable family rentals at Peck's Beach Village- North site, Block 310, Lot 14 and Lot 309, Lots 1 & 2 (40 units); 100 percent affordable family rentals at Peck's Beach Village- South site, Block 409, Lot 1 and Block 410, Lot 12 (20 units).

The City has entered into a SSA with the OCHA through which the City committed to financially support the Housing Authority's plan to redevelop and expand affordable housing stock on land owned by the OCHA. Ocean City has committed \$1,830,000 as per Exhibit G for this purpose. A map showing the lots is in Exhibit H.

The four phases of this partnership are as following:

- Phase I: The OCHA will replace existing senior housing units at Peck's Beach Village- North with 20 new senior rental units at the Bayview Manor site (601 West Avenue). The Ocean City Planning Board previously approved the plan for the 20 senior units on January 10, 2018 that was memorialized on February 7, 2018. Copy of the Resolution is in Exhibit I. However, the New Jersey Housing and Mortgage Finance Agency(HMFA), the principal funding source for the construction, has given consent to expand what is now known as the Speitel Building, to include an additional 12 senior rental units. This HMFA approval was predicated on its being more cost efficient to add the 12 units now rather than later. It is the expectation that this will be completed by July 1, 2020 and Ocean City will take all reasonable steps to meet this completion date. It is understood that the 12 additional senior rentals will not be eligible for credits until certain criteria are met as explained in Section VI. A timeline and pro forma are included in Exhibit J. The OCHA will serve as the administrative agent for the project. The OCHA appeared before the Ocean City Planning Board with a revised, expanded building on the Bayview Manor site (now the Speitel Building) on December 5, 2018 and on January 9, 2019. A copy of the approving Resolution is in Exhibit K. Funding will come from a combination of grants and other financial resources from the OCHA, from the Ocean City Trust Account, from other available funds and bonding.

- Phase II: Once the existing 20 senior households are moved into the expanded Bayview Manor (Speitel Building) units, the existing senior units at Peck's Beach Village- North will be demolished.
- Phase III: On the then cleared, former Peck's Beach Village- North senior housing site, 40 new family rental units will be constructed to replace and upgrade the Housing Authority's 40 existing family units at Peck's Beach Village- South (between 4<sup>th</sup> and 5<sup>th</sup> Streets), which will then be demolished. If the cleared site cannot accommodate all 40 units, it is anticipated that units will be built on the northerly part of the family site (directly across 4<sup>th</sup> Street), where the Administrative Office, daycare center and maintenance shed, plus parking lot, are currently located. Those facilities will be relocated elsewhere, if necessary. The construction is expected to be completed by July 1, 2023 and Ocean City has agreed to take all reasonable steps to meet this completion date. A copy of the pro forma and construction schedule are in Exhibit L. Funding will come from a combination of grants and other financial resources from the OCHA, from the Trust Account from other outside sources and from a bond ordinance.
- Phase IV: On the site of the Peck's Beach Village- South (between 4<sup>th</sup> and 5<sup>th</sup> Streets), the City will develop at least 20 new family rental units. It is the expectation that this will be completed by July 1, 2025 and Ocean City will take all reasonable steps to meet this completion date. Phase IV will contain a minimum of 20 additional family rental units to be developed in the future after July 1, 2025. A copy of the pro forma and construction schedule are also in Exhibit L. Similarly, funding will come from a combination of grants and other resources from the OCHA, from the Trust Account and from a bond ordinance.

The four phase development approach will be implemented so that replacement units are constructed and first made available to existing tenants, being displaced through demolition activities, before these tenants are required to vacate their current units. As a result, there is no need for temporary relocation of the existing public housing tenants. The replacement units will be made available to existing, low-income residents at the OCHA housing without any additional eligibility screening.

The parties recognize that Ocean City and the OCHA may rely on the Rental Assistance Demonstration Program (RAD). The parties agree that all United States Department of Housing and Urban Development requirements regarding replacement of public housing units that are to be demolished and existing tenants' rights to relocate to the replacement units will occur without any additional eligibility screenings as well as any other requirements of the RAD program. These requirements will be applicable to the redevelopment of OCHA's public housing if the RAD program is used.

## F. Unmet Need

The 110 credits, referenced above, along with 60 units from the Prior Cycle, Wesley by the Bay development, Block 2406, Lot 1 & 2, subtracted from the combined Prospective Need of 1,687, result in an unmet need of 1,517 which will be addressed through the following mechanisms:

- **Inclusionary Housing Option in Business Zone Districts-** Ocean City will increase the density and bulk standards for residential uses in business zones and require an inclusionary component. The zoning ordinances adopted to implement this response to unmet need will (1) continue to not permit dwelling units to occupy the first (grade-level) floor of any building in the Neighborhood Business (NB) and 34<sup>th</sup> Street Gateway (GW) zones; (2) increase the density in the Neighborhood Business (NB) and 34<sup>th</sup> Street Gateway (GW) zones from the present about 10.9 units/acre to 16 units/acre and increase maximum building height to three habitable floors; (3) increase the density in the Central Business (CB) and Central Business (CB-1) zones from the present about 30 units per acre to 40 units per acre and increase the maximum building height to four habitable floors; and (4) add residential uses to the conditional uses in the Drive-In Business (DB) zone, subject to the same conditional use density, and bulk requirements as for residential uses in the CB and CB-1 zones. The ordinances and a map showing the business zones are in Exhibit M.
- **Inclusionary R-2 Zone Districts Assemblage Incentive Overlay Zone-** Ocean City will adopt an inclusionary overlay zone applicable to all R-2 zone districts, triggered by an assemblage of at least 25 percent of the land area of a block that is designated an R-2 zone district. The zoning ordinances adopted to implement this response to unmet need will (1) increase the density from the current approximately 20 units/acre; (2) modify bulk standards and increase the maximum building height to three habitable stories; and (3) expand permitted uses to include multifamily housing. The amended ordinances are in Exhibit N.
- **City-wide Set-aside Ordinance-** The municipality will adopt an ordinance that provides for an affordable housing set-aside of 20 percent, if the affordable units will be for-sale, and 15 percent if the affordable units will be for rent, for all new multi-family residential developments of five or more additional units (over and above those already permitted as of right) that are developed at a density of six or more units per acre. Such developments will become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted or a new or amended redevelopment plan or a new amended rehabilitation plan. This does not give any developer the right to any such rezoning, variance, redevelopment designation or redevelopment plan approval or other relief, or establishes any obligation on the part

of the municipality to grant such rezoning, variance, redevelopment designation or redevelopment plan approval or other relief. This provision will not apply to sites zoned for inclusionary residential development or for which an inclusionary residential redevelopment plan has been adopted consistent with Ocean City's Court approved Housing Element and Fair Share Plan, which sites will comply with the applicable adopted zoning. No site will be permitted to be subdivided so as to avoid compliance with this requirement. The ordinance is in Exhibit O.

## VI. THIRD ROUND CALCULATIONS

The FSHC calculation of 1,276 units was reduced to an RDP of 59 units with a Compliance Plan for 140 units. As such, the following calculations are relevant:

Low/Moderate Split:  $95 \div 2 =$  of which 48 is the low income requirement. The Fair Share Plan has more than 50 percent low income units.

All proposed rental projects will have a 13 percent very low income requirement.

At least 50 percent of the units will be affordable to very low or low income households with the remainder affordable to moderate income households.

At least 25 percent will be met with rental units including at least half in family rental units which will exceed the family rental requirement.

At least half of the units addressing the Prospective Need will be available to families.

Ocean City has agreed to comply with an age restricted cap of 25 percent and will not request a waiver of that restriction. This means that, under no circumstances, will Ocean City claim credits towards its total fair share obligation for senior units that exceed 25 percent of all units developed or planned to meet its cumulative Prior Round and Third Round fair share obligations, including Prior Cycle Credits other than the senior units for which Ocean City is receiving credit as per the Settlement Agreement. Ocean City has agreed not to seek further credit for senior housing until the number of non-senior housing for which the City is entitled to credit exceeds 75 percent of the total number of affordable units for which Ocean City is entitled to credit.

## VII. CONSIDERATION OF SITES NOT IN THE THIRD ROUND PLAN

Flood Development, LLC (Flood) intervened without any objection from Ocean City on October 6, 2016. The original plan set forth in the Flood Motion to Intervene proposed a 55 and over inclusionary residential rental community on a .61 acre shown on the Ocean City tax map as Lot 1, Block 1506. Ocean City did not object to the development of that site with affordable housing and believed it could negotiate an acceptable density and plan with Flood for that site. However, the original proposal was replaced with a new proposal that was substantially different from that described in its Motion to Intervene. The new proposal presented to Ocean City involved year round and/or second homes in Ocean City's Hospitality Zone on land near the Ocean City

boardwalk and included proposed densities, height setbacks and a parking plan with mechanical lifts which were not acceptable to the City. The City Council and Mayor agreed to provide municipally-created units rather than permit the new proposal to be constructed. FSHC agreed to the municipally sponsored units that would replace the proposed Flood units. As a result, Ocean City was not successful in reaching a settlement with Flood.

### **VIII. AFFIRMATIVE MARKETING PLAN**

An Affirmative Marketing Plan that includes the NJ State Conference of the NAACP, FSHC, Latino Action Network, Atlantic City and Cape May County Branches of the NAACP, the Mainland/Pleasantville/Mizpah and the Supportive Housing Association was adopted and is in Exhibit P.

### **IX. AFFORDABLE HOUSING ORDINANCE**

A new Affordable Housing Ordinance was adopted prior to the Compliance Hearing. The Ordinance incorporates provisions of the Settlement Agreement and is in Exhibit Q.

### **X. SPENDING PLAN**

A Spending Plan has been updated that includes funding for rehabilitation, a Market to Affordable Program, new construction, affordability assistance and administration. The Spending Plan is in Exhibit R.

### **XI. ADMINISTRATIVE AGENT**

The Resolution appointing TRIAD as the Administrative Agent is in Exhibit S.

### **XII. MUNICIPAL HOUSING LIAISON**

The Resolution creating the position of Municipal Housing Liaison (MHL) is in Article 2100 of the Ocean City Code. The Resolution appointing Christine Gundersen as the MHL is in Exhibit T.

### **XIII. RESOLUTION OF INTENT TO BOND**

A Resolution of Intent to Bond was adopted prior to the Compliance Hearing and is in Exhibit U.

### **XIV. DEVELOPMENT FEE ORDINANCE**

The adopted Development Fee Ordinance is in Exhibit V.

# EXHIBITS

- Exhibit A Present Need (Rehabilitation Share) Documentation
- Exhibit B TRIAD Rehabilitation Contract, OCHA Shared Services Agreement
- Exhibit C 613,626 Simpson Ave Deeds + COAH documentation
- Exhibit D Zoning for Municipal Construction
- Exhibit E Tax Maps for Municipal Construction
- Exhibit F TRIAD M2A Contract
- Exhibit G Shared Services Agreement
- Exhibit H Map for Municipal Sites
- Exhibit I Resolution Approving 20 Units
- Exhibit J Bayview Manor (Speitel Building) Timeline + Pro Forma
- Exhibit K Resolution Approving 32 Units
- Exhibit L Peck's Beach Village Family units Timeline + Pro Forma
- Exhibit M Inclusionary Housing Options in Business Zone Districts Ordinance + Maps
- Exhibit N Inclusionary R-2 Zone Districts Assemblage Incentive Overlay Zone Ordinance
- Exhibit O City-wide Set-aside Ordinance
- Exhibit P Affirmative Marketing Plan
- Exhibit Q Affordable Housing Ordinance
- Exhibit R Spending Plan
- Exhibit S Resolution Appointing TRIAD as Administrative Agent
- Exhibit T Resolution Appointing Municipal Housing Liaison
- Exhibit U Resolution of Intent To Bond
- Exhibit V Development Fee Ordinance

EXHIBIT A

**CITY OF OCEAN CITY**  
CAPE MAY COUNTY, NEW JERSEY

**RESOLUTION**

12-48-375

**AUTHORIZING THE AWARD OF CITY CONTRACT # 12-59 R-2, OCEAN CITY HOUSING  
AUTHORITY ROOF REPLACEMENT – PECK'S BEACH VILLAGE**

**WHEREAS**, Specifications were authorized for advertisement by Resolution No. 12-48-284 on Thursday, May 10, 2012 for City Contract #12-59, Ocean City Housing Authority Roof Replacement – Peck's Beach Village; and

**WHEREAS**, the Notice to Bidders was advertised in the Ocean City Sentinel on Wednesday, May 16, 2012, the Notice to Bidders was posted on the City of Ocean City's website, [www.ocnj.us](http://www.ocnj.us) and the specifications were distributed to seven (7) prospective bidder(s); and

**WHEREAS**, bid proposals were opened for City Contract #12-59, Ocean City Housing Authority Roof Replacement – Peck's Beach Village on Thursday, May 31, 2012 and three (3) bid proposals were received; and

**WHEREAS**, Lamont H. Czar, PE, Czar Engineering, LLC; Georgia C. Arnold, Manager; Dorothy McCrosson, Esq., City Solicitor; Darleen H. Korup, Purchasing Assistant and Joseph S. Clark, QPA, City Purchasing Manager reviewed the bid proposals and specifications and recommend that the bid proposals be rejected due to the remaining bid proposals being over the Engineer's estimate & revisions to the technical specifications are needed in accordance to N.J.S.A. 40A:11-13.2 (a,b,d); and

**WHEREAS**, the City Council of the City of Ocean City, New Jersey, rejected and authorized advertisement for rebid of City Contract #12-59, Ocean City Housing Authority Roof Replacement – Peck's Beach Village by Resolution No. 12-48-310 adopted on June 14, 2012; and

**WHEREAS**, the Notice to Bidders was advertised in the Ocean City Sentinel on Wednesday, June 13, 2012, the Notice to Bidders was posted on the City of Ocean City's website, [www.ocnj.us](http://www.ocnj.us) and the specifications were distributed to seven (7) prospective bidder(s); and

**WHEREAS**, bid proposals were opened for City Contract #12-59 R-1, Ocean City Housing Authority Roof Replacement – Peck's Beach Village on Tuesday, July 10, 2012 and six (6) bid proposals were received per the attached Summary of Bids; and

**WHEREAS**, Dorothy McCrosson, Esq., City Solicitor and Joseph S. Clark, QPA were notified by the apparent low bidder, McMullin Roofing, Inc. of mistakes in their bid proposal and hereby request to withdraw their bid proposal per N.J.S.A. 40A: 11-23.3; and

**WHEREAS**, the next lowest apparent bid proposal was disqualified, Gen II Contracting Company, for failure to meet the bid specifications; and

**WHEREAS**, Lamont H. Czar, PE, Czar Engineering, LLC; Georgia C. Arnold, Manager; Dorothy McCrosson, Esq., City Solicitor; Darleen H. Korup, Purchasing Assistant and Joseph S. Clark, QPA, City Purchasing Manager have reviewed the remaining four (4) bid proposals and specifications and recommend that the bid proposals be rejected due to the remaining bid proposals being over the Engineer's estimate & revisions to the technical specifications are needed in accordance to N.J.S.A. 40A:11-13.2 (a,b,d); and

**WHEREAS**, the City Council of the City of Ocean City, New Jersey, rejected and authorized advertisement for rebid of City Contract #12-59 R-1, Ocean City Housing Authority Roof Replacement – Peck's Beach Village by Resolution No. 12-48-354 adopted on July 26, 2012; and

**WHEREAS**, the Notice to Bidders was advertised in the Ocean City Sentinel on Wednesday, August 1, 2012, the Notice to Bidders was posted on the City of Ocean City's website, [www.ocnj.us](http://www.ocnj.us) and the specifications were distributed to nine (9) prospective bidder(s); and

**WHEREAS**, bid proposals were opened for City Contract #12-59 R-2, Ocean City Housing Authority Roof Replacement – Peck's Beach Village on Tuesday, August 21, 2012 and eight (8) bid proposals were received; and

**CITY OF OCEAN CITY**  
**CAPE MAY COUNTY, NEW JERSEY**

**RESOLUTION**

12-48-375

WHEREAS, Lamont H. Czar, PE, Czar Engineering, LLC; Georgia C. Arnold, Manager; Dorothy McCrosson, Esq., City Solicitor; Darleen H. Korup, Purchasing Assistant and Joseph S. Clark, QPA, City Purchasing Manager have reviewed the eight (8) bid proposals and specifications and recommend that the contract be awarded to D.A. Nolt, Inc., the lowest responsible bidder; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Ocean City, New Jersey, that City Contract #12-59 R-2, Ocean City Housing Authority Roof Replacement – Peck’s Beach Village be and is hereby awarded to the following lowest responsible bidder as follows:

D. A. Nolt, Inc.  
 53 Cross Keys Road  
 Berlin, NJ 08009

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Total Amount</u>
<b>1.1 OFFER</b>				
A.	Having examined the place of the work and all matters referred to in the Instructions to Bidders, Bid Documents and Contract Documents prepared by Czar Associates, Architect/Engineer for the above mention project, we the undersigned, hereby offer to enter into a Contract to perform the work for the contract sum of:	Lump Sum	\$ 495,867.00	\$ 495,867.00
B.	Add Alternate	Lump Sum	\$ 178,760.00	\$ 178,760.00
<b>Total of Items 1.1 A. &amp; B. ....</b>				<b>\$ 674,627.00</b>

- C. Indicate the roofing system bid Tremco Inc.
- D. All applicable taxes that are not exempt in accordance with the owner's Sales and Use of Tax Certificate of Exemption are included in the Bid Sum

**1.2 ACCEPTANCE:**

- A. This offer shall be open to acceptance and is irrevocable for sixty (60) days from the bid closing date.
- B. If this bid is accepted by the Owner within the time period stated above, we will:
  1. Executive the Agreement within seven days of receipt of the Contract Agreement.
  2. Furnish the required bonds prior to or with the executed Contract Agreement.
  3. Commence work within ten days after Notice to Proceed.

**CITY OF OCEAN CITY**  
**CAPE MAY COUNTY, NEW JERSEY**

**RESOLUTION**

12-48-375

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Unit Cost</u>
1.3	<b>CONTRACT TIME:</b>		
A.	If this bid is accepted, we will complete the work from Notice to Proceed:		180 Calendar Days

**Unit Prices**

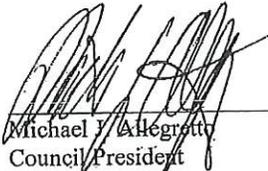
1.	Replacement of plywood deck (Base Bid=10%)	1 SF	\$ 4.50
2.	Replacement of structural support beams	1 Each	\$ 500.00

**BE IT FURTHER RESOLVED** that the Mayor and City Purchasing Manager are hereby authorized to enter into a formal contract with D.A. Nolt, Inc., 53 Cross Keys Road, Berlin, NJ 08009 for City Contract #12-59 R-2, Ocean City Housing Authority Roof Replacement – Peck’s Beach Village as listed and in accordance with the bid specifications and the bid proposal form.

The Director of Financial Management certifies that funds are available and shall be charged to the following Capital Account No.: C-04-55-277-100.

**CERTIFICATION OF FUNDS**

  
 \_\_\_\_\_  
 Frank Donato, III, CMFO  
 Director of Financial Management

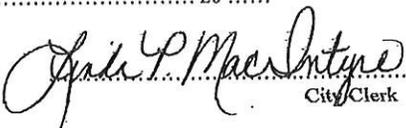
  
 \_\_\_\_\_  
 Michael J. Allegretto  
 Council President

FILES: RAW 12-59-R-2 OCHA Roof Replacement Pecks Beach Village.doc

Offered by ..... SCOTT PING ..... Seconded by ..... TONY WILSON .....

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the ..... 23rd ..... day of ..... AUGUST ..... 20 12 .....

NAME	AYE	NAY	ABSENT	ABSTAINED
Allegretto	<input checked="" type="checkbox"/>	_____	_____	_____
DeVlieger	<input checked="" type="checkbox"/>	_____	_____	_____
Guinasso	<input checked="" type="checkbox"/>	_____	_____	_____
Hartzell	_____	_____	<input checked="" type="checkbox"/>	_____
McClellan	<input checked="" type="checkbox"/>	_____	_____	_____
Ping	<input checked="" type="checkbox"/>	_____	_____	_____
Wilson	<input checked="" type="checkbox"/>	_____	_____	_____

  
 \_\_\_\_\_  
 City Clerk



**CITY OF OCEAN CITY**  
AMERICA'S GREATEST FAMILY RESORT

PURCHASING DIVISION  
SUPPORT OF BIDS

BY THE GOVERNING BODY OF THE CITY OF OCEAN CITY, NJ

DATE RECEIVED: Tuesday, August 21, 2012 @ 2:00 PM, EDT  
CITY CONTRACT #: 12-59 R-2  
PROPOSAL NAME: Ocean City Housing Authority Roof Replacement-  
Peak & Beach Village

ENGINEER'S TOTAL PROJECT ESTIMATED COST:  
\$525,000.00

KEY  
Overall Apparent Low Bidder

ITEM	DESCRIPTION	QTY	TOTAL COST	TOTAL COST	TOTAL COST	TOTAL COST	TOTAL COST											
<p><b>NAME ADDRESS &amp; BID OF EACH BIDDER</b></p> <table border="0"> <tr> <td><b>D. A. Nork Inc.</b> 53 Cross Keys Road Burlington, NJ 08009</td> <td><b>Gen II Contracting Co., Inc.</b> 3954 Millstone Road Clarkstown, NJ 08510</td> <td><b>J. Wilhelm Roofing Co., Inc.</b> 1358 West 2nd Avenue Vineland, NJ 08361</td> <td><b>JDS General Contracting</b> 304 Hommouth Road Millsboro, NJ 08510</td> <td><b>McKullen Roofing, Inc.</b> 3332 Jasper Street Philadelphia, PA 19129</td> </tr> <tr> <td><b>Richard O'Brien, Vice President</b> Ph: (856) 753-9333 F: (856) 753-9963 email: RICH@DANORK.COM</td> <td><b>Jaimie-Lyn Knight, President</b> Ph: (609) 208-4636 F: (609) 208-9195 email: gen2cont@altno.com</td> <td><b>Charles Egan, Owner/President</b> Ph: (609) 691-6161 F: (609) 691-0461 email: Clujp@wilhelmroofing.com</td> <td><b>Dominick Spampinato, Jr., President</b> Ph: (732) 692-0100 F: (732) 692-0455 email: info@jdsindustrial.com</td> <td><b>Josiah W. McKullen</b> Ph: (215) 743-4040 F: (215) 535-2712 email: jcmckullen@verizon.net</td> </tr> </table>									<b>D. A. Nork Inc.</b> 53 Cross Keys Road Burlington, NJ 08009	<b>Gen II Contracting Co., Inc.</b> 3954 Millstone Road Clarkstown, NJ 08510	<b>J. Wilhelm Roofing Co., Inc.</b> 1358 West 2nd Avenue Vineland, NJ 08361	<b>JDS General Contracting</b> 304 Hommouth Road Millsboro, NJ 08510	<b>McKullen Roofing, Inc.</b> 3332 Jasper Street Philadelphia, PA 19129	<b>Richard O'Brien, Vice President</b> Ph: (856) 753-9333 F: (856) 753-9963 email: RICH@DANORK.COM	<b>Jaimie-Lyn Knight, President</b> Ph: (609) 208-4636 F: (609) 208-9195 email: gen2cont@altno.com	<b>Charles Egan, Owner/President</b> Ph: (609) 691-6161 F: (609) 691-0461 email: Clujp@wilhelmroofing.com	<b>Dominick Spampinato, Jr., President</b> Ph: (732) 692-0100 F: (732) 692-0455 email: info@jdsindustrial.com	<b>Josiah W. McKullen</b> Ph: (215) 743-4040 F: (215) 535-2712 email: jcmckullen@verizon.net
<b>D. A. Nork Inc.</b> 53 Cross Keys Road Burlington, NJ 08009	<b>Gen II Contracting Co., Inc.</b> 3954 Millstone Road Clarkstown, NJ 08510	<b>J. Wilhelm Roofing Co., Inc.</b> 1358 West 2nd Avenue Vineland, NJ 08361	<b>JDS General Contracting</b> 304 Hommouth Road Millsboro, NJ 08510	<b>McKullen Roofing, Inc.</b> 3332 Jasper Street Philadelphia, PA 19129														
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1.1	CREER Having examined the plans of the work and all matters referred to in the Instructions to Bidders, Bid Documents and Contract Documents prepared by C&W Associates, Architect/Engineer for the above mentioned project, we the undersigned, hereby offer to enter into a Contract to perform the work for the contract item of:	1 LS	\$ 495,867.00	\$ 496,780.00	\$ 670,850.00	\$ 545,000.00	\$ 590,820.00											
	A Bid Alternate	1 LS	\$ 179,780.00	\$ 180,000.00	\$ 221,100.00	\$ 208,000.00	\$ 174,090.00											
	<b>TOTAL OF ITEMS A &amp; B</b>		\$ 674,627.00	\$ 676,780.00	\$ 891,950.00	\$ 753,000.00	\$ 764,910.00											
	<b>C</b> Indicate the roofing system bid All applicable taxes that are not exempt in accordance with the owner's Sales and Use of Tax Certificate of Exemption are included in the Bid Sum.																	
	<b>D</b> Bid Sum																	
1.2	ACCEPTANCE: This offer shall be open to acceptance and is irrevocable for sixty days from the bid closing date. If this bid is accepted by the Owner within the time period stated above, you will: B Execute the Agreement within seven days of receipt of the Contract Agreement. 1. Furnish the required bonds prior to or with the executed Contract Agreement. 2. Commence work within ten days after notice to proceed. 3. Proceed.																	
1.3	CONTRACT TIME: If this bid is accepted, we will complete the work A from Notice to Proceed:																	
	<b>UNIT PRICES</b>																	
1	Replacement of plywood deck (Base Bid=10%)	1 SF	\$ 4.50	\$ 4.00	\$ 5.90	\$ 4.00	\$ 2.65											
2	Replacement of structural support beams	1 EA	\$ 500.00	\$ 350.00	\$ 225.00	\$ 1,000.00	\$ 283.00											





PURCHASING DIVISION  
SUMMARY OF BIDS

CITY OF OCEAN CITY  
AMERICA'S GREATEST FAMILY RESORT

BY THE GOVERNING BODY OF THE CITY OF OCEAN CITY, MD

NAME ADDRESS &  
BID OF EACH BIDDER  
ENGINEERS TOTAL PROJECT ESTIMATED COST:  
\$525,000.00

KEY Overall Apparent Low Bidder

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST	UNIT PRICE	TOTAL COST
1.1	OFFER Having examined the place of the work and all matters referred to in the Instructions to Bidders, Bid Documents and Contract Documents prepared by Carr Associates, Architect/Engineer for the above mention project, we the undersigned, hereby offer to enter into a Contract to perform the work for the contract sum of:	1	LS	\$519,000.00	\$519,000.00						
	A Bid Alternate	1	LS	\$170,000.00	\$170,000.00						
	B TOTAL of Items A & B			\$689,000.00	\$689,000.00						
	C Indicate the roofing system bid (All applicable taxes that are not exempt in accordance with the owner's Sales and Use of Tax Certificate of Exemption are included in the Bid Sum.)										
	D ACCEPTANCE										
	1.2 This offer shall be open to acceptance and is irrevocable for sixty days from the bid closing date.										
	A date.										
	B If this bid is accepted by the Owner within the time period stated above, we will:										
	1 Execute the Agreement within seven days of receipt of the Contract Agreement.										
	2 Furnish the required bonds prior to or with the executed Contract Agreement.										
	3 Commence work within ten days after Notice to Proceed.										
	1.3 CONTRACT TIME: If this bid is accepted, we will complete the work from Notice to Proceed:										
	A 150 calendar days										
	B 180 calendar days										
	C 180 calendar days										
	D 180 calendar days										
	E Calendar days										
	UNIT PRICES										
1	Replacement of plywood deck (Base Bid=10%)	1	SF	\$3.00	\$3.00						
2	Replacement of structural support beams	1	EA	\$450.00	\$450.00						

DATE RECEIVED: Tuesday, August 21, 2012 @ 2:00 PM, EDT  
CITY CONTRACT #: 12-59 R-2  
PROPOSAL NAME: Ocean City Housing Authority Roof Replacement-  
Peck's Beach Village

White Koshien Roofing & Installation, Inc.  
57 Virginia Drive  
Churchville, PA 18966  
Patricia Koshien, President  
Ph: (715) 539-9118  
F: (715) 539-9173  
email: pat@koshienroofing.com

Roof Management Inc.  
615 Weyssie Road  
Heptune, NJ 07753  
Andrew J. Clark, President  
Ph: (732) 922-4463  
F: (732) 922-1951  
email: roofmanagementinc@yahoo.com

Tortoise Contractors, Inc.  
161 Blackwood Barnshorn Road  
Sawell, NJ 08090  
Rocco Tortoise, Manager  
Ph: (856) 232-2222  
F: (856) 232-7345  
email: rocco@tortoise.com

Terreno Inc.  
Terreno Inc.  
Garland Company  
Terreno Inc.  
Garland Company

PURCHASING DIVISION  
SUMMARY OF BIDS

BY THE GOVERNING BODY OF THE CITY OF OCEAN CITY, NJ

DATE RECEIVED: Tuesday, August 21, 2012 @ 2:00 PM, EDT  
CITY CONTRACT #: 12-59 R-2  
PROPOSAL NAME: Ocean City Housing Authority Roof Replacement-  
Rock's Beach Village

NAME, ADDRESS &  
BID OF EACH BIDDER  
ENGINEER'S TOTAL PROJECT ESTIMATED COST:  
\$525,000.00

KEY  
Overall Apparent Low Bidder

REQUIRED INFORMATION	Roof Management Inc.	Tortorice Contractors, Inc.	Roof Management Inc.	Tortorice Contractors, Inc.
BID DEPOSIT/BOND:	YES/NO	YES/NO	YES/NO	YES/NO
CONSIST OF SURETY:	YES/NO	YES/NO	YES/NO	YES/NO
DAYS BEFORE REQUIREMENTS:	YES/NO	YES/NO	YES/NO	YES/NO
COPELAND "ANTI-KICKBACK" ACT CERTIFICATION:	YES/NO	YES/NO	YES/NO	YES/NO
BUY AMERICAN CERTIFICATION:	YES/NO	YES/NO	YES/NO	YES/NO
LOBBYING CERTIFICATION:	YES/NO	YES/NO	YES/NO	YES/NO
ESBE PARTICIPATION:	YES/NO	YES/NO	YES/NO	YES/NO
FORM B-AFFIDAVIT OF DUE STATUS:	YES/NO	YES/NO	YES/NO	YES/NO
RIGHT TO EXTEND-TIME FOR AWARD:	YES/NO	YES/NO	YES/NO	YES/NO
STOCKHOLDER DISCLOSURE STATEMENT:	YES/NO	YES/NO	YES/NO	YES/NO
NON-COLLUSION AFFIDAVIT:	YES/NO	YES/NO	YES/NO	YES/NO
NJ MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE:	YES/NO	YES/NO	YES/NO	YES/NO
NJ AFFIRMATIVE ACTION REGULATORY COMPLIANCE NOTICE:	YES/NO	YES/NO	YES/NO	YES/NO
REQUIRED SUB-CONTRACTORS LISTED:	YES/NO	YES/NO	YES/NO	YES/NO
OTHER SUB-CONTRACTORS LISTED:	YES/NO	YES/NO	YES/NO	YES/NO
ACKNOWLEDGMENT OF RECEIPT OF ADDENDUM:	YES/NO	YES/NO	YES/NO	YES/NO
NJ BUSINESS REGISTRATION CERTIFICATE (BRG) SUBMITTED:	YES/NO	YES/NO	YES/NO	YES/NO
NJ BUSINESS REGISTRATION CERTIFICATE SUB CONTRACTORS (BRG) SUBMITTED:	YES/NO	YES/NO	YES/NO	YES/NO
NJ PUBLIC WORKS CONTRACTOR REGISTRATION ACT CERTIFICATE:	YES/NO	YES/NO	YES/NO	YES/NO
NJ PUBLIC WORKS CONTRACTOR REGISTRATION ACT CERTIFICATE FOR SUB CONTRACTORS:	YES/NO	YES/NO	YES/NO	YES/NO
NUMBER OF COPIES REQUIRED (C):	4	4	4	4

Patricia Koblentz, President  
Roof Management Inc.  
615 Wynfield Road  
Roseland, NJ 07068  
Ph: (215) 833-3118  
Fm: (215) 833-3123  
email: patrickoblentz@roofing.com

Andrew J. Clark, President  
Roof Management Inc.  
615 Wynfield Road  
Roseland, NJ 07068  
Ph: (732) 922-4463  
Fm: (732) 922-1951  
email: roofmanagementinc@yahoo.com

Rocco Tortorice, Manager  
Tortorice Contractors, Inc.  
161 Blackwood Barnshorn Road  
Sewell, NJ 08080  
Ph: (856) 232-2222  
Fm: (856) 232-7943  
email: rocco@tortorice.com

# CZAR Engineering, L.L.C.

Lamont H. Czar, P.E.  
5014 Fernwood Avenue  
Egg Harbor Township, New Jersey 08234

Phone: (609) 653-9445  
Fax: (609) 653-2015  
www.czarengineering.com

August 23, 2012

Georgia Arnold  
Ocean City City Hall  
861 Asbury Avenue  
Ocean City, New Jersey, 08226-3624

RE: City Contract No. 12-59 R-2  
Roof Replacement - Peck's Beach Village  
5th Street and Peck's Beach Village  
Ocean City, New Jersey

Dear Ms. Arnold:

As engineer for the proposed roof replacement project at Peck's Beach Village, I reviewed the second re-bid received on August 21, 2012 for the contract specified in the project documents issued by our firm.

The scope of work generally consisted of replacing three designated roof areas Peck's Beach Village as one combined project plus a fourth building as an add alternate and further defined as follows:

1. Removal of the roof membrane, flashings, perlite insulation, and perimeter metal edge down to the plywood deck.
2. Remediation of the plywood deck (unit price #1).
3. Remediation of structural support beams (unit price #2).
4. Installation of new perimeter wood blocking to match insulation height.
5. Installation of a nailed composite ply base sheet. Securement will be based on the more stringent of the following:
  - a. After completing fastener pull out tests, complete reviews based on FMI-29 guidelines for base sheet attachment, or
  - b. Minimum fastening pattern for base sheet securement.
  - c. Adhesion of new R=20 3.3" isocyanurate insulation board to the base sheet using solvent free insulation adhesive.
  - d. Adhesion of new 1/4" securerock recovery board using solvent free insulation adhesive.
  - e. Adhesion of two (2) plies of modified composite ply, adhered in adhesive.

City Contract No. 12-59 R-2  
Roof Replacement - Peck's Beach Village  
5th Street and Peck's Beach Village  
Ocean City, New Jersey

- f. Adhesion of modified bitumen cap sheet, adhered in adhesive.
- g. After thirty (30) days, apply one coat aluminum fibrated aluminum coating to the roof membrane and flashings.

The Proposal Form also asked for itemized unit costs as follows:

- 1. Replacement of plywood deck (Base Bid = 10%)
- 2. Replacement of structural support beams

Referring to the attached bid summary, D.A. Nolt, Inc. was the low bidder of the eight bids received with a base bid of \$495,867.00, an add alternate of \$178,760.00 and the total being \$674,627.00.

Ms. Arnold, if you have any questions or need further information, please contact our office.

Sincerely,



Jamont "butch" czar, p.e.

Enclosures

CITY OF OCEAN CITY  
AMERICA'S GREATEST FAMILY RESORT  
CONSTRUCTION CONTRACT



**THIS AGREEMENT**, made this 23rd day of August, in the year 2012 by and between **THE CITY OF OCEAN CITY**, in the County of Cape May, New Jersey, a municipal corporation, hereinafter **City**, and

Hereinafter "**Contractor**", **D. A. Nolt, Inc.**  
**53 Cross Keys Road**  
**Berlin, NJ 08009**

**City Contract# & Title:** **12-59 R-2, Ocean City Housing Authority Roof Replacement-  
Peck's Beach Village**

**WITNESSETH:** that the **City** and the **Contractor**, for the consideration hereinafter named, covenant and agree as follows:

1. The **Contractor**, pursuant to a duly published notice to bidders, bid specifications and written bid received by the **City** on August 21, 2012 and Resolution No. 12-48-375 of the **City** awarding said bid dated August 23, 2012 which notice to bidders, bid specifications, written bid and resolution are herein incorporated by reference thereto, agrees to perform all work and/or services required by said bid specifications and in accordance with said written bid submitted by Contractor and to otherwise comply with all requirements contained therein.
2. The **Contractor** agrees not to assign, transfer, convey, sublet or otherwise dispose of this contract or any part thereof or its right, title or interest therein, without first receiving the written consent of the Mayor, Council and/or Purchasing Manager of the City of Ocean City.
3. The **Contractor** and the **City** agree that time is of the essence in the faithful performance of this Contract and that all Contractors' obligations shall be concluded as stated in the proposal after notice to proceed in accordance with the resolution and bid specifications.
4. Should the **Contractor** fail to substantially complete his obligations in 180 days as proposed from the day of receipt of notice to proceed, the **City** reserves the right to charge the **Contractor** five-hundred dollars (\$500.00) per calendar day until the work is substantially completed. The per diem charge may be invoked at the discretion of the City. The said sum shall be taken as liquidated damages and deducted from final payment or charged back to the **Contractor** and such liquidated damages shall not be considered as a penalty. The **City** will deduct and retain out of any money due or to become due hereunder the amount of the liquidated damages.
5. If a Performance Bond is required by the bid specifications, the **Contractor** agrees to furnish the same to the **City** simultaneously with the execution of this Contract. The Performance Bond shall be in a form satisfactory to the Solicitor of the City of Ocean City.
6. As consideration for the **Contractor** complying with the terms, covenants and conditions herein, the Contractor shall charge the **City** the amounts set forth in Resolution 12-48-375 adopted on August 23, 2012.
7. Should the **Contractor** fail to carry out the terms of this Contract as herein prescribed, the **City** may cancel or rescind this Contract in its entirety and serve said notice addressed to the **Contractor's** last known mailing address; or it may notify the bonding company or bondsman, as the case may be, to complete the Contract. Nothing contained herein, however, shall prevent the City from pursuing whatever other remedies it may have at law, including but not limited to the forfeiture of Contractor's bid deposit.

8. The **Contractor** hereby agrees to indemnify and save harmless the **City** from and for any damages or injury, including death and/or property loss for which it may become liable by reason of any negligence or carelessness on the part of the **Contractor**, or on the part of its successors, assigns, agents, servants, or employees from the action of the elements, or from any unforeseen or unusual difficulty, obstruction or obstacles encountered in the prosecution of the work or from improperly guarding any and all portions of the work, or of the private or public property which might be endangered by reason of the performance of the work.

The **Contractor** shall indemnify and save harmless the **City** from and against any and all claims, liabilities, actions and causes for action, costs, charges and mechanics liens for labor performed or for tools and materials furnished in the performance of the work and any and all costs, charges and expenses incurred in defending such suits or actions or procuring such liens to be discharged and satisfied and from and against all claims and liabilities for any injury or damage to person or property growing out of defective or careless performance of said work, or from and against all or any claims or liabilities for royalties or license fees, actions, suits, charges, expenses, or damages for infringement of patents by reason of the use of any invention or improvement or material, tools or plant of any process of device, or combination of devices or equipment used in the performance of the work done under this Agreement. The legal status of said Contractor is that of an "Independent Contractor."

9. The **Contractor** shall furnish the **City** with a Certificate of Insurance for a comprehensive general liability policy covering **Contractor's** entire operation, with bodily injury limits of **\$3,000,000.00** and property damage limits of **\$3,000,000.00** total aggregate. Said policy shall be issued in the name of the Contractor and the City as their interest may appear. The **Contractor** shall also furnish the **City** with satisfactory evidence of full and complete statutory compliance with the Workman's Compensation Law of the State of New Jersey.

The **City** shall be named as an additional insured under said policy. The **Contractor** shall provide the **City** with evidence of insurance coverage in the form of a certificate and policy endorsement page, which shall also provide that the insurer shall be obligated to notify the **City** of any cancellation or modification of insurance coverage to the **Contractor** within sixty (60) days thereof.

10. During the performance of this contract, the **Contractor** agrees as follows:

During the performance of this contract, the contractor agrees as follows: The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. The contractor or subcontractor, where applicable, 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 contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor or subcontractor where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

10. When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Division may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Division is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2.

The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

- (A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities to minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
- (B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
- (1) To notify the public agency compliance officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
  - (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
  - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;
  - (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
  - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

10.

- (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
- (i) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
  - (ii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in paragraph (i) above, whenever vacancies occur. At the request of the Division, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
  - (iii) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.
- (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

- (C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union. After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Division an initial project workforce report (Form AA-201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month

thereafter for the duration of this contract to the Division and to the public agency compliance officer. The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C.17:27.

a. **Contractor** will comply with Affirmative Action Regulations P.L. 1975, c.127.

11. **Political Contribution Disclosure.** This contract has been awarded to D. A. Nolt, Inc. based on the merits and abilities of D. A. Nolt, Inc. to provide the goods or services as described herein. This contract was awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, the undersigned does hereby attest that D. A. Nolt, Inc., its subsidiaries, assigns or principals controlling in excess of 10% of the company has neither made a contribution, that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19, affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the County of Cape May, City of Ocean City, NJ; if a member of that political party is serving in an elective public office of the City of Ocean City, County of Cape May, NJ the contract is awarded, or to any candidate committee of any person serving in an elective public office of the City of Ocean City, County of Cape May, NJ when the contract is awarded.

12. **IN WITNESS WHEREOF**, the parties named herein have hereunto set their hands and seals and the day and year first above written, pursuant to attached resolution.

ATTEST:

The City of Ocean City

Jay A. Gillian, Mayor

D. A. Nolt, Inc.

Richard O'Brien, Vice President

Joseph S. Clark, QPA  
City Purchasing Manager

Linda P. MacIntyre, RMC  
City Clerk

Reviewed:

jm/8-27-12

Range: T-12-56-175-026 to T-12-56-175-026  
 P.O. Type: All  
 Format: Condensed  
 Include Non-Budgeted: Y  
 Department Page Break: No  
 Print Alpha, Revenue, & G/L Accts: N  
 First Enc Date Range: 10/31/12 to 12/31/13  
 Subtotal CAFR: Yes  
 Subtotal Department: Yes  
 Rcvd Batch Id Range: First to Last  
 Open: Y Rcvd/Aprv/Held: Y Paid: Y Void: Y Deleted: N  
 Bid: Y State: Y Other: Y Exempt: Y  
 As of Date: 12/11/18

Budget Account	Description	Description	Open Amount	R/A/H Amount	Paid Amount	Total	Void Amount
PO #	PO Date	Vendor					
T-12-56-175-026		COAH					
10-02978	10/14/10	SHIRLEY M. BISHOP, P.P., LLC	0.00	0.00	2,237.50	2,237.50	0.00
12-02315	08/30/12	D.A. WOLT, INC.	0.00	0.00	105,818.88	105,818.88	288.62
12-03195	12/27/12	DUBELL KITCHENS	0.00	0.00	73,918.25	73,918.25	0.00
12-03196	12/27/12	PETER LUMBER COMPANY	0.00	0.00	34,622.26	34,622.26	36,860.22
12-03299	12/31/12	LOWE'S HOME CENTER INC.	0.00	0.00	22,850.40	22,850.40	0.00
12-03300	12/31/12	LOWE'S HOME CENTER INC.	0.00	0.00	22,850.40	22,850.40	0.00
12-03301	12/31/12	LOWE'S HOME CENTER INC.	0.00	0.00	22,850.40	22,850.40	0.00
12-03358	12/19/12	SHOEMAKER LUMBER COMPANY, INC	0.00	0.00	375.00	375.00	0.00
13-00010	01/11/13	BAYSIDE CONSTRUCTION SER., LLC	0.00	0.00	357,401.00	357,401.00	0.00
13-00011	01/11/13	CAPE INSULATION COMPANY, INC.	0.00	0.00	20,400.00	20,400.00	0.00
13-00012	01/11/13	JR DRYWALL CONSTRUCTION	0.00	0.00	140,366.00	140,366.00	0.00
13-00013	01/11/13	SPD ELECTRIC	0.00	0.00	68,800.00	68,800.00	0.00
13-00014	01/11/13	BROADLEY'S MECHANICAL	0.00	0.00	321,000.00	321,000.00	0.00
13-00015	01/11/13	LUMA PAINTING	0.00	0.00	78,150.00	78,150.00	0.00
13-00029	01/16/13	OCEAN CITY PAYROLL ACCOUNT	0.00	0.00	50,000.00	50,000.00	0.00
13-00137	01/28/13	SHOEMAKER LUMBER COMPANY, INC	0.00	0.00	1,762.60	1,762.60	0.00
13-00196	01/28/13	CASTLEKEEP	0.00	0.00	9,440.00	9,440.00	160.00
13-00228	02/07/13	PERONE ELECTRIC INC.	0.00	0.00	25,090.00	25,090.00	0.00
13-00378	02/28/13	M.A.B. PAINTS #173	0.00	0.00	3,146.60	3,146.60	0.00
13-00450	01/16/13	SEA BOX INC.	0.00	0.00	1,738.00	1,738.00	0.00
13-00707	02/13/13	CAPRIONI PORTABLE TOILETS, INC	0.00	0.00	46.50	46.50	0.00
13-00732	01/28/13	GRAINGER, INC. W.W.	0.00	0.00	5,504.32	5,504.32	0.00
13-00796	02/12/13	SEA BOX INC.	0.00	0.00	198.00	198.00	0.00
13-00890	04/16/13	SHERWIN WILLIAMS #3760	0.00	0.00	12,538.27	12,538.27	0.00
13-00996	03/08/13	CAPRIONI PORTABLE TOILETS, INC	0.00	0.00	89.75	89.75	0.00
13-01034	03/07/13	LOWE'S HOME CENTER INC.	0.00	0.00	2,858.62	2,858.62	0.00

CITY OF OCEAN CITY  
Purchase Order Status Report by Budget Account

Budget Account PO # PO Date Vendor	Description	Description	Open Amount	R/A/H Amount	Paid Amount	Total	Void Amount	
T-12-56-175-026 13-01059 03/05/13 SEA BOX INC.	COAH	Continued	0.00	0.00	0.00	0.00	99.00-	
			0.00	0.00	1,384,032.75	1,384,032.75	36,704.84	
	Department Total:		0.00	0.00	1,384,032.75	1,384,032.75	36,704.84	0.00
	CAFR Total:		0.00	0.00	1,384,032.75	1,384,032.75	36,704.84	0.00
	Fund Total:		0.00	0.00	1,384,032.75	1,384,032.75	36,704.84	0.00
	Year Total:		0.00	0.00	1,384,032.75	1,384,032.75	36,704.84	0.00
	Budget Total:		0.00	0.00	1,384,032.75	1,384,032.75	36,704.84	0.00
Total Purchase Orders: 27			Total Charged Lines: 198					
Total Open Amount:			0.00					
Total R/A/H Amount:			0.00					
Total Paid Amount:			1,384,032.75					
Open + R/A/H + Paid:			1,384,032.75					
Total Void Amount:			36,704.84					

December 11, 2018  
02:34 PM

CITY OF OCEAN CITY  
Purchase Order Status Report by Budget Account

Page No: 3

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Totals by Year-Fund Fund Description	Fund	Budget Total
	T-12	1,384,032.75
Total of All Funds:		<u>1,384,032.75</u>

EXHIBIT B

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY  
**RESOLUTION** 18-54-373

**AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH  
THE OCEAN CITY HOUSING AUTHORITY FOR CONSTRUCTION OF THIRTY-FOUR (34)  
AFFORDABLE SENIOR RENTAL UNITS AT BAYVIEW MANOR**

WHEREAS, the Ocean City Housing Authority (the "Authority") operates Bayview Manor ("Bayview Manor"), a public housing facility within the City of Ocean City, NJ; and,

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 *et seq.*, empowers municipalities, authorities and local units to enter into agreements to provide or receive any service; and,

WHEREAS, on or about March 17, 2017, the Authority received a \$4,424,950 grant from the New Jersey Housing and Mortgage Financing Agency ("HMFA") for construction of a new, 20-unit public housing facility at Bayview Manor, which facility shall be referred to herein as the Spetzel Building; and,

WHEREAS, the Authority requested approval to construct more than 20 units in the Spetzel Building as Ocean City has a need for additional affordable rental units for senior citizens; however, the HMFA declined that request each time it was made, so the Spetzel Building was designed for the 20 units which the HMFA would approve, and for future expansion of the Building; and,

WHEREAS, upon completion of the Spetzel Building, the Housing Authority intends to move the residents from the existing Peck's Beach Village north units into the Spetzel Building, thus involving the displacement of any tenants, and then to demolish the existing senior units at Peck's Beach Village north; and,

WHEREAS, the Authority solicited bids to construct the Spetzel Building on two (2) separate occasions, and all bids received exceeded the construction budget for this project; and,

WHEREAS, after receipt of the second round of public bids, the shortfall between the construction budget and the lowest bid to construct twenty (20) units in the Spetzel Building was approximately \$2,060,000; and,

WHEREAS, the HMFA has recently given its consent to expand the Spetzel Building to include an additional fourteen (14) units; and,

WHEREAS, Authority has concluded that the cost to construct an additional fourteen (14) units during the construction of the Spetzel Building would be far more cost-efficient than adding those units to the building at a later date; and,

WHEREAS, the City has a strong interest in supporting the creation of affordable housing in Ocean City; and,

WHEREAS, the City has agreed to satisfy its constitutionally mandated obligation to provide affordable housing as set forth in a July 18, 2018 settlement agreement between the City and Fair Share Housing Center ("FSHC"), which agreement was entered into in the context of litigation captioned DMO Ocean City, County of Cape May, docket number CPM-1-305-15 (the "Settlement Agreement"); and,

WHEREAS, the Settlement Agreement was approved by the City's City Council by Resolution 18-54-272 at its meeting of July 12, 2018; and,

WHEREAS, pursuant to the Settlement Agreement, the City has agreed to collaborate with the Authority to construct twenty (20) new affordable senior rental units in the Spetzel Building; forty (40) affordable family rental units at Peck's Beach Village north (in place of the existing senior units to be demolished upon completion of the Spetzel Building), and twenty (20) affordable family rental units at Peck's Beach Village south (after the families currently living in existing units at Peck's Beach Village south have been re-located to new homes at Peck's Beach Village north, and the old units at Peck's Beach Village south have been demolished); and,

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY  
**RESOLUTION** 18-54-373

WHEREAS, the City concurs with the Authority's conclusion that it would be more prudent to construct an additional fourteen (14) units in the Spetal Building now, rather than to do so later, due to the cost savings and the growing need for affordable senior rental units; and,

WHEREAS, before rejecting the current bid for construction of the Spetal Building as originally designed, re-designing the building to include an additional 14 units and soliciting new bids for the expanded building, the Authority has requested a commitment from the City to provide the funds needed to pay the difference between the cost to construct the expanded, 34-unit building and the construction budget therefore, which cost is estimated to be \$1,830,000; and,

WHEREAS, after the Spetal Building has been completed and the demolition of the existing units at Peck's Beach Village north has been completed, it is anticipated that the City and the Authority will negotiate another Shared Services Agreement for the construction of the forty (40) affordable family rental units at Peck's Beach Village north, and twenty (20) affordable family rental units at Peck's Beach Village south and that the City will again provide financial assistance in the event there is a shortfall between grants and other financing the Authority is able to obtain, and the cost of the project; and,

WHEREAS, Bayview Manor is in need of rehabilitation, the cost of which the Authority estimates will be \$2,750,000; and,

WHEREAS, the Authority has concluded rehabilitating Bayview Manor during the construction of the Spetal Building would be far more cost-efficient than doing so later, as a stand-alone project at a later date; and,

WHEREAS, the City and the Authority have agreed that participating in shared agreements for the improvement of existing affordable rental units and the creation of new affordable rental units in Ocean City on land owned by the Authority, and using grants and other financing obtained by the Authority, supplemented by funds for which the City will issue bonds to raise the funds to contribute to the construction and demolition costs, benefits each local unit; and,

WHEREAS, the rehabilitation of the Bayview Manor units will fulfill part of the City's Rehabilitation Share Obligation pursuant to the Settlement Agreement; and,

WHEREAS, the construction of the Spetal Building with at least twenty (20) units will fulfill part of the City's obligation to create affordable rental units pursuant to the Settlement Agreement; and,

WHEREAS, the City and the Authority, by resolutions duly adopted by their respective governing bodies, wish to enter into a shared service agreement pursuant to which the Authority will act as lead agency for the procurement of the contractors, related materials and project administration in accordance with N.J.S.A. 40A:11-1 *et seq.*; and,

WHEREAS, the City's City Council believes that it is in the best interests of the Ocean City residents and taxpayers to create affordable housing unit in cooperation with the Authority;

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY  
**RESOLUTION** 18-54-373

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ocean City, County of Cape May, New Jersey as follows:

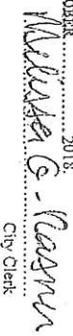
1. The recitals set forth above are incorporated herein as if set forth at length.
  2. The City accepts and approves the Shared Services Agreement attached hereto to be entered into with the Ocean City Housing Authority, a true copy of which is on file at the office of the Clerk of Ocean City and can be reviewed by the public during normal business hours; and
  3. The Mayor, Business Administrator and City Clerk are hereby authorized to execute any and all necessary documents in order to implement this Resolution.
- The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the day of October, 2018.

