

INTRODUCTION

In 1975 the New Jersey Supreme Court decided in So. Burlington Cty. NAACP v. Township of Mount Laurel that every developing municipality in New Jersey had an affirmative obligation to provide for its fair share of affordable housing. In a subsequent decision in 1983, the Court acknowledged that the vast majority of municipalities in the State had ignored their constitutional obligation, and called for the State Legislature to enact legislation that would save municipalities from the burden of having the courts determine their affordable housing needs. The result was the establishment of the New Jersey Council On Affordable Housing (COAH), the state agency responsible for overseeing the manner in which the state's municipalities address their low and moderate income housing needs.

Oakland has prepared a number of housing elements and fair share plans over the years to address its affordable housing need. The most recent document is dated December 8, 2005. This Housing Element and Fair Share Plan was adopted by the Oakland Planning Board on March 9, 2006. Upon adoption of the plan, the Governing Body endorsed same and petitioned COAH for substantive certification. An objection to the plan was filed with COAH by a landowner. Prior to COAH's resolution of the objection, the Appellate Division invalidated several aspects of COAH's third round regulations.

COAH initially adopted a 'fair share' methodology to determine the state's low and moderate income housing needs in 1986. Their adopted combined first and second round housing-need numbers for Oakland, published in 1994, called for the borough to provide a total of 222 affordable housing units, inclusive of a new construction obligation of 219 units and a rehabilitation obligation of 3 units, between the years 1987 and 1999.

In December of 2004, COAH adopted new substantive (N.J.A.C. 5:94) and procedural (N.J.A.C. 5:95) rules for the period beginning December 20, 2004. COAH's December 2004 third round rules implemented a new 'growth share' approach to affordable housing and thus represent a significant departure from the Council's first and second round rules in that the new rules link the production of affordable housing with actual development and projected growth. This version of the rules required each individual community to determine its affordable housing obligation based on the combined total of number of certificates of occupancy issued for market rate housing and number of newly created employment positions. New employment was to be estimated based on the size and type of new non-residential construction. For every 8 certificates of occupancy issued for market rate housing, one affordable dwelling unit was required. In addition, 1 affordable dwelling unit was required for each 25 new jobs generated. The timeframe for calculating growth share were the years between 2004 and December 31, 2013.

At the same time, under the December 2004 regulations COAH re-adjusted all municipal first and second round housing-need new construction numbers and rehabilitation numbers. Oakland's previously published 219 unit new-construction obligation was reduced to 177 units, and the borough's rehabilitation component was reduced to zero units.

The COAH rules of December 2004 were challenged in court. The Appellate Division of Superior Court struck down many of the provisions contained in COAH's third round methodologies and regulations.

In December 2007 COAH responded to the Appellate Division decision by publishing revised third round rules. COAH received an unprecedented number of comments in response to the rules prior to the close of the public comment period in March. As a result COAH adopted the rules in May which were published in June and simultaneously published newly amended rules to respond in part to the public comments. The proposed rules were also published in June.

While COAH was proceeding through the rulemaking process, the Legislature adopted Assembly Bill 500 which the Governor signed on July 17th. Assembly Bill 500 modified COAH's third round rules in several significant ways. Possibly the most important way was the elimination of Regional Contribution Agreements (RCA's). RCA's were an implementation tool of the first two COAH rounds whereby a community could satisfy as much as fifty percent of its new construction obligation.

While COAH was proceeding with its rule making process, the legislature adopted the Highlands Water Protection and Planning Act ("Highlands Act"). The Highlands Act created the New Jersey Water Protection and Planning Council ("Highlands Council") and charged this 15 member body with the responsibility to create a Highlands Regional Master Plan ("Regional Plan" or "RMP"). This Regional Master Plan address components necessary to protect the natural, scenic, and other environmental resources including but not limited to forests, wetlands, stream corridors, steep slopes, and critical habitat for flora and fauna.

The Highlands Region is comprised of lands in parts of seven counties and eighty-eight municipalities. The size of the Highlands Region is 1,343 square miles. Oakland Borough and Mahwah Township are the only two Bergen County municipalities within the Highlands Region.

The Highlands Act divided this territory into two areas, a Preservation Area and a Planning Area. Oakland Borough is one of 47 municipalities with land in both the Preservation and Planning Area. Generally speaking portions of the Borough south of Long Hill Road and east of the Ramapo River are located within the more restrictive Preservation Area. Municipal conformance with the Highlands Regional Master Plan is mandatory for all lands in the Preservation Area and optional in the Planning Area.

In adopting the Highlands Act, the state legislature determined that a coordinated regional land use planning approach was necessary for the continued maintenance of the Highlands Region. This necessary coordinated planning approach extends to the provision of affordable housing throughout the Highlands Region.