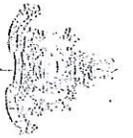
  
Peter V. Madden  
Council President

Offered by: COUNCILMAN BARR Seconded by: COUNCILWOMAN BERGMAN

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the 13th day of OCTOBER, 2018.

NAME	AVE	NAV	ABSENT	ABSTAINED
Barr	X			
Bergman	X			
DeVito	X			
Madden	X			
McClain	X			
Wilson	X			

  
City Clerk



CITY OF OCEAN CITY  
AMERICA'S GREATEST FAMILY RESORT  
SHARED SERVICES AGREEMENT

This agreement, made as of this \_\_\_\_\_ day of October, 2018 by and between the City of Ocean City, a municipal corporation of the State of New Jersey with principal offices located at the City Hall, 861 Asbury Ave., Ocean City, NJ 08226 (hereafter, the City) and the Ocean City Housing Authority (OCHA) with offices located at 204 Fourth Street, Ocean City, NJ 08226 (hereafter, the Authority).

WITNESSETH:

WHEREAS, the Authority operates Bayview Manor ("Bayview Manor"), a public housing facility within the City of Ocean City, NJ; and,

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq., empowers municipalities, authorities and local units to enter into agreements to provide or receive any service; and,

WHEREAS, on or about March 17, 2017, the Authority received a \$4,424,950 grant from the New Jersey Housing and Mortgage Financing Agency ("HMFA") for construction of a new, 20-unit public housing facility at Bayview Manor, which facility shall be referred to herein as the Special Building; and,

WHEREAS, the Authority requested approval to construct more than 20 units in the Special Building as Ocean City has a need for additional affordable rental units for senior citizens; however, the HMFA declined that request each time it was made, so the Special Building was designed for the 20 units which the HMFA would approve, and for future expansion of the Building; and,

WHEREAS, upon completion of the Special Building, the Housing Authority intends to move the residents from the existing Peck's Beach Village north units into the Special Building, thus avoiding the displacement of any tenants, and then to demolish the existing senior units at Peck's Beach Village north; and,

WHEREAS, the Authority solicited bids to construct the Special Building on two (2) separate occasions, and all bids received exceeded the construction budget for this project; and,

WHEREAS, after receipt of the second round of public bids, the shortfall between the construction budget and the lowest bid to construct twenty (20) units in the Special Building was approximately, \$2,060,000; and,

WHEREAS, the HMFA has recently given its consent to expand the Special Building to include an additional fourteen (14) units; and,

WHEREAS, Authority has concluded that the cost to construct an additional fourteen (14) units during the construction of the Special Building would be far more cost-efficient than adding those units to the Special Building at a later date; and,

WHEREAS, the City has a strong interest in supporting the creation of affordable housing in Ocean City; and,

WHEREAS, the City has agreed to satisfy its constitutionally mandated obligation to provide affordable housing as set forth in a July 18, 2018 settlement agreement between the City and Fair Share Housing Center

City of Ocean City & Ocean City Housing Authority

(“RSHC”), which agreement was entered into in the context of litigation captioned DAO Ocean City, County of Cape May, docket number CPM-L-305-15 (the “Settlement Agreement”); and,

WHEREAS, the Settlement Agreement was approved by the City’s City Council by Resolution 18-54-272 at its meeting of July 12, 2018; and,

WHEREAS, pursuant to the Settlement Agreement, the City has agreed to collaborate with the Authority to construct twenty (20) new affordable senior rental units in the Speitel Building, forty (40) affordable family rental units at Peck’s Beach Village north (in place of the existing senior units to be demolished upon completion of the Speitel Building), and twenty (20) affordable family rental units at Peck’s Beach Village south (after the families currently living in existing units at Peck’s Beach Village south have been re-located to new homes at Peck’s Beach Village north, and the old units at Peck’s Beach Village south have been demolished); and,

WHEREAS, the City concurs with the Authority’s conclusion that it would be more prudent to construct an additional fourteen (14) units in the Speitel Building now, rather than to do so later, due to the cost savings and the growing need for affordable senior rental units; and,

WHEREAS, before rejecting the current bid for construction of the Speitel Building as originally designed, re-designing the building to include an additional 14 units and soliciting new bids for the expanded building, the Authority has requested a commitment from the City to provide the funds needed to pay the difference between the cost to construct the expanded, 34-unit building and the construction budget therefore, which cost is estimated to be \$1,830,000; and,

WHEREAS, after the Speitel Building has been completed and the demolition of the existing units at Peck’s Beach Village north has been completed, it is anticipated that the City and the Authority will negotiate another Shared Services Agreement for the construction of the forty (40) affordable family rental units at Peck’s Beach Village north, and twenty (20) affordable family rental units at Peck’s Beach Village south and that the City will again provide financial assistance in the event there is a shortfall between grants and other financing the Authority is able to obtain, and the cost of the project; and,

WHEREAS, Bayview Manor is in need of rehabilitation, the cost of which the Authority estimates will be \$2,750,000; and,

WHEREAS, the Authority has concluded rehabilitating Bayview Manor during the construction of the Speitel Building would be far more cost-efficient than doing so later, as a stand-alone project at a later date; and,

WHEREAS, the City and the Authority have agreed that partnering in shared agreements for the improvement of existing affordable rental units and the creation of new affordable rental units in Ocean City on land owned by the Authority, and using grants and other financing obtained by the Authority, supplemented by funds for which the City will issue bonds to raise the funds to contribute to the construction and demolition costs, benefits each local unit; and,

WHEREAS, the construction of the Speitel Building with at least twenty (20) units will fulfill part of the City’s obligation to create affordable rental units pursuant to the Settlement Agreement; and,

WHEREAS, the rehabilitation of the Bayview Manor units will fulfill part of the City’s Rehabilitation Share Obligation pursuant to the Settlement Agreement; and,

WHEREAS, the City and the Authority, by resolutions duly adopted by their respective governing bodies, wish to enter into a shared service agreement pursuant to which the Authority will act as lead agency for the procurement of the contractors, related materials and project administration in accordance with N.J.S.A. 40A:11-1 *et seq.*; and

NOW, THEREFORE, in consideration as set forth herein and with the parties understanding and intending to the covenants contained in this Agreement and set forth below, the parties do hereby agree as follows:

1. **Recitals Incorporated:** The above recitals are incorporated into this Agreement as is more fully set forth at length herein.
2. **Services to be performed:** The Authority shall perform all requirements for the design, solicitation of bids, award of contracts, management of construction and demolition, invoice review and payment for the construction and rehabilitation work at the Bayview Manor property and the demolition at Peak's Beach Village north. The City shall provide financing only.
3. **Consideration:** The City shall provide funding in an amount not to exceed \$6,400,000 and the Authority shall provide the land, funding and project management in order to create affordable public housing as set forth herein to benefit both local units.
4. **Bond Ordinance Contingency:** The City's obligation to provide funding as set forth herein is contingent upon the adoption and effective passage of the bond ordinance(s) necessary to raise the funds to be contributed by the City.
5. **Duration of the Agreement:** The City and the Authority shall be bound by this agreement for the duration of the project for the construction of the Speitel Building and the subsequent demolition of the existing units at Peak's Beach Village north. If the project is shutdown or abandoned, consideration shall be as mutually agreed upon by both parties.
6. **Severability:** Should any of the provisions of this Agreement be held invalid or unenforceable by a Court of competent jurisdiction, said provisions shall be severed from the entire Agreement and the remaining provisions of the Agreement shall remain in full force and effect.
7. **Entire Agreement:** This Agreement represents the entire Agreement between the parties and this Agreement may not be altered, modified or changed in any manner except upon a duly executed and authorized writing signed between the parties. Any future joint project, other than the rehabilitation of Bayview Manor; the construction of the Speitel Building and the demolition of the existing units at Peak's Beach Village north shall require a separate Shared Services Agreement and approval thereof by resolution of each of the parties hereto.
8. **Governing Law:** This Agreement shall be governed and construed pursuant to the laws of the State of New Jersey and any litigation brought in relation to this Agreement shall be brought in the Superior Court of New Jersey in Cape May County.
9. **Default:** Either party has any and all rights pursuant to law if the other party defaults pursuant to this Agreement. A party shall be considered in default if they have not honored any of the terms or conditions as set forth in this Agreement. Prior to any default being declared, a party must receive at least fourteen (14) days advance notice of said default.

10. **Waiver:** The parties understand and agree that any action or inaction concerning any of the terms or conditions of this Agreement by either party shall not be considered a waiver of any rights by said party including the right to allege such action or inaction, if not corrected, is a default pursuant to terms of this Agreement.
11. **City & Authority Employees:** City & Authority employees are given full permission by this Agreement to visit the Project site at any time. Appropriate representatives of the City will work in conjunction with the Authority staff and project manager to make sure that all the terms of this Agreement are satisfactorily performed.
12. **Indemnification by the Authority:** The Ocean City Housing Authority agrees to protect, defend, indemnify and save harmless the City and the City's officers, agents and employees from any and all losses, claims, actions, costs, expenses and judgments arising out of the sole negligence of the Authority or any employees, agents or officers thereof or acting on said parties behalf, related to the performance of the work contemplated by this Agreement.
13. **Copies To Be Used As Originals:** Any copies of this Agreement once signed may be deemed to be originals for any purposes.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year set forth above.

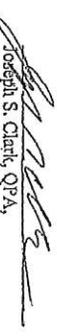
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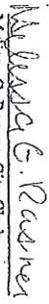
OCEAN CITY HOUSING AUTHORITY

CITY OF OCEAN CITY

Jaqueline S. Jones, Executive Director

Jay Gilliam, Mayor

  
Joseph S. Clark, QPA,  
City Purchasing Manager

  
Melissa G. Rastner, City Clerk

**CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY**

**# 13**

**RESOLUTION**

PAGE UP TO FOLLOW

**AUTHORIZING CHANGE ORDER #1 TO A PROFESSIONAL SERVICES CONTRACT BETWEEN THE  
CITY OF OCEAN CITY & TRIAD ASSOCIATES TO PROVIDE ADMINISTRATIVE AGENT-MARKET TO  
AFFORDABLE HOUSING SERVICES TO THE CITY OF OCEAN CITY**

WHEREAS, the City of Ocean City requires professional services for Administrative Services to include an exterior conditions survey and the establishment of a Market to Affordable Program as part of its Fair Share Plan; and

WHEREAS, TRIAD Associates has the requisite knowledge and experience to provide these services at a reasonable rate; and,

WHEREAS, it is determined to be in the best interests of the City of Ocean City to have TRIAD Associates provide these services; and

WHEREAS, Joseph S. Clark, QPA, City Purchasing Manager has determined and certified in writing that the value of the contract may exceed \$17,500.00; and

WHEREAS, a contract for Professional Services with TRIAD Associates may be entered into without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) & N.J.S.A. 19:44A-20.5; and

WHEREAS, TRIAD Associates has agreed to act & provide services as the administrative agent-market to affordable housing services; and

WHEREAS, TRIAD Associates will be required to complete and submit a Business Entity Disclosure Certification which certifies in accordance with Section 2-2 of Ocean City's Administrative Code (Pay to Play) that neither it nor its principals has made any contribution to a political or candidate committee for an elected office in the City of Ocean City, NJ in the previous one (1) year period, and that the contract will prohibit TRIAD Associates and its principals making any contributions through the term of the contract; and

WHEREAS, TRIAD Associates has been advised that this award does not guarantee that the services described will be required during the contract period and are subject to the actual need as established by the City of Ocean City. As services are required, the City Purchasing Manager shall issue Purchase Orders for those services. No services shall be performed for the City without first obtaining a Purchase Order for said services; and

WHEREAS, Dorothy F. McCrosson, Esq. and Joseph S. Clark, QPA Purchasing Manager have reviewed the terms and conditions of the contract and recommend award of a professional service contract to TRIAD Associates for administrative agent-market to affordable services for the City of Ocean City, NJ; and

WHEREAS, this contract is awarded through an alternative non-advertised process, pursuant to N.J.S.A. 19:44A-20.4 et seq.; and

WHEREAS, the City Council of Ocean City, New Jersey awarded a professional service contract to TRIAD Associates on August 23, 2018 by Resolution #18-54-209; and

WHEREAS, Dorothy F. McCrosson, Esq. and Joseph S. Clark, QPA Purchasing Manager have reviewed and certified Change Order #1 to the professional service contract for TRIAD Associates is correct as follows:

**Change Order #1**

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
<u>Increase-Supplemental</u>				
S1	Preparation of a Policy and Operating Manual for an Owner Occupied and Rental Rehabilitation Program as stated in the attached proposal	1 Lump Sum	\$ 3,000.00	\$ 3,000.00
<b>Total Amount of Increase for Change Order #1 per attached proposal</b>				<b>\$ 3,000.00</b>
<b>Total Amount of Change Order #1 including Increases &amp; Decreases.....</b>				<b>\$ 3,000.00</b>

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY

**RESOLUTION**

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Ocean City, NJ that it authorizes Change Order #1 to Triad Associates, 1301 W. Forest Grove Road, Bldg. 3A, Vineland, NJ 08360 for administrative agent-market to affordable services for the City of Ocean City, NJ professional services in accordance with this resolution and the submitted proposal.

**BE IT FURTHER RESOLVED** that the Director of Financial Management is authorized to process Change Order #1 in the amount of \$3,000.00 to Triad Associates 1301 W. Forest Grove Road, Bldg. 3A, Vineland, NJ 08360 for administrative agent-market to affordable services for the City of Ocean City, NJ professional services shall be charges to the following Account # T-12-56-175-026.

**CERTIFICATION OF FUNDS**

  
\_\_\_\_\_  
Frank Donato, III, CMFO  
Director of Financial Management

\_\_\_\_\_  
Peter V. Madden  
Council President

Files: RPSCO#1 Triad Assoc-Market to Affordable Housing.doc

Offered by ..... Seconded by .....

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the ..... day of ..... 2018

NAME	AYE	NAY	ABSENT	ABSTAINED
Barr	_____	_____	_____	_____
Bergman	_____	_____	_____	_____
DeVieger	_____	_____	_____	_____
Hartzell	_____	_____	_____	_____
Madden	_____	_____	_____	_____
McClellan	_____	_____	_____	_____
Wilson	_____	_____	_____	_____

.....  
Melissa G. Rasner, City Clerk

**AMENDMENT NO. 1  
PROFESSIONAL SERVICE CONTRACT  
FOR  
ADMINISTRATIVE AGENT – MARKET TO AFFORDABLE HOUSING SERVICES**

This will serve as an Amendment made October 11, 2018, to the existing Contract Agreement, originally made effective and executed on September 25, 2018 between **TRIAD ADVISORY SERVICES, INC. (t/a TRIAD ASSOCIATES)**, 1301 W. Forest Grove Road, Vineland, NJ 08360 ("Consultant") and **CITY OF OCEAN CITY**, 861 Asbury Avenue, City Hall – Room 203, Ocean City, NJ 08226-3642 ("Principal").

The existing contract shall be amended to modify the Scope of Services and Compensation as follows:

**SCOPE OF SERVICES:** The Consultant shall, upon the request of the Principal, in accordance with the provisions of the Fair Housing Act and the Uniform Housing Affordability Control (UHAC) regulations (N.J.A.C. 5:80-26.1 et seq.), complete the preparation of an Policy and Operating Manual for an Owner-Occupied and Rental Rehabilitation program, including application forms/ loan documents, advertising/marketing materials.

**COMPENSATION:** Principal shall provide compensation of \$3,000.00 for preparation of a Rehabilitation Manual, including application forms/ loan documents, advertising/marketing materials.

**METHOD OF PAYMENT:** Principal agrees to pay Consultant in accordance with the following billing schedule:

- \$3,000.00 upon submission of the completed manual.
- Principal shall process all invoices for payment upon receipt.

Witness/Attest:

\_\_\_\_\_

\_\_\_\_\_  
Name  
Title

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

Witness/Attest

*Monica Merino*  
\_\_\_\_\_

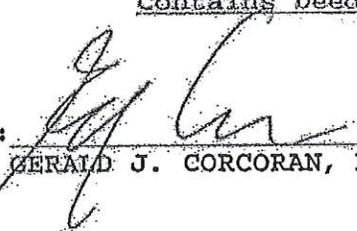
*[Signature]*  
\_\_\_\_\_  
Michael Zumpino  
Chairman/CEO

\_\_\_\_\_  
Date: October 11, 2018

EXHIBIT C

STATE OF NEW JERSEY  
COUNCIL ON AFFORDABLE HOUSING

AFFORDABLE HOUSING AGREEMENT  
Contains Deed Restrictions - For Sale Units

Prepared by: 

GERALD J. CORCORAN, ESQUIRE

A DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Pursuant to the transfer of ownership of an affordable housing unit for the price of \$166,750.00, this AGREEMENT is entered into on this 26th day of June, 2002 between Sally Brooks, owner of the property designated in Section II PROPERTY DESCRIPTION, (hereinafter "owner"), and the Department of Administration, Division of Economic Development of the City of Ocean City, (hereinafter "Authority"), which Authority is an instrumentality of The City of Ocean City (referred to as the "Municipality"), both parties having agreed that the covenants, conditions and restrictions contained herein shall be imposed on the Affordable Housing unit described in Section II PROPERTY DESCRIPTION for a period of AT LEAST ten (10) years beginning on the later of the date a Certificate of Occupancy is issued or the date on which closing and transfer of title takes place for initial ownership, and ending at the first non-exempt transfer of title, unless extended by municipal resolution as described in Section III TERM OF RESTRICTION.

WHEREAS, municipalities within the State of New Jersey are required by the Fair Housing Act (P.L. 1985, c.222) (hereinafter "Act"), to provide for their fair share of housing that is affordable to households with low or moderate incomes in accordance with the provisions of the Act; and

WHEREAS, the Act requires that municipalities ensure that such designated housing remains affordable to low and moderate income households for a minimum period of at least 6 years; and

WHEREAS, the Act establishes the Council on Affordable Housing (hereinafter "Council") to assist municipalities in determining a realistic opportunity for the planning and development of such affordable housing; and

WHEREAS, pursuant to the Act, the housing unit described in Section II PROPERTY DESCRIPTION hereafter and/or an attached Schedule "A" of this Agreement has been designated as low and moderate income housing as defined by the Act; and

WHEREAS, the purpose of this Agreement is to ensure that the described housing unit remains affordable to low and moderate income eligible households for that period of time described in Section III TERM OF RESTRICTION.

NOW THEREFORE, it is the intent of this Agreement to ensure that the affordability controls are contained directly in the property deed for the

premises and incorporated into and recorded with the property deed so as to bind the owner of the described premises and notify all future purchasers of the housing unit that the housing unit is encumbered with affordability controls; and by entering into this Agreement, the Owner of the described premises agrees to restrict the sale of the housing unit to low and moderate income eligible households at a maximum resale price determined by the Authority for the specified period of time.

## I. DEFINITIONS

For purposes of this Agreement, the following terms shall be defined as follows:

"Affordable Housing" shall mean residential units that have been restricted for occupancy by Households whose total Gross Annual Income is measured at less than 80% of the median income level established by an authorized income guideline for geographic region and family size.

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

"Agreement" shall mean this written Affordable Housing Agreement between the Authority and the owner of the Affordable Housing unit which places restrictions on Affordable Housing units so that they remain affordable to and occupied by Low and Moderate Income-Eligible Households for the period of time specified in this Agreement.

"Assessments" shall mean all taxes, levies or charges, both public and private, including those charges by any condominium, cooperative or homeowner's association as the applicable case may be, imposed upon the Affordable Housing unit.

"Authority" shall mean the administrative organization designed by municipal ordinance for the purpose of monitoring the occupancy and resale restrictions contained in this Affordable Housing Agreement. The Authority shall serve as an instrument of the municipality in exercising the municipal rights to the collection of funds as contained in this Agreement.

"Base Price" shall mean the initial sales price of a unit produced for or designated as owner-occupied Affordable Housing.

"Certified Household" shall mean any eligible Household whose estimated total Gross Annual Income has been verified, whose financial references have been approved and who has received written certification as a Low or Moderate Income-Eligible Household from the Authority.

"Council" shall mean the Council on Affordable Housing (COAH) established pursuant to the Fair Housing Act N.J.S.A. 52:27D-301 et seq.

"Department" shall mean the New Jersey State Department of Community Affairs.

"Exempt Transaction" shall mean the following "non-sales" title transactions: (1) Transfer of ownership between husband and wife; (2) Transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation (but not including sales to third parties); (3) Transfer of ownership through an Executor's deed to a Class A Beneficiary; and, (4) Transfer of ownership by court order. All other title transfers shall be deemed non-exempt.

"Fair Market Price" shall mean the unrestricted price of a low or moderate income housing unit if sold at a current real estate market rate.

"First Purchase Money Mortgage" shall mean the most senior mortgage lien to secure repayment of funds for the purchase of an Affordable housing unit providing that such mortgage is not in excess of the applicable maximum allowable resale price and is payable to a valid First Purchase Money Mortgagee.

"First Purchase Money Mortgagee" shall mean an institutional lender or investor, licensed or regulated by the Federal or a State government or any agency thereof, which is the holder and/or assigns of the First Purchase Money Mortgage.

"Foreclosure" shall mean the termination through legal processes of all rights of the mortgagor or the mortgagor's heirs, successors, assigns or grantees in a restricted Affordable Housing unit covered by a recorded mortgage.

"Gross Annual Income" shall mean the total amount of all sources of a Household's income including, but not limited to salary, wages, interest, tips, dividends, alimony, pensions, social security, business and capital gains, tips and welfare benefits. Generally, gross annual income will be based on those sources of income reported to the Internal Revenue Service (IRS) and/or that can be utilized for the purpose of mortgage approval.

"Hardship Waiver" shall mean an approval by the Authority at a non-exempt transfer of title to sell an affordable unit to a household that exceeds the income eligibility criteria after the Owner has demonstrated that no Certified Household has signed an agreement to purchase the unit. The Owner shall have marketed the unit for 90 days after a Notice of Intent to Sell has been received by the Authority and the Authority shall have 30 days thereafter to approve a Hardship waiver. The Hardship Waiver shall permit a low income unit to be sold to a moderate income household or a moderate income unit to be sold to a household whose income is at 80% or above the applicable median income guide. The Hardship Waiver is only valid for a single sale.

"Household" shall mean the person or persons occupying a household unit.

"Index" shall mean the measured percentage of change in the median income for a Household of four by geographic region using the income guideline approved for use by Council.

"Low Income Household" shall mean a Household whose total Gross Annual income is equal to 50% or less of the median gross income figure established by

geographic region and household size using the income guideline approved for use by Council.

"Moderate Income Household" shall mean a Household whose total Gross Annual Income is equal to more than 50% but less than 80% of the median gross income established by geographic region and household size using the income guideline approved for use by Council.

"Owner" shall mean the title holder of record as same is reflected in the most recently dated and recorded deed for the particular Affordable Housing unit. For purposes of the initial sales or rentals of any Affordable Housing unit, Owner shall include the developer/owner of such Affordable Housing units. Owner shall not include any co-signer or co-borrower on any First Purchase Money Mortgage unless such co-signer or co-borrower is also a named title holder of record of such Affordable Housing unit.

"Price Differential" shall mean the total amount of the restricted sales price that exceeds the maximum restricted resale price as calculated by the index after reasonable real estate broker fees have been deducted. The unrestricted sales price shall be no less than a comparable fair market price as determined by the Authority at the time a Notice of Intent to Sell has been received from the Owner.

"Primary Residence" shall mean the unit wherein a Certified Household maintains continuing residence for no less than nine months of each calendar year.

"Purchaser" shall mean a Certified Household who has signed an agreement to purchase an Affordable Housing unit subject to a mortgage commitment and closing.

"Repayment" shall mean the Owner's obligation to the municipality for payment of 95% of the price differential between the maximum allowable resale price and the fair market selling price which has accrued to the Affordable unit during the restricted period of resale at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

"Repayment Mortgage" shall mean the second mortgage document signed by the Owner that is given to the municipality as security for the payment due under the Repayment Note.

"Repayment Note" shall mean the second mortgage note signed by the owner that requires the repayment to the municipality of 95% of the price differential which has accrued to the low or moderate income unit during the period of resale controls at the first non-exempt sale of the property after restrictions have ended as specified in the Affordable Housing Agreement.

"Resale Price" shall mean the Base Price of a unit designed as owner-occupied affordable housing as adjusted by the Index. The resale price may also be adjusted to accommodate an approved home improvement.

"Total Monthly Housing Costs" shall mean the total of the following monthly payments associated with the cost of an owner-occupied Affordable Housing unit including the mortgage payment (principal, interest, private mortgage insurance), applicable assessments by any homeowners, condominium, or cooperative associations, real estate taxes, and fire, theft and liability insurance.

## II. PROPERTY DESCRIPTION

This Agreement applies to the Owner's interest in the real property commonly known as:

Block 608, Lot 15, Municipality of the City of Ocean City, Cape May County, and having the street address of 626 Simpson Avenue, Ocean City, New Jersey, 08226.

## III. TERM OF RESTRICTION

A. The terms, restrictions and covenants of this Affordable Housing Agreement shall begin on the later of the date a Certificate of Occupancy is issued or the date on which closing and transfer of title takes place for initial ownership.

B. The terms, restrictions and covenants of this Affordable Housing Agreement shall terminate upon the occurrence of either of the following events:

1. At the first non-exempt sale after ten (10) years from the beginning date established pursuant to Paragraph A above for units located in municipalities receiving State Aid pursuant to P.L. 1978, L. 14 (N.J.S.A. 52:27D-178 et seq.) that exhibit one of the characteristics delineated in N.J.A.C. 5:93-5.3(b); or at the first non-exempt sale after thirty (30) years from the beginning date established pursuant to Paragraph A above for units located in all other municipalities; or

2. The date upon which the event set forth in Section IX FORECLOSURE herein shall occur.

C. The terms, restrictions and covenants of this Affordable Housing Agreement may be extended by municipal resolution as provided for in N.J.A.C. 5:93-9. Such municipal resolution shall provide for a period of extended restrictions and shall be effective upon filing with the Council and the Authority. The municipal resolution shall specify the extended time period by providing for a revised ending date. An amendment to the Affordable Housing Agreement shall be filed with the recording office of the county in which the Affordable Housing unit or units is/are located.

D. At the first non-exempt title transaction after the established ending date, the Authority shall execute a document in recordable form evidencing that the Affordable Housing unit has been released from the restrictions of this Affordable Housing Agreement.

## IV. RESTRICTIONS

A. The Owner of an owner-occupied Affordable Housing unit for sale shall not sell the unit at a Resale Price greater than an established Base Price plus the allowable percentage of increase as determined by the index applicable to the municipality in which the unit is located. However, in no event shall the approved resale price be established at a lower level than the last recorded purchase price.

B. The Owner shall not sell the Affordable Housing unit to anyone other than a Purchaser who has been certified utilizing the income verification procedures established by the Authority to determine qualified Low and Moderate Income-Eligible Households.

C. An Owner wishing to enter a transaction that will terminate controls as specified heretofore in Section III TERM OF RESTRICTION shall be obligated to provide a Notice of Intent to Sell to the Authority and the Council. An option to buy the unit at the maximum restricted sales price as calculated by the Index shall be made available to the Municipality, the Department, the Agency, or a qualified non-profit organization as determined by the Council for a period of ninety (90) days from the date of delivery of the Notice of Intent to Sell. The option to buy shall be by certified mail and shall be effective on the date of mailing to the Owner.

1. If the option to buy is not exercised within ninety (90) days pursuant to Paragraph C above, the Owner may elect to sell the unit to a certified income-eligible household at the maximum restricted sales price as calculated by the Index provided the unit continues to be restricted by an Affordable Housing Agreement and a Repayment Lien for a period of up to thirty (30) years.

2. Alternately, the Owner may also elect to sell to any purchaser at a fair market price. In this event, the Owner shall be obligated to pay the municipality 95% of the Price Differential generated at the time of closing and transfer of title of the Affordable Housing unit after restrictions have ended as specified heretofore in Section III TERM OF RESTRICTION.

3. If the Owner does not sell the unit within one (1) year of the date of delivery of the Notice of Intent to Sell, the option to buy shall be restored to the municipality and subsequently to the Department, the Agency or a Non-Profit approved by the Council. The Owner shall then be required to submit a new Notice of Intent to Sell the affordable unit to the Authority.

D. The Affordable Housing unit shall be sold in accordance with all rules, regulations, and requirements duly promulgated by the Council (N.J.A.C. 5:93-1 et seq.) the intent of which is to ensure that the Affordable Housing unit remains affordable to and occupied by Low and Moderate Income-Eligible Households throughout the duration of this Agreement.

#### V. REQUIREMENTS

A. This Agreement shall be recorded with the recording office of the county in which the Affordable Housing unit or units are located. The Agreement shall

be filed no earlier than the recording of the applicable Deed and no later than the closing date of the initial sale.

B. When a single Agreement is used to govern more than one Affordable Housing unit, the Agreement shall contain a description of each Affordable Housing unit governed by the Agreement as described in Section II PROPERTY DESCRIPTION and/or Exhibit A of the Agreement and an ending date to be imposed on the unit as described in Section III TERM OF RESTRICTION of the Agreement.

C. A Repayment Mortgage and a Repayment Note shall be executed between the Owner and the municipality wherein the unit(s) is(are) located at the time of closing and transfer of title to any purchaser of an Affordable Housing Unit. The Repayment Mortgage shall provide for the repayment of 95% of the Price Differential at the first non-exempt transfer of title after the ending date of restrictions as specified in Section III TERM OF RESTRICTION. The Repayment Mortgage shall be recorded with the records office of the County in which the unit is located.

#### VI. DEEDS OF CONVEYANCE AND LEASE PROVISIONS

All Deeds of Conveyance and Contracts to Purchase from all Owners to Certified Purchasers of Affordable Housing units shall include the following clause in a conspicuous place.

"The Owner's right, title and interest in this unit and the use, sale, resale and rental of this property are subject to the terms, conditions, restrictions, limitations and provisions as set forth in the AFFORDABLE HOUSING AGREEMENT which is on file in the Office of the Clerk of Cape May County and is also on file with the Authority."

Any Master Deed that includes an Affordable Housing unit shall also reference the affordable unit and the Affordable Housing Agreement and any variation in services, fees, or other terms of the Master Deed that differentiates the affordable unit from all other units covered in the Master Deed.

#### VII. COVENANTS RUNNING WITH LAND

The provisions of this Affordable Housing Agreement shall constitute covenants running with the land with respect to each Affordable Housing unit affected hereby, and shall bind all Purchasers and Owners of each Affordable Housing unit, their heirs, assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns for the duration of this Agreement as set forth herein.

#### VIII. OWNER RESPONSIBILITIES

In addition to fully complying with the terms and provisions of this Affordable Housing Agreement, the Owner acknowledges the following responsibilities:

A. Affordable Housing units shall at all times remain the Primary Residence of the Owner. The Owner shall not rent any Affordable Housing unit to any party whether or not that party qualifies as a Low or Moderate Income household without prior written approval from the Authority.

B. All home improvements made to an Affordable Housing Unit shall be at the Owner's expense except that expenditures for any alteration that allows a unit to be resold to a larger household size because of an increased capacity for occupancy shall be considered for a recalculation of Base Price. Owners must obtain prior approval for such alteration from the Authority to qualify for this recalculation.

C. The Owner of an Affordable Housing unit shall keep the Affordable Housing unit in good repair.

D. Owners of Affordable Housing units shall pay all taxes, charges, assessments or levies, both public and private, assessed against such unit, or any part thereof, as and when the same become due.

E. Owners of Affordable Housing units shall notify the Authority in writing no less than ninety (90) days prior to any proposed sale of an intent to sell the property. Owners shall not execute any purchase agreement, convey title or otherwise deliver possession of the Affordable Housing unit without the prior written approval of the Authority.

F. An Owner shall request referrals of eligible households from pre-established referral lists maintained by the Authority.

G. If the Authority does not refer an eligible household within sixty (60) days of the Notice of Intent to Sell the unit or no Agreement to Purchase the unit as been executed, the Owner may propose a Contract to Purchase the unit to an eligible household not referred through the Authority. The proposed Purchaser must complete all required Household Eligibility forms and submit Gross Annual Income information for verification to the Authority for written certification as an eligible sales transaction.

H. At resale, all items of property which are permanently affixed to the unit and/or were included when the unit was initially restricted (e.g. refrigerator, range, washer, dryer, dishwasher, wall to wall carpeting) shall be included in the maximum allowable Resale Price. Other items of property may be sold to the Purchaser at a reasonable price that has been approved by the Authority at the time of signing the Agreement to Purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the Base Price may be made a condition of the unit resale provided the price has been approved by the Authority. Unless otherwise permitted by the Council, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The Owner and the Purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at Resale.

I. The Owner shall not permit any lien, other than the First Purchase Money Mortgage, second mortgage approved by the Authority and liens of the Authority to attach and remain on the property for more than sixty (60) days.

J. If an Affordable Housing unit is part of a condominium, homeowner's or cooperative association, the Owner, in addition to paying any assessments required by the Master Deed of the Condominium or By-laws of an Association, shall further fully comply with all of the terms, covenants or conditions of said Mater Deed or By-Laws, as well as fully comply with all terms, conditions and restrictions of this Affordable Housing Agreement.

K. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:93-1 et seq.), for determining that a resale transaction is qualified for a Certificate of Exemption. The Owner shall notify the Authority in writing of any proposed Exempt Transaction and supply the necessary documentation to qualify for a Certificate of Exemption. An Exempt Transaction does not terminate the resale restrictions or existing liens and is not considered a certified sales transaction in calculating subsequent resale prices. A Certificate of Exemption shall be filed with the deed at the time of title transfer.

L. The Owner shall have responsibility for fulfilling all requirements in accordance with and subject to any rules and regulations duly promulgated by the Council (N.J.A.C. 5:93-1 et seq.), for determining that a resale transaction is qualified for a Hardship Waiver. The Owner may submit a written request for a Hardship Waiver if no Certified Household has executed an agreement to purchase within ninety (90) days of notification of an approved resale price and referral of potential purchasers. Prior to issuing a Hardship Waiver, the Municipality shall have 30 days in which to sign an agreement to purchase the unit at the approved resale price and subsequently rent or convey it to a Certified Household. The Municipality may transfer this option to the Department, the Agency, or a qualified non-profit organization as determined by the Council. For approval of a Hardship Waiver, an Owner must document efforts to sell the unit to an income eligible household. If the waiver is granted, the Owner may offer a low income unit to a moderate income household or a moderate income unit to a household whose income exceeds 80% of the applicable median income guide. The Hardship Waiver shall be filed with the deed at the time of closing and is only valid for the designated resale transaction. It does not affect the resale price. All future resales are subject to all restrictions stated herein.

M. The Owner shall be obligated to pay a reasonable service fee to the Authority at the time of closing and transfer of title in the amount specified by the Authority at the time a restricted resale price has been determined after receipt of a Notice of Intent to Sell. Such fee shall not be included in the calculation of the maximum resale price.

#### IX. FORECLOSURE

The terms and restrictions of this Agreement shall be subordinate only to the First Purchase Money Mortgage lien on the Affordable Housing property and in no way shall impair the First Purchase Money Mortgagee's ability to exercise the

contract remedies available to it in the event of any default of such mortgage as such remedies are set forth in the First Purchase Money Mortgage documents for the Affordable Housing unit.

Any Affordable Housing owner-occupied property that is acquired by a First Purchase Money Mortgagee by Deed in lieu of Foreclosure, or by a Purchaser at a Foreclosure sale conducted by the holder of the First Purchase Money Mortgagee shall be permanently released from the restrictions and covenants of this Affordable Housing Agreement. All resale restrictions shall cease to be effective as of the date of transfer of title pursuant to Foreclosure with regard to the First Purchase Money Mortgagee, a lender in the secondary mortgage market including but not limited to the FNMA, Federal Home Loan Mortgage Corporation, GNMA, or an entity acting on their behalf and all subsequent purchasers, Owners and mortgagees of that particular Affordable Housing unit (except for the defaulting mortgagor, who shall be forever subject to the resale restrictions of this Agreement with respect to the Affordable Housing unit owned by such defaulting mortgagor at time of the Foreclosure sale).

Upon a judgment of Foreclosure, the Authority shall execute a document to be recorded in the county recording office as evidence that such Affordable Housing unit has been forever released from the restrictions of this Agreement. Execution of foreclosure sales by any other class of creditor or mortgagee shall not result in a release of the Affordable Housing unit from the provisions and restrictions of this Agreement.

In the event of a Foreclosure sale by the First Purchase Mortgagee, the defaulting mortgagor shall be personally obligated to pay to the Authority any excess funds generated from such Foreclosure sale. For purposes of this agreement, excess funds shall be the total amount paid to the sheriff by reason of the Foreclosure sale in excess of the greater of (1) the maximum permissible Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale pursuant to the rules and guidelines of the Authority and (2) the amount required to pay and satisfy the First Money Mortgage, including the costs of Foreclosure plus any second mortgages approved by the Authority in accordance with this Agreement. The amount of excess funds shall also include all payments to any junior creditors out of the Foreclosure sale proceeds even if such were to the exclusion of the defaulting mortgagor.

The Authority is hereby given a first priority lien, second only to the First Purchase Money Mortgagee and any taxes or public assessments by a duly authorized governmental body, equal to the full amount of such excess funds. This obligation of the defaulting mortgagor to pay the full amount of excess funds to the Authority shall be deemed to be a personal obligation of the Owner of record at time of the Foreclosure sale surviving such sale. The Authority shall be empowered to enforce the obligation of the defaulting mortgagor in any appropriate court of law or equity as though same were a personal contractual obligation of the defaulting mortgagor. Neither the First Purchase Money Mortgagee nor the purchaser at the Foreclosure sale shall be responsible or liable to the Authority for any portion of this excess.

No part of the excess funds, however, shall be part of the defaulting mortgagor's equity.

The defaulting mortgagor's equity shall be determined to be the difference between the maximum permitting Resale Price of the Affordable Housing unit as of the date of the Foreclosure sale as calculated in accordance with this Agreement and the total of the following sums: First Purchase Money Mortgage, prior liens, costs of Foreclosure, assessments, property taxes, and other liens which may have been attached against the unit prior to Foreclosure, provided such total is less than the maximum permitted Resale Price.

If there are Owner's equity sums to which the defaulting mortgagor is properly entitled, such sums shall be turned over to the defaulting mortgagor or placed in an escrow account for the defaulting mortgagor if the defaulting mortgagor cannot be located. The First Purchase Money Mortgagee shall hold such funds in escrow for a period of two years or until such earlier time as the defaulting mortgagor shall make a claim for such. At the end of two years, if unclaimed, such funds, including any accrued interest, shall become the property of the Authority to the exclusion of any other creditors who may have claims against the defaulting mortgagor.

Nothing shall preclude the municipality wherein the Affordable Housing unit is located from acquiring an affordable property prior to foreclosure sale at a negotiated price not to exceed the maximum Resale sales price and holding, renting or conveying it to a Certified Household if such right is exercised within 90 days after the property is listed for sale and all outstanding obligations to the First Purchase Money Mortgagee are satisfied.

#### X. VIOLATION, DEFAULTS AND REMEDIES

In the event of a threatened breach of any of the terms of this Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance, it being recognized by both parties to this Agreement that a breach will cause irreparable harm to the Authority, 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 terms of the Agreement by an Owner, the Authority shall have all remedies provided at law or equity, including but not limited to foreclosure, acceleration of all sums due under the mortgage, recoupment of any funds from a sale in violation of the Agreement, injunctive relief to prevent further violation of the Agreement, entry on the premises, and specific performance.

#### XI. RIGHT TO ASSIGN

The Authority may assign from time to time its rights, and delegate its obligations hereunder without the consent of the Owner. Upon such assignment, the Authority, its successors or assigns shall provide written notice to the Owner.

#### XII. INTERPRETATION OF THIS AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid financial speculation or circumvention of the purposes of the Fair Housing Act for the

duration of this Agreement and to ensure, to the greatest extent possible, that the purchase price, mortgage payments and rents of designated Affordable Housing units remain affordable to Low and Moderate Income-Eligible Households as defined-herein.

#### XIII. NOTICES

All notices required herein shall be sent by certified mail, return receipt requested as follows:

##### To the Owner:

At the address of the property stated in Section II PROPERTY DESCRIPTION hereof.

##### To the Authority:

At the address City Hall, 9th Street and Asbury Avenue, Ocean City, New Jersey, 08226

Attention: Office of Economic Development

Or such other address that the Authority, Owner, or municipality may subsequently designate in writing and mail to the other parties.

#### XIV. SUPERIORITY OF AGREEMENT

Owner warrants that no other Agreement with provisions contradictory of, or in opposition to, the provisions hereof has been or will be executed, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations between and among the Owner, the Authority, and their respective successors.

#### XV. SEVERABILITY

It is the intention of all parties that the provisions of this instrument are severable so that if any provisions, conditions, covenants or restrictions thereof shall be invalid or void under any applicable federal, state or local law, the remainder shall be unaffected thereby.

In the event that any provision, condition, covenant or restriction hereof, is at the time of recording of this instrument, void, voidable or unenforceable as being contrary to any applicable federal, state or local law, both parties, their successors and assigns, and all persons claiming by, through or under them covenant and agree that any future amendments or supplements to the said laws having the effect of removing said invalidity, voidability or unenforceability, shall be deemed to apply retrospectively to this instrument thereby operating to validate the provisions of this instrument which otherwise might be invalid and it is covenanted and agreed that any such amendments and supplements to the said laws shall have the effect herein described as fully as if they had been in effect at the time of the execution of this instrument.

XVI. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of New Jersey.

XVII. OWNER'S CERTIFICATION

The Owner certifies that all information provided in order to qualify as the owner of the property or to purchase the property is true and correct as of the date of the signing of this Agreement.

XVIII. AGREEMENT

A. The Owner and the Authority hereby agree that all Affordable Housing units described herein shall be marketed, sold, and occupied in accordance with the provisions of this Agreement. Neither the Owner nor the Authority shall amend or alter the provisions of this Agreement without first obtaining the approval of the other party except as described in Section III, Paragraph C, TERM OF RESTRICTION. Any such approved amendments or modifications of this Agreement shall be in writing and shall contain proof of approval from the other parties and shall not be effective unless and until recorded with the County Clerk for the County in which the Affordable Housing units are situated.

XIX. ACKNOWLEDGEMENT

A. Owner acknowledges receipt of a true copy of this Agreement at no charge.

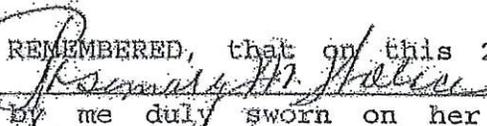
Dated: 6/26/02.

  
SALLY BROOKS

STATE OF NEW JERSEY :

: SS

COUNTY OF CAPE MAY :

BE IT REMEMBERED, that on this 26TH day of June, 2002, before me, the subscriber,  personally appeared Sally Brooks, who, being by me duly sworn on her oath, deposes and makes proof to my satisfaction, that she is the Owner named in the within instrument; that is the Affordable Housing Agreement of the described Property; that the execution, as well as the making of this instrument, has been duly authorized and is the voluntary act and deed of said Owner.

Sworn to and subscribed  
before me this 26th day of

June, 2002.

*Rosemary M. Halloran*  
NOTARY PUBLIC

SCHEDULE A

LEGAL DESCRIPTION

ALL THAT CERTAIN LOT, TRACT OR PARCEL of land and premises, situate, lying and being in the City of Ocean City, County of Cape May and State of New Jersey and more particularly described as follows:

BEGINNING in the Northwesterly line of Simpson Avenue 290 feet Southwestwardly from the Southwesterly line of City Street; extending Southwestwardly, in and along the Northwesterly line of Simpson Avenue 40 feet in front or breadth; and of that width extending Northwestwardly between lines parallels with Sixth Street, 115 feet in length or depth to a fifteen feet wide street. BEING Lot 164, Section B, Plan of Ocean City Association, known as Lot No. 164, Block 608 shown on a tax map made and filed by the City of Ocean City in the County of Cape May Clerk's Office, Cape May Court House NJ.

BEING Known as Lot 15, Block 608 on the current tax map of the City of Ocean City, NJ.

0508

2(c)

**COAH SUMMARY FACT SHEET - 1987-1999**

- |    |  |                              |                 |
|----|--|------------------------------|-----------------|
| 1. | Municipality <u>Ocean City</u>                               | 2. Date of:                  |                 |
|    | County <u>Cape May</u>                                       | Petition for Certification   | <u>11/13/97</u> |
|    | Region <u>6</u>  | Site Visit I                 | <u>12/97</u>    |
|    | Planning Area <u>5</u>                                       | Site Visit II                | <u>5/98</u>     |
|    |  | Repetition for Certification | <u>1/28/00</u>  |
|    |  | Conditional Substantive      |                 |
|    |  | Certification                | <u>8/2/00</u>   |
|    |  | Final Substantive            |                 |
|    |  | Certification                | <u>10/4/00</u>  |
|    |  |                              |                 |
| 3. | Staff Reviewer <u>James E. Cordingley, Principal Planner</u> |                              |                 |
|    |  |                              |                 |
| 4. | Precredited Need   |                              | <u>523</u>      |
|    | Rehabilitation Component                                     | <u>112</u>                   |                 |
|    | New Construction Component                                   | <u>411</u>                   |                 |
|    | Less:  |                              |                 |
|    | Credits:   |                              |                 |
|    | Rehabilitation   | <u>112</u>                   |                 |
|    | New Construction (Prior Cycle)                               | <u>60</u>                    |                 |
|    | Adjustments:   |                              |                 |
|    | Vacant Land (Unmet Need*)                                    | <u>343</u>                   |                 |
|    | Total Credits and Adjustments                                |                              | <u>515</u>      |
|    | Realistic Development Potential                              |                              | <u>8</u>        |
|    |  |                              |                 |
| 5. | Fair Share Obligation  |                              | <u>8</u>        |
|    | New Construction:  |                              |                 |
|    | Municipally Sponsored Infill Housing                         | <u>8</u>                     |                 |

\* To be addressed with an accessory apartment program and development fee ordinance.

**Recommendation**

**GRANT SUBSTANTIVE CERTIFICATION**

**COAH REPORT ON FINAL SUBSTANTIVE  
OCEAN CITY / CAPE MAY COUNTY  
REGION #6  
PREPARED BY: JAMES E. CORDINGL  
October 4, 2000**

Ocean City in Cape May County petitioned the Commission on Affordable Housing (COAH) on November 13, 1997 for substantive certification of a precertified need of 523 units consists of 112 units to be addressed through rehabilitation credits, and 411 units were addressed through a HUD Section 202 project to a realistic development potential (RDP) of adjustment. To address its RDP, Ocean City proposed to build 600 homes in the 600 block of Simpson Avenue. To address its RDP, Ocean City will implement an accessory apartment program and housing activities via a development fee ordinance. Ocean City substantive certification with conditions. Ocean City met the conditions in the following manner:

1. Ocean City must demonstrate that it has control of the project or has an option to control the sites.

To date, Ocean City has control of two sites and a program in place to control the remaining sites.

First Set of Two Homes

Within six months (May 2001):

Within eight months (July 2001):

Within one year (Nov. 2001):

Second Set of Two Homes

Within one year (Nov. 2001):

Within 18 months (May 2002):

Within 20 months (July 2002):

Within two years (Nov. 2002):

**COAH REPORT ON FINAL SUBSTANTIVE CERTIFICATION  
 OCEAN CITY / CAPE MAY COUNTY  
 REGION #6  
 PREPARED BY: JAMES E. CORDINGLEY, PRINCIPAL PLANNER  
 October 4, 2000**

Ocean City in Cape May County petitioned the Council on Affordable Housing (COAH) on November 13, 1997 for substantive certification of its plan. Ocean City's precertified need of 523 units consists of 112 rehabilitation units, all of which were addressed through rehabilitation credits, and 411 new construction units, of which 60 were addressed through a HUD Section 202 project and the balance reduced by 343 units to a realistic development potential (RDP) of eight units through a vacant land adjustment. To address its RDP, Ocean City proposed to construct eight single-family homes in the 600 block of Simpson Avenue. To address its 343-unit unmet need, Ocean City will implement an accessory apartment program and collect fees for affordable housing activities via a development fee ordinance. On August 2, 2000, COAH granted Ocean City substantive certification with conditions to be met within 60 days. Ocean City met the conditions in the following manner:

1. Ocean City must demonstrate that it has control of the site(s) needed for the infill project or has an option to control the sites.

To date, Ocean City has control of two sites. Ocean City has the following program in place to control the remaining sites:

First Set of Two Homes

Within six months (May 2001):	Request for Proposals Contractor Selection All Approvals in Place
Within eight months (July 2001):	Building Permits Issued Commence Construction
Within one year (Nov. 2001):	Construction Completed Certificates of Occupancy Issued

Second Set of Two Homes

Within one year (Nov. 2001):	Site Control
Within 18 months (May 2002):	Request for Proposals Contractor Selection All Approvals in Place
Within 20 months (July 2002):	Building Permits Issued Commence Construction
Within two years (Nov. 2002):	Construction Completed Certificates of Occupancy Issued

Ocean City/Cape May County  
COAH Report on Final Substantive Certification 10/4/00

Third Set of Two Homes

Within two years (Nov. 2002):	Site Control
Within 30 months (May 2003):	Request for Proposals
	Contractor Selection
	All Approvals in Place
Within 32 months (July 2003):	Building Permits Issued
	Commence Construction
Within three years (Nov. 2003):	Construction Completed
	Certificates of Occupancy Issued

Fourth Set of Two Homes

Within three years (Nov. 2003):	Site Control
Within 42 months (May 2004):	Request for Proposals
	Contractor Selection
	All Approvals in Place
Within 44 months (July 2004):	Building Permits Issued
	Commence Construction
Within four years (Nov. 2004):	Construction Completed
	Certificates of Occupancy Issued

Ocean City will accelerate the above schedule once the program is institutionalized.

2. Ocean City must identify an experienced administrative entity that will administer the development and the marketing of the infill units.

The Division of Economic Development under Ocean City's Department of Administration is experienced in administering programs requiring qualification of income eligible applicants and will administer the infill municipal construction program.

3. Ocean City must demonstrate that there is adequate funding for the infill project by submitting a proforma and identifying the sources of funding, which must include a municipal resolution of intent to bond in the event of any funding shortfall.

Ocean City passed a resolution of intent to bond.

4. Ocean City must submit a construction schedule that includes a request for proposals (if applicable), site plan application submittal, grant of municipal approvals, applications for state and federal permits, selection of a contractor and construction, with construction to begin within two years of the date of the grant of substantive certification.

The above listed schedule covers this condition.

5. Ocean City must identify an experienced administrative entity that will administer the accessory apartment program.

The Division of Economic Development is the experienced agency that will administer the accessory apartment program.

6. Ocean City must pass a resolution of intent to bond for any funding shortfall in the accessory apartment program.

As noted, this resolution has been passed.

7. Ocean City must submit a spending plan.

Ocean City submitted a spending plan, which will be reviewed under separate cover.

8. Ocean City must submit an affirmative marketing plan pursuant to N.J.A.C. 5:93-11.

Ocean City submitted an affirmative marketing plan.

9. Ocean City must submit a fair share ordinance that conforms to N.J.A.C. 5:93 regarding pricing, bedroom distribution and affordability controls for both the infill and accessory apartment programs.

Ocean City's ordinance conforms to COAH's criteria.

#### RECOMMENDATION

Staff recommends that COAH grant Ocean City substantive certification. Ocean City must adopt its fair share ordinance within 45 days of COAH's grant of substantive certification.

**RESOLUTION GRANTING SUBSTANTIVE CERTIFICATION NO.**

WHEREAS, Ocean City, Cape May County, petitioned the Council on Affordable Housing (COAH) for substantive certification of its second round (1987-1999) adopted housing element and fair share plan on November 13, 1997; and

WHEREAS, COAH received 24 objections to Ocean City's plan; and

WHEREAS, at the conclusion of mediation, the city and the objectors reached an agreement that required substantial changes to Ocean City's plan as seen in the COAH Mediation Report dated September 21, 1998; and

WHEREAS, Ocean City subsequently amended its housing element and fair share plan and repitioned on January 28, 2000; and

WHEREAS, COAH received one objection to the city's repetition; and

WHEREAS, the objector withdrew the objection on June 19, 2000 prior to mediation; and

WHEREAS, Ocean City's second round precertified need is 523 units, of which 112 are rehabilitation and 411 are new construction; and

WHEREAS, Ocean City's housing element and fair share plan were reviewed in COAH's Compliance Report dated July 6, 2000 (See Exhibit A); and

WHEREAS, in its resolution granting Ocean City conditional substantive certification, COAH granted Ocean City credit for 112 units rehabilitated since April 1, 1990 and prior cycle credit for 60 age-restricted units constructed at Wesley By The Bay (a HUD Section 202 project) in 1983; and

WHEREAS, Ocean City's obligation was reduced to 351 units, all new construction; and

WHEREAS, due to a lack of vacant land, COAH granted Ocean City a vacant land adjustment, reducing the city's realistic development potential (RDP) to eight units; and

WHEREAS, Ocean City's housing element and fair share plan address this eight-unit RDP with a municipally sponsored infill project in the 600 block of Simpson Avenue; and

WHEREAS, Ocean City has addressed its 343-unit unmet need with an accessory apartment program and a development fee ordinance; and

WHEREAS, COAH required Ocean City to meet the following conditions within 60 days of the grant of conditional substantive certification:

1. Ocean City shall demonstrate that it has control of the site(s) needed for the infill project or has an option to control the sites;
2. Ocean City shall identify an experienced administrative entity that will administer the development and the marketing of the infill units;
3. Ocean City shall demonstrate that there is adequate funding for the infill project by submitting a proforma and identifying the sources of funding, which must include a municipal resolution of intent to bond in the event of any funding shortfall;
4. Ocean City shall submit a construction schedule that includes a request for proposals, site plan application, grant of municipal approvals, applications for state and federal permits, selection of a contractor and construction, with construction to begin within two years of the date of the grant of substantive certification;
5. Ocean City shall identify an experienced administrative entity that will administer the accessory apartment program;
6. Ocean City shall pass a resolution of intent to bond for any funding shortfall in the accessory apartment program;
7. Ocean City shall submit a spending plan;
8. Ocean City shall submit an affirmative marketing plan pursuant to N.J.A.C. 5:93-1.1;
9. Ocean City shall submit a fair share ordinance that conforms to N.J.A.C. 5:93 regarding pricing, bedroom distribution and affordability controls for both the infill and accessory apartment programs; and

WHEREAS, Ocean City has met all of the conditions as detailed in the COAH Report (Exhibit B), which is attached hereto and becomes a part thereof.

NOW THEREFORE BE IT RESOLVED that COAH has reviewed Ocean City's petition for substantive certification of its housing element and fair share plan and supporting documentation and has determined that all are consistent with the rules and criteria adopted by COAH and the achievement of low and moderate income housing needs of the region, and;

BE IT FURTHER RESOLVED that Ocean City shall adhere to the following schedule for the development of eight units of affordable housing in the 600 block of Simpson Avenue:

First Set of Two Homes

Within six months (May 2001):

Request for Proposals  
Contractor Selection

Within eight months (July 2001):

All Approvals in Place  
Building Permits Issued

Within one year (Nov. 2001):

Commence Construction  
Construction Completed  
Certificates of Occupancy Issued

BE IT FURTHER RESOLVED that any changes to the facts upon which the conditional substantive certification was based or any deviations from the terms and conditions of this final substantive certification which affects the ability of Ocean City to provide for the realistic opportunity of its fair share of low and moderate income housing and which the city fails to remedy, may render this certification null and void.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing on

Renee Reiss, Secretary  
Council on Affordable Housing

## NARRATIVE

Please supply any information not addressed on the monitoring forms that COAH may find helpful in reviewing your submission.

In discussions with, Sidna Mitchell, Deputy Director, on Dec. 27, 2001, I explained the on going dilemma we have had in matching a eligible low-income household buyer to the two bedroom unit required by the current plan for fill-in construction within our City. Two previous applicants have withdrawn their applications for personal issues only days before the closing of their loans.

We have proposed the substitution of a moderate-income household buyer, currently waiting for a two-bedroom, to be completed to meet the City's requirements for 2001. Clearly, this will require the City to have both units that will be completed in 2002 to be provided to low-income households. (One three bedroom and one two bedroom.)

Marketing to target these households will begin shortly to meet this strategy.

Current status is the complete ownership on both lots, firm construction cost have been received; financing approval on two moderate-income buyer. Construction contracts should be executed within the next two weeks.

EXHIBIT D

**ORDINANCE NO. 18-20**

**AN ORDINANCE AMENDING CHAPTER XXV, ARTICLE 100, SECTION 25-107 OF THE  
OCEAN CITY ZONING AND LAND DEVELOPMENT ORDINANCE TO  
REVISE THE DEFINITION OF "MUNICIPAL USES" TO INCLUDE  
CITY-SPONSORED AFFORDABLE HOUSING**

WHEREAS, the City of Ocean City has an obligation to create affordable housing units; and,

WHEREAS, a cost-effective way to create affordable housing units is to utilize land already owned by the City; and,

WHEREAS, revising the definition of "Municipal Uses" to include City-sponsored affordable housing would provide the City with the flexibility to utilize any land owned by the City for the construction of affordable housing units wherever it owns land;

NOW, THEREFORE, it is hereby ORDAINED by the Mayor and Council of the City of Ocean City, County of Cape May, State of New Jersey, as follows:

**SECTION 1**

The recitals set forth above are incorporated herein as if set forth at length.

**SECTION 2**

Section 25-107, "Definitions", is hereby revised to include the following definition:

*Municipal Uses* shall include, but not be limited to, city sponsored affordable housing.

**SECTION 3**

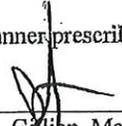
All ordinances or portions thereof inconsistent with this Ordinance are repealed to the extent of such inconsistency.

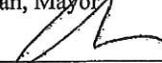
**SECTION 4**

If any portion of this Ordinance is declared to be invalid by a Court of competent jurisdiction, it shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect.

**SECTION 5**

This Ordinance shall take effect in the time and manner prescribed by law.

  
\_\_\_\_\_  
Jay A. Galian, Mayor

  
\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the 29<sup>th</sup> day of November, 2018, and was taken up for a second reading and final passage at a meeting of said Council held on the 13<sup>th</sup> day of December, 2018, in Council Chambers at City Hall, Ocean City, New Jersey, at seven o'clock in the evening.

  
\_\_\_\_\_  
Melissa Rasner, City Clerk



# CITY OF OCEAN CITY

AMERICA'S GREATEST FAMILY RESORT

DEPARTMENT OF LAW

## Memo

**DATE:** November 26, 2018  
**TO:** City Council  
**FROM:** Dorothy F. McCrosson, Esquire  
**RE:** Ordinance Including City-Sponsored Affordable Housing in the Definition of "Municipal Uses"

---

This ordinance is offered as part of Ocean City's strategy to satisfy its constitutional obligation to provide affordable housing.

In the Settlement Agreement between Ocean City and Fair Share Housing Center ("FSHC"), approved by City Council on July 12, 2018, the City committed to constructing ten (10) affordable family units. This ordinance would make City-sponsored construction of this type a "municipal use" and, therefore, a permitted use in all zones.



SCHUELE

PLANNING SOLUTIONS, LLC

Community Development

Municipal Planning

Master Plans

Zoning Codes

Redevelopment

CITY OF OCEAN CITY  
ORDINANCE NO. 18-20  
Master Plan Consistency Report

Introduction.

Ordinance 18-20 "An Ordinance Amending and Supplementing Chapter XXV, Zoning and Land Development of the Revised General Ordinances of the City of Ocean City, New Jersey (Municipal Uses)" will be introduced and adopted on first reading by City Council on November 29, 2018, and will be advertised according to law and scheduled for second reading and public hearing on December 13, 2018.

The "Municipal Land Use Law" provides the Planning Board with thirty-five (35) days from the referral date to prepare, review, adopt and transmit their consistency report regarding Ordinance 18-20 to City Council. NJSA 40:55D-26 describes the Planning Board's responsibility regarding the master plan consistency review as follows:

*"... the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning those inconsistencies and any other matters as the board deems appropriate."*

The statute requires that every zoning ordinance must "either be substantially consistent with the land use plan element and the housing plan element of the master plan, or designed to effectuate such plan element." NJSA 40:55D-62a.

While formerly only zoning ordinances and amendments thereto were required to be submitted to the planning board, it is now clear from the wording in NJSA 40:55D-26 that all "development regulations" must be referred to the planning board for comment and report. The statute requires that every zoning ordinance must "either be substantially consistent with the land use plan and housing plan of the master plan, or designed to effectuate such plan elements." The "Master Plan" referred to herein is the City of Ocean City Master Plan adopted February 3, 1988, and as subsequently amended.

Ordinance 18-20  
Master Plan Consistency Report

Ordinance Summary.

Ordinance 18-20 is part of Ocean City's Affordable Housing strategy and is required by the Settlement Agreement<sup>1</sup>, and is being adopted expressly for the purpose of assisting the City of Ocean City in meeting its affordable housing obligation. In the Settlement Agreement the City committed to constructing ten (10) affordable housing units. This Ordinance establishes a definition for "Municipal Uses" that includes city-sponsored affordable housing, thereby enabling the City to provide affordable housing units in any zone.

Analysis and Conclusion.

As noted above the Planning Board's responsibility in terms of the master plan consistency review is to evaluate the ordinance with regard to the land use plan and housing plan; identify any provisions in the ordinance which are inconsistent with the Master Plan; and make recommendations concerning those inconsistencies and any other matters as the Board deems appropriate.

In defining "substantial consistency" the Supreme Court in *Manalapan Realty v. Township Committee* made it clear that some inconsistency is permitted "provided it does not substantially or materially undermine or distort the basic provisions and objectives of the Master Plan." The "Municipal Land Use Law" does not define the term *inconsistent*.

The following Master Plan Goals and Objectives are relevant to Ordinance 18-20:

- *To support the upgrading of substandard housing, increase the diversity of housing choices, housing affordability and year-round population; and maintain and enhance existing residential areas as the foundation of a desirable and vibrant family resort community.*
- *To encourage municipal actions which will guide the long range appropriate use and development of lands within the City of Ocean City in a manner which will promote the public health, safety, and general welfare of present and future residents.*
- *To encourage coordination of the numerous regulations and activities which influence land development with a goal of producing efficient uses of land with appropriate development types and scale.*
- *To promote the establishment of appropriate population densities in locations that will contribute to the well-being of persons, neighborhoods and preservation of the environment.*

<sup>1</sup> Settlement Agreement between the City and the Fair Share Housing Center, July 18, 2018

Ordinance 18-20  
Master Plan Consistency Report

- *To create and increase single-family housing in the City.*

Having considered Ordinance 18-20, the Municipal Land Use Law and the Master Plan, it is my professional opinion that Ordinance 18-20 is consistent with the City Master Plan since it is designed to effectuate the Housing Plan element and will advance the Master Plan Goals and Objectives cited herein.

Respectively submitted,



Randall E. Scheule, PP/AICP

New Jersey Professional Planner License No. LI003666

November 28, 2018

ORDINANCE NO. 18-20

**AN ORDINANCE AMENDING CHAPTER XXV, ARTICLE 100, SECTION 25-107 OF  
THE OCEAN CITY ZONING AND LAND DEVELOPMENT ORDINANCE TO REVISE  
THE DEFINITION OF "MUNICIPAL USES" TO INCLUDE CITY-SPONSORED  
AFFORDABLE HOUSING**

WHEREAS, the City of Ocean City has an obligation to create affordable housing units;  
and,

WHEREAS, a cost-effective way to create affordable housing units is to utilize land  
already owned by the City; and,

WHEREAS, revising the definition of "Municipal Uses" to include City-sponsored  
affordable housing would provide the City with the flexibility to utilize any land owned by the  
City for the construction of affordable housing units wherever it owns land;

NOW, THEREFORE, it is hereby ORDAINED by the Mayor and Council of the City of  
Ocean City, County of Cape May, State of New Jersey, as follows:

**SECTION 1**

The recitals set forth above are incorporated herein as if set forth at length.

**SECTION 2**

Section 25-107, "Definitions", is hereby revised to include the following definition:

*Municipal Uses* shall include, but not be limited to, city sponsored affordable housing.

**SECTION 3**

All ordinances or portions thereof inconsistent with this Ordinance are repealed to the  
extent of such inconsistency.

**SECTION 4**

If any portion of this Ordinance is declared to be invalid by a Court of competent  
jurisdiction, it shall not affect the remaining portions of the Ordinance, which shall remain in full  
force and effect.

Ordinance 18-20  
Master Plan Consistency Report

SECTION 5

This Ordinance shall take effect in the time and manner prescribed by law.

\_\_\_\_\_  
Jay A. Gillian, Mayor

\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the \_\_\_ day of \_\_\_\_\_, 2018, and was taken up for a second reading and final passage at a meeting of said Council held on the \_\_\_ day of \_\_\_\_\_, 2018 in Council Chambers, City Hall, Ocean City, New Jersey, at 7:00 o'clock in the evening.

\_\_\_\_\_  
Melissa G. Bovera, City Clerk

**GARY R. GRIFFITH, ESQUIRE**  
**GRIFFITH and CARLUCCI, P.C.**  
801 Asbury Avenue - Suite 200  
Ocean City, New Jersey 08226  
(609) 399-6900  
Attorneys for the Ocean City Planning Board

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**OCEAN CITY PLANNING BOARD**

**RESOLUTION**

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1. As required by the Municipal Land Use Law, N.J.S. 40:55D-1 *et seq.*, City Council for the City of Ocean City through the City Clerk for the City of Ocean City has requested that the Ocean City Planning Board review Ordinance No. 18-20 for consistency with the Ocean City Master Plan.
2. On December 12, 2018, the Ocean City Planning Board reviewed Ordinance No. 18-20 for consistency with the Ocean City Master Plan and considered the Ordinance No. 18-20 Master Plan Consistency Report ["Ordinance No. 18-20 Master Plan Consistency Report"] a true copy of which is attached hereto as Exhibit "A" and conducted a public hearing thereon. Randall E. Scheule, P.P. & A.I.C.P. ["Planner"] prepared the Ordinance No. 18-20 Master Plan Consistency Report on November 28, 2018 and was present at the public hearing on December 12, 2018. The Planner presented the Ordinance No. 18-20 Master Plan Consistency Report to the Ocean City Planning Board. All of the provisions of the Ordinance No. 18-20 Master Plan Consistency Report are incorporated by this reference as if specifically set forth herein at length. During his presentation, Mr. Scheule reviewed Ordinance No. 18-20 and the Ordinance No. 18-20 Master Plan Consistency Report with the Ocean City Planning

Board. Thereafter, Mr. Scheule addressed questions from Ocean City Planning Board members in respect of Ordinance No. 18-20 and the Ordinance No.18-20 Master Plan Consistency Report.

3. No member of the public testified or offered comments at the time of public hearing on the Ordinance No.18-20 Master Plan Consistency Report on December 12, 2018.

**NOW, THEREFORE, BE IT RESOLVED** by the Ocean City Planning Board on December 12, 2018 that the Ordinance No.18-20 Master Plan Consistency Report attached hereto as Exhibit "A" is **APPROVED AND ADOPTED** and, shall be **REFERRED** to the City Council for the City of Ocean City for legal action with the following comments and recommendations:

1. For all of the reasons delineated in the Ordinance No.18-20 Master Plan Consistency Report, Ordinance No. 18-20 is consistent with the Ocean City Master Plan.

This Resolution for approval, adoption, and referral was adopted on motion made by Ocean City Planning Board Member Bekier and seconded by Ocean City Planning Board Member Vanderschuere on December 12, 2018 ["Bekier Motion"]. The vote on the Bekier Motion was seven (7) in favor of and zero (0) against with Ocean City Planning Board Members Allegretto, Bekier, Jessel, Sheppard, Adams, Vanderschuere, and Loeper all voting in the affirmative.

OCEAN CITY PLANNING BOARD

  
JOHN LOEPER,  
CHAIRPERSON

Dated: December 12, 2018

CERTIFICATION

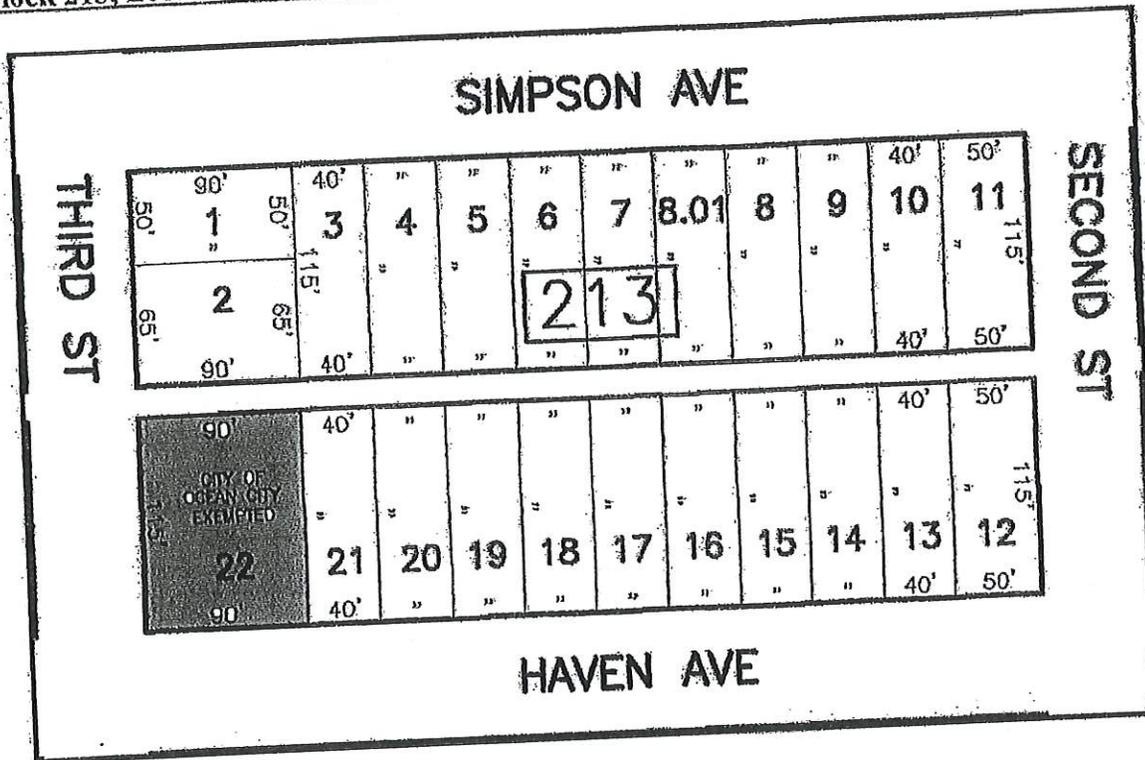
I, JAIME M. FELKER, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Resolution was duly adopted at the meeting of the Ocean City Planning Board held on December 12, 2018 and memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on December 12, 2018.

  
JAIME M. FELKER,  
Secretary, Ocean City Planning Board

EXHIBIT E

Exhibit D  
Ocean City Properties

Block 213, Lot 22 - 240-44 Simpson Avenue



Block 214, Lot 11 - 224 Simpson Avenue

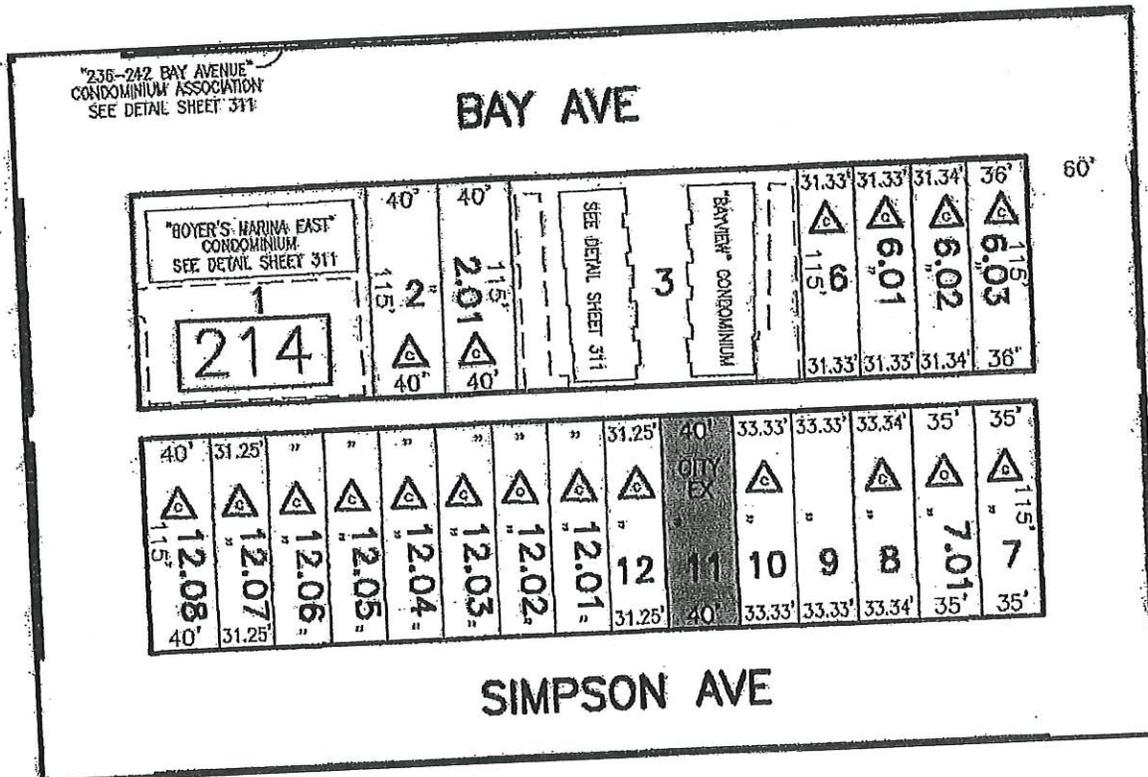
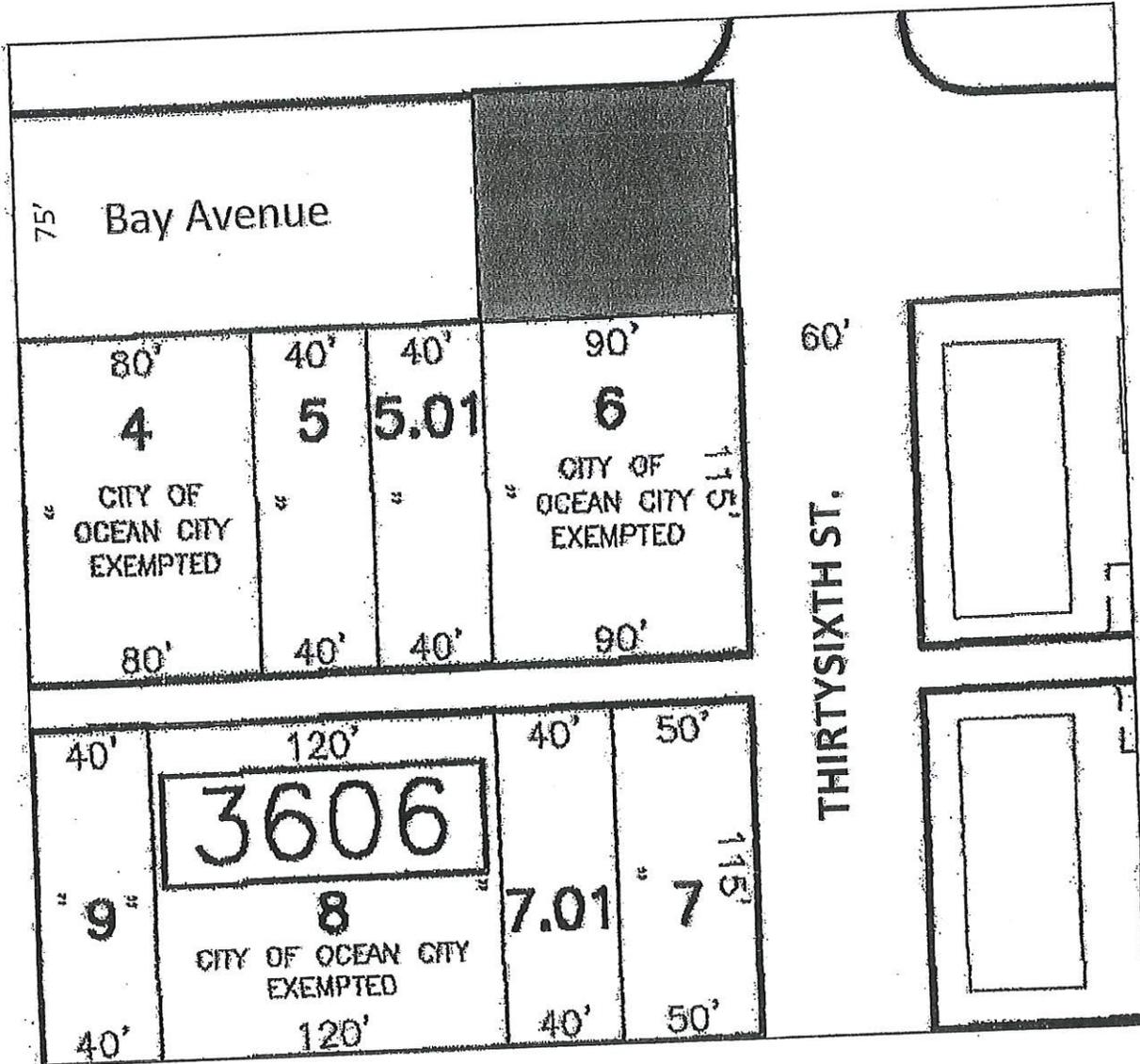


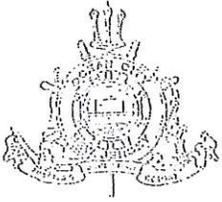
Exhibit D  
Ocean City Properties

Street End - 36<sup>th</sup> Street/Bay Avenue



ALL PROPERTIES IDENTIFIED IN THIS EXHIBIT ARE OWNED BY THE  
 CITY OF OCEAN CITY.

EXHIBIT F



**CITY OF OCEAN CITY**  
AMERICA'S GREATEST FAMILY RESORT  
**GOODS & PROFESSIONAL SERVICE CONTRACT**

**THIS AGREEMENT**, made this 25th day of September, in the year 2018 by and between **THE CITY OF OCEAN CITY**, in the County of Cape May, New Jersey, a municipal corporation, hereinafter **City**, and

Hereinafter "**Contractor**", **Triad Associates**  
**1301 W. Forest Grove Rd, Bldg 3A**  
**Vineland, NJ, 08360**

**Professional Service Contract: Administrative Agent -- Market to Affordable Housing Services**

**WITNESSETH:** that **City** and **Contractor**, for the consideration hereinafter named, covenant and agree as follows:

1. **The Contractor**, pursuant to the written submitted proposal received by the **City** with Resolution #18-54-309 of the **City** accepting said written proposal on August 23, 2018, which includes notice, written submitted proposal and resolution are herein incorporated by reference thereto, agrees to perform all work and/or services required by said proposal and in accordance with said submitted proposal by the Contractor and to otherwise comply with all requirements contained therein.
2. **The Contractor** agrees not to assign, transfer, convey, sublet or otherwise dispose of this contract or any part thereof or its right, title or interest therein, without first receiving the written consent of the Mayor, Council and/or Purchasing Manager of the City of Ocean City.
3. **The Contractor** and **City** agree that time is of the essence in the faithful performance of this Contract and that all Contractors' obligations shall be concluded by August 31, 2019, in accordance with the resolution and submitted proposal.
4. If a Performance Bond is required by the specifications, **Contractor** agrees to furnish same to **City** simultaneously with the execution of this Contract. The Performance Bond shall be in a form satisfactory to the Solicitor of the City of Ocean City.
5. As consideration for **Contractor** complying with the terms, covenants and conditions herein, Contractor shall charge the appropriate parties on an as-needed basis, as stated in the submitted proposal and awarded per Resolution No. 18-54-309 adopted on August 23, 2018.
6. Should **Contractor** fail to carry out the terms of this Contract as herein prescribed, **City** may cancel or rescind this Contract in its entirety and serve said notice addressed to **Contractor's** last known mailing address; or it may notify the bonding company or bondsman, as the case may be, to complete the Contract. Nothing contained herein, however, shall prevent **City** from pursuing whatever other remedies it may have at law, including but not limited to the forfeiture of Contractor's bid deposit.

7. The **Contractor** hereby agrees to indemnify and save harmless the **City** from and for any damages or injury, including death and/or property loss for which it may become liable by reason of any negligence or carelessness on the part of **Contractor**, or on the part of its successors, assigns, agents, servants, or employees from the action of the elements, or from any unforeseen or unusual difficulty, obstruction or obstacles encountered in the prosecution of the work or from improperly guarding any and all portions of the work, or of the private or public property which might be endangered by reason of the performance of the work.

The **Contractor** shall indemnify and save harmless the **City** from and against any and all claims, liabilities, actions and causes for action, costs, charges and mechanics liens for labor performed or for tools and materials furnished in the performance of the work and any and all costs, charges and expenses incurred in defending such suits or actions or procuring such liens to be discharged and satisfied and from and against all claims and liabilities for any injury or damage to person or property growing out of defective or careless performance of said work, or from and against all or any claims or liabilities for royalties or license fees, actions, suits, charges, expenses, or damages for infringement of patents by reason of the use of any invention or improvement or material, tools or plant of any process of device, or combination of devices or equipment used in the performance of the work done under this Agreement. The legal status of said Contractor is that of an "Independent Contractor."

8. The **Contractor** shall furnish the **City** with a Certificate of Insurance for a comprehensive general liability policy covering **Contractor's** entire operation, with bodily injury limits of \$1,000,000 and property damage limits of \$1,000,000 total aggregate. Said policy shall be issued in the name of the Contractor and the City as their interest may appear. **Contractor** shall also furnish the **City** with satisfactory evidence of full and complete statutory compliance with the Workman's Compensation Law of the State of New Jersey.

The **City** shall be named as an additional insured under said policy. The **Contractor** shall provide the **City** with evidence of insurance coverage in the form of a certificate and policy endorsement page, which shall also provide that the insurer shall be obligated to notify the **City** of any cancellation or modification of insurance coverage to the **Contractor** within sixty (60) days thereof.

9. During the performance of this contract, the **Contractor** agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer (PACO) setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

9. The contractor or subcontractor where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq. as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with Good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2, or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personal testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval  
Certificate of Employee Information Report  
Employee Information Report Form AA302

The contractor and its subcontractor shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C.17:27.

- a. **Contractor** will comply with Affirmative Action Regulations P.L. 1975, c.127.

10. Political Contribution Disclosure: This contract has been awarded to Triad Associates based on the merits and abilities of Triad Associates, to provide the goods or services as described herein. This contract was awarded through a "non-advertised" process pursuant to N.J.S.A. 19:44A-20.4 et seq. This contract is subject to City Ordinance 05-13 as such, the undersigned does hereby attest that Triad Associates, its subsidiaries, assigns or principals controlling 10% or more of the corporation has not made any contribution of money nor of any other thing of value, including in-kind contributions that are reportable pursuant to City Ordinance 05-13 in the one (1) year period preceding the award of the contract that would affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract. The City of Ocean City, its agencies or its independent authorities, shall not enter into an agreement or otherwise contract to procure professional services, including banking services/relationships or insurance services, from any professional business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to a campaign committee of any Ocean City candidate, or holder of public office in Ocean City, or to any City of Ocean City or Cape May County party committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting Ocean City municipal candidates or municipal officeholders, within one (1) calendar year immediately preceding the date of the contract or agreement. No professional business entity which enters into negotiations for, or agrees to any professional services contract with the City of Ocean City, its agencies or independent authorities for the rendition of professional, banking or insurance coverage services shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Ocean City candidate for the office of City Council or Mayor, or to any Ocean City or Cape May County party committee, or to any PAC that is organized for the primary purpose of promoting or supporting candidates for the office of Mayor or Council of the City of Ocean City between the first communication between the business entity and Ocean City regarding a specific professional services contract and the later of the termination of negotiations with the City for the professional services contract or the completion of the contract. All Ocean City professional service contracts shall provide that it shall be a breach of the terms of the contract to violate subsection 2-2.2 or to conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution. All requests for proposals sent by the City of Ocean City for professional service contracts shall provide that it shall be a breach of the terms of the contract for a professional business entity to violate any portions of this section or to conceal or misrepresent contributions given to or received by, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.
11. Counter parts and Facsimiles: This contract may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all such counterparts shall constitute one and the same instrument. Facsimile documents shall be acceptable for purposes of this paragraph, including signatures which shall have the same force and effect as original signatures.

12. **IN WITNESS WHEREOF**, the parties named herein have hereunto set their hands and seals and the day and year first above written, pursuant to attached resolution.

**ATTEST:**

**The City of Ocean City**

**Triad Associates**

\_\_\_\_\_  
Jay A. Gillian, Mayor

\_\_\_\_\_  
Melissa G. Rasner, RMC  
City Clerk

\_\_\_\_\_  
Joseph S. Clark, QPA  
City Purchasing Manager

Reviewed: 

Jb/09-25-18  
Dk/10-2-18 revised

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY  
**RESOLUTION** 18-54-309

**AUTHORIZING A PROFESSIONAL SERVICES CONTRACT BETWEEN  
THE CITY OF OCEAN CITY & TRIAD ASSOCIATES  
FOR ADMINISTRATIVE AGENT-MARKET TO AFFORDABLE HOUSING SERVICES**

**WHEREAS**, the City of Ocean City requires professional services for Administrative Services to include an exterior conditions survey and the establishment of a Market to Affordable Program as part of its Fair Share Plan; and

**WHEREAS**, TRIAD Associates has the requisite knowledge and experience to provide these services at a reasonable rate; and,

**WHEREAS**, it is determined to be in the best interests of the City of Ocean City to have TRIAD Associates provide these services; and

**WHEREAS**, Joseph S. Clark, QPA, City Purchasing Manager has determined and certified in writing that the value of the contract may exceed \$17,500.00; and

**WHEREAS**, a contract for Professional Services with TRIAD Associates may be entered into without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) & N.J.S.A. 19:44A-20.5; and

**WHEREAS**, TRIAD Associates has agreed to act & provide services as the administrative agent – market to affordable housing services; and

**WHEREAS**, TRIAD Associates will be required to complete and submit a Business Entity Disclosure Certification which certifies in accordance with Section 2-2 of Ocean City's Administrative Code (Pay to Play) that neither it nor its principals has made any contribution to a political or candidate committee for an elected office in the City of Ocean City, NJ in the previous one (1) year period, and that the contract will prohibit TRIAD Associates and its principals making any contributions through the term of the contract; and

**WHEREAS**, TRIAD Associates has been advised that this award does not guarantee that the services described will be required during the contract period and are subject to the actual need as established by the City of Ocean City. As services are required, the City Purchasing Manager shall issue Purchase Orders for those services. No services shall be performed for the City without first obtaining a Purchase Order for said services; and

**WHEREAS**, Dorothy F. McCrosson, Esq. and Joseph S. Clark, QPA Purchasing Manager have reviewed the terms and conditions of the contract and recommend award of a professional service contract to TRIAD Associates for administrative agent-market to affordable services for the City of Ocean City, NJ ;and

**WHEREAS**, this contract is awarded through an alternative non-advertised process, pursuant to N.J.S.A. 19:44A-20.4 et seq.; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Ocean City, New Jersey that it does hereby appoint TRIAD Associates, 1301 W. Forest Grove Road, Bldg 3A, Vineland, NJ 08360 as the City's administrative agent – market to affordable housing services provider as follows:

1. Service fees shall be charged & paid as invoiced for as stated in the attached proposal.
2. The term of the contract shall be for a period of one (1) year beginning on September 1, 2018 and continuing through until August 31, 2019.
3. A copy of Business Entity Certification, Determination of Value and the Business Registration Certification (BRC) has been submitted and shall be placed on file in the City's Purchasing Division Office
4. A copy of this Resolution and Contract shall be available for inspection in the Ocean City Clerk's Office and shall be published on one (1) occasion in the Ocean City Sentinel.

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY

**RESOLUTION** 18-54-309

**BE IT FURTHER RESOLVED** by the City Council of the City of Ocean City that the Mayor and the City Purchasing Manager are hereby authorized to enter into a formal contract agreement with TRIAD Associates, 1301 W. Forest Grove Road, Bldg 3A, Vineland, NJ 08360 for professional services in accordance with this resolution and submitted proposal.

The Director of Financial Management certifies that funds are available for 2018 and shall be charged to the appropriate account as the purchase orders are issued, the funds for year 2019 are contingent upon the adoption of the Local Municipal Budget for 2019 and shall be charged to the appropriate account as the purchase orders are issued. The estimated annual contract amount is \$18,000.00.

**CERTIFICATION OF FUNDS**

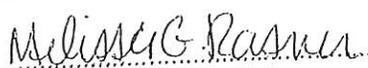
  
\_\_\_\_\_  
Frank Donato, III, CMFO  
Director of Financial Management

  
\_\_\_\_\_  
Peter V. Madden  
Council President

Offered by ..... COUNCILMAN BARR ..... Seconded by ..... COUNCILMAN WILSON .....

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the ..... 23 ..... day of ..... AUGUST ..... 2018

NAME	AYE	NAY	ABSENT	ABSTAINED
Barr	X			
Bergman	X			
DeVlieger	X			
Hartzell	X			
Madden	X			
McJellin	X			

  
.....  
Melissa G. Rasner, City Clerk

## PROFESSIONAL SERVICE AGREEMENT

This Professional Service Agreement ("Agreement") made \_\_\_\_\_, 20\_\_ between **TRIAD ADVISORY SERVICES, INC.** (trading as **TRIAD ASSOCIATES**), 1301 W. Forest Grove Road, Vineland, New Jersey 08350 ("Consultant") and **CITY OF OCEAN CITY**, 861 Asbury Avenue, Ocean City, NJ 08226 ("Principal").

The Principal desires to engage the professional services of Consultant as described in "Exhibit A – Description of Project and Scope of Services" (the "Services"), attached and made a part of this Agreement, and

The Consultant is willing to perform the Services for the Principal upon the terms and conditions stated below.

In consideration of the mutual covenants and agreements set forth below, Consultant and Principal agree as follows:

1. The Principal shall provide to the Consultant information and documentation that the Consultant may require to render properly the services provided for in this Agreement. Such information or documentation may include planning, economic and engineering studies, reports or analyses, codes and ordinances, environmental assessments, property appraisals, capital improvement and other development plans and programs, data on housing conditions and current community development activities, maps, correspondence and other pertinent materials.
2. Performance of the Services in a timely manner by Consultant is expressly conditioned upon the furnishing to Consultant by the Principal of information and documentation pursuant to Paragraph 1 of this Agreement and the timely performance of all other obligations required of the Principal in this Agreement. Notwithstanding anything elsewhere to the contrary in this Agreement, the Consultant shall not be responsible for any delays in performance of the Services caused by the failure or delay of the Principal in performance of its obligations under this Agreement, actions or inaction of any governmental agency, or any other cause beyond the control of the Consultant.
3. The Principal and Consultant each agree at all times to exert their best efforts to complete the Services (as described in Exhibit A) in a professional and timely manner.
4. In the event that the Consultant is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the Consultant to the Principal shall be suspended without liability for the period during which the Consultant is so prevented.
5. In the event that the Principal claims that Consultant is in default of this Agreement or has failed to fulfill in a timely and proper manner its obligations under this Agreement, then the Principal agrees that it will not exercise any right or remedy for default unless it shall have first given written notice thereof to Consultant, and Consultant shall have failed, within fifteen (15) days thereafter to actively and diligently, in good faith, proceed with the Contract and the correction of the default. Consultant reserves the right to terminate this Agreement at any time by providing Principal with 30 days written notice.
6. This Agreement constitutes the entire Agreement between parties and supersedes all prior or contemporaneous agreements and understandings (either oral or written).
7. No covenant or condition not expressed in this Agreement shall be effective to interpret, change or restrict this Agreement.

8. Except as otherwise provided in this Agreement, no change, termination or attempted waiver of any of the provisions of this Agreement shall be binding on their respective heirs, administrators, executors, personal representatives, successors and assigns.
9. Nothing in this Agreement, expressed or implied, shall be construed to confer upon or to give to any person or entity, other than the Principal and the Consultant, their respective heirs, administrators, executors, personal representatives, successors and assigns, and their respective shareholders, or any of them, any rights or remedies under this Agreement.
10. This Agreement shall be construed and interpreted according to the laws of the **STATE OF NEW JERSEY**.
11. Consultant shall comply with all federal, state, county and municipal laws, regulations and ordinances applicable to Consultant or the work in the states and municipalities where the work is to be performed.
12. As compensation for the Services to be performed under this Agreement, Principal agrees to pay Consultant and Consultant agrees to accept for the Services, the compensation outlined in "Exhibit B – Compensation and Method of Payment" that is attached and made a part of this Agreement.
13. This contract may not be assigned by the Principal in whole or in part, without the prior written consent of Consultant.
14. Consultant reserves the right to cease performance under this Agreement due to:
  - a. Principal's nonpayment of compensation as required by Exhibit B;
  - b. Principal's failure to pay invoices within 45 days of receipt;
  - c. Failure of Principal to provide information and documentation outlined in Section 1 of the Professional Services Agreements.
15. Except for the non-payment of Consultant's compensation under this Agreement, Principal and Consultant agree to submit any dispute under this Agreement to binding arbitration. Principal and Consultant shall bear their own costs for presentation of their case to the arbitration.
16. Consultant reserves the right to institute legal proceedings to collect unpaid compensation for services rendered under this Agreement. In the event that Consultant is successful in obtaining a judgment against Principal, the Principal shall also be responsible for the Consultant's legal fees and costs related to the collection action.
17. In the event that the Principal is a county or municipal government, or county or municipally created entity, the chief financial officer of the government entity shall certify that the funds are available to pay the compensation of this Agreement.
18. In the event that the Principal is the state, county or municipal government, or a state, county or municipally created entity, a resolution approving this Agreement from the governing body shall be attached to this Agreement as the next lettered Exhibit.
19. All subsequent modifications or amendments to this Agreement shall be attached to this Agreement as the next lettered Exhibit. In the event that the Principal is the state, county or municipal government, or a state, county or municipally created entity, a resolution approving the amendment or modification to this Agreement from the governing body shall be attached to this Agreement as the next lettered Exhibit. The chief financial officer of the applicable government entity shall also certify that funds are available to pay the compensation required by the modification or amendment to this Agreement.

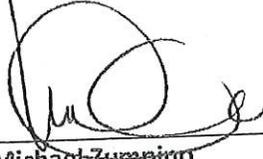
20. Failure of Consultant to enforce any provision of this Agreement is not a waiver by Consultant of that provision in the Agreement.
21. Notices and payments pursuant to this Agreement shall be given in writing by ordinary mail to the parties of the following addresses:

To the Consultant:	To the Principal(s):
TRIAD ASSOCIATES 1301 W. Forest Grove Road Vineyard, New Jersey 08350	City of Ocean City 861 Asbury Avenue Ocean City, NJ 08226-3642
Attention: Michael Zumpino Chairman/CEO	Attention:

or to such other address as the parties may hereafter designate by notice given in accordance with the terms of this Paragraph. Notice or payments sent through courier service, or private overnight delivery service also comply with the terms of this paragraph.

The Consultant and Principal executed this Agreement as of the date first above written.

For TRIAD ASSOCIATES



Michael Zumpino  
Chairman/CEO

Date: August 23, 2018



Witness/Attest

For CITY OF OCEAN CITY

By: Jay A. Gillian  
Mayor

Date:

Witness/Attest

**BILLING CONTACT INFORMATION:**

Triad Associates will submit all invoices associated with this Agreement to the Principal's designated department staff member identified below.

*Please Print*

Name/Title: \_\_\_\_\_  
Billing Address: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Phone No. \_\_\_\_\_  
Fax No. \_\_\_\_\_

**CERTIFICATION OF FUNDS**

I am the Chief Financial Officer (or equivalent) for the Principal and I certify that funds are available and set aside to pay for the services under this Agreement.

Signature

Date

Print Name & Title

## EXHIBIT A DESCRIPTION OF THE PROJECT AND SCOPE OF SERVICES

Attached to and made a part of the Agreement dated \_\_\_\_\_, 20\_\_\_\_ between TRIAD ASSOCIATES (“Consultant”), and CITY OF OCEAN CITY (“Principal”).

For the following project, Principal agrees to retain Consultant to provide these services:

**SCOPE OF SERVICES:** Implementation of a Three to Five Unit Rental/For-Sale Market to Affordable Program and the provision Administrative Agent services, in accordance with the Municipality’s Housing Element and Fair Share Plan. Units to be completed within two years or by August 27, 2020.

### 1. Affordable Housing FOR-SALE Market to Affordable Program

The Consultant will provide Program Administration and Developer services to implement the Market to Affordable For-Sale program in accordance with the provisions of N.J.A.C. 5:93-5.8 and the Uniform Housing Affordability Control (UHAC) regulations (N.J.A.C. 5:80-26.1 et seq.), including the preparation of Market to Affordable Program Guidelines, Affirmative Marketing Plans, and Operating Manuals. The Municipality will provide funds from its Affordable Housing Trust Funds to the Consultant to be used for the purchase, rehabilitation, and associated direct costs of units for resale to qualified buyers at affordable prices and to provide project management and oversight services, as is outlined in more detail below. A total minimum subsidy of \$25,000 for a moderate-income unit and \$30,000 for a low-income unit will be provided towards the purchase price, including Housing Rehabilitation Costs.

- a. Property Acquisition: On behalf of, and in consultation with the Principal, Consultant will identify and purchase units. Consultant shall utilize a systematic approach to evaluating and screening potential target properties to ensure optimum utilization of available funds.

Properties listed on the Municipality’s Abandoned Properties List and/or acquired by the Municipality through Summary Action, Eminent Domain, or Foreclosure through the N.J. Abandoned Property Rehabilitation Act and the Municipality’s Rehabilitation of Abandoned Property Ordinance will receive first priority.

Consultant will subcontract with a licensed real estate appraiser to ensure that properties are appraised in conformity with the standards in the Uniform Relocation Act. Consultant will receive Principals consent prior to purchasing units.

Triad Associates’ affordable housing company, Housing Opportunities Corporation. (HOC), shall hold title to units acquired under this agreement and shall ensure that any net proceed from the sale / resale of such units (the difference between initial outlay of funds for the acquisition, renovation and resale of the market rate units and the final controlled selling price) shall be returned to the principal. HOC is a private corporation owned by the Chairman of Triad Associates for the administration of Affordable Housing Programs

- b. Property Management/Rehabilitation: Upon acquisition, Consultant will; directly or through a sub-consultant, carry-out property management tasks and corresponding responsibilities and will act as manager for the rehabilitation of the project. Consultant will complete the rehabilitation process by preparing and assessing housing rehabilitation work-write-ups, inspections, bids and other construction coordination efforts. Rehabilitation will comply with applicable laws, codes and requirements related to safety, quality and habitability. Consultant will ensure all properties are brought up to code and be in compliance with the Municipality’s basic minimum standards for exterior treatments and interior quality. Consultant and/or its delegated sub-contractor will coordinate all pre-construction conferences, construction contract signings, inspections, interacting with code

officials and historic review boards, performing site visits, and preparing all legal construction documentation. Consultant will review proposed rehabilitation scope with Principal and obtain authorization prior to proceeding with proposed scope.

- c. **Records Maintenance:** Consultant shall maintain such records and accounts, including program records, project records; financial records; program administration records; equal opportunity and fair housing records; and affirmative marketing records.
- d. **Reporting:** Consultant shall advise the Principal on a quarterly basis with respect to the status of its identification of suitable units and progress of the program.

In the above cases, the Purchase Price subsidy will be reflected in the affordable sales price to the Affordable Housing buyer at the time of purchase.

**Alternatively,** in cases where the Consultant will not take title to the unit, Housing Rehabilitation Assistance will be provided to the Affordable Housing buyer after closing. The Purchase Price subsidy will be reflected in the affordable sales price to the Affordable Housing buyer at the time of purchase. Title will be transferred directly to the qualified Affordable Housing buyer. In these cases, the Consultant will provide project management and oversight services, as is outlined in more detail below:

- e. **Property Identification:** On behalf of, and in consultation with the Principal, Consultant will identify units that are available to be acquired by a pre-qualified buyer. Consultant shall utilize a systematic approach to evaluating and screening potential target properties to ensure optimum utilization of available funds. Properties that were previously vacant through foreclosure and have been acquired by a private renovation company for the purpose of “flipping” will receive first priority. At the same time that the Consultant is identifying the unit, the Consultant will identify a qualified buyer.
- f. **Property Rehabilitation:** Upon acquisition by the Affordable buyer, Consultant will; directly or through a sub-consultant, will act as manager for the rehabilitation of the project. Consultant will complete the rehabilitation process by preparing and assessing housing rehabilitation work-write-ups, inspections, bids and other construction coordination efforts. Rehabilitation will comply with applicable laws, codes and requirements related to safety, quality and habitability. Consultant will ensure all properties are brought up to code. Consultant and/or its delegated sub-contractor will coordinate all pre-construction conferences, construction contract signings, inspections, interacting with code officials and historic review boards, performing site visits, and preparing all legal construction documentation. Consultant will review proposed rehabilitation scope with Principal and Owner and obtain authorization prior to proceeding with proposed scope.
- g. **Records Maintenance:** Consultant shall maintain such records and accounts, including program records, project records; financial records; program administration records; equal opportunity and fair housing records; and affirmative marketing records.
- h. **Reporting:** Consultant shall advise the Principal on a quarterly basis with respect to the status of its identification of suitable units and progress of the program.

## **2. Affordable Housing FOR-RENT Market to Affordable Program**

The Consultant will provide consultation, technical assistance and implementation services to implement the Market to Affordable Rental Program in accordance with the provisions of N.J.A.C. 5:93-5.8 and the Uniform Housing Affordability Control (UHAC) regulations (N.J.A.C. 5:80-26.1 et seq.). including but not limited to:

- a. Preparation of a Market to Affordable Program Guidelines, Affirmative Marketing Plan and Operating Manual
- b. Development of a Marketing Program and Landlord Pamphlet to solicit applications and interest from potential landlords

- c. Establish program guidelines for the provision of subsidies to Property Owners for the creation of Market to Affordable Program units. Monitor the distribution of the program subsidy, the oversight of securing the certificates of occupancy, qualifying properties, handling application forms, overseeing the filing deed restrictions, and filing monitoring reports to the Municipality and DCA/Courts.
- d. Preparation of estimates for the amount of subsidy to be provided to landlords. The Municipality will provide funds from its Affordable Housing Trust Funds to the Landlords to be used for the Rental Subsidy. The subsidy amount will be based upon the affordability of the proposed units. The municipality shall provide a minimum of \$25,000 per unit to subsidize each moderate-income unit and/or \$30,000 per unit to subsidize the each low-income unit, with additional subsidy depending on the market prices or rents in a municipality. (Note: The Municipality will receive COAH credit for the unit when the unit is occupied by a tenant who was selected through the affirmative marketing process. As a result, there may be a lag time between when the Deed Restrictions were recorded and the Municipality receives their credit).
- e. All applications from Landlords and subsidy amounts to be forwarded to the Municipality for review and approval.
- f. Analyze the costs associated with the development of Market to Affordable Rental or For-Sale units to be available through the Ocean City Housing Authority
- g. Establishment of affordable rents in accordance with COAH guidelines. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 50 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income
- h. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
- i. Preparation of all required program agreements and deed restrictions for forwarding to Municipal attorney

**3. Administrative Agent Services for For-Sale and Rental Units:**

The Consultant, upon the request of the Principal and subject to DCA/Court's approval, shall assist the Principal to perform the duties and responsibilities of an Administrative Agent for the municipality's Market to Affordable For-Sale and For Rent Program, as governed by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq., (the Act) and Section 5:80-26.14 of the regulations promulgated there under (the Rules), which include:

a. Affirmative Marketing

- i. Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Principal and the provisions of N.J.A.C. 5:80-26.15;
- ii. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by DCA/Courts; and
- iii. Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

b. Household Certification

- i. Soliciting, scheduling, conducting and following up on interviews with interested households;
- ii. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

- iii. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - iv. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1;
  - v. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  - vi. Employing a random selection process as provided in the Affirmative Marketing Plan of the Principal when referring households for certification to affordable units.
- c. Affordability Controls
- i. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
  - ii. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
  - iii. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
  - iv. Communicating with lenders regarding foreclosures; and
  - v. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- d. Resale and Rental
- i. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
  - ii. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- e. Processing Requests from Unit Owners
- i. Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
  - ii. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems;
  - iii. Notifying the Municipality of an owner's intent to sell a restricted unit; and
  - iv. Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- f. Enforcement
- i. Securing annually from municipalities lists of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
  - ii. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

- iii. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;
  - iv. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
  - v. Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;
  - vi. Establishing a rent-to-equity program;
  - vii. Creating and publishing a written operating manual, as approved by DCA, setting forth procedures for administering such affordability controls; and
  - viii. Providing annual reports to DCA as required.
- g. The Consultant shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

4. **Municipality's Responsibilities.** The Municipality shall:

- a. Provide to the Administrative Agent the name, title and telephone number of the municipal official designated as the Municipal Housing Liaison to the Administrative Agent on all matters related to this Agreement;
- b. Ensure that applicable local ordinances are not in conflict with, and enable efficient implementation of, the Rules and the provisions of this Agreement;
- c. Monitor the status of all restricted units in the Municipality's Fair Share Plan;
- d. Compile, verify, and submit annual reports as required by DCA/Courts;
- e. Coordinate meetings with affordable housing providers and Consultant, as applicable;
- f. Develop an Affirmative Marketing Plan and distribute to the Consultant;
- g. Ensure that all restricted units are identified as affordable within the tax assessor's office and any Municipal Utility Authority (MUA). The municipality and MUA shall promptly notify the Consultant of a change in billing address, payment delinquency of two billing cycles, transfer of title, or institution of a writ of foreclosure on all affordable units; and
- h. Provide all reasonable and necessary assistance to the Consultant in support of efforts to enforce provisions of the Act, the Rules, deed covenants, mortgages, court decisions or other authorities governing the affordability control services to be provided under the Agreement.

6. **Agency Enforcement and Delegation:** Under this Agreement, the Principal delegates to the Consultant, and the Consultant accepts, the primary responsibility for enforcing the substantive provisions of the Act and the Rules. However, if the Consultant fails to act, the Principal shall retain ultimate responsibility for ensuring effective compliance with the Rules and the Consultant will come under the supervision of the Principal.

7. **Public Records:** Records received, retained, retrieved, or transmitted under the terms of this contract may constitute public records of the individual municipalities as defined by N.J.S.A. 47:3-16, and are legal property of the individual municipalities. The Consultant named in this contract must agree to administer and dispose of such records in compliance with the State's public records laws and associated administrative rules.

## EXHIBIT B COMPENSATION AND METHOD OF PAYMENT

Attached to and made a part of the Agreement dated \_\_\_\_\_, 2018 between **TRIAD ASSOCIATES** ("Consultant"), and **CITY OF OCEAN CITY** ("Principal").

Principal agrees to pay the Consultant as follows:

**COMPENSATION:** The Principal shall provide compensation for the implementation of a three (3) to five (5) unit Market to Affordable For-Sale/Rental Program and for the provision of Affordable Housing Administrative Agent services as outlined in Exhibit A according the following fee schedule which includes all travel, clerical and related expenses:

### I. MARKET TO AFFORDABLE PROGRAM/ADMINISTRATIVE AGENT SERVICES

#### A. Market to Affordable For-Sale Program: Developer Services For Acquisition and Resale and Program Administration

	<u>Service</u>	<u>Fee</u>	<u>Paid By</u>
Property Identification and Acquisition, Developer Services, Case Management through Property Sale Services	a. Program Consultant will be paid a fee for the following services: Property Identification and Acquisition, Developer Services, Case Management through Property Sale Services	Consultant will be paid a lump sum fee of <b>\$8,000.00 per unit</b> . Fee is based upon the provision of an estimated seventy (70) hours of services. Any time spent in excess will be billed at \$115 per hour, with prior approval of Principal. All direct costs (acquisition, title fees, realtor fees, insurance, property taxes, rehabilitation work, advertising fees, and inspection fees) shall be reimbursed at cost.	City of Ocean City

#### B. Market to Affordable Rental Program: Landlord Outreach and Program Administration

	<u>Service</u>	<u>Fee</u>	<u>Paid By</u>
Landlord Information Packet, Marketing to Landlords, Processing Landlord/Owner Agreements & Deed Restrictions	a. Program Consultant will be paid a fee for the following services: Preparation of Landlord Information Packets, Marketing to Landlords, Processing Landlord/Owner Agreements and Deed Restrictions	\$115.00 per hour	City of Ocean City

#### C. Administrative Agent Services for For-Sale and Rental Units:

	<u>Service</u>	<u>Fee</u>	<u>Paid By</u>
Market to Affordable Program Guidelines, Affirmative Marketing Plan and Operating Manual	Program Consultant will be paid a fee for the following services: Preparation of a Market to Affordable Program Guidelines, Affirmative Marketing Plan and Operating Manual	\$3,500.00 Lump Sum Fee	City of Ocean City
General Administration / Waiting List	a. Program Consultant will be paid a fee for the following services: Maintain an applicant pool and waiting list for the Re-Sale and Re-Rental of Units.	\$100.00 per month (not to exceed \$1,200 per year)	City of Ocean City

Affirmative Marketing for a Rental Waiting List	b. Consultant will be paid for <b>Affirmative Marketing to Renters</b> , completion of randomization process (lottery) and the establishment of an applicant pool for the rental units.	\$1,500.00 Lump sum fee plus 100% reimbursement for all direct costs associated with marketing, as needed, including but not limited to advertising fees, printing and postage. Direct costs not to exceed \$750.00	City of Ocean City
Affirmative Marketing for a Sale Waiting List	c. Consultant will be paid for <b>Affirmative Marketing to Buyers</b> , completion of randomization process (lottery) and the establishment of an applicant pool for the rental units.	\$1,500.00 Lump sum fee plus 100% reimbursement for all direct costs associated with marketing, as needed, including but not limited to advertising fees, printing and postage. Direct costs not to exceed \$750.00	City of Ocean City
Initial Applicant Qualification to Purchase a Unit	d. Program Consultant will be paid a fee for the completion of each Eligibility Certification or Denial in accordance with the Scope of Services in Exhibit A	\$1,000.00 for the completion of each Eligibility Certification or Denial, and an additional \$300.00 for each certification that proceeds to closing, for a maximum fee of \$1,300.00	City of Ocean City
Re-Sales – Applicant Qualification	e. <u>For Re-Sales only</u> , Consultant will be paid three (3%) of the sales price upon closing. Fee Payable by Seller at Closing	3% of the Sales Price	Property Owner
Initial and Re-Rental Applicant Qualification	f. Program Consultant will be paid a fee for the completion of each Eligibility Certification or Denial in accordance with the Scope of Services in Exhibit A for the rental units.	\$750.00 per Certification or Denial	Property Owner/ Developer/ Landlord

**D. General Administrative Agent Services provided to the Municipality**

	<u>Service</u>	<u>Fee</u>	<u>Paid By</u>
General Administrative Agent Fees	a. Program Consultant will be paid a fee for the provision of General Oversight services, development of new programs, and the provision of services necessary for compliance with Court ordered requirements, including the provision of Technical Assistance services to allow the Municipality to analyze the costs associated with the development of Market to Affordable Rental or For-Sale units to be available through the Ocean City Housing Authority, in accordance with the Scope of Services in Exhibit A.	\$115.00 per hour For budgetary purposes allow \$3,000.00 per year	City of Ocean City

**METHOD OF PAYMENT:**

- Monthly invoices will be submitted for services performed by the Consultant for the provision of all Market to Affordable/Administrative Agent Services identified in Exhibit A.
- Principal shall process all invoices for payment upon receipt.

EXHIBIT G

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY  
**RESOLUTION** 18-54-373

**AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH  
THE OCEAN CITY HOUSING AUTHORITY FOR CONSTRUCTION OF THIRTY-FOUR (34)  
AFFORDABLE SENIOR RENTAL UNITS AT BAYVIEW MANOR**

WHEREAS, the Ocean City Housing Authority (the "Authority") operates Bayview Manor ("Bayview Manor"), a public housing facility within the City of Ocean City, NJ; and,

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq., empowers municipalities, authorities and local units to enter into agreements to provide or receive any service; and,

WHEREAS, on or about March 17, 2017, the Authority received a \$4,424,950 grant from the New Jersey Housing and Mortgage Financing Agency ("HMFA") for construction of a new, 20-unit public housing facility at Bayview Manor, which facility shall be referred to herein as the Spetzel Building; and,

WHEREAS, the Authority requested approval to construct more than 20 units in the Spetzel Building as Ocean City has a need for additional affordable rental units for senior citizens; however, the HMFA declined that request each time it was made, so the Spetzel Building was designed for the 20 units which the HMFA would approve, and for future expansion of the Building; and,

WHEREAS, upon completion of the Spetzel Building, the Housing Authority intends to move the residents from the existing Peck's Beach Village north units into the Spetzel Building, thus avoiding the displacement of any tenants; and then to demolish the existing senior units at Peck's Beach Village north; and,

WHEREAS, the Authority solicited bids to construct the Spetzel Building on two (2) separate occasions, and all bids received exceeded the construction budget for this project; and,

WHEREAS, after receipt of the second round of public bids, the shortfall between the construction budget and the lowest bid to construct twenty (20) units in the Spetzel Building was approximately, \$2,060,000; and,

WHEREAS, the HMFA has recently given its consent to expand the Spetzel Building to include an additional fourteen (14) units; and,

WHEREAS, Authority has concluded that the cost to construct an additional fourteen (14) units during the construction of the Spetzel Building would be far more cost-efficient than adding those units to the building at a later date; and,

WHEREAS, the City has a strong interest in supporting the creation of affordable housing in Ocean City; and,

WHEREAS, the City has agreed to satisfy its constitutionally mandated obligation to provide affordable housing as set forth in a July 18, 2018 settlement agreement between the City and Fair Share Housing Center ("FSHC"), which agreement was entered into in the context of litigation captioned DMO Ocean City v. County of Cape May, docket number CPM-L-305-15 (the "Settlement Agreement"); and,

WHEREAS, the Settlement Agreement was approved by the City's City Council by Resolution 18-54-272 at its meeting of July 12, 2018; and,

WHEREAS, pursuant to the Settlement Agreement, the City has agreed to collaborate with the Authority to construct twenty (20) new affordable senior rental units in the Spetzel Building, forty (40) affordable family rental units at Peck's Beach Village north (in place of the existing senior units to be demolished upon completion of the Spetzel Building), and twenty (20) affordable family rental units at Peck's Beach Village south (after the families currently living in existing units at Peck's Beach Village south have been re-located to new homes at Peck's Beach Village north, and the old units at Peck's Beach Village south have been demolished); and,

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY  
**RESOLUTION** 18-54-373

WHEREAS, the City concurs with the Authority's conclusion that it would be more prudent to construct an additional fourteen (14) units in the Speitel Building now, rather than to do so later, due to the cost savings and the growing need for affordable senior rental units; and,

WHEREAS, before rejecting the current bid for construction of the Speitel Building as originally designed, re-designing the building to include an additional 14 units and soliciting new bids for the expanded building, the Authority has requested a commitment from the City to provide the funds needed to pay the difference between the cost to construct the expanded, 34-unit building and the construction budget therefore, which cost is estimated to be \$1,830,000; and,

WHEREAS, after the Speitel Building has been completed and the demolition of the existing units at Peck's Beach Village north has been completed, it is anticipated that the City and the Authority will negotiate another Shared Services Agreement for the construction of the forty (40) affordable family rental units at Peck's Beach Village north, and twenty (20) affordable family rental units at Peck's Beach Village south and that the City will again provide financial assistance in the event there is a shortfall between grants and other financing the Authority is able to obtain, and the cost of the project; and,

WHEREAS, Bayview Manor is in need of rehabilitation, the cost of which the Authority estimates will be \$2,750,000; and,

WHEREAS, the Authority has concluded rehabilitating Bayview Manor during the construction of the Speitel Building would be far more cost-efficient than doing so later, as a stand-alone project at a later date; and,

WHEREAS, the City and the Authority have agreed that partnering in shared agreements for the improvement of existing affordable rental units and the creation of new affordable rental units in Ocean City on land owned by the Authority, and using grants and other financing obtained by the Authority, supplemented by funds for which the City will issue bonds to raise the funds to contribute to the construction and demolition costs, benefits each local unit; and,

WHEREAS, the rehabilitation of the Bayview Manor units will fulfill part of the City's Rehabilitation Share Obligation pursuant to the Settlement Agreement; and,

WHEREAS, the construction of the Speitel Building with at least twenty (20) units will fulfill part of the City's obligation to create affordable rental units pursuant to the Settlement Agreement; and,

WHEREAS, the City and the Authority, by resolutions duly adopted by their respective governing bodies, wish to enter into a shared service agreement pursuant to which the Authority will act as lead agency for the procurement of the contractors, related materials and project administration in accordance with N.J.S.A. 40A:11-1 *et seq.*; and,

WHEREAS, the City's City Council believes that it is in the best interests of the Ocean City residents and taxpayers to create affordable housing unit in cooperation with the Authority;

CITY OF OCEAN CITY  
 CAPE MAY COUNTY, NEW JERSEY

**RESOLUTION** 18-54-373

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Ocean City,  
 County of Cape May, New Jersey as follows:

1. The recitals set forth above are incorporated herein as if set forth at length.
2. The City accepts and approves the Shared Services Agreement attached hereto to be entered into with the Ocean City Housing Authority, a true copy of which is on file at the office of the Clerk of Ocean City and can be reviewed by the public during normal business hours; and
3. The Mayor, Business Administrator and City Clerk are hereby authorized to execute any and all necessary documents in order to implement this Resolution.

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the day of October, 2018.

  
 Peter V. Madden  
 Council President

Offered by: **COUNCILMAN HARR** Seconded by: **COUNCILMAN BERGMAN**

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the 11TH day of OCTOBER, 2018.

NAME	AYE	NAV	ABSENT	ABSTAINED
Barr	X			
Bergman	X			
DeVillier	X			
Henderson	X			
McClellan	X			
Wilson	X			

*Melissa C. Raym*  
 City Clerk



CITY OF OCEAN CITY  
AMERICA'S GREATEST FAMILY RESORT  
SHARED SERVICES AGREEMENT

This agreement, made as of this \_\_\_\_\_ day of October, 2018 by and between the City of Ocean City, a municipal corporation of the State of New Jersey with principal offices located at the City Hall, 861 Ashbury Ave., Ocean City, NJ 08226 (hereafter, the City) and the Ocean City Housing Authority (OCHA) with offices located at 204 Fourth Street, Ocean City, NJ 08226 (hereafter, the Authority).

WITNESSETH:

WHEREAS, the Authority operates Bayview Manor ("Bayview Manor"), a public housing facility within the City of Ocean City, NJ; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 *et seq.*, empowers municipalities, authorities and local units to enter into agreements to provide or receive any service; and,

WHEREAS, on or about March 17, 2017, the Authority received a \$4,424,930 grant from the New Jersey Housing and Mortgage Financing Agency ("HMFA") for construction of a new, 20-unit public housing facility at Bayview Manor, which facility shall be referred to herein as the Special Building; and,

WHEREAS, the Authority requested approval to construct more than 20 units in the Special Building as Ocean City has a need for additional affordable rental units for senior citizens, however, the HMFA declined that request each time it was made, so the Special Building was designed for the 20 units which the HMFA would approve, and for future expansion of the Building; and,

WHEREAS, upon completion of the Special Building, the Housing Authority intends to move the residents from the existing Peck's Beach Village north units into the Special Building, thus avoiding the displacement of any tenants, and then to demolish the existing senior units at Peck's Beach Village north; and,

WHEREAS, the Authority solicited bids to construct the Special Building on two (2) separate occasions, and all bids received exceeded the construction budget for this project; and,

WHEREAS, after receipt of the second round of public bids, the shortfall between the construction budget and the lowest bid to construct twenty (20) units in the Special Building was approximately, \$2,060,000; and,

WHEREAS, the HMFA has recently given its consent to expand the Special Building to include an additional fourteen (14) units; and,

WHEREAS, Authority has concluded that the cost to construct an additional fourteen (14) units during the construction of the Special Building would be far more cost-efficient than adding those units to the Special Building at a later date; and,

WHEREAS, the City has a strong interest in supporting the creation of affordable housing in Ocean City; and,

WHEREAS, the City has agreed to satisfy its constitutionally mandated obligation to provide affordable housing as set forth in a July 18, 2018 settlement agreement between the City and Fair Share Housing Center

(“TSHCA”), which agreement was entered into in the context of litigation captioned IN/CO Ocean City, County of Cape May, docket number CPM-L-305-15 (the “Settlement Agreement”); and,

WHEREAS, the Settlement Agreement was approved by the City’s City Council by Resolution 18-54-272 at its meeting of July 12, 2018; and,

WHEREAS, pursuant to the Settlement Agreement, the City has agreed to collaborate with the Authority to construct twenty (20) new affordable senior rental units in the Speitel Building, forty (40) affordable family rental units at Peck’s Beach Village north (in place of the existing senior units to be demolished upon completion of the Speitel Building), and twenty (20) affordable family rental units at Peck’s Beach Village south (after the families currently living in existing units at Peck’s Beach Village south have been re-located to new homes at Peck’s Beach Village north, and the old units at Peck’s Beach Village south have been demolished); and,

WHEREAS, the City concurs with the Authority’s conclusion that it would be more prudent to construct an additional fourteen (14) units in the Speitel Building now, rather than to do so later, due to the cost savings and the growing need for affordable senior rental units; and,

WHEREAS, before rejecting the current bid for construction of the Speitel Building as originally designed, re-designing the building to include an additional 14 units and soliciting new bids for the expanded building, the Authority has requested a commitment from the City to provide the funds needed to pay the difference between the cost to construct the expanded, 34-unit building and the construction budget therefore, which cost is estimated to be \$1,830,000; and,

WHEREAS, after the Speitel Building has been completed and the demolition of the existing units at Peck’s Beach Village north has been completed, it is anticipated that the City and the Authority will negotiate another Shared Services Agreement for the construction of the forty (40) affordable family rental units at Peck’s Beach Village north, and twenty (20) affordable family rental units at Peck’s Beach Village south and that the City will again provide financial assistance in the event there is a shortfall between grants and other financing the Authority is able to obtain, and the cost of the project; and,

WHEREAS, Bayview Manor is in need of rehabilitation, the cost of which the Authority estimates will be \$2,750,000; and,

WHEREAS, the Authority has concluded rehabilitating Bayview Manor during the construction of the Speitel Building would be far more cost-efficient than doing so later, as a stand-alone project at a later date; and,

WHEREAS, the City and the Authority have agreed that partnering in shared agreements for the improvement of existing affordable rental units and the creation of new affordable rental units in Ocean City on land owned by the Authority, and using grants and other financing obtained by the Authority, supplemented by funds for which the City will issue bonds to raise the funds to contribute to the construction and demolition costs, benefits each local unit; and,

WHEREAS, the construction of the Speitel Building with at least twenty (20) units will fulfill part of the City’s obligation to create affordable rental units pursuant to the Settlement Agreement; and,

WHEREAS, the rehabilitation of the Bayview Manor units will fulfill part of the City’s Rehabilitation Share Obligation pursuant to the Settlement Agreement; and,

WHEREAS, the City and the Authority, by resolutions duly adopted by their respective governing bodies, wish to enter into a shared service agreement pursuant to which the Authority will act as lead agency for the procurement of the contractors, related materials and project administration in accordance with N.J.S.A. 40A:11-1 *et seq.*; and

NOW, THEREFORE, in consideration as set forth herein and with the parties understanding and intending to the covenants contained in this Agreement and set forth below, the parties do hereby agree as follows:

1. **Recitals Incorporated:** The above recitals are incorporated into this Agreement as is more fully set forth at length herein.
2. **Services to be performed:** The Authority shall perform all requirements for the design, solicitation of bids, award of contracts, management of construction and demolition, invoice review and payment for the construction and rehabilitation work at the Bayview Manor property and the demolition at Peck's Beach Village north. The City shall provide financing only.
3. **Consideration:** The City shall provide funding in an amount not to exceed \$6,400,000 and the Authority shall provide the land, funding and project management in order to create affordable public housing as set forth herein to benefit both local units.
4. **Bond Ordinance Contingency:** The City's obligation to provide funding as set forth herein is contingent upon the adoption and effective passage of the bond ordinance(s) necessary to raise the funds to be contributed by the City.
5. **Duration of the Agreement:** The City and the Authority shall be bound by this agreement for the duration of the project for the construction of the Spinel Building and the subsequent demolition of the existing units at Peck's Beach Village north. If the project is shutdown or abandoned, consideration shall be as mutually agreed upon by both parties.
6. **Severability:** Should any of the provisions of this Agreement be held invalid or unenforceable by a Court of competent jurisdiction, said provisions shall be severed from the entire Agreement and the remaining provisions of the Agreement shall remain in full force and effect.
7. **Entire Agreement:** This Agreement represents the entire Agreement between the parties and this Agreement may not be altered, modified or changed in any manner except upon a duly executed and authorized writing signed between the parties. Any future joint project, other than the rehabilitation of Bayview Manor, the construction of the Spinel Building and the demolition of the existing units at Peck's Beach Village north shall require a separate Shared Services Agreement and approval thereof by resolution of each of the parties hereto.
8. **Governing Law:** This Agreement shall be governed and construed pursuant to the laws of the State of New Jersey and any litigation brought in relation to this Agreement shall be brought in the Superior Court of New Jersey in Cape May County.
9. **Default:** Either party has any and all rights pursuant to law if the other party defaults pursuant to this Agreement. A party shall be considered in default if they have not honored any of the terms or conditions as set forth in this Agreement. Prior to any default being declared, a party must receive at least fourteen (14) days advance notice of said default.

10. Waiver: The parties understand and agree that any action or inaction concerning any of the terms or conditions of this Agreement by either party shall not be considered a waiver of any rights by said party including the right to allege such action or inaction, if not corrected, is a default pursuant to terms of this Agreement.
11. City & Authority Employees: City & Authority employees are given full permission by this Agreement to visit the Project site at any time. Appropriate representatives of the City will work in conjunction with the Authority staff and project manager to make sure that all the terms of this Agreement are satisfactorily performed.
12. Indemnification by the Authority: The Ocean City Housing Authority agrees to protect, defend, indemnify and save harmless the City and the City's officers, agents and employees from any and all losses, claims, actions, costs, expenses and judgments arising out of the sole negligence of the Authority or any employees, agents or officers thereof or acting on said parties behalf, related to the performance of the work contemplated by this Agreement.
13. Copies To Be Used As Originals: Any copies of this Agreement once signed may be deemed to be originals for any purposes.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year set forth above.

ATTEST:

OCEAN CITY HOUSING AUTHORITY

CITY OF OCEAN CITY

Isaqueline S. Jones, Executive Director

Jay Gilliam, Mayor

  
Joseph S. Clark, CPA,  
City Purchasing Manager

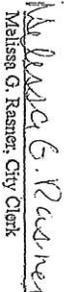
  
Melissa G. Rastner, City Clerk

EXHIBIT H

Exhibit E  
Ocean City Housing Authority Properties

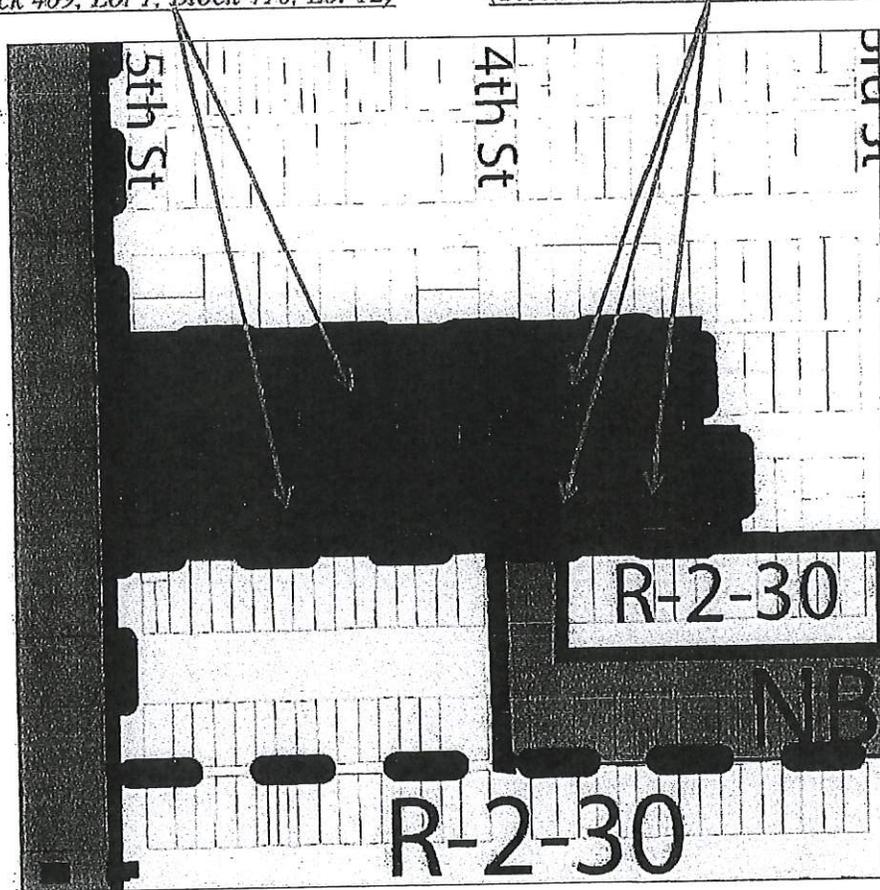
Peck's Beach Village

Peck's Beach Village (South)

Peck's Beach Village (North)

(Block 409, Lot 1, Block 410, Lot 12)

(Block 309, Lots 1 & 2, Block 310, Lot 14)



Bayview Manor (Block 605, Lot 1)

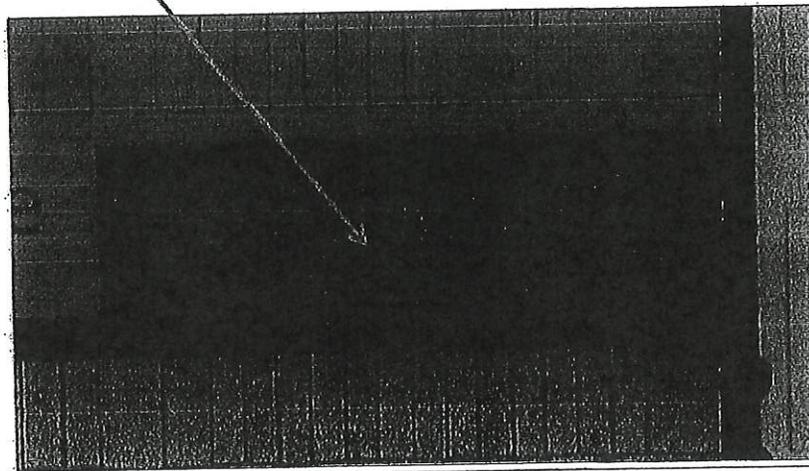


EXHIBIT I

4:30

GARY R. GRIFFITH, ESQUIRE  
GRIFFITH and CARLUCCI, P.C.  
801 Asbury Avenue - Suite 200  
Ocean City, New Jersey 08226  
(609) 399-6900  
Attorneys for the Ocean City Planning Board

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OCEAN CITY PLANNING BOARD

RESOLUTION

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BACKGROUND OF RESOLUTION

1. The Ocean City Housing Authority ["Authority"] is the owner of certain lands and premises located in the City of Ocean City known as Block 605, Lot 1 as shown on the current official tax map for the City of Ocean City, New Jersey commonly known as 308 6<sup>th</sup> Street, Ocean City, New Jersey ["Property"]. The Authority proposes construction of a three (3) story, twenty (20) unit apartment building with parking at grade level and ten (10) apartments on each of the second and third floors. ["Project"]. The existing five (5) story, sixty-one (61) unit Bayview Manor building will remain on the Property.

2. The development of the Project at the Property will necessitate the expenditure of public funds. Consistent with the legal requirements of N.J.S. 40: 55D-31 a., the Authority referred the proposed development of the Project to the Ocean City Planning Board for review and recommendation in conjunction with the Master Plan for the City of Ocean City.

3. The Ocean City Planning Board conducted a public hearing in respect of the proposed Project development at the Property on January 10, 2018.

4. Ocean City Planning Board members Loeper and Halliday recused themselves and did not participate in the public hearing in respect of the proposed Project development at the Property on January 10, 2018.

#### WITNESSETH

~~NOW, THEREFORE, the Ocean City Planning Board makes the following findings of fact:~~

1. Paragraphs 1 through 3 set forth above in the Background of Resolution are incorporated by this reference as if specifically set forth herein at length; and, all notices required by law have been given.

2. The Authority was represented by Charles Gabage, Esquire at the time of public hearing. Richard Ginnetti, Consultant to the Authority and Jason Sciuлло, Jr., P.E., were sworn in and testified for the Authority. Mr. Ginnetti described the proposed Project, its geographical location, and the purposes of the proposed Project, including replacement of damaged housing units as a result of Superstorm Sandy. He also identified and testified about the funding mechanism through HMFA for the Project. Mr. Sciuлло, who qualified as an expert, also described the proposed Project, indicating that the Project was a permitted use in the R-MF, Residential Multi-Family Zone where the Property is located. Authority Exhibit A-1, (Aerial Photograph) and Authority Exhibit A-2 (Front Elevations), were received into evidence during Mr. Sciuлло's testimony.

3. Upon completion of Mr. Gabage's presentation, testimony from Mr. Ginnetti and Mr. Sciuillo, and questions from the Ocean City Planning Board, the meeting was then opened to the public. There was no public comment.

4. Upon conclusion and closing of the public portion of the meeting, there was further discussion and deliberation by the Ocean City Planning Board in respect of the Project and provided some general recommendations including angle parking on site and ADA installations.

**NOW, THEREFORE**, the Ocean City Planning Board hereby makes the following conclusions of law based upon the foregoing findings of fact.

1. The Authority has complied with provisions of N.J.S. 40: 55D-31 a.; and
2. The proposed Project development is consistent with the Master Plan for the City of Ocean City.

**NOW, THEREFORE, BE IT RESOLVED** by the Ocean City Planning Board on January 10, 2018 that consistent with the foregoing conclusions of law and pursuant to N.J.S. 40: 55D-31 a., the Ocean City Planning Board does hereby find that:

1. The Authority has complied with provisions of N.J.S. 40: 55D-31 a.; and
2. The proposed Project development is consistent with the Master Plan for the City of Ocean City

This Resolution was adopted upon a motion, to be considered in the affirmative to approve the Applicant's request for land use approvals with the conditions aforesaid, made by Ocean City Planning Board Member, Adams, and seconded by Ocean City Planning Board Member, Allegretto, on January 10, 2018 ["Adams Motion"]. The vote

on the Adams Motion was six (6) in favor of and zero (0) against with Ocean City Planning Board Members, Sheppard, Allegretto, Birch, Bekier, Crowley, and Adams all voting in the affirmative.

OCEAN CITY PLANNING BOARD



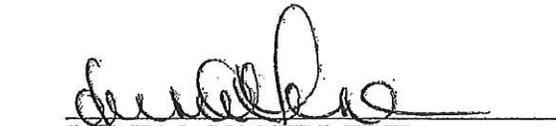
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JOHN LOEPER,  
CHAIRPERSON

Dated: February 7, 2018

CERTIFICATION

I, JAIME M. CORNELL-FINE, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Decision and Resolution was duly adopted at the meeting of the Ocean City Planning Board held on January 10, 2018 and memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on February 7, 2018.



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JAIME M. CORNELL-FINE,  
Secretary, Ocean City Planning Board



SCHEULE

PLANNING SOLUTIONS, LLC

*Community Development*

*Municipal Planning*

*Master Plans*

*Zoning Codes*

*Redevelopment*

Planner's Report

To: City of Ocean City  
Planning Board Members

From: Randall Scheule, PP/AICP  
Planning Board Planner

Date: December 26, 2017

Zone: Residential Multi-family (RMF) Zone

RE: City of Ocean City Housing Authority  
Bayview Manor, 635 West Avenue  
Capital Project Review (NJSA 40:55D-31)

NJSA 40:55D-31 Review by planning board.

a. Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district, or other authority, redevelopment agency, school board or other similar public agency, State, county or municipal. In addition, this requirement shall apply to any public entity taking any action to permit the location, erection, use or maintenance of an outdoor advertising sign required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et seq.).

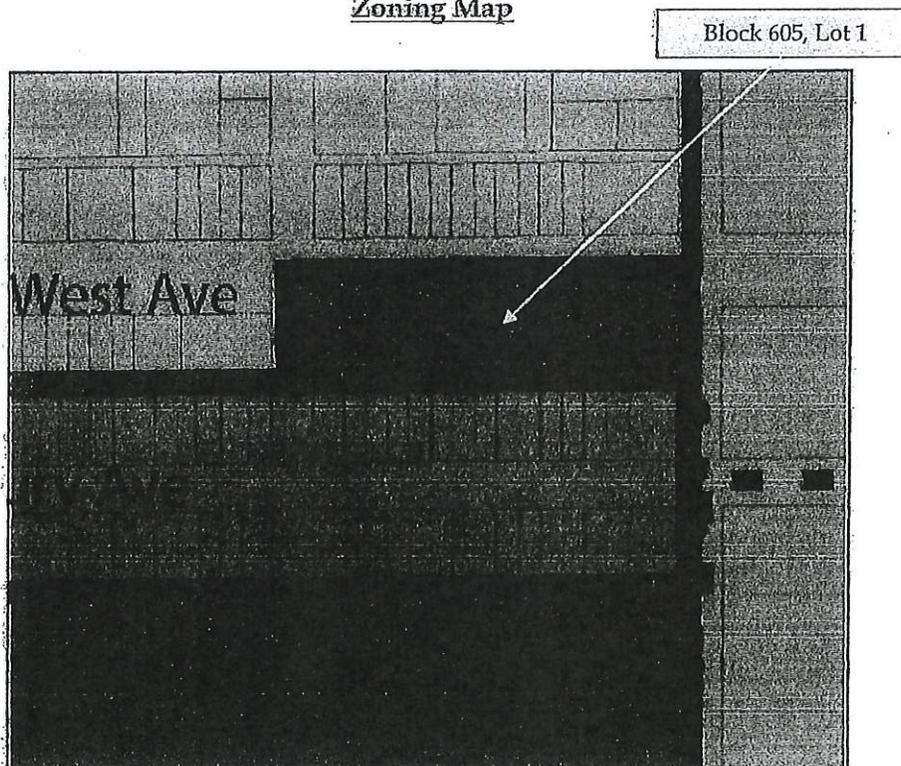
Basis of Review. The following plans and documents have been submitted for review and provide the basis for the comments and recommendations which follow.

*Ocean City Housing Authority*  
*Bayview Manor – 635 West Avenue*

- Transmittal letter to Jaime Cornell-Fine from Charles Gabage, December 19, 2017
- Site Plan (13 sheets), Marathon Engineering and Environmental Services, December 18, 2017.

**Development Proposal.** Applicant proposes construction of a 3-story 20-unit apartment building with parking at grade level, and ten apartments on each of the second and third floors. The existing 5-story 61-unit Bayview Manor building is to remain.

Zoning Map



**Master Plan.** The Land Use Plan Element of the City's Master Plan is based upon historic development patterns, existing land use and recommended future development designed to protect and preserve the quality of life for permanent and seasonal residents. The Land Use Plan is also related to other Master Plan Elements, and to natural features including topography, soils, water and sewerage services, drainage, floodplain and flood hazard areas, wetlands, community facilities and services. The Land Use Plan provides recommended standards and population density based upon a

*Ocean City Housing Authority*  
*Bayview Manor - 635 West Avenue*

Housing Plan Element and describes recommended types and intensities of non-residential development areas in the City.

The Master Plan also includes a Housing Plan Element, which is based upon the requirements of the Fair Housing Act and Municipal Land Use Law. The Housing Plan is designed to provide access to affordable housing with particular attention to low and moderate income households.

The City Master Plan designates public multi-family residential development in locations where the Ocean City Housing Authority maintains public housing facilities.

Aerial Image

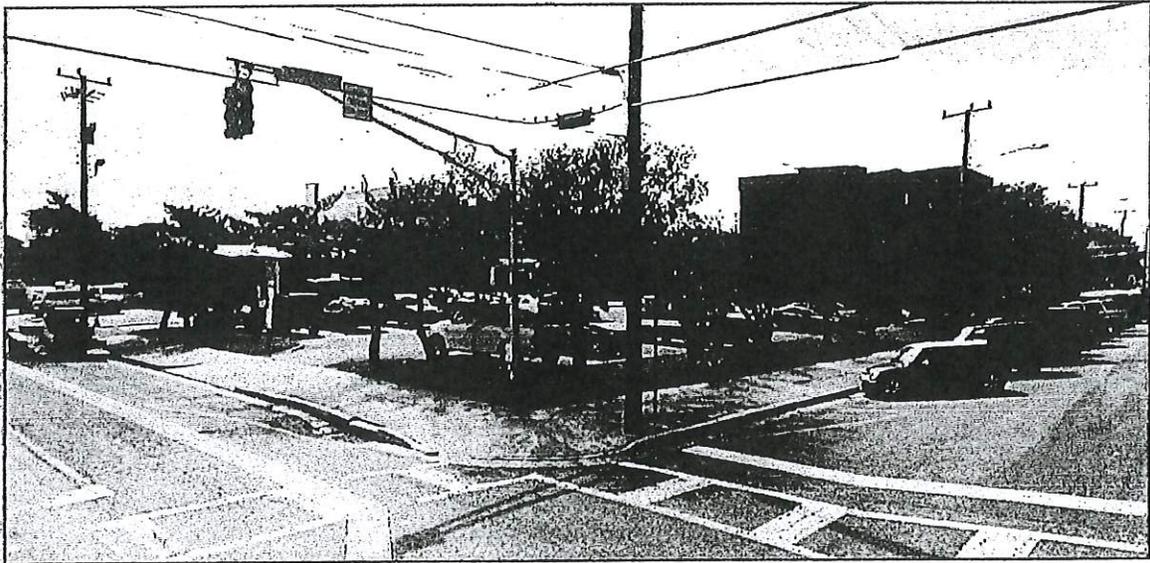


**Summary and Recommendation.** The Ocean City Housing Authority proposes construction of a 3-story 20-unit apartment building on Block 605, Lot 1 to the north of the existing Bayview Manor facility. The subject site is located in the Residential Multi-family (RMF) zoning district, and the location proposed for the new building is currently a paved parking lot. The project development includes nine parking spaces adjacent to the alley and 19 parking spaces at grade under the building.

*Ocean City Housing Authority*  
*Bayview Manor – 635 West Avenue*

Considering the housing objectives described in the Master Plan for the Residential Multi-family zone, it is our professional opinion that the Ocean City Housing Authority's proposal to construct a 3-story 20-unit apartment building in the RMF zone at 635 West Avenue is consistent with the Ocean City Master Plan.

Image from 6<sup>th</sup> and West Avenue



C: Gary Griffith  
David Scheidegg  
Charles Gabage  
Jason Sciuillo

EXHIBIT J

OCEAN CITY HOUSING AUTHORITY SPEITEL AND BAYVIEW MANORS  
SENIOR PROJECT TIMELINE

ACTION ITEM	DUE DATE	NOTES
HMFA board approval predevelopment loan	3/2/17	
Start HUD Inventory removal (DEMO) application includes:		-complete/ approved
Procurement of Architect and Civil Engineer	4/30/17	complete
Close on HMFA predevelopment loan		complete
Submit (DEMO) Application to HUD		Complete and approved
HUD RAD Application/ Approval		Complete and approved
Site Plan Approval for new Project	1/30/18	<ul style="list-style-type: none"> <li>• Original 20 unit building approved.</li> </ul>
Site Plan approval for 34-unit building	12/15/18	<ul style="list-style-type: none"> <li>• Only review and recommendation</li> </ul>
Final Plans and Specifications for 34 units	11/15/18	
Final procurement of GC	March 2019	
Submit to HUD RAD financial Plan	May 2019	
Submit to HMFA full application for closing on the permanent construction Loan	6/1/19	
Approval from HMFA of FMR funds	7/30/19	
Approval HUD RAD Financial Plan	7/30/19	
Closing on FMR Funds with HMFA and HUD RAD transaction	9/1/19	
Construction start	9/15/19	
Lease up start	3/1/20	
Construction Finish	7/1/20	
Lease up finish	9/1/20	
Demolition start (Pecks senior)	10/1/20	
Demolition Finish	1/30/21	

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**  
**MULTI-FAMILY - with or without TAX CREDITS**

**SCHEDULE 10-A: PROJECT DESCRIPTION-CONSTRUCTION (ONLY) AND CONSTRUCTION & PERMANENT LOANS**

<table border="1"> <tr><td>Pre-Dev Loan</td><td>3/2/17</td></tr> <tr><td>Commitment</td><td></td></tr> <tr><td>Re-Commitment</td><td></td></tr> <tr><td>Mtg Extension</td><td></td></tr> <tr><td>Bond Sale</td><td></td></tr> <tr><td>Closing</td><td></td></tr> </table>	Pre-Dev Loan	3/2/17	Commitment		Re-Commitment		Mtg Extension		Bond Sale		Closing		Indicate Closing Type By Date: Home Express _____ Special Needs _____ Other _____ Other _____	HMF# <u>02986</u> Date <u>2/6/17</u> Prepared by <u>Rosy Dafaneca</u> Reviewed by _____
Pre-Dev Loan	3/2/17													
Commitment														
Re-Commitment														
Mtg Extension														
Bond Sale														
Closing														

Project Name: Spittel Manor at Hayview  
 Project Street Address: 308 6th Street Zip Code: 08266  
 Municipality: Ocean City Block No: 605 00 Lot No: 1 0000  
 County: Cape May

<b>Type of Development</b> (Select either Family or Senior Citizens (NOT BOTH)) Family _____ Senior Citizens <u>X</u>	<b>Type of Construction</b> New Construction <u>X</u> Modular _____ Moderate Rehabilitation _____ Substantial Rehab _____ Conversion _____ Rehabilitation/Occupied _____ Historic <u>X</u>	Term of Mortgage (in years): <u>5.00</u> Mortgage Interest Rate: Note I _____ Note II _____
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Provide the following: Legislative District <u>1</u> Congressional District <u>2</u> Census Tract <u>201</u>	<b>Parking</b> Total Number of Parking Spaces <u>23</u> Ratio of parking to DUs <u>1.15</u>	The Project is in a: Y or N QCT <u>n</u> Smart Growth <u>n</u> Planning Area <u>n</u> (designate area)
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<b>Type of Loan</b> Construction Loan Only _____ Construction & Permanent Loan <u>X</u> Permanent Loan Only _____	<b>Type of Financing</b> Tax Exempt _____ Taxable _____ <b>Tax Credits</b> Check One 4% _____ 9% _____ Historic _____ <b>Affordability - Check One</b> ** 40% AT 60% _____ *** 20% AT 50% _____	<b>ENTER DOLLAR AMOUNT</b> <b>Type of Subsidy</b> City Living \$ _____ FRM-CDBG \$ <u>4,424,950</u> Amt. Of FRM-CDBG/Unit: <u>221,248</u> Green Funds \$ _____ Fire Suppression \$ _____ Balanced Housing \$ _____ Ready to Rent (Bal. Hous. Funds) \$ _____ Loan \$ _____ Subsidy \$ _____
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Types of Residential Structures*	No. of Bldgs.	No. of Stories Each	Unit Type (No. of BR's)	Average Unit Size in Sq. Ft.	No. of Units	Net Rentable Area
low rise	1	3	1	700	20	14,000
Basement/Crawl Space						7,000
Parking Under Building						2,500
Commercial Space						
Common/Other Space						
<b>Totals:</b> 1 Buildings						20 Units 23,500 Sq Ft

<b>Total Project Cost</b>	\$6,489,235
<b>Minus Eligible Costs:</b>	
Reserves	
Req Deferred Developer Fee	
Non Basis Off Site Improvements	
	\$6,489,235
<b>Cost Per DU</b>	\$324,462

\*Low - Rise (1 - 3), Mid-Hi - Rise (4 - stories), Townhouse or Semi-detached  
 \*\* 40-60 set-aside means 40% or more of the residential units will be restricted and occupied by households whose income is 60% or less than the area median income.  
 \*\*\* 20-50 set-aside means 20% or more of the residential units will be restricted and occupied by households whose income is 50% or less of area median income  
 \*\*\*\* includes only parking beneath the building and/or parking structure

SCHEDULE 10-B: EST. DEVELOPMENT COSTS AND CAPITAL REQUIREMENTS

HMFA# 02986
Prepared by Rosy Dalonseca
Reviewed by (Director of Technical Services)
Date
(Director of MF Programs & Lending)
Date
Chief Financial Officer:
Senior Director of Programs

I. SOURCES OF FUNDS DURING CONSTRUCTION:
Table with columns: Description, Enter total Amt. of Grant/Loan Here, (If Source is a grant, enter "G") Y, or N, or G, Amount (\$).
Rows: a) FRM-CDBG, b) City Project Funds, c), d), e), f), g), h) Deferred Developer's Fee.

II. USES OF FUNDS DURING CONSTRUCTION:
A. ACQUISITION COSTS:
a) Land, b) Building Acquisition, c) Relocation, d) Other.
B. CONSTRUCTION COSTS:
a) Demolition, b) Off-site Improvements, c) Residential Structures, d) Community Building, e) Environmental Clearances, f) Site & Bonding, g) Building Permits, h) Garage Parking, i) General Requirements, j) Contractor Overhead & Profit, k) Green Features, l) Other, m) Other.

C. DEVELOPERS FEE - CONSTR/REHAB DEVELOPERS FEE - BUILDING
HMFA Policy is that the Developer fee is earned as a percentage of construction completion.
D. CONTINGENCY
a) Hard Costs, b) Soft Costs.
E. PROFESSIONAL SERVICES:
a) Appraisal/Market Study, b) Architect, c) Site Engineer, d) Attorney, e) Cost Certification Audit, f) Environmental Consultant, g) Energy Star Consultant, h) Geotechnical Consultant, i) Surveyor, j) Consultant Fees, k) Third approvals for demo/relo part 55 for housing, appraisal, engineering.

F. PRE-OPERATIONAL EXPENSES:
a) Operator fees, b) Advertising and Promotion, c) Staffing and Start-up Supplies, d) Other.
\* Non-eligible costs in TC basis.

G. CARRYING AND FINANCING COSTS DURING CONSTRUCTION:
Table with columns: Description, % for, (per annum), \$, (months), on, \$, (ESTIMATE).
Rows: a) Interest, b) REI Tax S, c) Insurance, d) Title Insurance and Recording Expenses, e) Points To Reduce HMFA Servicing Fee, f) HMFA Second Note Financing Fee, g) HMFA Constr Loan Serv Fee, h) Other Lender Construction Financing Fee, i) Tax Credit Fees, j) Negative Arbitrage, k) Cost of Issuance, l) Furniture, Fixtures & Equipment, m) Utility Connection Fees.

H. Working Capital Excess:
a) Debt Service & Operating Expenses, b) Rental Agent Rent-up Fee, c) Advertising and Promotion.
I. Other Expenses:
a) Insurance, b) Taxes, c) Debt Service Payment & Servicing Fee, d) Mortgage Insurance Premium, e) Repair & Replace.

- b) HMFA Operating Deficit Reserve
- c) Other
- d) Other
- e) Other

Total Escrows as a % of Total Project Costs: \_\_\_\_\_

\_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_

3. USES OF FUNDS DURING CONSTRUCTION:

\$

4. BALANCE OF FUNDS NEEDED FOR CONSTRUCTION (average / shortage):

\$

EXHIBIT K

**GARY R. GRIFFITH, ESQUIRE**  
**GRIFFITH and CARLUCCI, P.C.**  
801 Asbury Avenue - Suite 200  
Ocean City, New Jersey 08226  
(609) 399-6900  
Attorneys for the Ocean City Planning Board

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## **OCEAN CITY PLANNING BOARD**

### **RESOLUTION**

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#### **BACKGROUND OF RESOLUTION**

1. The Ocean City Housing Authority ["Authority"] is the owner of certain lands and premises located in the City of Ocean City known as Block 605, Lot 1 as shown on the current official tax map for the City of Ocean City, New Jersey commonly known as 308 6<sup>th</sup> Street, Ocean City, New Jersey ["Property"]. The Authority previously proposed construction of a three (3) story, twenty (20) unit apartment building with parking at grade level and ten (10) apartments on each of the second and third floors ["Project"] which Project was determined to be consistent with the Master Plan for the City of Ocean City by the Ocean City Planning Board. The Authority proposes to modify the Project to add one (1) floor to the proposed building, resulting in three (3) floors above parking. The proposed building will add twelve (12) units to the Project building resulting in an increased total of thirty two (32) units. Ground floor residential units will also be removed from the existing Bayview Manor building thus resulting in a net increase of twenty (20) units at the Property as previously proposed ["Revised Project"]. The existing five (5) story Bayview Manor building will remain on the Property.

2. The development of the Revised Project at the Property will necessitate the expenditure of public funds. Consistent with the legal requirements of N.J.S. 40: 55D-31 a., the Authority referred the proposed development of the Revised Project to the Ocean City Planning Board for review and recommendation in conjunction with the Master Plan for the City of Ocean City. The Authority has submitted and Planner for the Ocean City Planning Board, Randall E. Scheule, A.I.C.P. & P.P. ["Planner"] has reviewed the plans and documents identified and delineated by the Planner in the Planner's Report dated November 21, 2018 ["Planner's Report"] all of which are incorporated by this reference as if specifically listed herein at this place. The Planner's Report is attached to this Resolution as Exhibit A and expressly made a part hereof.

3. The Ocean City Planning Board conducted a public hearing in respect of the proposed Revised Project development at the Property on December 12, 2018.

4. Ocean City Planning Board member Halliday recused herself and did not participate in the public hearing in respect of the proposed Revised Project development at the Property on December 12, 2018.

**WITNESSETH**

**NOW, THEREFORE**, the Ocean City Planning Board makes the following findings of fact:

1. Paragraphs 1 through 4 set forth above in the Background of Resolution are incorporated by this reference as if specifically set forth herein at length; and, all notices required by law have been given.

2. The Authority was represented by Charles Gabage, Esquire at the time of public hearing. Richard Ginnetti, Consultant to the Authority and Jason Sciuillo, Jr., P.E., were sworn in and testified for the Authority. Mr. Ginnetti described the proposed Revised Project and the various federal, state, and municipal agencies involved in the development of the Revised Project. He also identified and testified about the funding mechanism through HMFA for the Revised Project. Mr. Sciuillo, who was recognized as an expert, also described the proposed Revised Project, and confirmed that the Project was a permitted use in the R-MF, Residential Multi-Family Zone where the Property is located. Exhibit A-1, (Color Rendering) and Exhibit A-2 (Color Site Plan), were received into evidence during Mr. Sciuillo's testimony. It is noted that the final version of the Revised Project was submitted subsequent to the issuance of the Planner's Report.

3. Upon completion of Mr. Gabage's presentation, testimony from Mr. Ginnetti and Mr. Sciuillo, and questions from the Ocean City Planning Board, the meeting was then opened to the public. There was no public comment.

4. Upon conclusion and closing of the public portion of the meeting, there was further discussion and deliberation by the Ocean City Planning Board in respect of the Revised Project.

**NOW, THEREFORE,** the Ocean City Planning Board hereby makes the following conclusions of law based upon the foregoing findings of fact.

1. The Authority has complied with provisions of N.J.S. 40: 55D-31 a.; and
2. The proposed Revised Project development is consistent with the Master Plan for the City of Ocean City.

**NOW, THEREFORE, BE IT RESOLVED** by the Ocean City Planning Board on December 12, 2018 that consistent with the foregoing conclusions of law and pursuant to N.J.S. 40:55D-31 a., the Ocean City Planning Board does hereby find that:

1. The Authority has complied with provisions of N.J.S. 40:55D-31 a.; and
2. The proposed Revised Project development is consistent with the Master Plan for the City of Ocean City

This Resolution was adopted upon a motion, to be considered in the affirmative to approve the Applicant's request for land use approvals consistent with N.J.S. 40:55D-31 a., made by Ocean City Planning Board Member, Sheppard, and seconded by Ocean City Planning Board Member, Jessel, on December 12, 2018 ["Sheppard Motion"]. The vote on the Sheppard Motion was seven (7) in favor of and zero (0) against with Ocean City Planning Board Members, Sheppard, Allegretto, Bekier, Adams, Vanderschuere, Jessel, and Loeper all voting in the affirmative.

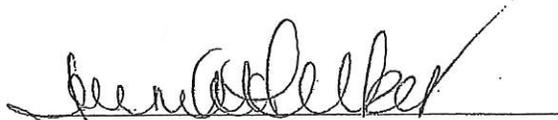
OCEAN CITY PLANNING BOARD

  
\_\_\_\_\_  
JOHN LOEPER,  
CHAIRPERSON

Dated: January 9, 2019

CERTIFICATION

I, JAIME M. FELKER, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Decision and Resolution was duly adopted at the meeting of the Ocean City Planning Board held on December 12, 2018 and memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on January 9, 2019.

  
JAIME M. FELKER,  
Secretary, Ocean City Planning Board



SICHEULE

PLANNING SOLUTIONS, LLC

*Community Development*

*Municipal Planning*

*Master Plans*

*Zoning Codes*

*Redevelopment*

### Planner's Report

To: City of Ocean City  
Planning Board Members

From: Randall Scheule, PP/AICP  
Planning Board Planner

Date: November 21, 2018

Zone: Residential Multi-family (RMF) Zone

RE: City of Ocean City Housing Authority  
Bayview Manor, 308 Sixth Street  
Capital Project Review (NJSA 40:55D-31)

#### NJSA 40:55D-31 Review by planning board.

a. Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district, or other authority, redevelopment agency, school board or other similar public agency, State, county or municipal. In addition, this requirement shall apply to any public entity taking any action to permit the location, erection, use or maintenance of an outdoor advertising sign required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et seq.).

#### Basis of Review.

The following plans and documents have been submitted for review and provide the basis for the comments and recommendations which follow.

*Capital Project Review*  
*OCHA - Bayview Manor*

- Email to Jaime Felker from Jason Sciuolo, November 19, 2018.
- Architectural plans (5 sheets), Haley Donovan.
- Site Plan (18 sheets), Sciuolo Engineering, Marathon Engineering, March 30, 2018, last revise June 7, 2018.

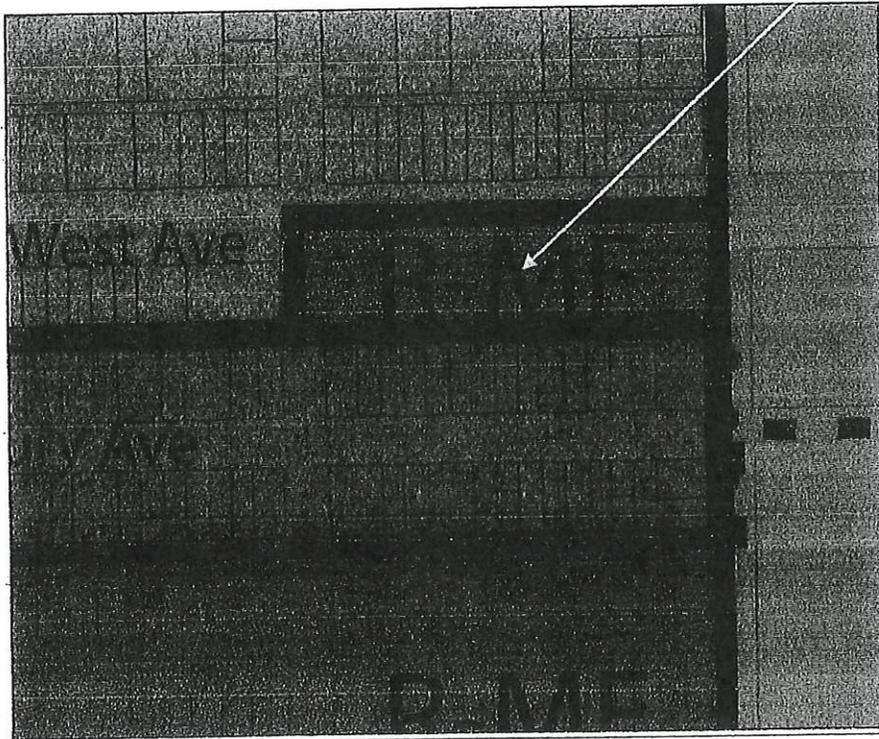
**Development Proposal.**

Applicant appeared before the Planning Board January 10, 2018 at which time construction of a 3-story 20-unit apartment building with parking at grade level, and ten apartments on each of the second and third floors was proposed.

The Housing Authority project is being modified to add two floors to the proposed building. These additional floors add 14 units to the new building, for a total of 34 units. Fourteen units will also be removed from the existing Bayview Manor resulting in a net increase of 20 units on the site as previously proposed. The existing 5-story 61-unit Bayview Manor building is to remain.

**Zoning Map**

Block 605, Lot 1



**Master Plan.**

The Land Use Plan Element of the City's Master Plan is based upon historic development patterns, existing land use and recommended future development designed to protect and preserve the quality of life for permanent and seasonal residents. The Land Use Plan is also related to other Master Plan Elements, and to natural features including topography, soils, water and sewerage services, drainage, floodplain and flood hazard areas, wetlands, community facilities and services.

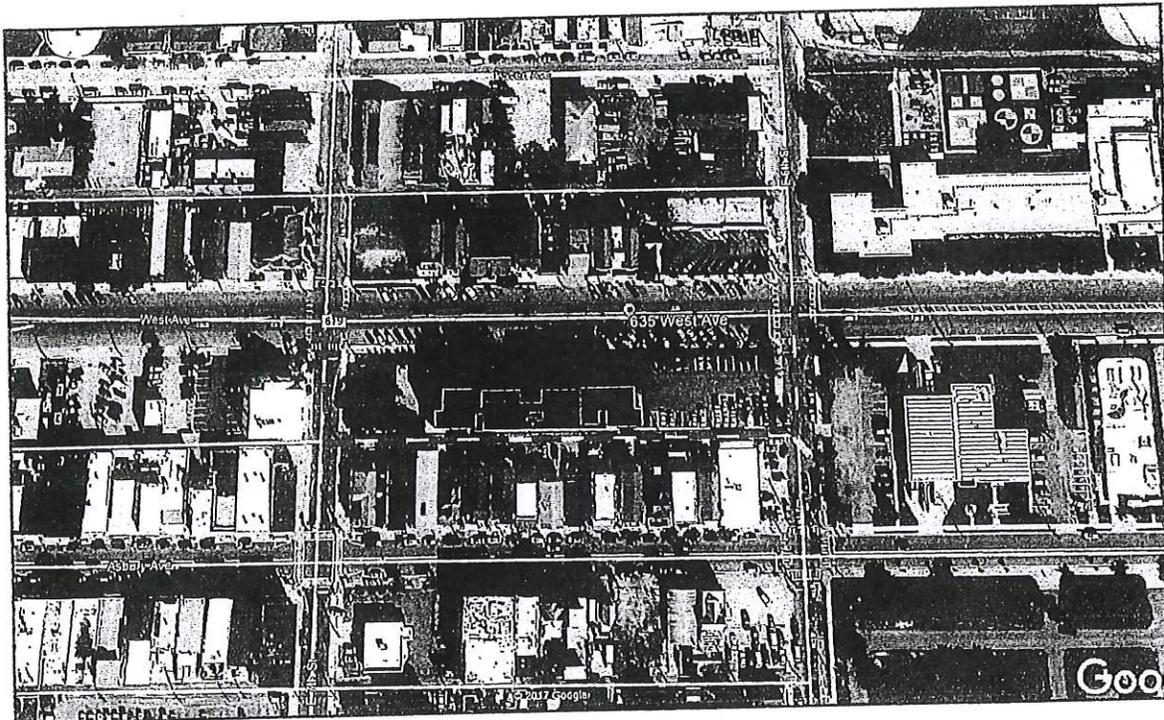
The Land Use Plan (1988) describes the Residential Multi-family as an area containing historical boarding houses and other seasonally-oriented development including several historic multifamily structures. The Master Plan also designates public multi-family residential development in locations where the Ocean City Housing Authority maintains public housing facilities. The Land Use Plan recognizes that this zone historically permitted 5-story buildings and provides a 3-story maximum height.

The Master Plan also includes a 'Housing Plan Element' (last updated in December 2008), which is based upon the requirements of the Fair Housing Act and Municipal Land Use Law. The Housing Plan is designed to provide access to affordable housing with particular attention to low and moderate income households.

Ocean City is an active participant FEMA's Community Rating System which has enabled policy holders to achieve substantial savings in flood insurance premiums. The City's FloodSmart program and 'Flood Damage Prevention Ordinance' (FDPO) serve to inform residents of the flooding risks and opportunities to minimize potential damage from flood events. One of the primary means to reduce damage to buildings from flood events is to elevate structures. The FDPO requires residential construction to be elevated at or above the best available flood hazard data elevation plus two (2) feet. Non-residential construction shall be elevated to or above the best available flood hazard data elevation plus one (1') foot, or floodproofed.

The City's 'Floodplain Management Plan' advocates *higher regulatory standards* that require freeboard and implementation of the international series of building codes. The 'Community Resilience Plan' identifies coastal risks and identifies strategies for improving resilience in the community. Based on analysis of land elevations in the City, the 'Conservation Plan' recommends elevating properties as a means to reduce impacts from flooding.

Aerial Image



Summary and Recommendation.

The Ocean City Housing Authority proposes construction of a 5-story 34-unit apartment building on Block 605, Lot 1 to the north of the existing Bayview Manor facility. Thirty-four (34) units currently below the flood hazard elevation in Bayview Manor and Peck's Beach Senior (4<sup>th</sup> & Haven) are being relocated to the new building.

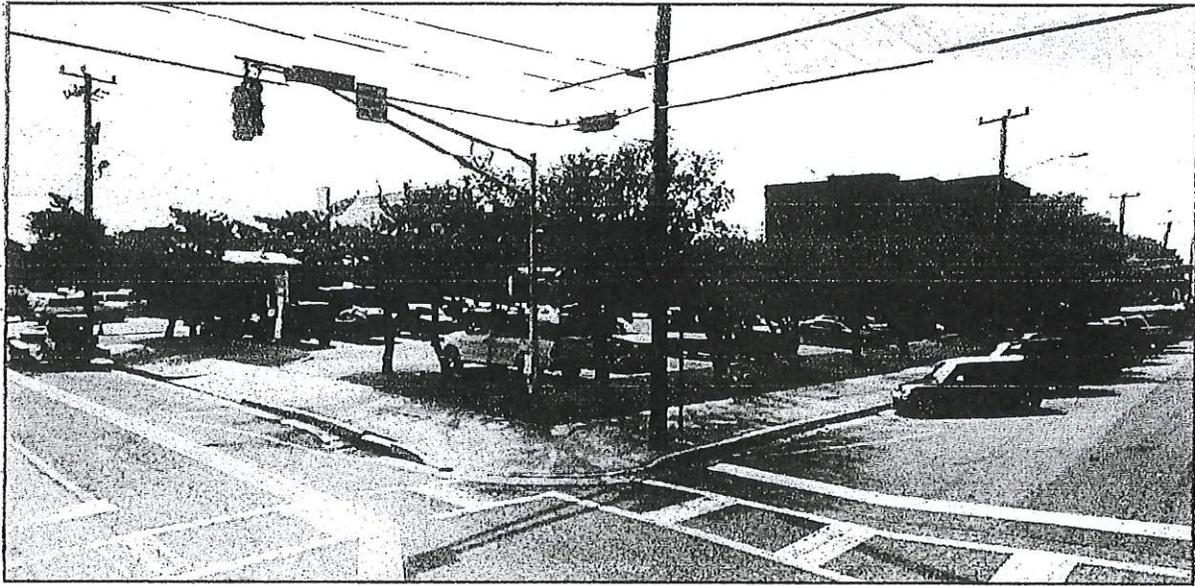
The subject site is located in the Residential Multi-family (RMF) zoning district, and the location proposed for the new building is currently a paved parking lot. The project development is immediately adjacent to the existing 5-story Bayview Manor building and includes eighteen (18) parking spaces adjacent to the alley and nineteen (19) parking spaces at grade under the proposed new building. There is no net loss or increase in public housing units.

Although the 1988 Master Plan recommends a limit of three stories in the RMF zone presents a minor inconsistency in terms of the development proposal, in our opinion this inconsistency is superceded by other benefits associated with the project. The OCHA proposal advances numerous Master Plan goals and objectives including housing objectives described in the Master Plan for the Residential Multi-family zone

*Capital Project Review*  
*OCHA - Bayview Manor*

and affordable housing, floodplain management and community resilience. Considering the totality of the project proposal and the Master Plan elements described above, it is our professional opinion that the Ocean City Housing Authority's proposal is consistent with the Ocean City Master Plan.

Image from 6<sup>th</sup> and West Avenue



C: Gary Griffith  
David Scheidegg  
Charles Gabage  
Jason Sciuillo

EXHIBIT L

## OCEAN CITY HOUSING AUTHORITY PECKS BEACH VILLAGE FAMILY (60 UNIT) PROJECT TIMELINE

ACTION ITEM	DUE DATE	NOTES
HUD CHAP issued		-complete/ approved
Partner/create non-profit development partner	6/30/19	Needed for tax credit purposes, will also need single purpose owner entity to be established once financing approved
Procurement of Architect and Civil Engineer	9/30/19	
Site Plan approval	3/1/20	• Only review and recommendation
Final Plans and Specifications	5/1/20	
Final procurement of GC	8/1/20	
Submit to HUD RAD financial Plan	9/1/20	
Submit to HMFA full application for tax exempt mortgage/tax credit application	9/1/20	If approved for the Tax-exempt bonds the 4% LIHTC's are automatic. Will need Tax credit investor
Approval from HMFA of mortgage (bonds)	12/1/20	
Approval HUD RAD Financial Plan	12/1/20	HUD approves the 40 units, the remaining 20 units will be affordable tax credit, not subsidized
Closing with HMFA (tax exempt bond and tax credits) and HUD RAD transaction	5/1/21	
Construction start	6/1/21	
Lease up start	10/1/22	
Construction Finish	12/30/22	
Lease up finish	1/30/23	
Demolition start	3/1/23	Demo of existing Pecks Beach senior site
Demolition Finish	6/1/23	

Peck's Beach Family  
New Construction

**Section 9: Net Operating Income**

Presented below is a summary calculation of the proposed project's Net Operating Income. Before proceeding, review and make any necessary changes in the applicable section of the application.

Apartment Gross Potential Rent:			
RAD Units	\$549,048	60 Units	\$9,151 per unit annual
Market Rate Units	\$0	0 Units	\$0 per unit annual
Other Affordable Units	\$0	0 Units	\$0 per unit annual
Office / Retail GPR	\$0		
Vacancy and Bad Debt Loss	(\$27,452)	5.0% weighted average	
Other Income	\$38,005		
<b>Effective Gross Income</b>	<b>\$559,601</b>		
Total Operating Expenses	(\$450,000)	\$7,500 PUPA	
Annual Reserve Deposit	(\$24,000)	\$400 PUPA	
<b>Net Operating Income</b>	<b>\$85,601</b>		

**Section 10: First Mortgage Loan Sizing**

Are you proposing to take out a first mortgage loan for this project?

Yes

Enter the below information regarding the anticipated first mortgage loan.

Do you anticipate using FHA Insurance?

No

Interest Rate % per Year	<input type="text" value="2"/>	<u>5.000%</u>
Mortgage Insurance Premium %	<input type="text" value="2"/>	<u>0.500%</u>
Amortization Term	<input type="text" value="2"/>	<u>30</u>
Maturity Term	<input type="text" value="2"/>	<u>30</u>
Debt Service Coverage Ratio	<input type="text" value="0"/>	<u>1.20</u>
Maximum Supportable Mortgage Loan		<u>\$1,027,500</u>
Proposed Mortgage Loan Amount	<input type="text" value="2"/>	<u>\$850,000</u>
Calculated Annual Debt Service		<u>\$59,006</u>

**Section 11: Total Uses of Funds (Total Development Cost)**

Enter uses of funds for the proposed conversion.

**Acquisition Costs**

Building and Land Acquisition	<input type="text" value="2"/>	<u></u>
Payoff Existing Loans		<u>\$0</u>
Other Costs	<input type="text" value="2"/>	<u>\$400,000</u>

**Construction Costs**

<input type="text" value="2"/>	<u>\$12,000,000</u>
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**Relocation Costs**

<input type="text" value="2"/>	<u>\$140,000</u>
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**Professional Fees**

Architecture & Engineering	?	\$450,000
Physical Conditions Assessment	?	\$7,500
Borrower's Legal Counsel	?	\$175,000
Lender's Legal Counsel	?	\$55,000
Feasibility Studies	?	\$90,000
Environmental Reports	?	\$60,000
Appraisal / Market Study	?	\$16,500
Accounting	?	\$17,500
Survey	?	\$19,500
Other contingency	?	\$600,000

**Loan Fees and Costs**

FHA MIP	?	\$0
FHA Application Fee	?	\$5,000
FHA Inspection Fee	?	\$0
Financing Fee	?	\$0
Organizational Costs	?	\$15,000
Title Insurance/Exam Fee	?	\$45,000
Recordation Fee	?	\$2,200
Closing Escrow Agent Fee	?	\$1,250
Prepayment Penalty/Premium	?	\$0
Payables	?	\$120,000
Construction Interest	?	\$480,000
Construction Loan Fees	?	\$80,000
Cost of Bond Issuance	?	\$85,000
Other Costs	?	\$83,300

**Reserves**

Initial Deposit to Replacement Reserve	?	\$0
Initial Operating Deficit Escrow	?	\$185,000
Operating Reserve	?	\$112,500
Tax and Insurance Escrow	?	\$145,000
Other Costs sof cont.	?	\$300,000

**Developer Fees**

Developer Fees	?	\$2,520,000
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**Total Development Cost**

**\$18,210,250**

aka Total Uses of Funds

**Section 12: Total Sources of Funds**

Enter sources of funds for the proposed conversion.

New First Mortgage Loan		\$850,000
Public Housing Operating Reserves		\$0
Public Housing Capital Funds		\$40,000
Replacement Housing Factor		
Low Income Housing Tax Credit Equity - 4%		\$5,670,000
Low Income Housing Tax Credit Equity - 9%		
Other/Local FHLB AHP (not guaranteed)		\$1,200,000
Other/Local City Funds		\$9,370,250
Other/Local deferred fee		\$1,080,000
<b>Total Sources of Funds</b>	?	<b>\$18,210,250</b>

Sources and uses are in balance

EXHIBIT M

## ORDINANCE NO. 19-02

### AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXV, ZONING AND LAND DEVELOPMENT OF THE REVISED ORDINANCES OF THE CITY OF OCEAN CITY

#### Inclusionary Housing Option in Business Zone Districts

BE IT ORDAINED by the Mayor and Council of the City of Ocean City, County of Cape May, State of New Jersey, as follows.

#### Section 1.

**Section 25-208.2.5 Residential Dwelling Units** of Chapter XXV "Zoning and Land Development" of the Revised General Ordinances of the City of Ocean City, New Jersey is hereby amended as follows:

#### **25-208.2.5 Residential Dwelling Units.**

**Editor's Note:** Former subsection 25-208.2.5, Hotels and Motels, previously codified herein and containing portions of Ordinance No. 06-33, was repealed in its entirety by Ordinance No. 07-37.

Residential dwelling units may be permitted as a conditional use within those zones specified, subject to the following:

- a. Residential dwelling units shall not occupy any part of the first (grade-level) floor of any building, except where specifically permitted by this Ordinance.
- b. Eating establishments including but not limited to cafes, coffee shops, luncheonettes, pizzerias, restaurants and snack shops, candy, nut, confectionery stores, and bakeries shall not be prohibited or limited at any time or by any means including, but not limited to conditions contained within a master deed, deed restriction, Certificate of Occupancy, Mercantile License, Certificate of Zoning Compliance or other instrument. This requirement shall be memorialized in the decision and resolution approving the site plan and shall be promptly recorded thereafter.
- c. *Density.* The maximum permitted Base density, Inclusionary density, Inclusionary Building Height and Habitable Stories within the Neighborhood Business Zone and 34th Street Gateway Zone shall be as follows:

<i>Lot Area</i>	<i>Base Density</i>	<i>Inclusionary Density (Dwelling Units/Acre)<sup>1</sup></i>	<i>Maximum Inclusionary Building Height, Habitable Stories</i>
Up to 3,999 sf	1 dwelling unit	NA	NA
4,000 sf and greater	1 dwelling unit/each 2,000 sf of lot area	16	34 FT 3

d. *Density in the Central Business (CB) Zone, Central Business-1 (CB-1 Zone) and Drive-in Business (DB) Zone.* The maximum permitted Base density, Inclusionary density, Inclusionary Building Height and Habitable Stories in the Central Business (CB) Zone, Central Business-1 (CB-1) Zone and Drive-in Business (DB) Zone shall be as follows:

<i>Zone District</i>	<i>Base Density (Dwelling Units/Acre)</i>	<i>Inclusionary Density (Dwelling Units/Acre)<sup>2</sup></i>	<i>Maximum Inclusionary Building Height, Habitable Stories</i>
Central Business (CB)	30	40	40 FT 4
Central Business (CB-1)	30 33 (West Avenue only)	40	40 FT 4
Drive-in Business (DB)	30	40	40 FT 4

e. Off-street parking spaces shall be provided as required by the Residential Site Improvement Standards (NJAC 5:21 et seq.).

f. Inclusionary Housing Requirements.

**1. Maximum Affordable Housing Set-aside**

- (a) Sale Units - The maximum affordable housing set-aside applied to sale units is twenty (20) percent of the total number of units in the development.
- (b) Rental Units - The maximum affordable housing set-aside applied to rental units is fifteen (15) percent of the total number of units in the development.

<sup>1</sup> Development utilizing the Inclusionary Density shall comply with Section 25-208.2.5f.

<sup>2</sup> Development utilizing the Inclusionary Density shall comply with Section 25-208.2.5f.

## 2. Construction of Affordable Housing Units

Developers shall construct the affordable units required by this ordinance as

follows:

- (a) On the subject site;
- (b) Elsewhere in the municipality as approved by the Planning Board or Zoning Board of Adjustment;
- (c) Payment in lieu of construction providing the whole or fractional affordable units required, subject to the following:
  - (1) Payments in lieu of constructing affordable units may represent fractional affordable units. The affordable housing requirement shall not be rounded.
  - (2) The zoning ordinance may include specific criteria to be met for a development to be eligible to provide a payment in lieu. Examples of such criteria include, but are not limited to, minimum development size thresholds or environmental or site configuration concerns. Once criteria are established by ordinance, exercising the option shall be at the developer's discretion.
  - (3) The amount of payments in lieu of constructing affordable units on site shall be \$182,859.
  - (4) Payments in lieu of constructing affordable units shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.4 and subject to the provisions thereof.
  - (5) Payments in lieu of constructing affordable housing shall not be permitted where affordable housing is not required. Zoning that does not require an affordable housing set-aside or permit a corresponding payment in lieu may be subject to a development fee ordinance pursuant to N.J.A.C. 5:97-8.3.
- (d) Affordable housing units shall be built in accordance with the following schedule:

Percentage of Market-rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25 + 1 unit	10

50	50
75	75
90	10

- (e) To the extent feasible, developers shall fully integrate the low- and moderate-income units with the market units.
- (f) Affordable units shall utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
- (g) The first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.
- (h) The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.

(Ord. #07-37, §3; Ord. #07-31, §3; Ord. #08-01, §2; Ord. #10-09, §6; Ord. #14-31; Ord. #2016-15 §5)

**Section 2.**

This Ordinance shall take effect in the time and manner prescribed by law.

\_\_\_\_\_  
Jay A. Gillian, Mayor

\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2018, and was taken up for a second reading and final passage at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2018, in Council Chambers, City Hall, Ocean City, New Jersey, at seven o'clock in the evening.

\_\_\_\_\_  
Melissa G. Rasner, City Clerk

Summary -

The adoption of this overlay ordinance is part of Ocean City's Affordable Housing strategy. This ordinance will increase the density and bulk standards for residential uses in business zones for projects which require an inclusionary component. Dwelling units are still not permitted to occupy the first (grade-level) floor of any building in the Neighborhood Business (NB) and 34th Street Gateway (GW) zones. For a project which provides affordable housing units at a site located in a business zone, this ordinance increases the density in the Neighborhood Business (NB) and 34th Street Gateway (GW) zones from the present about 10.9 units/acre to 16 units/acre and increase maximum building height to three habitable floors; increases the density in the Central Business (CB) and Central Business-(CB-1) zones from the present about 30 units per acre to 40 units per acres; increases the maximum building height to four habitable floors; and adds residential uses to the conditional uses in the Drive-In Business (DB) zone, subject to the same conditional use, density, and bulk requirements as for residential uses in the CB and CB-1 zones.

July 18, 2018

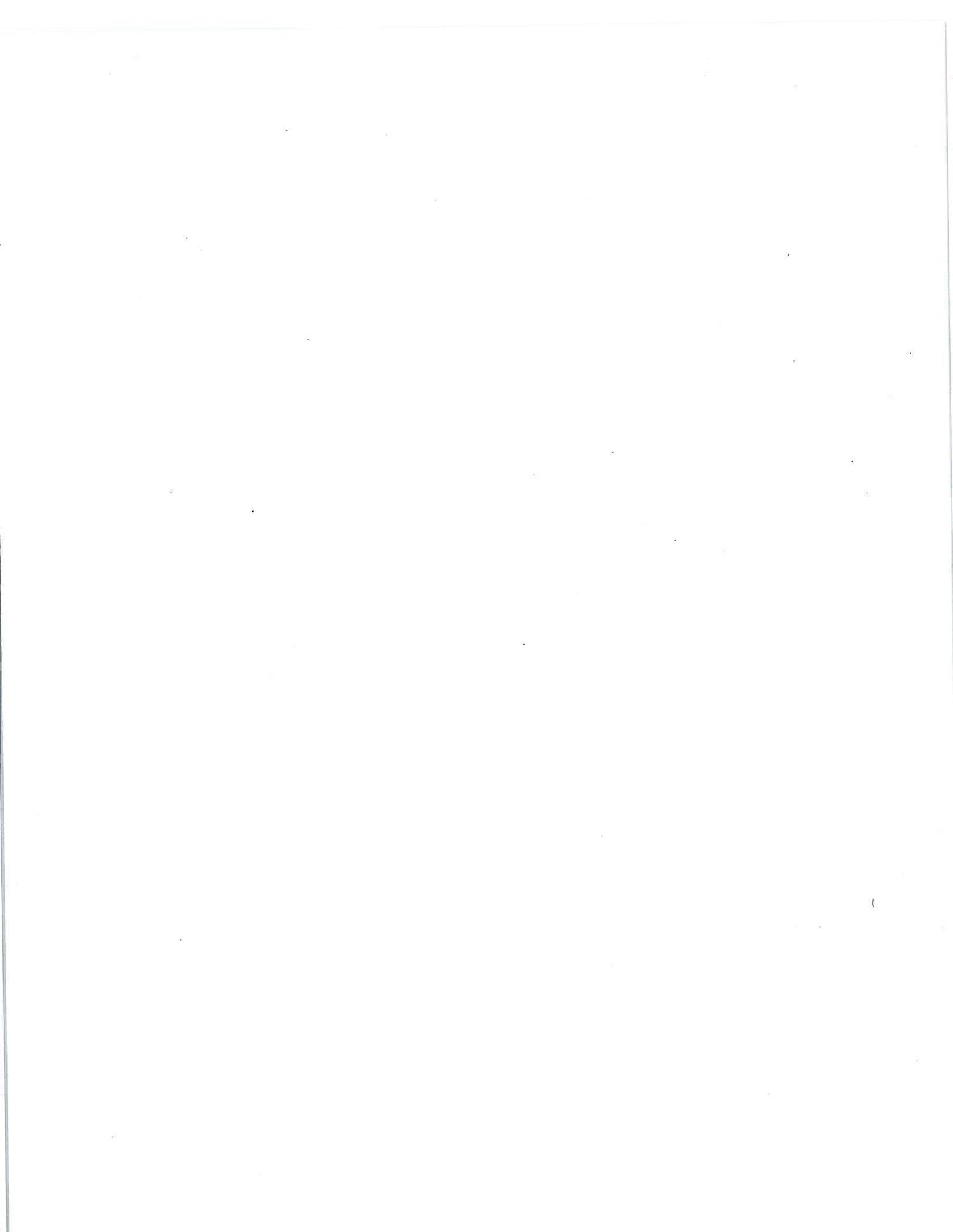
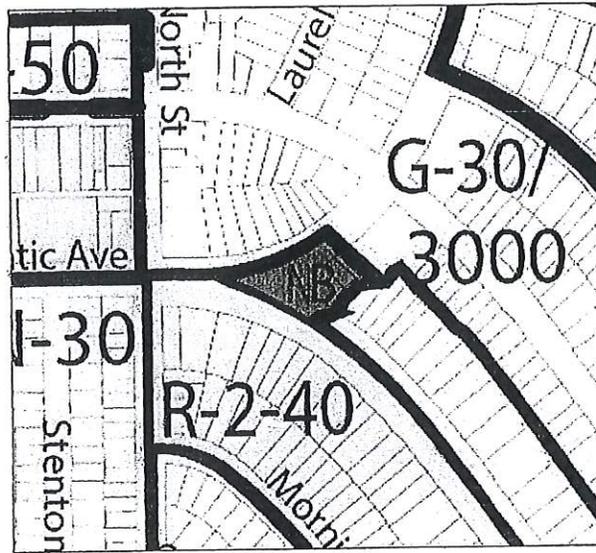


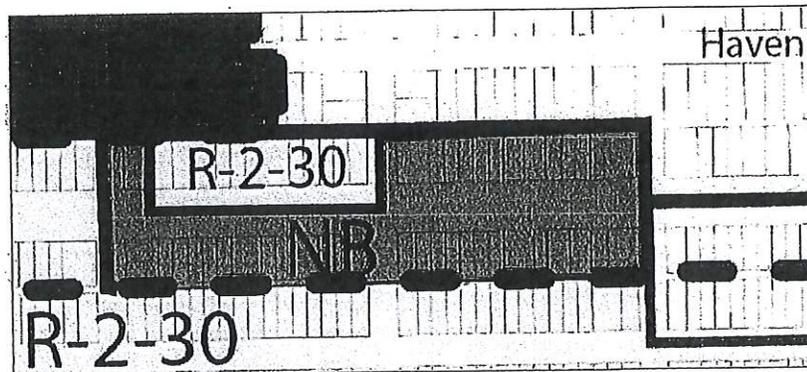
Exhibit B  
Inclusionary Housing Option in Business Zone Districts

Neighborhood Business Zone –

Battersea Road



4<sup>th</sup> & West Avenue



21<sup>st</sup>/22<sup>nd</sup> & Asbury Avenue

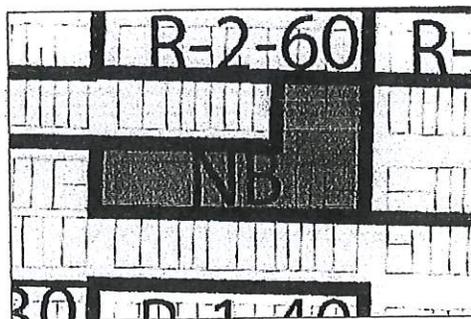
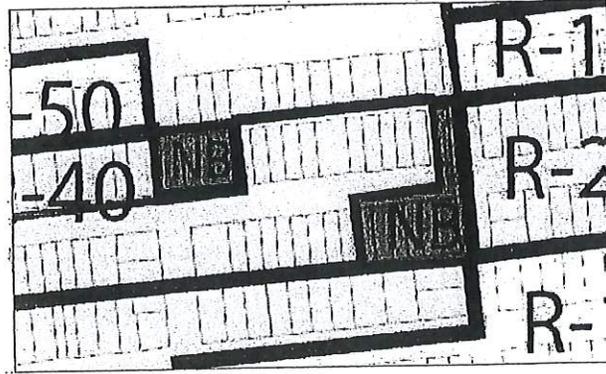
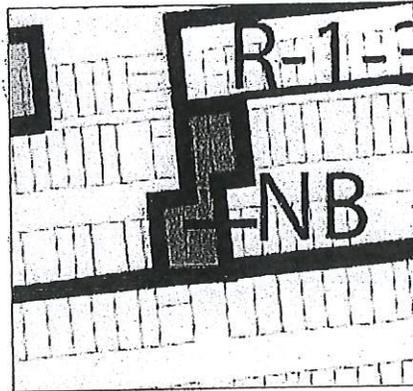


Exhibit B  
Inclusionary Housing Option in Business Zone Districts

27<sup>th</sup> /28<sup>th</sup> & Asbury Avenue



33<sup>rd</sup> & Asbury Avenue



33<sup>rd</sup> & Simpson Avenue

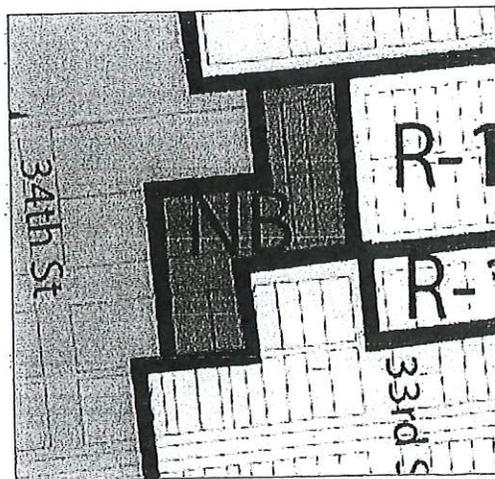
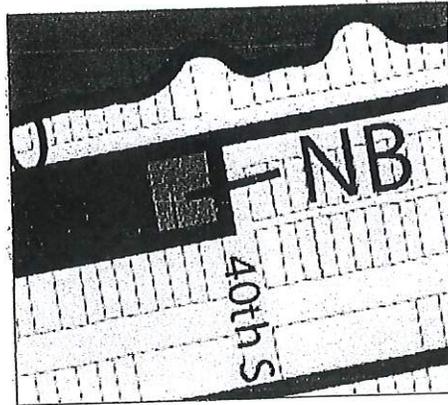


Exhibit B  
Inclusionary Housing Option in Business Zone Districts

40<sup>th</sup> & West Avenue



55<sup>th</sup> Street

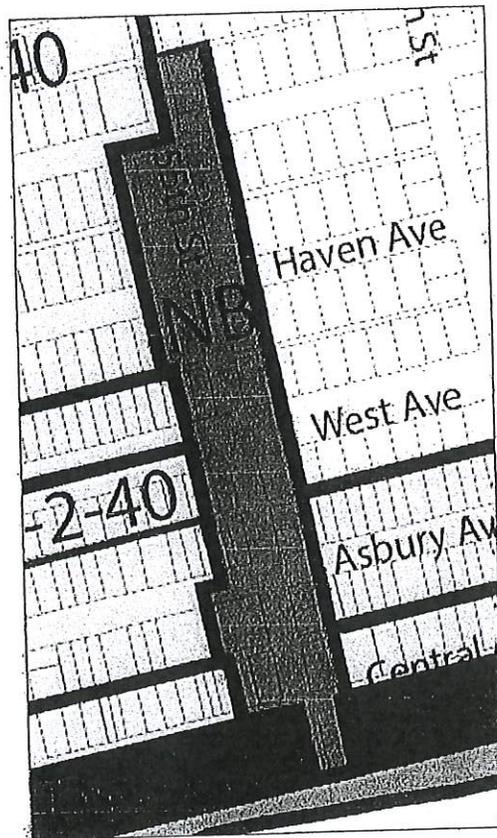


Exhibit B  
Inclusionary Housing Option in Business Zone Districts

34<sup>th</sup> Street Gateway Zone –

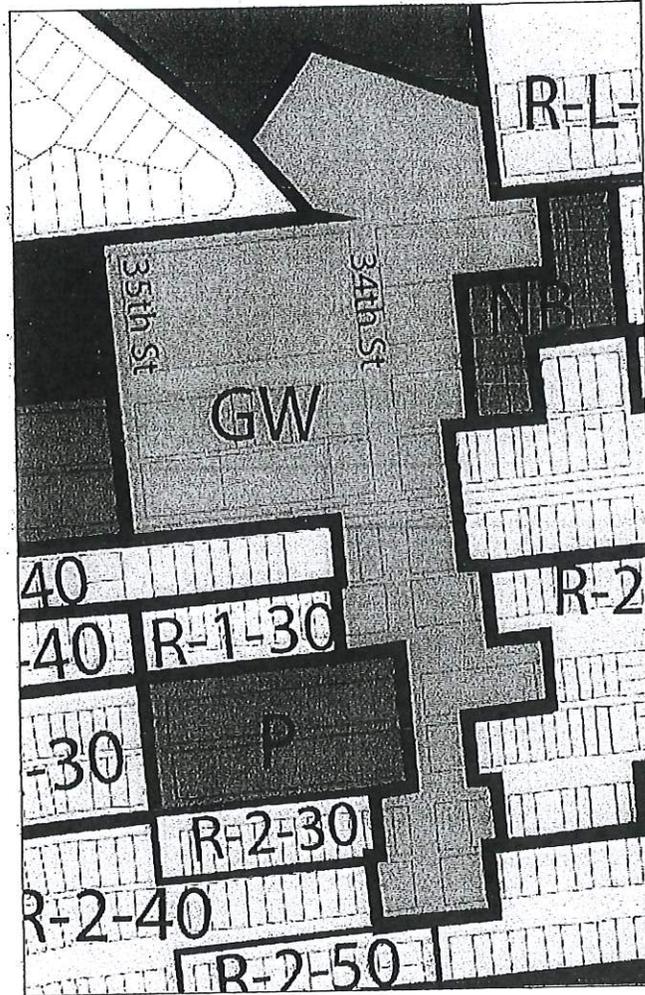
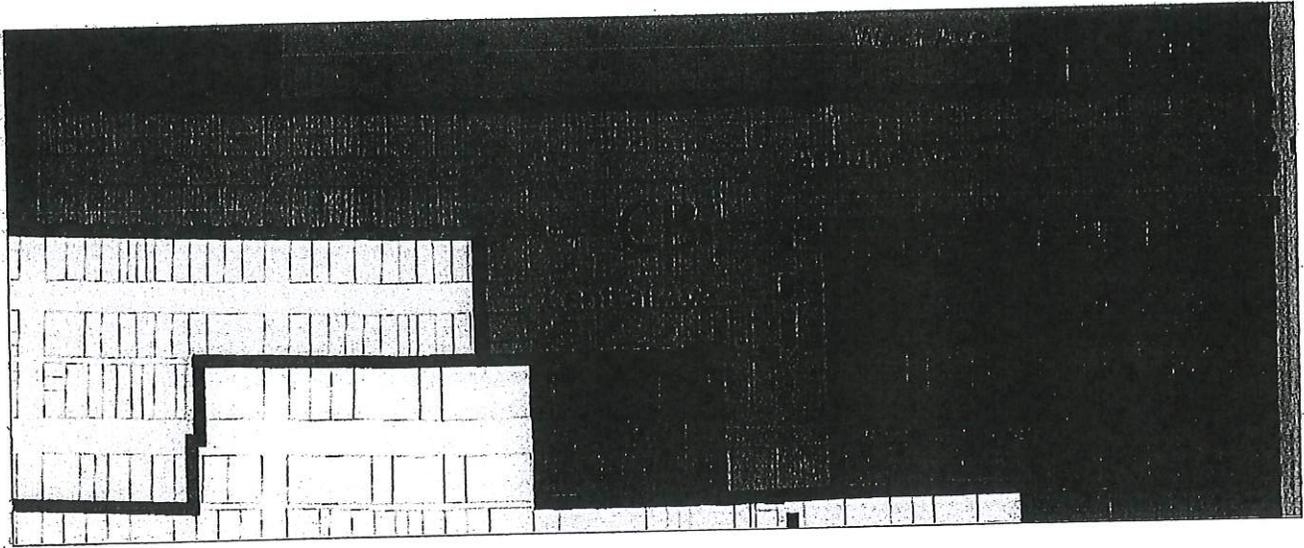


Exhibit B  
Inclusionary Housing Option in Business Zone Districts

Central Business Zone –



Central Business-1 Zone –

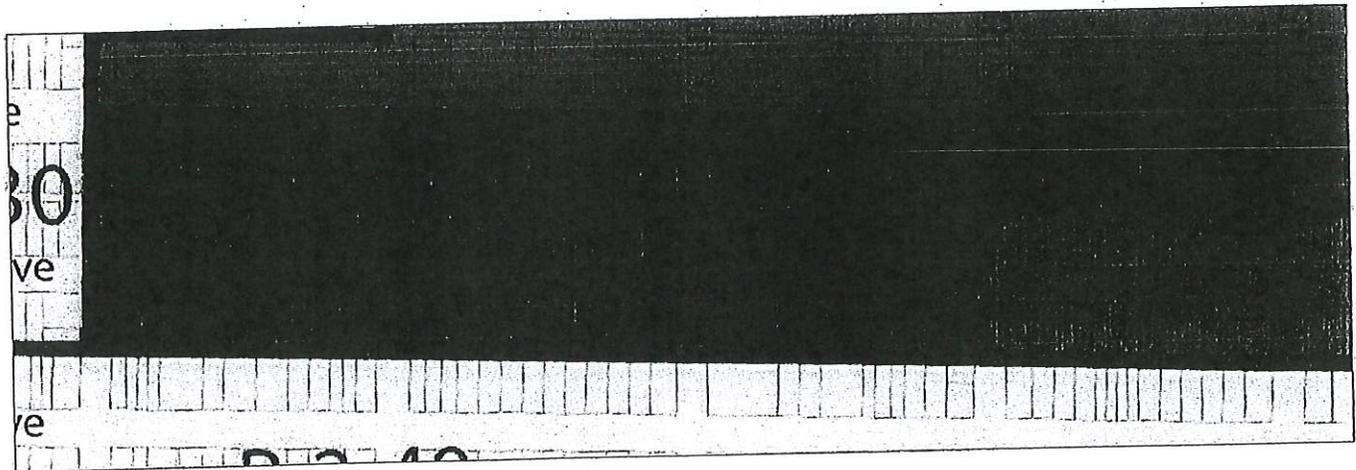
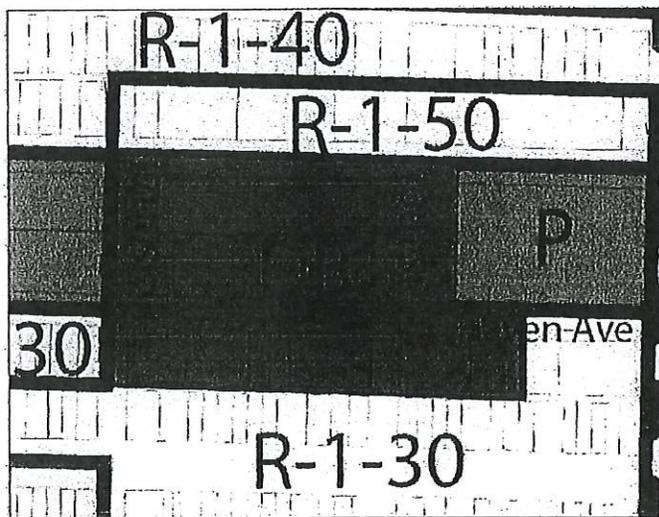
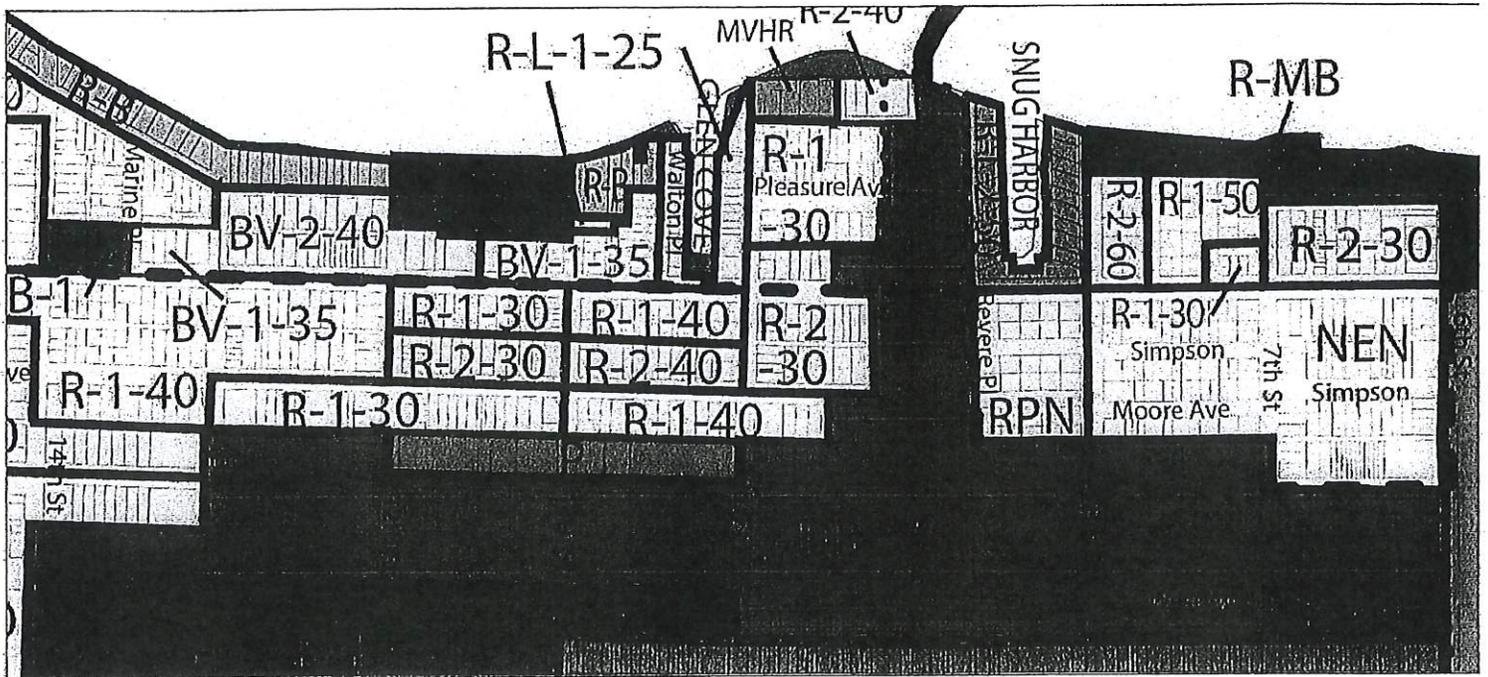


Exhibit B

Inclusionary Housing Option in Business Zone Districts

Drive-in Business Zone -



Ordinance 18-22

Master Plan Consistency Report

4. Repayments from affordable housing program loans;
  5. Recapture funds;
  6. Proceeds from the sale of affordable units; and
  7. Any other funds collected in connection with the City of Ocean City's affordable housing program.
- c. Within seven days from the opening of the trust fund account, the City of Ocean City provided COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

**25-1900.9 Use of Funds.**

- a. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the City of Ocean City's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartments, market to affordable, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted by the Court and specified in the approved spending plan.
- b. Funds shall not be expended to reimburse the City of Ocean City for past housing activities.
- c. At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with

Ordinance 18-22

Master Plan Consistency Report

homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.

2. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
  3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The City of Ocean City may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
  - e. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

**25-1900.10 Monitoring.**

The City of Ocean City shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, the Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by an Agreement with the City), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Ocean City's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

**25-1900.11 Ongoing Collection of Fees.**

Ordinance 18-22

Master Plan Consistency Report

The ability of the City of Ocean City to impose, collect and expend development fees shall expire with its Judgement of Compliance unless the City of Ocean City has filed an adopted Housing Element and Fair Share Plan with the Court or a designated State administrative agency, has petitioned for a Judgement of Compliance from the Court and has received approval of its development fee ordinance. If the City of Ocean City fails to renew its ability to impose and collect development fees prior to the expiration of the Judgement of Compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (N.J.S.A. 52:27D-320). The City of Ocean City shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgement of Compliance, nor shall the City of Ocean City retroactively impose a development fee on such a development. The City of Ocean City shall not expend development fees after the expiration of its Judgement of Compliance.

SECTION 2

**Severability.**

If any portion of this Ordinance is declared to be invalid by a Court of competent jurisdiction, it shall not affect the remaining portions of the Ordinance which shall remain in full force and effect.

SECTION 3

**Repealer.**

All Ordinances or portions thereof inconsistent with this Ordinance are repealed to the extent of such inconsistency.

SECTION 4

**Effective date.**

This Ordinance shall take effect in the time and manner prescribed by law.

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Jay A. Gillian, Mayor

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Peter V. Madden, Council President

Ordinance 18-22

Master Plan Consistency Report

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2018 and was taken up for a second reading and final passage at a meeting of said Council held on the \_\_\_\_\_ day of \_\_\_\_\_ 2018 in Council Chambers, City Hall, Ocean City, New Jersey, at 7:00 o'clock in the evening.

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Melissa G. Rasner, City Clerk

Summary -

The adoption of this ordinance is part of Ocean City's Affordable Housing strategy.

This ordinance replaces and updates existing Article 1900, which is the City's Development Fee Ordinance, and which requires fees to be paid into the City's affordable housing trust fund by developers of certain new constructions projects.

The major substantive changes to the existing ordinance are as follow:

- References the Council on Affordable Housing (COAH) are replaced with the Court in recognition of the Court's role in providing oversight over the City's use of fees in its affordable housing trust fund.
- The Residential Development Fee is increased from 1% to 1.5%.
- Owner-occupied residential structures demolished and replaced as a result of fire, flood or other natural disaster are exempted from paying a development fee.
- The monitoring requirements are revised to reflect the monitoring to which the City agreed in the Settlement Agreement between the City and Fair Share Housing Center, approved by City Council on July 12, 2018.

**GARY R. GRIFFITH, ESQUIRE**  
**GRIFFITH and CARLUCCI, P.C.**  
**801 Asbury Avenue - Suite 200**  
**Ocean City, New Jersey 08226**  
**(609) 399-6900**  
**Attorneys for the Ocean City Planning Board**

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**OCEAN CITY PLANNING BOARD**

**RESOLUTION**

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1. As required by the Municipal Land Use Law, N.J.S. 40:55D-1 *et seq.*, City Council for the City of Ocean City through the City Clerk for the City of Ocean City has requested that the Ocean City Planning Board review Ordinance No. 18-22 for consistency with the Ocean City Master Plan.

2. On December 12, 2018, the Ocean City Planning Board reviewed Ordinance No. 18-22 for consistency with the Ocean City Master Plan and considered the Ordinance No. 18-22 Master Plan Consistency Report ["Ordinance No.18-22 Master Plan Consistency Report"] a true copy of which is attached hereto as Exhibit "A" and conducted a public hearing thereon. Randall E. Scheule, P.P. & A.I.C.P. ["Planner"] prepared the Ordinance No.18-22 Master Plan Consistency Report on November 28, 2018 and was present at the public hearing on December 12, 2018. The Planner presented the Ordinance No.18-22 Master Plan Consistency Report to the Ocean City Planning Board. All of the provisions of the Ordinance No.18-22 Master Plan Consistency Report are incorporated by this reference as if specifically set forth herein at

length. During his presentation, Mr. Scheule reviewed Ordinance No. 18-22 and the Ordinance No.18-22 Master Plan Consistency Report with the Ocean City Planning Board. Thereafter, Mr. Scheule addressed questions from Ocean City Planning Board members in respect of Ordinance No. 18-22 and the Ordinance No.18-22 Master Plan Consistency Report.

3. No member of the public testified or offered comments at the time of public hearing on the Ordinance No.18-22 Master Plan Consistency Report on December 12, 2018.

**NOW, THEREFORE, BE IT RESOLVED** by the Ocean City Planning Board on December 12, 2018 that the Ordinance No.18-22 Master Plan Consistency Report attached hereto as Exhibit "A" is **APPROVED AND ADOPTED** and, shall be **REFERRED** to the City Council for the City of Ocean City for legal action with the following comments and recommendations:

1. For all of the reasons delineated in the Ordinance No.18-22 Master Plan Consistency Report, Ordinance No. 18-22 is consistent with the Ocean City Master Plan.

This Resolution for approval, adoption, and referral was adopted on motion made by Ocean City Planning Board Member Bekier and seconded by Ocean City Planning Board Member Vanderschuere on December 12, 2018 ["Bekier Motion"]. The vote on the Bekier Motion was seven (7) in favor of and zero (0) against with Ocean City Planning Board Members Allegretto, Bekier, Jessel, Sheppard, Adams, Vanderschuere, and Loeper all voting in the affirmative.

OCEAN CITY PLANNING BOARD

  
\_\_\_\_\_  
JOHN LOEPER,  
CHAIRPERSON

Dated: December 12, 2018

CERTIFICATION

I, JAIME M. FELKER, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Resolution was duly adopted at the meeting of the Ocean City Planning Board held on December 12, 2018 and memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on December 12, 2018.

  
\_\_\_\_\_  
JAIME M. FELKER,  
Secretary, Ocean City Planning Board

EXHIBIT N

2

**ORDINANCE NO. 19-03**

**AN ORDINANCE AMENDING AND SUPPLEMENTING  
CHAPTER XXV, ZONING AND LAND DEVELOPMENT OF  
THE REVISED ORDINANCES OF THE CITY OF OCEAN CITY  
Inclusionary R-2 Zone Districts Assemblage Incentive Overlay Zone**

BE IT ORDAINED by the Mayor and Council of the City of Ocean City, County of Cape May, State of New Jersey, as follows.

**Section 1.**

**25-204.2 Non-Discrete Residential Two-Family Zones.**

R-2-30, R-2-40, R-2-50, R-2-60. (Ord. #00-05, §3; Ord. #00-06, §4; Ord. #02-19)

**25-204.2.1 Purpose.**

The Non-Discrete Residential Two-Family Zones established in subsection 25-201.1.1 of this Ordinance are intended to provide and maintain residential areas for detached two (2) family dwellings in those areas in Ocean City where this type of housing has either traditionally developed or is currently the predominant land use type. (Ord. #02-19) In an effort to increase housing diversity and provide realistic opportunities for affordable housing, development of two-family and multi-family at increased densities will be permitted in accord with Section 25-204.26.

**25-204.2.2 Permitted Uses.**

- a. One (1) family dwellings;
- b. Two (2) family dwellings;
- c. Two (2) family dwellings subject to Inclusionary Incentive Overlay Zone pursuant to §25-204.26;
- d. Multi-family dwellings subject to Inclusionary Incentive Overlay Zone pursuant to §25-204.26;
- e. Essential services.

(Ord. #02-19)

- 25-204.2.3 Conditional Uses. [NO CHANGE TO THIS SECTION]
- 25-204.2.4 Permitted Accessory Uses. [NO CHANGE TO THIS SECTION]
- 25-204.2.5 Bulk Requirements. [NO CHANGE TO THIS SECTION]
- 25-204.2.6 Rear Yard. [NO CHANGE TO THIS SECTION]

**NEW SECTION**

**25-204.26 Inclusionary Incentive Overlay Zone**

**25-204.26.1 Purpose.**

The Inclusionary Incentive Overlay Zone is intended to increase the diversity of housing and provide realistic opportunities for affordable housing as defined at NJAC 5:97-1.4. Development of two-family dwellings and multi-family dwellings in accord with this ordinance are required to set aside a percentage of the total dwelling units as affordable units. Incentives to utilize the Inclusionary Incentive Overlay Zone include increased density and building height.

**25-204.26.2 Bulk Requirements.**

**Inclusionary Incentive Overlay Zone—Schedule of District Regulations**

Minimum Tract Size	Minimum Yard Requirements			Min. Lot Depth (Feet) (4)	Maximum Building Height		Maximum Density (dwelling units per acre)	Maximum Building Coverage (percent)	Maximum Impervious Coverage (percent)
	(Feet)				Flat	Habitable Stories			
	Front (1)	Rear (2)	Side (3)						
25% of a Block	Schedule B	20% of lot depth	Schedule C	100	Pitched Roof 29 FT 34 FT	3	30	60	90

**NOTES TO SCHEDULE -**

- (1) In all zone districts, the minimum front yard setback shall be as indicated on Schedule B, "Schedule of Front Yard Setback Depths by Street." Where development is proposed on lots adjacent to a street not listed on Schedule B, the front yard shall be the average setback of the adjacent buildings on the entire block, as determined from a certified survey provided by the applicant/owner.
- (2) For lagoon-front, bay-front and oceanfront lots, the front yard shall be the street side and the rear yard shall be the waterside of the lot.

- (3) On corner lots, the minimum side yard setback shall be provided for the interior side yard and the larger setback shall be provided for the side yard adjoining the street.
- (4) The minimum required lot depth indicated shall be provided, except that lots existing at the time of adoption of this Ordinance with less than the required depth shall be deemed to be conforming for purposes of lot depth.

SCHEDULE B—Schedule of Front Yard Setback Depths by Street (Section 25-209.2)

SCHEDULE C—Schedule of Side Yard Setbacks (Section 25-209.3)

**\*Editor's Note:** Schedules B and C referred to herein may be found in Section 25-209.

### **25-204.26.3 Maximum Affordable Housing Set-aside**

- a. Sale Units - The maximum affordable housing set-aside applied to sale units is twenty (20) percent of the total number of units in the development.
- b. Rental Units - The maximum affordable housing set-aside applied to rental units is fifteen (15) percent of the total number of units in the development.

### **25-204.26.4 Construction of Affordable Housing Units**

Developers shall construct the affordable units required by this ordinance as follows:

- a. On the subject site;
- b. Elsewhere in the municipality as approved by the Planning Board or Zoning Board of Adjustment;
- c. Payment in lieu of construction providing the whole or fractional affordable units required, subject to the following:
  - (1) Payments in lieu of constructing affordable units may represent fractional affordable units. The affordable housing requirement shall not be rounded.
  - (2) The zoning ordinance may include specific criteria to be met for a development to be eligible to provide a payment in lieu. Examples of such criteria include, but are not limited to, minimum development size thresholds or environmental or site configuration concerns. Once criteria are established by ordinance, exercising the option shall be at the developer's discretion.
  - (3) The amount of payments in lieu of constructing affordable units on site shall be \$182,859.
  - (4) Payments in lieu of constructing affordable units shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.4 and subject to the provisions thereof.
  - (5) Payments in lieu of constructing affordable housing shall not be permitted where affordable housing is not required. Zoning that does not require an affordable housing set-aside or permit a corresponding payment in lieu may be subject to a development fee ordinance pursuant to N.J.A.C. 5:97-8.3.

d. Affordable housing units shall be built in accordance with the following schedule:

Percentage of Market-rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25 + 1 unit	10
50	50
75	75
90	10

- e. To the extent feasible, developers shall fully integrate the low- and moderate-income units with the market units.
- f. Affordable units shall utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
- g. The first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.
- h. The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.

**Section 2.**

This Ordinance shall take effect in the time and manner prescribed by law.

\_\_\_\_\_  
Jay A. Gillian, Mayor

\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2018, and was taken up for a second reading and final passage at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2018, in Council Chambers, City Hall, Ocean City, New Jersey, at seven o'clock in the evening.

\_\_\_\_\_  
Melissa G. Rasner, City Clerk

Summary -

Adopt an inclusionary overlay zone applicable to all R-2 zone districts, triggered by an assemblage of at least 25% of the land area of a block that is designated R-2 zone district. Increase the density from the current approximately 20 units/acre in duplexes (12 to 28 units/acre depending in lot location on the block) to 30 units/acre. Modify bulk standards; increase the maximum building height to three habitable stories. Expand permitted uses to include multifamily housing.

July 18, 2018

EXHIBIT O

**ORDINANCE NO. 19 - 04**

AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING XXV, ZONING AND LAND DEVELOPMENT ORDINANCE OF THE REVISED ORDINANCES OF THE CITY OF OCEAN CITY TO PROVIDE FOR A MINIMUM SET ASIDE OF AFFORDABLE HOUSING UNITS TO MEET THE CITY OF OCEAN CITY'S AFFORDABLE HOUSING OBLIGATION AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT THEREWITH.

BE IT ORDAINED, by the Council of the City of Ocean City, County of Cape May and State of New Jersey as follows:

WHEREAS, the purpose of this section of the City of Ocean City's Zoning Ordinance is to establish a minimum required set aside of affordable housing units in certain multifamily residential developments or redevelopments in the City of Ocean City. It is the City of Ocean City's intention that this Ordinance is being adopted expressly for the purpose of assisting the City of Ocean City in meeting its affordable housing obligation.

**BE IT ORDAINED** by the Council of the City of Ocean City as follows:

**SECTION 1**

Chapter XXV of the Ocean City Zoning and Land Development Ordinance be and hereby is amended to add the following new section as **ARTICLE 1901 AFFORDABLE HOUSING SET ASIDE**.

**25-1900. AFFORDABLE HOUSING SET ASIDE.**

**25-1900.1 Purpose.**

This Section of the City of Ocean City Code sets forth regulations regarding the percentage of housing units devoted to low- and moderate-income households required within an inclusionary development in Ocean City that are consistent with the court-ordered agreement.

**25-1900.2 Applicability and Requirements.**

a. Any multifamily residential development or redevelopment, that will contain five (5) or more dwelling units (over and above those already permitted as of right) that are developed at a

density of six (6) or more units per acre which developments become permissible through either a use variance, a density variance increasing the permissible density at the site, a rezoning permitting multi-family residential housing where not previously permitted or a new or amended redevelopment plan or a new or amended rehabilitation plan shall comply with the following:

1. A minimum of fifteen (15) percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for rent. If the calculation of the total number of affordable units required yields a fraction of less than one-half (0.5) then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction greater than one-half (0.5), the obligation shall be rounded up and the additional unit shall be provided.

2. A minimum of twenty (20) percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for sale. If the calculation of the total number of affordable units required yields a fraction of less than one-half (0.5), then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction of greater than one-half (0.5), the obligation shall be rounded up and the additional unit shall be provided.

b. The provisions of this Ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in five (5) or more dwelling units (over and above those already permitted as of right) that are developed at a density of six (6) or more units per acre.

c. At least one-half (0.5) of all affordable units shall be affordable to low income households, and the remainder may be affordable to moderate income households. Within rental developments, at least thirteen (13) percent of the affordable units shall be affordable to very low-income households, with the very low-income units counted as part of the low-income requirement.

d. This ordinance does not give any developer the right to any such rezoning, variance, redevelopment designation or development plan approval or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation or redevelopment plan approval or other relief, or establish any obligation on the part of the municipality to grant such rezoning, variance, redevelopment designation or redevelopment plan approval or other relief. This ordinance shall not apply to sites zoned for inclusionary residential development or for which an inclusionary residential redevelopment plan has been adopted consistent with the municipality's Court-approved Housing Element and Fair Share Plan, which sites shall comply with the applicable adopted zoning. No site shall be permitted to be subdivided so as to avoid compliance with this requirement.

SECTION 2: All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4: This Ordinance shall take effect upon passage and publication as provided by law.

\_\_\_\_\_  
Jay A. Gillian, Mayor

\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2019, and was taken up for a second reading and final passage at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2019, in Council Chambers, City Hall, Ocean City, New Jersey, at seven o'clock in the evening.

\_\_\_\_\_  
Melissa G. Rasner, City Clerk

EXHIBIT P

## AFFIRMATIVE FAIR HOUSING MARKETING PLAN

### For Affordable Housing in (REGION 6)

#### I. APPLICANT AND PROJECT INFORMATION

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

<p>1a. Administrative Agent Name, Address, Phone Number</p> <p><b>Triad Associates</b>  <b>1301 W. Forest Grove Road</b>  <b>Vineland, NJ 08360</b>  <b>(856) 690-9590</b></p>	<p>1b. Development or Program Name, Address</p> <p><b>City of Ocean City</b>  <b>861 Asbury Ave.,</b>  <b>Ocean City, NJ 08226</b>  <b>MASTER AFFIRMATIVE MARKETING PLAN</b>  <b>Section I To Be Filled Out for Each</b>  <b>Program/Development Listed Below</b></p> <ul style="list-style-type: none"> <li>- <b>Market to Affordable Program (For Sale Units – 3 Units)</b></li> <li>- <b>Housing Rehabilitation Program – (Rental Units – Number To be Determined)</b></li> <li>- <b>For Sale Units – 613 Simpson and 626 Simpson Avenues (2 Units)</b></li> <li>- <b>Municipally Sponsored Rental Units- (224 Simpson, 240-44 Haven, 36 &amp; Bay – 10 Units)</b></li> <li>- <b>For Sale/For Rent Units Built under the Business Zone District or Overlay Zone– Number To be Determined</b></li> <li>- <b>Additional Projects – To Be Determined/or Included in the July 2018 Settlement Agreement</b></li> </ul>	
<p>1c. Number of Affordable Units: To Be Determined</p> <p>Number of Rental Units: To Be Determined</p> <p>Number of For-Sale Units: To Be Determined</p>	<p>1d. Price or Rental Range</p> <p>From To Be Determined To: To Be Determined</p>	<p>1e. State and Federal Funding Sources (if any)</p> <p style="text-align: center;">None</p>
<p>1f.</p> <p><input type="checkbox"/> Age Restricted</p> <p><input checked="" type="checkbox"/> Non-Age Restricted</p>	<p>1g. Approximate Starting Dates</p> <p>Advertising: To Be Determined          Lottery: To Be Determined          Occupancy: To Be Determined</p>	
<p>1h. County</p> <p style="text-align: center;"><b>Atlantic, Cape May, Cumberland, Salem</b></p>	<p>1i. Census Tract(s):</p> <p>Regional</p>	
<p>1j. Managing/Sales Agent's Name, Address, Phone Number</p> <p>Jason Hanusey, Administrative Agent          Triad Associates          1301 W. Forest Grove Road          Vineland, NJ 08360          (856) 690-9590          jhanusey@triadincorporated.com</p>		
<p>1k. Application Fees (if any): Triad Associates charges no application fees.</p>		

(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.

### 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 up to 60 days. Applicants will be asked where they learned of the housing opportunity.

At the end of the period, the Administrative Agent will review the Pre-Qualification applications and place the preliminarily income-eligible applications in the lottery. Applicants who are not income eligible are notified in writing prior to the lottery date. The approved Pre-Qualification 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).

Households are informed of the date, time and location of the lottery and invited to attend. The Municipal Housing Liaison or other municipal representative will attend the lottery.

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

After the lottery, the waiting list will remain open and new applications will be added to the list.

## 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. Commercial Media (required) (Check all that applies)

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL NEWSPAPER(S)	CIRCULATION AREA
<b>TARGETS ENTIRE COAH REGION 6</b>			
Daily Newspaper			
<input type="checkbox"/>		Philadelphia Inquirer	
Online			
<input checked="" type="checkbox"/>	Listed for the duration of the affirmative marketing process	Zillow	Web
<input checked="" type="checkbox"/>	Listed for the duration of the affirmative marketing process	<a href="http://www.triadhousingprograms.com">www.triadhousingprograms.com</a>	Web
<input checked="" type="checkbox"/>	Listed for the duration of the affirmative marketing process	New Jersey Housing Resource Center <a href="http://www.njhrc.gov">www.njhrc.gov</a>	Web
<b>TARGETS PARTIAL COAH REGION 6</b>			
Daily Newspaper			
<input type="checkbox"/>		Atlantic Daily Sentinel	Atlantic

<input checked="" type="checkbox"/>	Two ads – one at start and one during affirmative marketing process	Press of Atlantic City	Atlantic, Cape May, Cumberland, Ocean
<input type="checkbox"/>		Bridgeton News	Cumberland
<input type="checkbox"/>		Daily Journal	Cumberland
<input type="checkbox"/>		Today's Sunbeam	Salem
<b>Weekly Newspaper</b>			
<input type="checkbox"/>		Atlantic County Record	Atlantic
<input type="checkbox"/>		Beachcomber News	Atlantic
<input type="checkbox"/>		Current of Absecon and Galloway Township	Atlantic
<input type="checkbox"/>		Current of Down Beach	Atlantic
<input type="checkbox"/>		Current of Egg Harbor Township	Atlantic
<input type="checkbox"/>		Current of Mays Landing and Hamilton Township	Atlantic
<input type="checkbox"/>		Current of Northfield, Linwood and Somers Point	Atlantic
<input type="checkbox"/>		Egg Harbor News	Atlantic
<input type="checkbox"/>		Hammonton Gazette	Atlantic
<input type="checkbox"/>		Hammonton News	Atlantic
<input type="checkbox"/>		Mainland Journal	Atlantic
<input type="checkbox"/>		Record Journal	Atlantic
<input type="checkbox"/>		Atlantic City Weekly	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		Cape May County Herald	Cape May
<input type="checkbox"/>		Cape May Gazette	Cape May
<input type="checkbox"/>		Cape May Star & Wave	Cape May
<input type="checkbox"/>		Gazette of Upper Township	Cape May
<input type="checkbox"/>		Ocean City Gazette	Cape May
<input type="checkbox"/>		Wildwood Leader	Cape May
<input type="checkbox"/>		Cumberland Reminder	Cumberland
	<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>
<b>TARGETS ENTIRE COAH REGION 6</b>			
<input type="checkbox"/>		3 KYW-TV CBS Broadcasting Inc.	
<input type="checkbox"/>		6 WPVI-TV	

		American Broadcasting Companies, Inc (Walt Disney)	
<input type="checkbox"/>		23 WNJS New Jersey Public Broadcasting Authority	
<input type="checkbox"/>		61 WPPX Paxson Communications License Company, LLC	
<b>TARGETS PARTIAL COAH REGION 6</b>			
<input type="checkbox"/>		8 WPSJ-LP Engle Broadcasting	Atlantic
<input type="checkbox"/>		52 WNJT New Jersey Public Broadcasting Authority	Atlantic
<input type="checkbox"/>		40 WMGM-TV Access 1 New Jersey License Company	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		62 WWSI Hispanic Broadcasters of Philadelphia, Llc	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		10 WCAU NBC Telemundo License Co. (General Electric)	Atlantic, Cumberland, Salem
<input type="checkbox"/>		12 WHYY-TV WHYY, Inc.	Atlantic, Cumberland, Salem
<input type="checkbox"/>		17 WPHL-TV Tribune Company	Atlantic, Cumberland, Salem
<input type="checkbox"/>		29 WTXF-TV Fox Television Stations, Inc. (News Corp.)	Atlantic, Cumberland, Salem
<input type="checkbox"/>		35 WYBE Independence Public Media Of Philadelphia, Inc.	Atlantic, Cumberland, Salem
<input type="checkbox"/>		48 WGTW-TV Trinity Broadcasting Network	Atlantic, Cumberland, Salem
<input type="checkbox"/>		57 WPSG CBS Broadcasting Inc.	Atlantic, Cumberland, Salem
<input type="checkbox"/>		65 WUVP-TV Univision Communications, Inc.	Atlantic, Cumberland, Salem
<input type="checkbox"/>		64 WDPB WHYY, Inc.	Cape May
<input type="checkbox"/>		2 WMAR-TV Scripps Howard Broadcasting Company	Cumberland, Salem
<input type="checkbox"/>		13 WJZ-TV CBS Broadcasting Inc.	Cumberland, Salem
<input type="checkbox"/>		43 WPMT Tribune Company	Salem
	<b>DURATION &amp; FREQUENCY OF OUTREACH</b>	<b>NAMES OF CABLE PROVIDER(S)</b>	<b>BROADCAST AREA</b>
<b>TARGETS PARTIAL COAH REGION 6</b>			
<input type="checkbox"/>		Comcast of Avalon, South Jersey, Wildwood	All Atlantic, Cape May, Cumberland and Salem Counties

	DURATION & FREQUENCY OF OUTREACH	NAMES OF REGIONAL RADIO STATION(S)	BROADCAST AREA AND/OR RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE COAH REGION 6</b>			
AM			Christian
<input type="checkbox"/>		WFIL 560	
<input type="checkbox"/>		WIP 610	
<input type="checkbox"/>		WNTF 990	
<input type="checkbox"/>		WWJZ 640	
FM			
<input type="checkbox"/>		WFPG-FM 96.9	
<input type="checkbox"/>		WIXM 97.3	
<input type="checkbox"/>		WMGM 103.7	
<input type="checkbox"/>		WSJO 104.9	
<input type="checkbox"/>		WZXL 100.7	
<b>TARGETS PARTIAL COAH REGION 6</b>			
AM			Christian
<input type="checkbox"/>		WIBG 1020	
<input type="checkbox"/>		WKXW 1450	
<input type="checkbox"/>		WMID 1340	
<input type="checkbox"/>		WOND 1400	
<input type="checkbox"/>		WTKU 1490	
<input type="checkbox"/>		WIRD 900	
<input type="checkbox"/>		WGYM 1580	
<input type="checkbox"/>		KYW 1060	
<input type="checkbox"/>		WNJC 1360	
<input type="checkbox"/>		WPHT 1210	
<input type="checkbox"/>		WWDB 860	
<input type="checkbox"/>		WNWR 1540	
<input type="checkbox"/>		WPEN 950	
<input type="checkbox"/>		WCMC 1230	
<input type="checkbox"/>		WMVB 1440	
<input type="checkbox"/>		WIMR 800	

<input type="checkbox"/>		WDEL 1150	
<input type="checkbox"/>		WFAI 1510	
<input type="checkbox"/>		WMIZ 1270	Hispanics
<input type="checkbox"/>		WSNJ 1240	
<input type="checkbox"/>		WVCH 740	Christian
<input type="checkbox"/>		WPWA 1590	
FM			
<input type="checkbox"/>		WLFR 91.7	Atlantic
<input type="checkbox"/>		WTKU-FM 98.3	Atlantic
<input type="checkbox"/>		WAJM 88.9	Atlantic, Cape May
<input type="checkbox"/>		WJSE 102.7	Atlantic, Cape May
<input type="checkbox"/>		WKOE 106.3	Atlantic, Cape May
<input type="checkbox"/>		WTHH 96.1	Atlantic, Cape May
<input type="checkbox"/>		WZBZ 99.3	Atlantic, Cape May
<input type="checkbox"/>		WAYV 95.1	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WPUR 107.3	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WRTQ 91.3	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WXGN 90.5	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WXXY-FM 88.7	Atlantic, Cape May, Cumberland
<input type="checkbox"/>		WNJN-FM 89.7	Atlantic, Cumberland, Salem
<input type="checkbox"/>		WAIV 102.3	Cape May
<input type="checkbox"/>		WBZC 88.9	Cape May
<input type="checkbox"/>		WCZT 98.7	Cape May
<input type="checkbox"/>		WGBZ 105.5	Cape May
<input type="checkbox"/>		WILW 94.3	Cape May
<input type="checkbox"/>		WWCJ 89.1	Cape May
<input type="checkbox"/>		WRDX 94.7	Cape May, Cumberland, Salem
<input type="checkbox"/>		WVLT 92.1	Cape May, Cumberland, Salem
<input type="checkbox"/>		WRTI 90.1	Cape May, Salem
<input type="checkbox"/>		WBEB 101.1	Cumberland, Salem
<input type="checkbox"/>		WBEN-FM 95.7	Cumberland, Salem

<input type="checkbox"/>		WDAS-FM 105.3	Cumberland, Salem
<input type="checkbox"/>		WIOQ 102.1	Cumberland, Salem
<input type="checkbox"/>		WJBR-FM 99.5	Cumberland, Salem
<input type="checkbox"/>		WJZZ 106.1	Cumberland, Salem
<input type="checkbox"/>		WJKS 101.7	Cumberland, Salem
<input type="checkbox"/>		WKDN 106.9	Cumberland, Salem (Christian)
<input type="checkbox"/>		WMGK 102.9	Cumberland, Salem
<input type="checkbox"/>		WMMR 93.3	Cumberland, Salem
<input type="checkbox"/>		WNJB-FM 89.3	Cumberland, Salem
<input type="checkbox"/>		WOGL 98.1	Cumberland, Salem
<input type="checkbox"/>		WPHI-FM 100.3	Cumberland, Salem
<input type="checkbox"/>		WRDW-FM 96.5	Cumberland, Salem
<input type="checkbox"/>		WSTW 93.7	Cumberland, Salem
<input type="checkbox"/>		WUSL 98.9	Cumberland, Salem
<input type="checkbox"/>		WXTU 92.5	Cumberland, Salem
<input type="checkbox"/>		WYSP 94.1	Cumberland, Salem
<input type="checkbox"/>		WHYY-FM 90.9	Salem

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

DURATION & FREQUENCY OF OUTREACH	NAME OF PUBLICATIONS	OUTREACH AREA	RACIAL/ETHNIC IDENTIFICATION OF READERS/AUDIENCE
<b>TARGETS ENTIRE COAH REGION 6</b>			
Weekly	Al Dia	Philadelphia Area	Spanish-Language
<input type="checkbox"/>	Nuestra Comunidad	Central/South Jersey	Spanish-Language
<input type="checkbox"/>			
<b>TARGETS PARTIAL COAH REGION 6</b>			
Weekly	Jewish Times of the South Jersey Shore	South Shore area	Jewish community
<input type="checkbox"/>	Ukrainian Weekly	New Jersey	Ukrainian community
<input type="checkbox"/>			

3d. 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
<b>Atlantic County</b>			
X	Flyers to be mailed at beginning of Marketing	AtlantiCare Health System	2500 English Creek Ave, Egg Harbor Twp, NJ 08234
X	Flyers to be mailed at beginning of Marketing	Shore Memorial Hospital	700 Shore Rd, Somers Point, NJ 08244
X	Flyers to be mailed at beginning of Marketing	Atlantic City Electric	2542 Fire Rd, Egg Harbor Township, NJ 08234
X	Flyers to be mailed at beginning of Marketing	Wawa	various locations
X	Flyers to be mailed at beginning of Marketing	Wal-mart	various locations
X	Flyers to be mailed at beginning of Marketing	Shoprite	various locations
X	Flyers to be mailed at beginning of Marketing	Kessler Memorial Hospital	600 S White Horse Pike, Hammonton, NJ 08037
X	Flyers to be mailed at beginning of Marketing	South Jersey Industries Inc.	1 South Jersey Plz, Hammonton, NJ 08037
X	Flyers to be mailed at beginning of Marketing	Flagship Resort	60 N Maine Ave, Atlantic City, NJ 08401
X	Flyers to be mailed at beginning of Marketing	Bacharach Institute for Rehabilitation	61 West Jimmie Leeds Road Pomona, NJ 08240
X	Flyers to be mailed at beginning of Marketing	Lowes Home Improvement	various locations
X	Flyers to be mailed at beginning of Marketing	Home Depot	various locations
X	Flyers to be mailed at beginning of Marketing	Comar Inc.	1 Comar Pl, Buena, NJ 08326
X	Flyers to be mailed at beginning of Marketing	Marriot Seaview Resorts	401 S New York Rd, Galloway, NJ 08205
X	Flyers to be mailed at beginning of Marketing	Ole Hansen & Sons	100 Old Port Republic Rd, Galloway, NJ 08205
X	Flyers to be mailed at beginning of Marketing	Acme Markets	various locations
X	Flyers to be mailed at beginning of Marketing	Atlantic City Linen	18 N New Jersey Ave, Atlantic City, NJ 08401
X	Flyers to be mailed at beginning of Marketing	The Press of Atlantic City	1000 W Washington Ave, Pleasantville, NJ 08225
<b>Cape May County</b>			
X	Flyers to be mailed at beginning of Marketing	Cape Regional Medical Center	2 Stone Harbor Blvd, Cape May Court House, NJ 08210
X	Flyers to be mailed at beginning of Marketing	Cold Spring Rush Fish and Supply Co	906 Schellenger St, Cape May, NJ 08204
X	Flyers to be mailed at beginning of Marketing	Acme Markets	various locations
X	Flyers to be mailed at beginning of Marketing	Wawa	various locations
X	Flyers to be mailed at beginning of Marketing	Cape Counseling Services	687 Route 9, Cape May, NJ 08204
X	Flyers to be mailed at beginning of Marketing	Shores at Wesley Manor	2201 Bay Ave, Ocean City, NJ 08226
X	Flyers to be mailed at beginning of Marketing	Shop Rite	various locations

X	Flyers to be mailed at beginning of Marketing	Verizon	various locations
X	Flyers to be mailed at beginning of Marketing	Holy Redeemer Visiting Nurse Association	6727 Delilah Rd # F, Egg Harbor Twp, NJ 08234
<b>Cumberland County</b>			
X	Flyers to be mailed at beginning of Marketing	South Jersey Healthcare	333 Irving Ave, Bridgeton, NJ 08302
X	Flyers to be mailed at beginning of Marketing	Durand Glass Manufacturing Co.	901 S. Wade Blvd, Millville, NJ 08332
X	Flyers to be mailed at beginning of Marketing	Training School at Vineland	1667 E. Landis Ave Vineland, NJ 08361
X	Flyers to be mailed at beginning of Marketing	Alcan Global Pharmaceutical Packaging Inc.	1101 Wheaton Ave, Millville, NJ 08332
X	Flyers to be mailed at beginning of Marketing	Kimble Glass Inc./ Kontes Glass Co.	537 Crystal Ave, Vineland, NJ 08360
X	Flyers to be mailed at beginning of Marketing	Wawa	various locations
X	Flyers to be mailed at beginning of Marketing	Wheaton Science Products	1501 N 10th St, Millville, NJ 08332
X	Flyers to be mailed at beginning of Marketing	ShopRite	various locations
X	Flyers to be mailed at beginning of Marketing	Progresso Quality Foods	3501 S East Blvd, Vineland, NJ 08360
X	Flyers to be mailed at beginning of Marketing	Seabrook Brothers & Sons Inc.	1031 Parsonage Rd, Bridgeton, NJ 08302
X	Flyers to be mailed at beginning of Marketing	Sheppard Bus Service	35 Rockville Rd, Bridgeton, NJ and 212 L St, Millville, NJ 08332
X	Flyers to be mailed at beginning of Marketing	Acme Markets Inc.	101 Bluebird Ln, Millville, NJ 08332
X	Flyers to be mailed at beginning of Marketing	Wal-Mart	various locations
X	Flyers to be mailed at beginning of Marketing	Leone Industries	443 S East Ave, Bridgeton, NJ 08302
X	Flyers to be mailed at beginning of Marketing	Silverton Marine Corp.	301 Riverside Dr, Millville, NJ 08332
X	Flyers to be mailed at beginning of Marketing	Sun National Bank	various locations
X	Flyers to be mailed at beginning of Marketing	F&S Produce	913 Bridgeton Ave, Rosenhayn, NJ 08352
X	Flyers to be mailed at beginning of Marketing	Tri-County Community Action Partnership	110 Cohansey Street, Bridgeton 08302
<b>Salem County</b>			
X	Flyers to be mailed at beginning of Marketing	PSE&G	162 Route 45 Salem, NJ 08079
X	Flyers to be mailed at beginning of Marketing	Dupont De Nemours E I & Co.	Penns Grove, NJ 08069
X	Flyers to be mailed at beginning of Marketing	Mannington Mills	Frog Ocean Rd, Salem, NJ 08070
X	Flyers to be mailed at beginning of Marketing	Memorial Hospital of Salem county	310 Woodstown Rd, Salem, NJ 08070
X	Flyers to be mailed at beginning of Marketing	Conectiv	5 Collins Dr, Penns Grove, NJ 08069
X	Flyers to be mailed at beginning of Marketing	Anchor Glass Container Corp.	83 Griffith St, Salem, NJ 08070
X	Flyers to be mailed at beginning of Marketing	SJI Elmer Hospital	501 Front St, Elmer 08318

X	Flyers to be mailed at beginning of Marketing	GEON Company	Porcupine Rd & US Highway, Pedricktown, NJ 08067
X	Flyers to be mailed at beginning of Marketing	B&B Poultry	Almond Rd, Norma, NJ 08318
3e. 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
Atlantic County Board of Realtors	Region 6		Flyers to be mailed at beginning of Marketing
Cape May County Board of Realtors	Cape May		Flyers to be mailed at beginning of Marketing
Cumberland County Board of Realtors	Cumberland		Flyers to be mailed at beginning of Marketing
PRAC of Southern New Jersey	Cumberland, Salem, Gloucester, Cape May	Hispanic Families	Flyers to be mailed at beginning of Marketing
Family Success Center of Cape May	Cape May		Flyers to be mailed at beginning of Marketing
Fair Share Housing Center New Jersey NAACP Conference Atlantic City NAACP Cape May County NAACP Supportive Housing Association Mainland/Pleasantville Mizpah Latino Action Network	Region 6	Multi-racial/ethnic	When affordable housing units become available, notice of such availability to be provided, and application forms, flyers and advertising posters to be mailed at the initiation of Marketing

#### 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)	
	LOCATION
X	Atlantic County Clerk 5901 Main Street, Mays Landing, NJ 08330 (609)625-7000
X	Cape May County Main Library 30 Mechanic Street, Cape May Courthouse, NJ 08210 (609)463-6350
X	Cumberland County Library 800 East Commerce Street, Bridgeton, NJ 08302 (856)453-2210
X	Salem County Court House 110 Fifth Street, Salem, NJ 08079 (856)935-7510
4b. Municipality in which the units are located (list municipal building and municipal library, address, contact person)	
The City of Ocean City, 861 Asbury Avenue, Ocean City, New Jersey 08226 Christine D. Gundersen, MBA Manager of Capital Planning, Municipal Housing Liaison (609) 525-9360	
The Ocean City Free Public Library, 1735 Simpson Ave Ste #4, Ocean City NJ, 08226-3071 Karen Mahar (609) 399-2434	
4c. Sales/Rental Office for units (if applicable)	
To Be Determined	

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 COAH substantive certification or DCA Balanced Housing Program funding or HMFA UHCRP/MONI funding).

Katherine Packowski, Triad Associates

Name (Type or Print)

Administrative Agent for the City of Ocean City

Title/Municipality

*Katherine Packowski*

*December 31, 2018*

Signature

Date

# AFFIRMATIVE FAIR HOUSING MARKETING PLAN

## For Affordable Housing in (REGION 6)

### I. APPLICANT AND PROJECT INFORMATION

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

<b>1a. Administrative Agent Name, Address, Phone Number</b>  <b>Triad Associates</b> <b>1301 W. Forest Grove Road</b> <b>Vineland, NJ 08360</b> <b>(856) 690-9590</b>		<b>1b. Development or Program Name, Address</b>  <b>City of Ocean City</b> <b>861 Asbury Ave.,</b> <b>Ocean City, NJ 08226</b> <b>Market to Affordable Program</b> <b>For Sale Units(3 Units)</b>	
<b>1c.</b> Number of Affordable Units: 3 Units  Number of Rental Units: 0  Number of For-Sale Units: 3	<b>1d. Price or Rental Range for First Three Units</b> From \$62,500 To: \$111,709	<b>1e. State and Federal Funding Sources (if any)</b>  <div style="text-align: center;">None</div>	
<b>1f.</b> <input type="checkbox"/> Age Restricted  <input checked="" type="checkbox"/> Non-Age Restricted	<b>1g. Approximate Starting Dates</b>  Advertising: December 15, 2018 through January 21, 2019 Lottery: January 23, 2019 Occupancy: Anticipated – April 2019		
<b>1h. County</b> <b>Atlantic, Cape May, Cumberland,</b> <b>Salem</b>	<b>1i. Census Tract(s):</b> Regional		
<b>1j. Managing/Sales Agent's Name, Address, Phone Number</b> <b>Jason Hanusey, Administrative Agent</b> <b>Triad Associates</b> <b>1301 W. Forest Grove Road</b> <b>Vineland, NJ 08360</b> <b>(856) 690-9590</b> <b>jhanusey@triadincorporated.com</b>			
<b>1k. Application Fees (if any):</b> Triad Associates charges no application fees.			

(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.

**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 up to 60 days. Applicants will be asked where they learned of the housing opportunity.  
 At the end of the period, the Administrative Agent will review the Pre-Qualification applications and place the preliminarily income-eligible applications in the lottery. Applicants who are not income eligible are notified in writing prior to the lottery date. The approved Pre-Qualification 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).

**AFFIRMATIVE FAIR HOUSING MARKETING PLAN**  
For Affordable Housing in **(REGION 6)**

**I. APPLICANT AND PROJECT INFORMATION**

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

<p>1a. Administrative Agent Name, Address, Phone Number</p> <p><b>Triad Associates</b> <b>1301 W. Forest Grove Road</b> <b>Vineland, NJ 08360</b> <b>(856) 690-9590</b></p>	<p>1b. Development or Program Name, Address</p> <p><b>City of Ocean City</b> <b>861 Asbury Ave.,</b> <b>Ocean City, NJ 08226</b></p> <p><b>Housing Rehabilitation Program – For Rent Units</b></p>	
<p>1c. Number of Affordable Units: To Be Determined</p> <p>Number of Rental Units: To Be Determined</p> <p>Number of For-Sale Units: 0</p>	<p>1d. Price or Rental Range</p> <p>From To Be Determined To: To Be Determined</p>	<p>1e. State and Federal Funding Sources (if any)</p> <p style="text-align: center;">None</p>
<p>1f.</p> <p><input type="checkbox"/> Age Restricted</p> <p><input checked="" type="checkbox"/> Non-Age Restricted</p>	<p>1g. Approximate Starting Dates</p> <p>Advertising: To Be Determined</p> <p>Lottery: To Be Determined</p> <p>Occupancy: To Be Determined</p>	
<p>1h. County</p> <p><b>Atlantic, Cape May, Cumberland, Salem</b></p>	<p>1i. Census Tract(s):</p> <p>Regional</p>	
<p>1j. Managing/Sales Agent's Name, Address, Phone Number</p> <p>Jason Hanusey, Administrative Agent Triad Associates 1301 W. Forest Grove Road Vineland, NJ 08360 (856) 690-9590 jhanusey@triadincorporated.com</p>		
<p>1k. Application Fees (if any): Triad Associates charges no application fees.</p>		

(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**

<p>2. Describe the random selection process that will be used once applications are received.</p> <p><b><u>Initial Randomization</u></b></p> <p>Applicants are selected at random before income-eligibility is determined, regardless of household size or desired number of bedrooms. The process is as follows:</p> <p>After advertising is implemented, applications are accepted for up to 60 days. Applicants will be asked where they learned of the housing opportunity.</p> <p>At the end of the period, the Administrative Agent will review the Pre-Qualification applications and place the preliminarily income-eligible applications in the lottery. Applicants who are not income eligible are notified in writing prior to the lottery date. The approved Pre-Qualification applications are selected one-</p>
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# AFFIRMATIVE FAIR HOUSING MARKETING PLAN

## For Affordable Housing in (REGION 6).

### I. APPLICANT AND PROJECT INFORMATION

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

<p>1a. Administrative Agent Name, Address, Phone Number</p> <p><b>Triad Associates</b>  <b>1301 W. Forest Grove Road</b>  <b>Vineland, NJ 08360</b>  <b>(856) 690-9590</b></p>	<p>1b. Development or Program Name, Address</p> <p><b>City of Ocean City</b>  <b>861 Asbury Ave.,</b>  <b>Ocean City, NJ 08226</b></p> <p><b>For Sale Units</b>  <b>613 Simpson Avenue (1 Unit)</b>  <b>626 Simpson Avenue (1 Unit)</b></p>	
<p>1c. Number of Affordable Units: 2</p> <p>Number of Rental Units: 0</p> <p>Number of For-Sale Units: 2</p>	<p>1d. Price or Rental Range</p> <p>From To Be Determined          To: To Be Determined</p>	<p>1e. State and Federal Funding Sources (if any)</p> <p style="text-align: center;">None</p>
<p>1f.</p> <p><input type="checkbox"/> Age Restricted</p> <p><input checked="" type="checkbox"/> Non-Age Restricted</p>	<p>1g. Approximate Starting Dates</p> <p>Advertising: To Be Determined</p> <p>Lottery: To Be Determined</p> <p>Occupancy: To Be Determined</p>	
<p>1h. County</p> <p style="text-align: center;"><b>Atlantic, Cape May, Cumberland,</b>  <b>Salem</b></p>	<p>1i. Census Tract(s):</p> <p>Regional</p>	
<p>1j. Managing/Sales Agent's Name, Address, Phone Number</p> <p>Jason Hanusey, Administrative Agent          Triad Associates          1301 W. Forest Grove Road          Vineland, NJ 08360          (856) 690-9590          jhanusey@triadincorporated.com</p>		
<p>1k. Application Fees (if any): Triad Associates charges no application fees.</p>		

(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.

**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 up to 60 days. Applicants will be asked where they learned of the housing opportunity.

At the end of the period, the Administrative Agent will review the Pre-Qualification applications and place the preliminarily income-eligible applications in the lottery. Applicants who are not income eligible are notified in writing prior to the lottery date. The approved Pre-Qualification applications are selected one-

## AFFIRMATIVE FAIR HOUSING MARKETING PLAN For Affordable Housing in (REGION 6)

### I. APPLICANT AND PROJECT INFORMATION

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

1a. Administrative Agent Name, Address, Phone Number  <b>Triad Associates</b> <b>1301 W. Forest Grove Road</b> <b>Vineland, NJ 08360</b> <b>(856) 690-9590</b>		1b. Development or Program Name, Address  <b>City of Ocean City</b> <b>861 Asbury Ave.,</b> <b>Ocean City, NJ 08226</b>  <u>Municipally Sponsored Rental Units</u> <b>224 Simpson Avenue (2 Units)</b> <b>240-44 Haven Avenue (4 Units)</b> <b>36<sup>th</sup> and Bay Avenue (4 Units)</b>	
1c. Number of Affordable Units: 10  Number of Rental Units: 10  Number of For-Sale Units: 0	1d. Price or Rental Range  From To Be Determined To: To Be Determined	1e. State and Federal Funding Sources (if any)  <p style="text-align: center;">None</p>	
1f. <input type="checkbox"/> Age Restricted  <input checked="" type="checkbox"/> Non-Age Restricted	1g. Approximate Starting Dates Advertising: To Be Determined Lottery: To Be Determined Occupancy: To Be Determined		
1h. County <b>Atlantic, Cape May, Cumberland, Salem</b>	1i. Census Tract(s): Regional		
1j. Managing/Sales Agent's Name, Address, Phone Number Jason Hanusey, Administrative Agent Triad Associates 1301 W. Forest Grove Road Vineland, NJ 08360 (856) 690-9590 <a href="mailto:jhanusey@triadincorporated.com">jhanusey@triadincorporated.com</a>			
1k. Application Fees (if any): Triad Associates charges no application fees.			

(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.  <p><b><u>Initial Randomization</u></b>          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 up to 60 days. Applicants will be asked where they learned of the housing opportunity.          At the end of the period, the Administrative Agent will review the Pre-Qualification applications and place the preliminarily income-eligible applications in the lottery. Applicants who are not income eligible are notified in writing prior to the lottery date. The approved Pre-Qualification applications are selected one-</p>
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## AFFIRMATIVE FAIR HOUSING MARKETING PLAN

### For Affordable Housing in (REGION 6)

#### I. APPLICANT AND PROJECT INFORMATION

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

<b>1a. Administrative Agent Name, Address, Phone Number</b>  Triad Associates 1301 W. Forest Grove Road Vineland, NJ 08360 (856) 690-9590		<b>1b. Development or Program Name, Address</b>  City of Ocean City 861 Asbury Ave., Ocean City, NJ 08226  For Sale Units and or For Rent Units Created Under the Municipal Overlay Zone and Business Zone District	
<b>1c. Number of Affordable Units: To Be Determined</b>  Number of Rental Units: To Be Determined  Number of For-Sale Units: To Be Determined	<b>1d. Price or Rental Range</b>  From To Be Determined To: To Be Determined	<b>1e. State and Federal Funding Sources (if any)</b>  None	
<b>1f.</b> <input type="checkbox"/> Age Restricted  <input checked="" type="checkbox"/> Non-Age Restricted	<b>1g. Approximate Starting Dates</b> Advertising: To Be Determined Lottery: To Be Determined Occupancy: To Be Determined		
<b>1h. County</b> Atlantic, Cape May, Cumberland, Salem	<b>1i. Census Tract(s):</b> Regional		
<b>1j. Managing/Sales Agent's Name, Address, Phone Number</b> Jason Hanusey, Administrative Agent Triad Associates 1301 W. Forest Grove Road Vineland, NJ 08360 (856) 690-9590 jhanusey@triadincorporated.com			
<b>1k. Application Fees (if any):</b> Triad Associates charges no application fees.			

(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.  <p><b><u>Initial Randomization</u></b>                  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 up to 60 days. Applicants will be asked where they learned of the housing opportunity.</p>
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EXHIBIT Q

ORDINANCE NO. 18-21

AN ORDINANCE REPLACING THE ENTIRE CONTENTS OF THE EXISTING FAIR SHARE ORDINANCE OF THE REVISED ORDINANCES OF OCEAN CITY, CAPE MAY COUNTY, NEW JERSEY (ARTICLE 2000 OF THE OCEAN CITY ZONING AND LAND DEVELOPMENT ORDINANCE) TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE CITY'S AFFORDABLE HOUSING OBLIGATIONS AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.  
("Affordable Housing Ordinance")

BE IT ORDAINED by the Council of the City of Ocean City, County of Cape May and State of New Jersey, that Article 2000 of the Ocean City Zoning and Land Development Ordinance is hereby deleted, replaced and superseded hereby to include provisions addressing Ocean City'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 created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Ocean City Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, *et seq.* The 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.

On the first anniversary of the entry of the Order granting Ocean City a Final Judgment of Compliance and Repose in IMO Application of the City of Ocean City, Docket No. CPM-L-305-15 and every anniversary thereafter through the end of the Repose period, the City shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

On the first anniversary of the entry of the Order granting Ocean City a Final Judgment of Compliance and Repose in IMO Application of the City of Ocean City, Docket No. CPM-L-305-15 and every anniversary thereafter through the end of the Repose period, the City shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with copies 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 Court-appointed Special Master and Fair Share Housing Center.

For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the City shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be

replaced. Any interested party may by motion request a hearing before the Court regarding these issues.

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 the entry of the Order granting Ocean City a Final Judgment of Compliance and Repose in IMO Application of the City of Ocean City, Docket No. CPM-L-305-15, and every third year thereafter, the City will post on its municipal website, with copies 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, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very low-income housing obligation.

### **SECTION 1:**

#### **25-2000.1 Purpose.**

The purpose of this ordinance is to provide for and regulate affordable housing in the City.

#### **25-2000.2 Definitions.**

The following terms when used in this Ordinance shall have the meanings given in this Section:

#### **ACT**

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

#### **ADAPTABLE**

Constructed in compliance with the technical design standards of the Barrier Free Sub code, N.J.A.C. 5:23-7.

#### **ADMINISTRATIVE AGENT**

The entity designated by the City to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

#### **AFFIRMATIVE MARKETING**

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

#### **AFFORDABILITY AVERAGE**

The average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

#### **AFFORDABLE**

A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

#### **AFFORDABLE HOUSING DEVELOPMENT**

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the City's fair share obligation, and includes, but is not limited to, rehabilitation, a Market Affordable Program and a municipal construction project or a 100 percent affordable housing development.

#### **AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE UNIT**

A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

**AGENCY**

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

**AGE-RESTRICTED UNIT**

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

**ALTERNATIVE LIVING ARRANGEMENTS**

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

**ASSISTED LIVING RESIDENCE**

A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD**

A household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

**COAH**

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

A housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

**DEVELOPER**

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT**

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, *et seq.*

**INCLUSIONARY DEVELOPMENT**

A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

**LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

**LOW-INCOME UNIT**

A restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM**

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

**MARKET-RATE UNITS**

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

**MEDIAN INCOME**

The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

**MODERATE-INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

**MODERATE-INCOME UNIT**

A restricted unit that is affordable to a moderate-income household.

**MULTIFAMILY UNIT**

A structure containing five or more dwelling units.

**NON-EXEMPT SALE**

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

**RANDOM SELECTION PROCESS**

A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

**REGIONAL ASSET LIMIT**

The maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

#### **REHABILITATION**

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

#### **RENT**

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

#### **RESTRICTED UNIT**

A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHGRP or MONI.

#### **UHAC**

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, *et seq.*

#### **VERY LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

#### **VERY LOW-INCOME UNIT**

A restricted unit that is affordable to a very low-income household.

#### **WEATHERIZATION**

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

#### **25-2000.3 Applicability.**

The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the City of Ocean City pursuant to the City's most recently adopted Housing Element and Fair Share Plan.

#### **25-2000.4 Alternative Living Arrangements.**

A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:

1. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court.
2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).

B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.

C. Unless otherwise specified by agreement or ordinance the service provider operating the alternative living arrangement shall be the administrative agent for the alternative living arrangement.

**25-2000.5 Zoning**

Ocean City is constitutionally obligated to provide a realistic opportunity to comply with its affordable housing obligation. Creating two new affordable housing zones creates a realistic opportunity for the construction of affordable housing. The zones shall be as follows:

**Inclusionary R-2 Zone Districts Assemblage Incentive Overlay Zone**

**25-204.2 Non-Discrete Residential Two-Family Zones.**

R-2-30, R-2-40, R-2-50, R-2-60. (Ord. #00-05, §3; Ord. #00-06, §4; Ord. #02-19)

**25-204.2.1 Purpose.**

The Non-Discrete Residential Two-Family Zones established in subsection 25-201.1.1 of this Ordinance are intended to provide and maintain residential areas for detached two (2) family dwellings in those areas in Ocean City where this type of housing has either traditionally developed or is currently the predominant land use type. (Ord. #02-19) In an effort to increase housing diversity and provide realistic opportunities for affordable housing, development of two-family and multi-family at increased densities will be permitted in accord with Section 25-204.26.

**25-204.2.2 Permitted Uses.**

- a. One (1) family dwellings;
- b. Two (2) family dwellings;
- c. Two (2) family dwellings subject to Inclusionary Incentive Overlay Zone pursuant to §25-204.26;
- d. Multi-family dwellings subject to Inclusionary Incentive Overlay Zone pursuant to §25-204.26;
- e. Essential services.

(Ord. #02-19)

**25-204.2.3 Conditional Uses. [NO CHANGE TO THIS SECTION]**

**25-204.2.4 Permitted Accessory Uses. [NO CHANGE TO THIS SECTION]**

**25-204.2.5 Bulk Requirements. [NO CHANGE TO THIS SECTION]**

**25-204.2.6 Rear Yard. [NO CHANGE TO THIS SECTION]**

**NEW SECTION**

**25-204.26**

**Inclusionary Incentive Overlay Zone**

**25-204.26.1 Purpose.**

The Inclusionary Incentive Overlay Zone is intended to increase the diversity of housing and provide realistic opportunities for affordable housing as defined at NJAC 5:97-1.4. Development of two-family dwellings and multi-family dwellings in accord

with this ordinance are required to set aside a percentage of the total dwelling units as affordable units. Incentives to utilize the Inclusionary Incentive Overlay Zone include increased density and building height.

**25-204.26.2 Bulk Requirements.**

**Inclusionary Incentive Overlay Zone—Schedule of District Regulations**

Minimum Tract Size	Minimum Yard Requirements (Feet)			Min. Lot Depth (Feet) (4)	Maximum Building Height		Maximum Density (dwelling units per acre)	Maximum Building Coverage (percent)	Maximum Impervious Coverage (percent)
	Front (1)	Rear (2)	Side (3)		Flat Pitched Roof	Habitable Stories			
25% of a Block	Schedule B	20% of lot depth	Schedule C	100	29 FT 34 FT	3	30	60	90

**NOTES TO SCHEDULE -**

- (1) In all zone districts, the minimum front yard setback shall be as indicated on Schedule B, "Schedule of Front Yard Setback Depths by Street." Where development is proposed on lots adjacent to a street not listed on Schedule B, the front yard shall be the average setback of the adjacent buildings on the entire block, as determined from a certified survey provided by the applicant/owner.
- (2) For lagoon-front, bay-front and oceanfront lots, the front yard shall be the street side and the rear yard shall be the waterside of the lot.
- (3) On corner lots, the minimum side yard setback shall be provided for the interior side yard and the larger setback shall be provided for the side yard adjoining the street.
- (4) The minimum required lot depth indicated shall be provided, except that lots existing at the time of adoption of this Ordinance with less than the required depth shall be deemed to be conforming for purposes of lot depth.

SCHEDULE B—Schedule of Front Yard Setback Depths by Street (Section 25-209.2)  
 SCHEDULE C—Schedule of Side Yard Setbacks (Section 25-209.3)

\*Editor's Note: Schedules B and C referred to herein may be found in Section 25-209.

**25-204.26.3 Maximum Affordable Housing Set-aside**

- a. Sale Units - The maximum affordable housing set-aside applied to sale units is twenty (20) percent of the total number of units in the development.
- b. Rental Units - The maximum affordable housing set-aside applied to rental units is fifteen (15) percent of the total number of units in the development.

**25-204.26.4 Construction of Affordable Housing Units**

Developers shall construct the affordable units required by this ordinance as follows:

- a. On the subject site;
- b. Elsewhere in the municipality as approved by the Planning Board or Zoning Board of Adjustment;
- c. Payment in lieu of construction providing the whole or fractional affordable units required, subject to the following:

- (1) Payments in lieu of constructing affordable units may represent fractional affordable units. The affordable housing requirement shall not be rounded.
- (2) The zoning ordinance may include specific criteria to be met for a development to be eligible to provide a payment in lieu. Examples of such criteria include, but are not limited to, minimum development size thresholds or environmental or site configuration concerns. Once criteria are established by ordinance, exercising the option shall be at the developer's discretion.
- (3) The amount of payments in lieu of constructing affordable units on site shall be \$182,859.
- (4) Payments in lieu of constructing affordable units shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.4 and subject to the provisions thereof.
- (5) Payments in lieu of constructing affordable housing shall not be permitted where affordable housing is not required. Zoning that does not require an affordable housing set-aside or permit a corresponding payment in lieu may be subject to a development fee ordinance pursuant to N.J.A.C. 5:97-8.3.

d. Affordable housing units shall be built in accordance with the following schedule:

Percentage of Market-rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25 + 1 unit	.10
50	50
75	75
90	10

- e. To the extent feasible, developers shall fully integrate the low- and moderate-income units with the market units.
- f. Affordable units shall utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
- g. The first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.
- h. The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.

#### Inclusionary Housing Option in Business Zone Districts

##### **25-208.2.5 Residential Dwelling Units.**

**Editor's Note:** Former subsection 25-208.2.5, Hotels and Motels, previously codified herein and containing portions of Ordinance No. 06-33, was repealed in its entirety by Ordinance No. 07-37.

Residential dwelling units may be permitted as a conditional use within those zones specified, subject to the following:

- a. Residential dwelling units shall not occupy any part of the first (grade-level) floor of any building, except where specifically permitted by this Ordinance.
- b. Eating establishments including but not limited to cafes, coffee shops, luncheonettes, pizzerias, restaurants and snack shops, candy, nut, confectionery stores, and bakeries shall not be prohibited or limited at any time or by any means including, but not limited to conditions contained within a master deed, deed restriction, Certificate of Occupancy, Mercantile License, Certificate of Zoning Compliance or other instrument.

This requirement shall be memorialized in the decision and resolution approving the site plan and shall be promptly recorded thereafter.

c. *Density*. The maximum permitted Base density, Inclusionary density, Inclusionary Building Height and Habitable Stories within the Neighborhood Business Zone and 34th Street Gateway Zone shall be as follows:

Lot Area	Base Density	Inclusionary Density (Dwelling Units/Acre) <sup>1</sup>	Maximum Inclusionary Building Height, Habitable Stories
Up to 3,999 sf	1 dwelling unit	NA	NA
4,000 sf and greater	1 dwelling unit/each 2,000 sf of lot area	16	34 FT 3

d. *Density in the Central Business (CB) Zone, Central Business-1 (CB-1 Zone) and Drive-in Business (DB) Zone*. The maximum permitted Base density, Inclusionary density, Inclusionary Building Height and Habitable Stories in the Central Business (CB) Zone, Central Business-1 (CB-1) Zone and Drive-in Business (DB) Zone shall be as follows:

Zone/District	Base Density (Dwelling Units/Acre)	Inclusionary Density (Dwelling Units/Acre) <sup>2</sup>	Maximum Inclusionary Building Height, Habitable Stories
Central Business (CB)	30	40	40 FT 4
Central Business (CB-1)	30 33 (West Avenue only)	40	40 FT 4
Drive-in Business (DB)	30	40	40 FT 4

e. Off-street parking spaces shall be provided as required by the Residential Site Improvement Standards (NJAC 5:21 et seq.).

(6) **Inclusionary Housing Requirements.**

a. **Maximum Affordable Housing Set-aside**

- i. **Sale Units** - The maximum affordable housing set-aside applied to sale units is twenty (20) percent of the total number of units in the development.
- ii. **Rental Units** - The maximum affordable housing set-aside applied to rental units is fifteen (15) percent of the total number of units in the development.

b. **Construction of Affordable Housing Units**

Developers shall construct the affordable units required by this ordinance as follows:

1 Development utilizing the Inclusionary Density shall comply with Section 25-208.2.5f.  
2 Development utilizing the Inclusionary Density shall comply with Section 25-208.2.5f.

- i. On the subject site;
- j. Elsewhere in the municipality as approved by the Planning Board or Zoning Board of Adjustment;
- k. Payment in lieu of construction providing the whole or fractional affordable units required, subject to the following:
  - a. Payments in lieu of constructing affordable units may represent fractional affordable units. The affordable housing requirement shall not be rounded.
  - b. The zoning ordinance may include specific criteria to be met for a development to be eligible to provide a payment in lieu. Examples of such criteria include, but are not limited to, minimum development size thresholds or environmental or site configuration concerns. Once criteria are established by ordinance, exercising the option shall be at the developer's discretion.
  - c. The amount of payments in lieu of constructing affordable units on site shall be \$182,859.
  - d. Payments in lieu of constructing affordable units shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.4 and subject to the provisions thereof.
  - e. Payments in lieu of constructing affordable housing shall not be permitted where affordable housing is not required. Zoning that does not require an affordable housing set-aside or permit a corresponding payment in lieu may be subject to a development fee ordinance pursuant to N.J.A.C. 5:97-8.3.
- l. Affordable housing units shall be built in accordance with the following schedule:

Percentage of Market-rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25 + 1 unit	10
50	50
75	75
90	100

- m. To the extent feasible, developers shall fully integrate the low- and moderate-income units with the market units.
- n. Affordable units shall utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
- o. The first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.
- p. The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.

(Ord. #07-37, §3; Ord. #07-31, §3; Ord. #08-01, §2; Ord. #10-09, §6; Ord. #14-31; Ord. #2016-15 §5)

**Mandatory Set Aside Overlay Ordinance**

**ARTICLE 1901 AFFORDABLE HOUSING SET ASIDE:**

- a. Any multifamily residential development or redevelopment, that will contain five or more dwelling units shall comply with the following:
- b. A minimum of 15 percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for rent. If the calculation of the total number of affordable units required yields a fraction of less than 0.5 then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction greater than 0.5, the obligation shall be rounded up and the additional unit shall be provided.
- c. A minimum of 20 percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for sale. If the calculation of the total number of affordable units required yields a fraction of less than 0.5, then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction of greater than 0.5, the obligation shall be rounded up and the additional unit shall be provided.
- d. The provisions of this Ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more.
- e. At least half of all affordable units shall be affordable to low income households, and the remainder may be affordable to moderate income households. Within rental developments, at least 13 percent of the affordable units shall be affordable to very low-income households, with the very low-income units counted as part of the low-income requirement.

**25-2000.6 Phasing Schedule for Inclusionary Zoning.**

In inclusionary developments the following schedule shall be followed:

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

**25-2000.7 New Construction.**

**A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:**

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of median income). The very low-income units shall be counted as part of the required number of low-income units within the development.
2. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.
3. A maximum of 25 percent of the City's obligation may be met with age restricted units. At least half of all affordable units in the City's plan shall be available to families.
4. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.

5. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

- a. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
- b. At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
- c. At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
- d. The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

6. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

#### B. Accessibility Requirements

The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

1. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- a. An adaptable toilet and bathing facility on the first floor; and
- b. An adaptable kitchen on the first floor; and
- c. An interior accessible route of travel on the first floor; and
- d. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- e. If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, *et seq.*) and the Barrier Free Sub Code, N.J.A.C. 5:23-7, or evidence that Ocean City has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
  - i. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - ii. To this end, the builder of restricted units shall deposit funds within the City of Ocean City's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

- iii. The funds deposited under paragraph 6) b) above shall be used by the City of Ocean City for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
- iv. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the City of Ocean City for the conversion of adaptable to accessible entrances.
- v. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the City's Affordable Housing Trust Fund in care of the City Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
- vi. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

C. Design:

- 1. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- 2. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

- 1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
- 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
- 3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.
- 4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one- and one-half-person household;
  - c. A two-bedroom unit shall be affordable to a three-person household;
  - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
  - e. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
  - a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one- and one-half-person household; and
  - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.

B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program.

**25-2000.9 Occupancy Standards.**

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

A. Provide an occupant for each bedroom;

B. Provide children of different sexes with separate bedrooms;

C. Provide separate bedrooms for parents and children; and

D. Prevent more than two persons from occupying a single bedroom.

**25-2000.10 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Ocean City takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**25-2000.11 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.**

A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

**25-2000.12 Buyer Income Eligibility.**

A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the City Council, and subject to the Court's approval, permit moderate-income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

**25-2000.13 Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

#### **25-2000.14 Capital Improvements to Ownership Units.**

A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

#### **25-2000.15 Control Periods for Restricted Rental Units.**

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Ocean City takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Cape May. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low- or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

1. Sublease or assignment of the lease of the unit;
2. Sale or other voluntary transfer of the ownership of the unit; or
3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

#### **25-2000.16 Rent Restrictions for Rental Units; Leases.**

A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

C. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15 percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

#### 25-2000.17 Tenant Income Eligibility.

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.

Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

2. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35 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;

3. The household is currently in substandard or overcrowded living conditions;

4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or

5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

**25-2000.18 Municipal Housing Liaison.**

A. The City of Ocean City shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Ocean City shall adopt an Ordinance creating the position of Municipal Housing Liaison. Ocean City shall adopt a Resolution appointing a Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Ocean City, including the following responsibilities which may not be contracted out to the Administrative Agent:

1. Serving as Ocean City's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
2. Monitoring the status of all restricted units in Ocean City's Fair Share Plan;
3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and
5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

C. Subject to the approval of the Court, the City of Ocean City shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the City Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

**25-2000.19 Administrative Agent.**

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an

Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

A. Affirmative Marketing:

1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the City of Ocean City and the provisions of N.J.A.C. 5:80-26.15; and
2. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. Household Certification:

1. Soliciting, scheduling, conducting and following up on interviews with interested households;
2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
6. Employing a random selection process as provided in the Affirmative Marketing Plan of the City of Ocean City when referring households for certification to affordable units.

C. Affordability Controls:

1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Cape May County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;
4. Communicating with lenders regarding foreclosures; and
5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Re-rentals:

1. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
2. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
2. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

1. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.13(d)4;
5. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the City Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

**25-2000.20 Affirmative Marketing Requirements.**

A. The City of Ocean City shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the New Jersey State Conference of the NAACP, the Mainland/Pleasantville Mizpah, the Supportive Housing Association, the NAACP Atlantic City and Cape May Branch, FSHC and the Latino Action Network of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 6 and is required to be followed throughout the period of restriction.

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 6, comprised of Cape May, Cape May, Cumberland and Salem Counties.

D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the City of Ocean City shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.

I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

25-2000.21 Enforcement of Affordable Housing Regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:
  - a. A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense. In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the City of Ocean City Affordable Housing Trust Fund of the gross amount of rent illegally collected;
  - b. In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
  - a. The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such

deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- c. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- e. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- f. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

#### 25-2000.22 Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

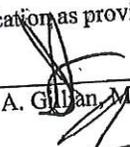
#### SECTION 2:

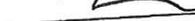
All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

#### SECTION 3:

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4:**  
This Ordinance shall take effect upon passage and publication as provided by law.

  
\_\_\_\_\_  
Jay A. Gillan, Mayor

  
\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the 29<sup>th</sup> day of November, 2018, and was taken up for a second reading and final passage at a meeting of said Council held on the 13<sup>th</sup> day of December, 2018, in Council Chambers at City Hall, Ocean City, New Jersey, at seven o'clock in the evening.

  
\_\_\_\_\_  
Melissa Rasner, City Clerk



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CITY OF OCEAN CITY  
ORDINANCE NO. 18-21  
Master Plan Consistency Report

Introduction.

Ordinance 18-21 "An Ordinance Amending and Supplementing Chapter XXV, Zoning and Land Development of the Revised General Ordinances of the City of Ocean City, New Jersey (**Affordable Housing**)" will be introduced and adopted on first reading by City Council on November 29, 2018, and will be advertised according to law and scheduled for second reading and public hearing on December 13, 2018.

The "Municipal Land Use Law" provides the Planning Board with thirty-five (35) days from the referral date to prepare, review, adopt and transmit their consistency report regarding Ordinance 18-21 to City Council. N.J.S.A. 40:55D-26 describes the Planning Board's responsibility regarding the master plan consistency review as follows:

*"... the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning those inconsistencies and any other matters as the board deems appropriate."*

The statute requires that every zoning ordinance must "either be substantially consistent with the land use plan element and the housing plan element of the master plan, or designed to effectuate such plan element." N.J.S.A. 40:55D-62a.

While formerly only zoning ordinances and amendments thereto were required to be submitted to the planning board, it is now clear from the wording in N.J.S.A. 40:55D-26 that all "development regulations" must be referred to the planning board for comment and report. The statute requires that every zoning ordinance must "either be substantially consistent with the land use plan and housing plan of the master plan, or designed to effectuate such plan elements." The "Master Plan" referred to herein is the City of Ocean City Master Plan adopted February 3, 1988, and as subsequently amended.

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Ordinance Summary.

Ordinance 18-21 is part of Ocean City's affordable housing strategy and is required by the Settlement Agreement<sup>1</sup>, and is being adopted expressly for the purpose of assisting the City of Ocean City in meeting its affordable housing obligation.

Article 2000 of the Ocean City Zoning and Land Development Ordinance is being replaced by Ordinance 18-21 to include provisions addressing the City's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with NJAC 5:93-1, et seq., as amended and supplemented, NJAC 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 created with controls on affordability and that low- and moderate-income households shall occupy those units.

Analysis and Conclusion.

As noted above the Planning Board's responsibility in terms of the master plan consistency review is to evaluate the ordinance with regard to the land use plan and housing plan; identify any provisions in the ordinance which are inconsistent with the Master Plan; and make recommendations concerning those inconsistencies and any other matters as the Board deems appropriate.

In defining "substantial consistency" the Supreme Court in *Manalapan Realty v. Township Committee* made it clear that some inconsistency is permitted "provided it does not substantially or materially undermine or distort the basic provisions and objectives of the Master Plan." The "Municipal Land Use Law" does not define the term *inconsistent*.

The following Master Plan Goals and Objectives are relevant to Ordinance 18-21:

- To support the upgrading of substandard housing, increase the diversity of housing choices, housing affordability and year-round population; and maintain and enhance existing residential areas as the foundation of a desirable and vibrant family resort community.
- To encourage municipal actions which will guide the long range appropriate use and development of lands within the City of Ocean City in a manner which will promote the public health, safety, and general welfare of present and future residents.

<sup>1</sup> Settlement Agreement between the City and the Fair Share Housing Center, July 18, 2018

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- *To encourage coordination of the numerous regulations and activities which influence land development with a goal of producing efficient uses of land with appropriate development types and scale.*
- *To promote the establishment of appropriate population densities in locations that will contribute to the well-being of persons, neighborhoods and preservation of the environment.*

Having considered Ordinance 18-21, the Municipal Land Use Law and the Master Plan, it is my professional opinion that Ordinance 18-21 is consistent with the City Master Plan since it is designed to effectuate the Housing Plan element and will advance the Master Plan Goals and Objectives cited herein.

Respectively submitted,



Randall E. Scheule, PP/AICP

New Jersey Professional Planner License No. LI003666

November 28, 2018

ORDINANCE NO. 18 - 21

AN ORDINANCE REPLACING THE ENTIRE CONTENTS OF THE EXISTING FAIR SHARE ORDINANCE OF THE REVISED ORDINANCES OF OCEAN CITY, CAPE MAY COUNTY, NEW JERSEY (ARTICLE 2000 OF THE OCEAN CITY ZONING AND LAND DEVELOPMENT ORDINANCE) TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE CITY'S AFFORDABLE HOUSING OBLIGATIONS AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

("Affordable Housing Ordinance")

BE IT ORDAINED by the Council of the City of Ocean City, County of Cape May and State of New Jersey, that Article 2000 of the Ocean City Zoning and Land Development Ordinance is hereby deleted, replaced and superseded hereby to include provisions addressing Ocean City'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 created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Ocean City Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The 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.

On the first anniversary of the entry of the Order granting Ocean City a Final Judgment of Compliance and Repose in IMO Application of the City of Ocean City, Docket No. CPM-L-305-15 and every anniversary thereafter through the end of the Repose period, the City shall provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

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On the first anniversary of the entry of the Order granting Ocean City a Final Judgment of Compliance and Repose in IMO Application of the City of Ocean City, Docket No. CPM-L-305-15 and every anniversary thereafter through the end of the Repose period, the City shall provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website, with copies 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 Court-appointed Special Master and Fair Share Housing Center.

For the midpoint realistic opportunity review due on July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the City shall post on its municipal website, with copies provided to Fair Share Housing Center, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall invite any interested party to submit comments to the municipality, with copies provided to Fair Share Housing Center, regarding whether any sites no longer present a realistic opportunity and should be replaced. Any interested party may by motion request a hearing before the Court regarding these issues.

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 the entry of the Order granting Ocean City a Final Judgment of Compliance and Repose in IMO Application of the City of Ocean City, Docket No. CPM-L-305-15, and every third year thereafter, the City will post on its municipal website, with copies 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, with copies provided to Fair Share Housing Center, on the issue of whether the municipality has complied with its very low-income housing obligation.

**SECTION I:**

**25-2000.1 Purpose.**

The purpose of this ordinance is to provide for and regulate affordable housing in the City.

**25-2000.2 Definitions.**

The following terms when used in this Ordinance shall have the meanings given in this Section:

**ACT**

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

**ADAPTABLE**

Constructed in compliance with the technical design standards of the Barrier Free Sub code, N.J.A.C. 5:23-7.

**ADMINISTRATIVE AGENT**

Ordinance 18-21

Master Plan Consistency Report

The entity designated by the City to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

**AFFIRMATIVE MARKETING**

A regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

**AFFORDABILITY AVERAGE**

The average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

**AFFORDABLE**

A sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

**AFFORDABLE HOUSING DEVELOPMENT**

A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the City's fair share obligation, and includes, but is not limited to, rehabilitation, a Market Affordable Program and a municipal construction project or a 100 percent affordable housing development.

**AFFORDABLE HOUSING PROGRAM(S)**

Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

**AFFORDABLE UNIT**

A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

**AGENCY**

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

**AGE-RESTRICTED UNIT**

A housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as "housing for older persons" as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

**ALTERNATIVE LIVING ARRANGEMENTS**

A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

**ASSISTED LIVING RESIDENCE**

A facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

**CERTIFIED HOUSEHOLD**

A household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

**COAH**

The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

**DCA**

The State of New Jersey Department of Community Affairs.

**DEFICIENT HOUSING UNIT**

A housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

**DEVELOPER**

Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

**DEVELOPMENT**

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

**INCLUSIONARY DEVELOPMENT**

A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

**LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

**LOW-INCOME UNIT**

A restricted unit that is affordable to a low-income household.

**MAJOR SYSTEM**

The primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

**MARKET-RATE UNITS**

Housing not restricted to low- and moderate-income households that may sell or rent at any price.

**MEDIAN INCOME**

The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

**MODERATE-INCOME HOUSEHOLD**

A household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

**MODERATE-INCOME UNIT**

A restricted unit that is affordable to a moderate-income household.

**MULTIFAMILY UNIT**

A structure containing five or more dwelling units.

**NON-EXEMPT SALE**

Any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

**RANDOM SELECTION PROCESS**

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A process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

**REGIONAL ASSET LIMIT**

The maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

**REHABILITATION**

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

**RENT**

The gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

**RESTRICTED UNIT**

A dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

**UHAC**

The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

**VERY LOW-INCOME HOUSEHOLD**

A household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

**VERY LOW-INCOME UNIT**

A restricted unit that is affordable to a very low-income household.

**WEATHERIZATION**

Building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

**25-2000.3 Applicability.**

The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the City of Ocean City pursuant to the City's most recently adopted Housing Element and Fair Share Plan.

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**25-2000.4 Alternative Living Arrangements.**

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
1. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court.
  2. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
- C. Unless otherwise specified by agreement or ordinance the service provider operating the alternative living arrangement shall be the administrative agent for the alternative living arrangement.

**25-2000.5 Zoning**

Ocean City is constitutionally obligated to provide a realistic opportunity to comply with its affordable housing obligation. Creating two new affordable housing zones creates a realistic opportunity for the construction of affordable housing. The zones shall be as follows:

**Inclusionary R-2 Zone Districts Assemblage Incentive Overlay Zone**

**25-204.2 Non-Discrete Residential Two-Family Zones.**

R-2-30, R-2-40, R-2-50, R-2-60. (Ord. #00-05, §3; Ord. #00-06, §4; Ord. #02-19)

**25-204.2.1 Purpose.**

The Non-Discrete Residential Two-Family Zones established in subsection 25-201.1.1 of this Ordinance are intended to provide and maintain residential areas for detached two (2) family dwellings in those areas in Ocean City where this type of housing has either traditionally developed or is currently the predominant land use type. (Ord. #02-19) In an effort to increase housing diversity and provide realistic opportunities for affordable housing, development of two-family and multi-family at increased densities will be permitted in accord with Section 25-204.26.

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**25-204.2.2 Permitted Uses.**

- a. ~~One (1) family dwellings;~~
- b. ~~Two (2) family dwellings;~~
- c. Two (2) family dwellings subject to Inclusionary Incentive Overlay Zone pursuant to §25-204.26;
- d. Multi-family dwellings subject to Inclusionary Incentive Overlay Zone pursuant to §25-204.26;
- e. Essential services.

(Ord. #02-19)

**25-204.2.3 Conditional Uses. [NO CHANGE TO THIS SECTION]**

**25-204.2.4 Permitted Accessory Uses. [NO CHANGE TO THIS SECTION]**

**25-204.2.5 Bulk Requirements. [NO CHANGE TO THIS SECTION]**

**25-204.2.6 Rear Yard. [NO CHANGE TO THIS SECTION]**

**NEW SECTION**

**25-204.26**

**Inclusionary Incentive Overlay Zone**

**25-204.26.1 Purpose.**

The Inclusionary Incentive Overlay Zone is intended to increase the diversity of housing and provide realistic opportunities for affordable housing as defined at NJAC 5:97-1.4. Development of two-family dwellings and multi-family dwellings in accord with this ordinance are required to set aside a percentage of the total dwelling units as affordable units. Incentives to utilize the Inclusionary Incentive Overlay Zone include increased density and building height.

**25-204.26.2 Bulk Requirements.**

**Inclusionary Incentive Overlay Zone—Schedule of District Regulations**

Minimum Tract Size	Minimum Yard Requirements (Feet)			Min. Lot Depth (Feet) (4)	Maximum Building Height		Maximum Density (dwelling units per acre)	Maximum Building Coverage (percent)	Maximum Impervious Coverage (percent)
	Front (1)	Rear (2)	Side (3)		Flat Pitched Roof	Habitable Stories			
25% of a Block	Schedule B	20% of lot depth	Schedule C	100	29 FT 34 FT	3	30	60	90

**NOTES TO SCHEDULE—**

- (1) In all zone districts, the minimum front yard setback shall be as indicated on Schedule B, "Schedule of Front Yard Setback Depths by Street." Where development is proposed on lots adjacent to a street not listed on Schedule B, the front yard shall be the average setback of the adjacent buildings on the entire block, as determined from a certified survey provided by the applicant/owner.
- (2) For lagoon-front, bay-front and oceanfront lots, the front yard shall be the street side and the rear yard shall be the waterside of the lot.
- (3) On corner lots, the minimum side yard setback shall be provided for the interior side yard and the larger setback shall be provided for the side yard adjoining the street.
- (4) The minimum required lot depth indicated shall be provided, except that lots existing at the time of adoption of this Ordinance with less than the required depth shall be deemed to be conforming for purposes of lot depth.

SCHEDULE B—Schedule of Front Yard Setback Depths by Street (Section 25-209.2)  
 SCHEDULE C—Schedule of Side Yard Setbacks (Section 25-209.3)

**\*Editor's Note:** Schedules B and C referred to herein may be found in Section 25-209.

**25-204.26.3 Maximum Affordable Housing Set-aside**

- a. **Sale Units** - The maximum affordable housing set-aside applied to sale units is twenty (20) percent of the total number of units in the development.
- b. **Rental Units** - The maximum affordable housing set-aside applied to rental units is fifteen (15) percent of the total number of units in the development.

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**25-204.26.4 Construction of Affordable Housing Units**

Developers shall construct the affordable units required by this ordinance as follows:

- a. On the subject site;
- b. Elsewhere in the municipality as approved by the Planning Board or Zoning Board of Adjustment;
- c. Payment in lieu of construction providing the whole or fractional affordable units required, subject to the following:
  - (1) Payments in lieu of constructing affordable units may represent fractional affordable units. The affordable housing requirement shall not be rounded.
  - (2) The zoning ordinance may include specific criteria to be met for a development to be eligible to provide a payment in lieu. Examples of such criteria include, but are not limited to, minimum development size thresholds or environmental or site configuration concerns. Once criteria are established by ordinance, exercising the option shall be at the developer's discretion.
  - (3) The amount of payments in lieu of constructing affordable units on site shall be \$182,859.
  - (4) Payments in lieu of constructing affordable units shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.4 and subject to the provisions thereof.
  - (5) Payments in lieu of constructing affordable housing shall not be permitted where affordable housing is not required. Zoning that does not require an affordable housing set-aside or permit a corresponding payment in lieu may be subject to a development fee ordinance pursuant to N.J.A.C. 5:97-8.3.
- d. Affordable housing units shall be built in accordance with the following schedule:

Percentage of Market-rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25 + 1 unit	10
50	50
75	75
90	10

- e. To the extent feasible, developers shall fully integrate the low- and moderate-income units with the market units.
- f. Affordable units shall utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
- g. The first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.
- h. The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.

**Inclusionary Housing Option in Business Zone Districts**

**25-208.2.5 Residential Dwelling Units.**

**Editor's Note:** Former subsection 25-208.2.5, Hotels and Motels, previously codified herein and containing portions of Ordinance No. 06-33, was repealed in its entirety by Ordinance No. 07-37.

Residential dwelling units may be permitted as a conditional use within those zones specified, subject to the following:

- a. Residential dwelling units shall not occupy any part of the first (grade-level) floor of any building, except where specifically permitted by this Ordinance.
- b. Eating establishments including but not limited to cafes, coffee shops, luncheonettes, pizzerias, restaurants and snack shops, candy, nut, confectionery stores, and bakeries shall not be prohibited or limited at any time or by any means including, but not limited to conditions contained within a master deed, deed restriction, Certificate of Occupancy, Mercantile License, Certificate of Zoning Compliance or other instrument. This requirement shall be memorialized in the decision and resolution approving the site plan and shall be promptly recorded thereafter.
- c. *Density.* The maximum permitted Base density, Inclusionary density, Inclusionary Building Height and Habitable Stories within the Neighborhood Business Zone and 34th Street Gateway Zone shall be as follows:

<i>Lot Area</i>	<i>Base Density</i>	<i>Inclusionary Density (Dwelling Units/Acre)<sup>2</sup></i>	<i>Maximum Inclusionary Building Height, Habitable Stories</i>
Up to 3,999 sf	1 dwelling unit	NA	NA
4,000 sf and greater	1 dwelling unit/each 2,000 sf of lot area	16	34 FT 3

- d. *Density in the Central Business (CB) Zone, Central Business-1 (CB-1 Zone) and Drive-in Business (DB) Zone.* The maximum permitted Base density, Inclusionary density, Inclusionary Building Height and Habitable Stories in the Central Business (CB) Zone, Central Business-1 (CB-1) Zone and Drive-in Business (DB) Zone shall be as follows:

2 Development utilizing the Inclusionary Density shall comply with Section 25-208.2.5f.

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Zone District	Base Density (Dwelling Units/Acre)	Inclusionary Density (Dwelling Units/Acre) <sup>3</sup>	Maximum Inclusionary Building Height, Habitable Stories
Central Business (CB)	30	40	40 FT 4
Central Business (CB-1)	30 33 (West Avenue only)	40	40 FT 4
Drive-in Business (DB)	30	40	40 FT 4

e. Off-street parking spaces shall be provided as required by the Residential Site Improvement Standards (NJAC 5:21 et seq.).

(6) Inclusionary Housing Requirements.

a. **Maximum Affordable Housing Set-aside**

- i. Sale Units - The maximum affordable housing set-aside applied to sale units is twenty (20) percent of the total number of units in the development.
- ii. Rental Units - The maximum affordable housing set-aside applied to rental units is fifteen (15) percent of the total number of units in the development.

b. **Construction of Affordable Housing Units**

Developers shall construct the affordable units required by this ordinance as follows:

- i. On the subject site;
- j. Elsewhere in the municipality as approved by the Planning Board or Zoning Board of Adjustment;
- k. Payment in lieu of construction providing the whole or fractional affordable units required, subject to the following:
  - a. Payments in lieu of constructing affordable units may represent fractional affordable units. The affordable housing requirement shall not be rounded.
  - b. The zoning ordinance may include specific criteria to be met for a development to be eligible to provide a payment in lieu. Examples of such criteria include, but are not limited to, minimum development size thresholds or environmental or site configuration concerns. Once criteria are established by ordinance, exercising the option shall be at the developer's discretion.

<sup>3</sup> Development utilizing the Inclusionary Density shall comply with Section 25-208.2.5f.

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- c. The amount of payments in lieu of constructing affordable units on site shall be \$182,859.
- d. Payments in lieu of constructing affordable units shall be deposited into an affordable housing trust fund pursuant to N.J.A.C. 5:97-8.4 and subject to the provisions thereof.
- e. Payments in lieu of constructing affordable housing shall not be permitted where affordable housing is not required. Zoning that does not require an affordable housing set-aside or permit a corresponding payment in lieu may be subject to a development fee ordinance pursuant to N.J.A.C. 5:97-8.3.
- l. Affordable housing units shall be built in accordance with the following schedule:

Percentage of Market-rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25 + 1 unit	10
50	50
75	75
90	10

- m. To the extent feasible, developers shall fully integrate the low- and moderate-income units with the market units.
- n. Affordable units shall utilize the same heating source as market-rate units within the inclusionary development and have access to all community amenities available to market-rate units and subsidized in whole by association fees.
- o. The first floor of all townhouse dwelling units and all other multistory dwelling units comply with N.J.A.C. 5:97-3.14.
- p. The affordable units shall comply with N.J.A.C. 5:97-9 and UHAC.

(Ord. #07-37, §3; Ord. #07-31, §3; Ord. #08-01, §2; Ord. #10-09, §6; Ord. #14-31; Ord. #2016-15 §5)

**Mandatory Set Aside Overlay Ordinance**

**ARTICLE 1901 AFFORDABLE HOUSING SET ASIDE**

- a. Any multifamily residential development or redevelopment, that will contain five or more dwelling units shall comply with the following:

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- b. A minimum of 15 percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for rent. If the calculation of the total number of affordable units required yields a fraction of less than 0.5 then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction greater than 0.5, the obligation shall be rounded up and the additional unit shall be provided.
- c. A minimum of 20 percent of the total number of units shall be set aside as affordable housing units if the affordable units will be for sale. If the calculation of the total number of affordable units required yields a fraction of less than 0.5, then either a pro-rated payment in lieu or one additional unit shall be provided. If the calculation of the total number of affordable units required yields a fraction of greater than 0.5, the obligation shall be rounded up and the additional unit shall be provided.
- d. The provisions of this Ordinance shall not apply to residential expansions, additions, renovations, replacement, or any other type of residential development that does not result in a net increase in the number of dwellings of five or more.
- e. At least half of all affordable units shall be affordable to low income households, and the remainder may be affordable to moderate income households. Within rental developments, at least 13 percent of the affordable units shall be affordable to very low-income households, with the very low-income units counted as part of the low-income requirement.

**25-2000.6 Phasing Schedule for Inclusionary Zoning.**

In inclusionary developments the following schedule shall be followed:

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

**25-2000.7 New Construction.**

**A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:**

- 1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low-income unit. At least 13 percent of all restricted rental units shall be very low-income units (affordable to a household earning 30 percent or less of median income). The very low-

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income units shall be counted as part of the required number of low-income units within the development.

2. At least 25 percent of the obligation shall be met through rental units, including at least half in rental units available to families.

3. A maximum of 25 percent of the City's obligation may be met with age restricted units. At least half of all affordable units in the City's plan shall be available to families.

4. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.

5. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

- a. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
- b. At least 30 percent of all low- and moderate-income units shall be two-bedroom units;
- c. At least 20 percent of all low- and moderate-income units shall be three-bedroom units; and
- d. The remaining units may be allocated among two- and three-bedroom units at the discretion of the developer.

6. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

**B. Accessibility Requirements**

The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

1. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- a. An adaptable toilet and bathing facility on the first floor; and
- b. An adaptable kitchen on the first floor; and
- c. An interior accessible route of travel on the first floor; and

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- d. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- e. If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and
- f. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-31<sup>1a</sup>; et seq.) and the Barrier Free Sub Code, N.J.A.C. 5:23-7, or evidence that Ocean City has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
- i. Where a unit has been constructed with an adaptable entrance, upon the request of a person with disabilities who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
  - ii. To this end, the builder of restricted units shall deposit funds within the City of Ocean City's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
  - iii. The funds deposited under paragraph 6) b) above shall be used by the City of Ocean City for the sole purpose of making the adaptable entrance of an affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
  - iv. The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the City of Ocean City for the conversion of adaptable to accessible entrances.
  - v. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the City's Affordable Housing Trust Fund in care of the City Chief Financial Officer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.
  - vi. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

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C. Design:

1. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
2. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. Maximum Rents and Sales Prices:

1. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the regional income limits established by COAH or a successor entity.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, earning 30 percent or less of the regional median household income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
5. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
  - a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one- and one-half-person household;
  - c. A two-bedroom unit shall be affordable to a three-person household;

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- d. A three-bedroom unit shall be affordable to a four and one-half person household;  
and
  - e. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
- a. A studio shall be affordable to a one-person household;
  - b. A one-bedroom unit shall be affordable to a one- and one-half-person household;  
and
  - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

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**25-2000.8 Utilities.**

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for its Section 8 program.

**25-2000.9 Occupancy Standards.**

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two persons from occupying a single bedroom.

**25-2000.10 Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Ocean City takes action to release the unit from such requirements; prior to such action, a restricted ownership unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and

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the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

- E. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- F. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

**25-2000.11 Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.**

A. Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

**25-2000.12 Buyer Income Eligibility.**

A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

B. Notwithstanding the foregoing, however, the Administrative Agent may, upon approval by the City Council, and subject to the Court's approval, permit moderate-

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income purchasers to buy low-income units in housing markets if the Administrative Agent determines that there is an insufficient number of eligible low-income purchasers to permit prompt occupancy of the units. All such low-income units to be sold to moderate-income households shall retain the required pricing and pricing restrictions for low-income units.

C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.

D. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.

**25-2000.13 Limitations on Indebtedness Secured by Ownership Unit; Subordination.**

A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

**25-2000.14 Capital Improvements to Ownership Units.**

A. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that adds an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the

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time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

**25-2000.15 Control Periods for Restricted Rental Units.**

A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Ocean City takes action to release the unit from such requirements. Prior to such action, a restricted rental unit shall remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

B. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Cape May. The deed shall also identify each affordable unit by apartment number and/or address and whether that unit is designated as a very low, low- or moderate-income unit. Neither the unit nor its affordability designation shall change throughout the term of the deed restriction. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

C. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

1. Sublease or assignment of the lease of the unit;
2. Sale or other voluntary transfer of the ownership of the unit; or
3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

**25-2000.16 Rent Restrictions for Rental Units; Leases.**

A. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease.

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A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.

B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.

C. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15 percent of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

**25-2000.17 Tenant Income Eligibility.**

A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:

1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.

Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.

2. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.

B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35 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;

3. The household is currently in substandard or overcrowded living conditions;
4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
5. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

C. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

**25-2000.18 Municipal Housing Liaison.**

A. The City of Ocean City shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for administering the affordable housing program, including affordability controls, the Affirmative Marketing Plan, monitoring and reporting, and, where applicable, supervising any contracted Administrative Agent. Ocean City shall adopt an Ordinance creating the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

B. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Ocean City, including the following responsibilities which may not be contracted out to the Administrative Agent:

1. Serving as Ocean City's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
2. Monitoring the status of all restricted units in Ocean City's Fair Share Plan;
3. Compiling, verifying and submitting annual monitoring reports as may be required by the Court;
4. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

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5. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

- C. Subject to the approval of the Court, the City of Ocean City shall designate one or more Administrative Agent(s) to administer newly constructed affordable units in accordance with UHAC. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the City Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the contracting Administrative Agent(s).

**25-2000.19 Administrative Agent.**

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

**A. Affirmative Marketing:**

1. Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the City of Ocean City and the provisions of N.J.A.C. 5:80-26.15; and
2. Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

**B. Household Certification:**

1. Soliciting, scheduling, conducting and following up on interviews with interested households;
2. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
3. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

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4. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

5. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and

6. Employing a random selection process as provided in the Affirmative Marketing Plan of the City of Ocean City when referring households for certification to affordable units.

C. Affordability Controls:

1. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

2. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

3. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Cape May County Register of Deeds or County Clerk's office after the termination of the affordability controls for each restricted unit;

4. Communicating with lenders regarding foreclosures; and

5. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Re-rentals:

1. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and

2. Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

1. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their

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ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;

2. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
3. Notifying the municipality of an owner's intent to sell a restricted unit; and
4. Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

1. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
2. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
3. The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
4. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
5. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
6. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the City Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

1. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

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2. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet any monitoring requirements and deadlines imposed by the Court.
3. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

**25-2000.20 Affirmative Marketing Requirements.**

A. The City of Ocean City shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

B. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. In addition, as a result of the Settlement Agreement with FSHC, the Affirmative Marketing Plan shall require the notification of the New Jersey State Conference of the NAACP, the Mainland/Pleasantville Mizpah, the Supportive Housing Association, the NAACP Atlantic City and Cape May Branch, FSHC and the Latino Action Network of affordable housing opportunities. It is a continuing program that directs marketing activities toward Housing Region 6 and is required to be followed throughout the period of restriction.

C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 6, comprised of Cape May, Cape May, Cumberland and Salem Counties.

D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the City of Ocean City shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

E. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan,

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the Administrative Agent shall consider the use of language translations where appropriate.

G. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

H. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Pre-applications shall be emailed or mailed to prospective applicants upon request.

I. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

**25-2000.21 Enforcement of Affordable Housing Regulations.**

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

a. A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense. In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the City of Ocean City Affordable Housing Trust Fund of the gross amount of rent illegally collected;

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- b. In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.
2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.
  - a. The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
  - b. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
  - c. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

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- d. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- e. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- f. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

**25-2000.22 Appeals.**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

**SECTION 2:**

All Ordinances or parts of Ordinances inconsistent therewith are repealed as to such inconsistencies.

**SECTION 3:**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4:**

This Ordinance shall take effect upon passage and publication as provided by law.

Ordinance 18-21  
Master Plan Consistency Report

\_\_\_\_\_  
Jay A. Gillian, Mayor

\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2018, and was taken up for a second reading and final passage at a meeting of said Council held on the \_\_ day of \_\_\_\_\_, 2018, in Council Chambers, City Hall, Ocean City, New Jersey, at seven o'clock in the evening.

\_\_\_\_\_  
Melissa G. Rasner, City Clerk

**GARY R. GRIFFITH, ESQUIRE**  
**GRIFFITH and CARLUCCI, P.C.**  
801 Asbury Avenue - Suite 200  
Ocean City, New Jersey 08226  
(609) 399-6900  
Attorneys for the Ocean City Planning Board

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**OCEAN CITY PLANNING BOARD**

**RESOLUTION**

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1. As required by the Municipal Land Use Law, N.J.S. 40:55D-1 *et seq.*, City Council for the City of Ocean City through the City Clerk for the City of Ocean City has requested that the Ocean City Planning Board review Ordinance No. 18-21 for consistency with the Ocean City Master Plan.

2. On December 12, 2018, the Ocean City Planning Board reviewed Ordinance No. 18-21 for consistency with the Ocean City Master Plan and considered the Ordinance No. 18-21 Master Plan Consistency Report ["Ordinance No. 18-21 Master Plan Consistency Report"] a true copy of which is attached hereto as Exhibit "A" and conducted a public hearing thereon. Randall E. Scheule, P.P. & A.I.C.P. ["Planner"] prepared the Ordinance No. 18-21 Master Plan Consistency Report on November 28,

2018 and was present at the public hearing on December 12, 2018. The Planner presented the Ordinance No. 18-21 Master Plan Consistency Report to the Ocean City Planning Board. All of the provisions of the Ordinance No. 18-21 Master Plan Consistency Report are incorporated by this reference as if specifically set forth herein at

length. During his presentation, Mr. Scheule reviewed Ordinance No. 18-21 and the Ordinance No.18-21 Master Plan Consistency Report with the Ocean City Planning Board. Thereafter, Mr. Scheule addressed questions from Ocean City Planning Board members in respect of Ordinance No. 18-21 and the Ordinance No.18-21 Master Plan Consistency Report.

3. No member of the public testified or offered comments at the time of public hearing on the Ordinance No.18-21 Master Plan Consistency Report on December 12, 2018.

**NOW, THEREFORE, BE IT RESOLVED** by the Ocean City Planning Board on December 12, 2018 that the Ordinance No.18-21 Master Plan Consistency Report attached hereto as Exhibit "A" is **APPROVED AND ADOPTED** and, shall be **REFERRED** to the City Council for the City of Ocean City for legal action with the following comments and recommendations:

1. For all of the reasons delineated in the Ordinance No.18-21 Master Plan Consistency Report, Ordinance No. 18-21 is consistent with the Ocean City Master Plan.

This Resolution for approval, adoption, and referral was adopted on motion made by Ocean City Planning Board Member Bekier and seconded by Ocean City Planning Board Member Adams on December 12, 2018 ["Bekier Motion"]. The vote on the Bekier Motion was seven (7) in favor of and zero (0) against with Ocean City Planning Board Members Allegretto, Bekier, Jessel, Sheppard, Adams, Vanderschuere, and Loeper all voting in the affirmative.

OCEAN CITY PLANNING BOARD

  
\_\_\_\_\_  
JOHN LOEPER,  
CHAIRPERSON

Dated: December 12, 2018

CERTIFICATION

I, JAIME M. FELKER, Secretary to the Ocean City Planning Board, do hereby certify that the foregoing Resolution was duly adopted at the meeting of the Ocean City Planning Board held on December 12, 2018 and memorialized herein pursuant to N.J.S. 40:55D-10 g. (2) on December 12, 2018.

  
\_\_\_\_\_  
JAIME M. FELKER,  
Secretary, Ocean City Planning Board

EXHIBIT R

# Affordable Housing Trust Fund Spending Plan

## Ocean City Cape May County Amended February 2019

### INTRODUCTION

Ocean City, Cape May County, has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:93-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on 3/10/1998 and adopted by the municipality on 9/21/1999. The ordinance establishes Ocean City's affordable housing trust fund for which this spending plan is prepared.

As of December 31, 2018, Ocean City has collected \$8,053,380.30, expended \$2,677,813.47, resulting in a balance of \$5,375,566.83. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in TD Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

Ocean City first petitioned COAH for substantive certification on 11/14/1997 and received prior approval to maintain an affordable housing trust fund on 3/10/1998.

### **1. REVENUES FOR CERTIFICATION PERIOD**

To calculate a projection of revenue anticipated during the period of Third Round Compliance, Ocean City considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL): Payments in lieu have not been nor are they anticipated to be collected or assessed.

(c) Other funding sources: The Ocean City Housing Authority (OCHA) will repay Ocean City

money that is owed for the rehabilitation at Peck's Beach Village North after Super Storm Sandy at the rate of \$5,000 a month.

In addition to the \$60,000 this year, the OCHA is also repaying \$50,000 to the Ocean City trust account for the borrowed money.

(d) Projected interest: Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate of 1% is projected to total \$37,374.

SOURCE OF FUNDS	2019	2020	2021	2022	2023	2024	2025	Total
(a) Development fees:								
1. Approved Development								
2. Development Pending Approval								
3. Projected Development	500,000	500,000	500,000	500,000	500,000	500,000	500,000	3,500,000
(b) Payments in Lieu of Construction								
(c) Other Funds (Specify source(s)) OCHA Repayment	110,000	60,000	60,000	7,434				237,434
(d) Interest-1%	6,100	5,600	5,600	5,074	5,000	5,000	5,000	37,374
<b>Total</b>	<b>616,100</b>	<b>565,600</b>	<b>565,600</b>	<b>512,508</b>	<b>505,000</b>	<b>505,000</b>	<b>505,000</b>	<b>3,774,808</b>

Ocean City projects a total of \$3,774,808 in revenue to be collected between January 1, 2019 and December 31, 2025. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

## 2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

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

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

Collection of development fee revenues shall be consistent with Ocean City's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and

32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The governing body shall adopt a resolution authorizing the expenditure of development fee revenues consistent with the Court-approved spending plan. Once a request has been approved by resolution, the CFO shall release the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

**3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**

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

Ocean City will dedicate \$5,519,308.663 funds for rehabilitation and new construction programs (see detailed descriptions in the Fair Share Plan) as follows:

Rehabilitation program: \$2,750,000 for 61 rental units at Bayview Manor

New construction project(s):

Market To Affordable Program: \$350,000 (3 units)

Municipal 100% Rental Program: \$2,419,308.63 (10 units)

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

*Projected minimum affordability assistance requirement:*

Actual development fees through 12/31/2018		\$6,791,598.26
Actual interest earned through 12/31/2018	+	\$ 265,080.24
Development fees projected 2019-2025	+	\$3,500,000.00
Interest projected 2019-2025	+	\$ 35,000.00
Less housing activity expenditures through 12/31/18	-	-
		1,988,124.51
<b>Total</b>	=	\$8,603,553.99

30 percent requirement	x 0.30 =	\$2,581,066.20
Less Affordability assistance expenditures through 12/31/2018	-	000.000
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2019 through 12/31/2025	=	\$2,581,066.20
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2019 through 12/31/2025	÷ 3 =	\$ 860,355.37

Ocean City will dedicate \$2,581,066.20 from the affordable housing trust fund to render units more affordable, including \$860,355.37 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

\$2,446,066.20 will be allocated to writing down new low income rental units to very low income units.

The sum of \$75,000 of the affordability assistance requirement will be for security deposit assistance for the rental households. The sum of \$60,000 will be for a closing cost/down payment assistance program.

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

Ocean City projects that \$1,278,323.80 will be available from the affordable housing trust fund for administrative purposes. However, Ocean City will only include \$1,050,000 in administrative costs at this time. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

Administrative expenses including salaries and benefits for municipal employees or consultant fees necessary to develop or implement an affordable housing program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, preserving existing affordable housing and compliance with monitoring requirements.

***Projected maximum administrative expenses:***

Actual development fees through 12/31/2018		\$ 6,791,598.26
Actual interest earned through 12/31/2018	+	\$ 265,080.24
Other Funds	+	\$ 996,701.80
Development fees projected 2019-2025	+	\$ 3,500,000.00
Interest projected 2019-2025	+	\$ 37,374.00
OCHA Repayment	+	\$237,434.00
Less housing activity expenditures through 12/31/2018	-	- 1,988,124.51
Less RCA Expenditures through 2018	-	0.00
Total Projected Administration Expenses	x 0.20 =	\$ 1,968,012.76
Less Actual Administrative Expenses through 12/31/2018		\$ 689,688.96
<b>Total Remaining Projected Administration Expenses</b>	=	<b>\$ 1,278,323.80</b>

#### 4. PROJECTED EXPENDITURE

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

Program	Number of Units Projected	PROJECTED EXPENDITURE SCHEDULE 2019-2025							Total
		2019	2020	2021	2022	2023	2024	2025	
Rehabilitation	61	\$920,000	\$1,830,000	0	0	0	0	0	\$2,750,000
Municipal 100% Affordable	10	\$1,209,654.32	\$1,209,654.31						\$2,419,308.63
42A	3	\$175,000	\$175,000	\$					350,000
Total Programs	74								\$5,519,308.63
Affordability Assistance			\$1,100,000		\$800,000	\$781,066.20			2,581,066.20
Administration		\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	150,000	1,050,000
<b>Total</b>	<b>148</b>	<b>\$2,454,654.32</b>	<b>\$4,364,654.31</b>	<b>\$150,000</b>	<b>\$950,000</b>	<b>\$931,066.20</b>	<b>\$150,000</b>	<b>\$150,000</b>	<b>\$9,150,374.83</b>

#### 5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of Ocean City has adopted a resolution agreeing to fund any shortfall of funds required for implementing the rehabilitation program and the municipally sponsored 100 percent affordable housing projects. In the event that a shortfall of anticipated revenues occurs, Ocean City will bond for any shortfall. A copy of the adopted resolution is an Exhibit U in the Fair Share Plan.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to provide assistance to the OCHA projects.

## 6. BARRIER FREE ESCROW

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

### SUMMARY

Ocean City intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97 8.7 through 8.9 and consistent with the housing programs outlined in the Housing Element and Fair Share Plan dated January 2019.

Ocean City has a balance of \$5,375,566.83 as of December 31, 2018 and anticipates an additional \$3,774,808.00 in revenues before the expiration of a Judgment of Compliance and Repose for a total of \$9,150,374.83. The municipality will dedicate \$2,750,000.00 towards its rehabilitation program. Ocean City will dedicate \$2,769,308.63 towards its new rentals and market to affordable program. In addition, Ocean City will dedicate \$2,581,066.20 for affordability assistance. Finally, Ocean City will provide \$1,050,000.00 for administrative costs. Any shortfall of funds will be offset through municipal bonding.

Balance as of December 31, 2018	\$ 5,375,566.83
<b>PROJECTED REVENUE 2019-2025</b>	
Development fees	\$ 3,500,000.00
Payments in lieu of construction	0.00
Other funds – OCHA Repayment	\$ 237,434.00
Interest	\$ 37,374.00
<b>TOTAL REVENUE</b>	<b>\$ 9,150,374.83</b>
<b>EXPENDITURES</b>	
Funds used for Rehabilitation	\$ 2,750,000.00
Funds used for New Construction/M2A	\$ 2,769,308.63
Affordability Assistance	\$ 2,581,066.20
Administration	\$ 1,050,000.00
<b>TOTAL PROJECTED EXPENDITURES</b>	<b>\$9,150,374.83</b>

EXHIBIT S

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY  
**RESOLUTION** 18-54-309

**AUTHORIZING A PROFESSIONAL SERVICES CONTRACT BETWEEN  
THE CITY OF OCEAN CITY & TRIAD ASSOCIATES  
FOR ADMINISTRATIVE AGENT-MARKET TO AFFORDABLE HOUSING SERVICES**

**WHEREAS**, the City of Ocean City requires professional services for Administrative Services to include an exterior conditions survey and the establishment of a Market to Affordable Program as part of its Fair Share Plan; and

**WHEREAS**, TRIAD Associates has the requisite knowledge and experience to provide these services at a reasonable rate; and,

**WHEREAS**, it is determined to be in the best interests of the City of Ocean City to have TRIAD Associates provide these services; and

**WHEREAS**, Joseph S. Clark, QPA, City Purchasing Manager has determined and certified in writing that the value of the contract may exceed \$17,500.00; and

**WHEREAS**, a contract for Professional Services with TRIAD Associates may be entered into without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) & N.J.S.A. 19:44A-20.5; and

**WHEREAS**, TRIAD Associates has agreed to act & provide services as the administrative agent – market to affordable housing services; and

**WHEREAS**, TRIAD Associates will be required to complete and submit a Business Entity Disclosure Certification which certifies in accordance with Section 2-2 of Ocean City's Administrative Code (Pay to Play) that neither it nor its principals has made any contribution to a political or candidate committee for an elected office in the City of Ocean City, NJ in the previous one (1) year period, and that the contract will prohibit TRIAD Associates and its principals making any contributions through the term of the contract; and

**WHEREAS**, TRIAD Associates has been advised that this award does not guarantee that the services described will be required during the contract period and are subject to the actual need as established by the City of Ocean City. As services are required, the City Purchasing Manager shall issue Purchase Orders for those services. No services shall be performed for the City without first obtaining a Purchase Order for said services; and

**WHEREAS**, Dorothy F. McCrosson, Esq. and Joseph S. Clark, QPA Purchasing Manager have reviewed the terms and conditions of the contract and recommend award of a professional service contract to TRIAD Associates for administrative agent-market to affordable services for the City of Ocean City, NJ; and

**WHEREAS**, this contract is awarded through an alternative non-advertised process, pursuant to N.J.S.A. 19:44A-20.4 et seq.; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Ocean City, New Jersey that it does hereby appoint TRIAD Associates, 1301 W. Forest Grove Road, Bldg 3A, Vineland, NJ 08360 as the City's administrative agent – market to affordable housing services provider as follows:

1. Service fees shall be charged & paid as invoiced for as stated in the attached proposal.
2. The term of the contract shall be for a period of one (1) year beginning on September 1, 2018 and continuing through until August 31, 2019.
3. A copy of Business Entity Certification, Determination of Value and the Business Registration Certification (BRC) has been submitted and shall be placed on file in the City's Purchasing Division Office
4. A copy of this Resolution and Contract shall be available for inspection in the Ocean City Clerk's Office and shall be published on one (1) occasion in the Ocean City Sentinel.

**CITY OF OCEAN CITY**  
**CAPE MAY COUNTY, NEW JERSEY**

**RESOLUTION** 18-54-309

**BE IT FURTHER RESOLVED** by the City Council of the City of Ocean City that the Mayor and the City Purchasing Manager are hereby authorized to enter into a formal contract agreement with TRIAD Associates, 1301 W. Forest Grove Road, Bldg 3A, Vineland, NJ 08360 for professional services in accordance with this resolution and submitted proposal.

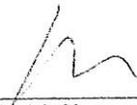
The Director of Financial Management certifies that funds are available for 2018 and shall be charged to the appropriate account as the purchase orders are issued, the funds for year 2019 are contingent upon the adoption of the Local Municipal Budget for 2019 and shall be charged to the appropriate account as the purchase orders are issued. The estimated annual contract amount is \$18,000.00.

**CERTIFICATION OF FUNDS**



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Frank Donato, III, CMFO  
 Director of Financial Management



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Peter V. Madden  
 Council President

Offered by ..... COUNCILMAN BARR ..... Seconded by ..... COUNCILMAN WILSON .....

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the ..... 23 ..... day of ..... AUGUST ..... 2018

NAME	AYE	NAY	ABSENT	ABSTAINED
Barr	X			
Bergman	X			
DeViney	X			
Hartzell	X			
Madden	X			

  
 Melissa G. Rasner, City Clerk

EXHIBIT T

CITY OF OCEAN CITY  
CAPE MAY COUNTY, NEW JERSEY

**RESOLUTION**

18-54-206

**APPOINTING CHRISTINE D. GUNDERSEN AS THE MUNICIPAL HOUSING LIAISON**

WHEREAS, the Governing Body of the City of Ocean City petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan on December 29, 2008; and

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

WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1, et. seq. the City of Ocean City is required to appoint a Municipal Housing Liaison for the administration of the City of Ocean City'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, Chapter 25, Section 2100 of the Revised General Ordinances entitled "Municipal Housing Liaison" provides for the appointment of a Municipal Housing Liaison to administer the City of Ocean City's affordable housing program; and

NOW, THEREFORE BE IT RESOLVED, by the Governing Body of the City of Ocean City in the County of Cape May, and the State of New Jersey that Christine D. Gundersen is hereby appointed by the Governing Body of the City of Ocean City as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Sections 25-2100 of the Revised General Ordinances of the City of Ocean City.

  
Peter V. Madden  
Council President

Offered by ...COUNCILMAN BARR..... Seconded by ...COUNCILMAN DEVLIEGER.....

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the 24TH day of MAY 2018

NAME	AYE	NAY	ABSENT	ABSTAINED
Barr	X			
Bergman	X			
DeVlieger	X			
Hartzell	X			
Madden	X			
McClellan	X			

  
Melissa G. Rasner, City Clerk

EXHIBIT U

RESOLUTION

18-54-321

A RESOLUTION OF THE CITY OF OCEAN CITY REGARDING ANY SHORTFALL ASSOCIATED WITH THE PROVISION OF AFFORDABLE HOUSING AS SET FORTH IN THE CITY'S HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, the City of Ocean City, Cape May County, has petitioned the Superior Court of New Jersey for a Judgment of Compliance and Repeal of its Housing Element and Fair Share Plan; and

WHEREAS, Ocean City anticipates that a portion of the funding will come from developer fees collected and projected and other sources; and

WHEREAS, it is the Court's position that Ocean City must allocate funds for the provision of affordable housing as set forth in the City's Housing Element and Fair Share Plan; and

WHEREAS, in the event and at such time that the above funding sources prove inadequate to complete the affordable housing programs included in Ocean City's Housing Element and Fair Share Plan, Ocean City shall take all appropriate actions to secure and make available sufficient funding from all sources to address any shortfalls.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the City of Ocean City, Cape May County, that the Governing Body does hereby agree to take appropriate actions, consistent with law, to fund any shortfall in its approved affordable housing programs that may arise whether due to inadequate funding from other sources or for any other related reason; and

BE IT FURTHER RESOLVED that any shortfall shall also be funded by bonding if there are no other resources, provided, however, that the City should first utilize all other funding sources available to it, including but not limited to, development fees and other sources.

IT IS HEREBY CERTIFIED that this is a true copy of a resolution amending the budget, adopted by the City Council of the City of Ocean City on the 23rd day of August, 2018.

Peter V. Madden, Council President

Offered by COUNCILMAN BARR Seconded by COUNCILMAN WILSON

The above resolution was duly adopted by the City Council of the City of Ocean City, New Jersey, at a meeting of said Council duly held on the 23 day of AUGUST, 2018.

NAME	AYE	NAY	ABSENT	ABSTAINED
Barr	X			
DeVillier	X			
Hovell	X			
Mitchell	X			
Wilson	X			

Melanie Casner City Clerk

EXHIBIT V

**ORDINANCE NO. 18-22**

**AN ORDINANCE ESTABLISHING RULES, REGULATIONS AND STANDARDS GOVERNING THE ZONING OF LAND WITH THE CITY OF OCEAN CITY, COUNTY OF CAPE MAY, PURSUANT TO THE AUTHORITY SET FORTH AS CHAPTER 55 OF TITLE 40 OF THE REVISED STATUTES AND AMENDMENTS AND SUPPLEMENTS THERETO, SETTING FORTH A DEVELOPMENT FEE TO BE APPLIED BY THE PLANNING BOARD, ZONING BOARD AND THE GOVERNING BODY IN THE DEVELOPMENT OF LAND**

**BE IT ORDAINED** by the Council of the City of Ocean City, County of Cape May and State of New Jersey, that Article 1900 of the Ocean City Zoning and Land Development Ordinance is hereby deleted, replaced and superseded by the following:

**SECTION 1**

**25-1900 AFFORDABLE HOUSING DEVELOPMENT FEES.**

Prior Ordinance history includes portions of Ordinance No. 99-14, -6-30 and 11-28.

**25-1900.1 Title.**

This ordinance shall be known and may be cited as:

**DEVELOPMENT FEE ORDINANCE OF CITY OF OCEAN CITY**

**25-1900.2 Purpose.**

- a. In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b. Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

**25-1900.3 Basic Requirements.**

- a. This ordinance shall not be effective until approved by the Court.
- b. The City of Ocean City shall not spend development fees until the Court has approved a plan for spending such fees.

**25-1900.4 Definitions.**

The following terms, as used in this ordinance, shall have the following meanings:

*Affordable Housing Development* means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

*COAH* or the *Council* means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

*Development Fee* means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

*Developer* means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

*Equalized Assessed Value* means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

*Green Building Strategies* means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community service.

#### **25-1900.5 Residential Development Fees.**

##### *a. Imposed Fees.*

1. Within the City of Ocean City residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one- and one-half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers is required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one- and one-half percent (1.5%) of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

##### *b. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.*

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, developments where the developer has made a payment in lieu of on-site construction of affordable units, nonprofit institutions and other tax-exempt entities shall be exempt from development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall

be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

3. Development fees shall be imposed and collected when an existing structure, other than a detached single-family dwelling, is constructed, demolished and replaced, or expanded (if the expansion is not otherwise exempt from the development fee requirement). The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
4. Existing detached single-family dwellings that are reconstructed, renovated or expanded shall be exempt from development fees.
5. Developers of existing lots that result in the construction of a detached single-family home shall be exempt from paying a development fee provided the single-family home is not the result of a subdivision. If the single-family home is the result of a subdivision, a development fee shall apply to all single-family homes which are a net increase over the number of homes on the site prior to the subdivision.
6. For the demolition of an existing residential structure with a replacement of two or more residential structures, the development fee shall be calculated by subtracting the equalized assessed value at the time of the structure demolition from the equalized assessed value of the new residential replacements.
7. Owner occupied residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying a development fee.

#### 25-1900.6 Non-Residential Development Fees.

##### a. Imposed Fees.

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

##### b. Eligible Exactions, Ineligible Exactions and Exemptions for Non-Residential Development.

1. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
2. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
5. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the City of Ocean City as a lien against the real property of the owner.

**25-1900.7 Collection Procedures.**

- a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g. Should the City of Ocean City fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- h. The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
- i. *Appeal of Development Fees.*

1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the City of Ocean City. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the City of Ocean City. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**25-1900.8 Affordable Housing Trust Fund.**

- a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  1. Payments in lieu of on-site construction of affordable units;
  2. Developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
  3. Rental income from municipally operated units;
  4. Repayments from affordable housing program loans;
  5. Recapture funds;
  6. Proceeds from the sale of affordable units; and
  7. Any other funds collected in connection with the City of Ocean City's affordable housing program.
- c. Within seven days from the opening of the trust fund account, the City of Ocean City provided COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

**25-1900.9 Use of Funds.**

- a. The expenditure of all funds shall conform to a spending plan approved by the Court. Funds deposited in the housing trust fund may be used for any activity approved by the Court to address the City of Ocean City's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and

related costs, accessory apartments, market to affordable, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted by the Court and specified in the approved spending plan.

- b. Funds shall not be expended to reimburse the City of Ocean City for past housing activities.
- c. At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
  1. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowner's association or condominium fees and special assessments, and assistance with emergency repairs.
  2. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
  3. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d. The City of Ocean City may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

#### 25-1900.10 Monitoring.

The City of Ocean City shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, the Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on

site (if permitted by Ordinance or by an Agreement with the City); funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Ocean City's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

#### **25-1900.11 Ongoing Collection of Fees.**

The ability of the City of Ocean City to impose, collect and expend development fees shall expire with its Judgement of Compliance unless the City of Ocean City has filed an adopted Housing Element and Fair Share Plan with the Court or a designated State administrative agency, has petitioned for a Judgement of Compliance from the Court and has received approval of its development fee ordinance. If the City of Ocean City fails to renew its ability to impose and collect development fees prior to the expiration of the Judgement of Compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27B-320). The City of Ocean City shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgement of Compliance, nor shall the City of Ocean City retroactively impose a development fee on such a development. The City of Ocean City shall not expend development fees after the expiration of its Judgement of Compliance.

#### **SECTION 2**

##### **Severability.**

If any portion of this Ordinance is declared to be invalid by a Court of competent jurisdiction, it shall not affect the remaining portions of the Ordinance which shall remain in full force and effect.

#### **SECTION 3**

##### **Repealer.**

All Ordinances or portions thereof inconsistent with this Ordinance are repealed to the extent of such inconsistency.

#### **SECTION 4**

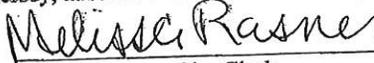
##### **Effective date.**

This Ordinance shall take effect in the time and manner prescribed by law.

  
\_\_\_\_\_  
Jay A. Gillian, Mayor

\_\_\_\_\_  
Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the 29<sup>th</sup> day of November, 2018, and was taken up for a second reading and final passage at a meeting of said Council held on the 13<sup>th</sup> day of December, 2018, in Council Chambers at City Hall, Ocean City, New Jersey, at seven o'clock in the evening.

  
\_\_\_\_\_  
Melissa Rasner, City Clerk

Summary -

The adoption of this ordinance is part of Ocean City's Affordable Housing strategy.

This ordinance replaces and updates existing Article 1900, which is the City's Development Fee Ordinance, and which requires fees to be paid into the City's affordable housing trust fund by developers of certain new construction projects.

The major substantive changes to the existing ordinance are as follow:

- References the Council on Affordable Housing (COAH) are replaced with the Court in recognition of the Court's role in providing oversight over the City's use of fees in its affordable housing trust fund.
- The Residential Development Fee is increased from 1% to 1.5%.
- Owner-occupied residential structures demolished and replaced as a result of fire, flood or other natural disaster are exempted from paying a development fee.
- The monitoring requirements are revised to reflect the monitoring to which the City agreed in the Settlement Agreement between the City and Fair Share Housing Center, approved by City Council on July 12, 2018.

CITY OF OCEAN CITY  
ORDINANCE NO. 18-22  
Master Plan Consistency Report

Introduction.

Ordinance 18-22 "An Ordinance Amending and Supplementing Chapter XXV, Zoning and Land Development of the Revised General Ordinances of the City of Ocean City, New Jersey (Development Fee)" will be introduced and adopted on first reading by City Council on November 29, 2018, and will be advertised according to law and scheduled for second reading and public hearing on December 13, 2018.

The "Municipal Land Use Law" provides the Planning Board with thirty-five (35) days from the referral date to prepare, review, adopt and transmit their consistency report regarding Ordinance 18-22 to City Council. NJSA 40:55D-26 describes the Planning Board's responsibility regarding the master plan consistency review as follows:

*"... the planning board shall make and transmit to the governing body, within 35 days after referral, a report including identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning those inconsistencies and any other matters as the board deems appropriate."*

The statute requires that every zoning ordinance must "either be substantially consistent with the land use plan element and the housing plan element of the master plan, or designed to effectuate such plan element." NJSA 40:55D-62a.

While formerly only zoning ordinances and amendments thereto were required to be submitted to the planning board, it is now clear from the wording in NJSA 40:55D-26 that all "development regulations" must be referred to the planning board for comment and report. The statute requires that every zoning ordinance must "either be substantially consistent with the land use plan and housing plan of the master plan, or designed to effectuate such plan elements." The "Master Plan" referred to herein is the City of Ocean City Master Plan adopted February 3, 1988, and as subsequently amended.

**Ordinance Summary.**

Ordinance 18-22 is part of Ocean City's Affordable Housing strategy and is required by the Settlement Agreement<sup>1</sup>, and is being adopted expressly for the purpose of assisting the City of Ocean City in meeting its affordable housing obligation. This Ordinance replaces the existing development fee ordinance; it includes a residential fee of one-and-one-half percent (1.5%) of equalized assessed value, and recognizes the City's Judgement of Compliance from the Court. Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing low- and moderate-income housing.

**Analysis and Conclusion.**

As noted above the Planning Board's responsibility in terms of the master plan consistency review is to evaluate the ordinance with regard to the land use plan and housing plan; identify any provisions in the ordinance which are inconsistent with the Master Plan; and make recommendations concerning those inconsistencies and any other matters as the Board deems appropriate.

In defining "substantial consistency" the Supreme Court in *Manalapan Realty v. Township Committee* made it clear that some inconsistency is permitted "provided it does not substantially or materially undermine or distort the basic provisions and objectives of the Master Plan." The "Municipal Land Use Law" does not define the term *inconsistent*.

The following Master Plan Goals and Objectives are relevant to Ordinance 18-22:

- *To support the upgrading of substandard housing, increase the diversity of housing choices, housing affordability and year-round population; and maintain and enhance existing residential areas as the foundation of a desirable and vibrant family resort community.*
- *To encourage municipal actions which will guide the long range appropriate use and development of lands within the City of Ocean City in a manner which will promote the public health, safety, and general welfare of present and future residents.*
- *To encourage coordination of the numerous regulations and activities which influence land development with a goal of producing efficient uses of land with appropriate development types and scale.*
- *To promote the establishment of appropriate population densities in locations that will contribute to the well-being of persons, neighborhoods and preservation of the environment.*

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<sup>1</sup> Settlement Agreement between the City and the Fair Share Housing Center, July 18, 2018

Ordinance 18-22

Master Plan Consistency Report

Having considered Ordinance 18-22, the Municipal Land Use Law and the Master Plan, it is my professional opinion that Ordinance 18-22 is consistent with the City Master Plan since it is designed to effectuate the Housing Plan element and will advance the Master Plan Goals and Objectives cited herein.

Respectively submitted,



Randall E. Scheule, PP/AICP

New Jersey Professional Planner License No. LI003666

November 28, 2018

**ORDINANCE NO. 18-22**

**AN ORDINANCE ESTABLISHING RULES, REGULATIONS AND STANDARDS GOVERNING THE ZONING OF LAND WITH THE CITY OF OCEAN CITY, COUNTY OF CAPE MAY, PURSUANT TO THE AUTHORITY SET FORTH AS CHAPTER 55 OF TITLE 40 OF THE REVISED STATUTES AND AMENDMENTS AND SUPPLEMENTS THERETO, SETTING FORTH A DEVELOPMENT FEE TO BE APPLIED BY THE PLANNING BOARD, ZONING BOARD AND THE GOVERNING BODY IN THE DEVELOPMENT OF LAND**

**BE IT ORDAINED** by the Council of the City of Ocean City, County of Cape May and State of New Jersey, that Article 1900 of the Ocean City Zoning and Land Development Ordinance is hereby deleted, replaced and superseded by the following:

**SECTION 1**

**25-1900 AFFORDABLE HOUSING DEVELOPMENT FEES.**

Prior Ordinance history includes portions of Ordinance No. 99-14, -6-30 and 11-28.

**25-1900.1 Title.**

This ordinance shall be known and may be cited as:

**DEVELOPMENT FEE ORDINANCE OF CITY OF OCEAN CITY**

**25-1900.2 Purpose.**

- a. In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b. Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees,

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codified at N.J.A.C. 5:97-8.

**25-1900.3 Basic Requirements.**

- a. This ordinance shall not be effective until approved by the Court.
- b. The City of Ocean City shall not spend development fees until the Court has approved a plan for spending such fees.

**25-1900.4 Definitions.**

The following terms, as used in this ordinance, shall have the following meanings:

*Affordable Housing Development* means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

*COAH or the Council* means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

*Development Fee* means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

*Developer* means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

*Equalized Assessed Value* means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

*Green Building Strategies* means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community service.

**25-1900.5 Residential Development Fees.**

- a. *Imposed Fees.*
  1. Within the City of Ocean City residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one- and one-half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.

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2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers is required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one- and one-half percent (1.5%) of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b. *Eligible Exactions, Ineligible Exactions and Exemptions for Residential Development.*

1. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, developments where the developer has made a payment in lieu of on-site construction of affordable units, nonprofit institutions and other tax-exempt entities shall be exempt from development fees.
2. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
3. Development fees shall be imposed and collected when an existing structure, other than a detached single-family dwelling, is constructed, demolished and replaced, or expanded (if the expansion is not otherwise exempt from the development fee requirement). The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
4. Existing detached single-family dwellings that are reconstructed, renovated or expanded shall be exempt from development fees.
5. Developers of existing lots that result in the construction of a detached single-family home shall be exempt from paying a development fee provided the single-family home is not the result of a subdivision. If the single-family home is the result of a subdivision, a development fee shall apply to all single-family homes which are a net increase over the number of homes on the site prior to the subdivision.

6. For the demolition of an existing residential structure with a replacement of two or more residential structures, the development fee shall be calculated by subtracting the equalized assessed value at the time of the structure demolition from the equalized assessed value of the new residential replacements.
7. Owner occupied residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying a development fee.

**25-1900.6 Non-Residential Development Fees.**

a. *Imposed Fees.*

1. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
2. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b. *Eligible Exactions, Ineligible Exactions and Exemptions for Non-Residential Development.*

1. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
2. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

4. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
5. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the City of Ocean City as a lien against the real property of the owner.

**25-1900.7 Collection Procedures.**

- a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e. The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

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- g. Should the City of Ocean City fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (N.J.S.A. 40:55D-8.6).
- h. The developer shall pay 100 percent of the calculated development fee amount prior to the municipal issuance of a final certificate of occupancy for the subject property.
- i. *Appeal of Development Fees.*
  - 1. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the City of Ocean City. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - 2. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the City of Ocean City. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

**25-1900.8 Affordable Housing Trust Fund.**

- a. There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - 1. Payments in lieu of on-site construction of affordable units;
  - 2. Developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
  - 3. Rental income from municipally operated units;