On October 30, 2008, the Highlands Council and the Council on Affordable Housing entered into a memorandum of understanding between the two councils. Among other provisions in this memorandum of understanding was one that stated the Highlands Council will assist COAH in developing adjusted growth projections and that those communities that chose to conform to the RMP shall utilize the adjusted growth projections prepare by the Highlands Council in the development of Housing Elements and Fair Share Plans.

There are three components to the June 2008 third round methodology. They include the rehabilitation share, any remaining prior round obligation from the period 1987-1999, and the so-called “growth share.” Only growth share is affected by the memorandum of understanding between the Highlands Council and COAH. The remaining two components remain unaffected by the Highlands Act or the implementation of the Regional Master Plan.

Growth share as contained in the June 2008 rules and modified by the Highlands Council is somewhat of a hybrid. In some aspects, the new growth share is more similar to the “fair share” number of housing rounds one and two. The Highlands Council has estimated the amount of residential growth each community is able to experience without degrading Highland’s environmental systems based on the natural carrying capacity of the land and the capacity of the built infrastructure. Each community is required to base their residential portion of their affordable housing obligation on that number. If actual growth is less, then the community might receive credit for the surplus affordable units in the next COAH housing round. If on the other hand residential growth is greater than projected then the municipality has to produce affordable units based on the actual growth experienced not just the projected growth.

According to COAH regulations, growth share is generated by projections of residential and non-residential growth projections for the period covering January 1, 2004 to December 31, 2018. The new substantive rules state that for every four market-rate residential units projected to be constructed, the municipality shall be obligated to provide one unit that is affordable to households of low or moderate income.

A municipality’s actual non-residential growth share obligation is to be measured based upon the square footage on non-residential development converted to jobs based on the use group ratios provided in the COAH rules. Each municipality is obligated to provide one affordable dwelling for every 16 newly created job during the time frame between January 1, 2004 and December 31, 2018.

This document is designed to determine Oakland’s third round housing obligation and indicate the manner in which the obligation is to be addressed. The analysis has been prepared pursuant to the June 16, 2008 proposed amendments to COAH’s adopted regulations. It has been prepared pursuant to the provisions of the Municipal Land Use Law (MLUL) and the applicable regulations of the Council On Affordable Housing governing the provision of affordable housing within the community for the third round period ending in 2018. This plan is also based on the requirements of the RMP.

The plan is organized into three sections. The first part of this plan, the housing element, contains background data on the borough’s population and housing characteristics. The second section calculates the borough’s fair share obligation for the provision of affordable housing in accordance with the procedures identified in the third round rules as amended by the RMP. The borough’s fair share plan for meeting its affordable housing obligation is contained in the final section of this plan.

As detailed herein, COAH has projected Oakland’s affordable housing obligation to be 138 units, consisting of a 138 unit growth share obligation for the period between 2004 and 2018.

The residential component of growth share represents 86 affordable dwelling units and the non-residential growth share obligation is 52 units of affordable housing.

These affordable housing obligations have been modified by the Highlands Council Municipal Build-Out Report dated August 2009. The Municipal Build-Out Report provides the results of the local build-out analysis based on potential developable lands and existing municipal conditions, including sewer and water supply capacity and net water availability where relevant. The Highlands Council has projected that there will be no additional development in the various wastewater utility service areas located in Oakland. All future growth and development is predicted by the Highlands Council to occur in areas of the Borough that rely on septic systems. The Highlands Council has determined there are 229 acres of potential developable septic system yield lands. Based on an analysis performed by the Highlands Council, there is the capacity for a total of 16 additional dwellings in the Borough. The Highlands Council has also predicted that Oakland has the capacity for 0 more jobs within areas served by septic systems.

It is important to recognize that certain development, such as development of existing lots with a single-family dwelling, is exempt from Highlands regulation and thus the likely total level of development will exceed the Highlands projections. In addition, the Highlands projected growth is from 2009 forward. All development that occurred between 2004 and 2008 needs to be factored into the projected growth share obligation using the same ratios between market-rate residential development and the associated affordable obligation and between non-residential development and affordable housing.

COAH has calculated the Boroughs' rehabilitation share to be 16 units. The remaining prior round obligation covering the obligation from the 1987-1999 time period is 177 dwellings of affordable housing.

Our office has also undertaken a preliminary vacant land analysis on behalf of the Borough. After performing this study our preliminary analysis suggests that, the Borough's prior round affordable housing obligation may need to be reduced due to lack of vacant, developable land to comply with the . This observation is based on the analysis of the information supplied by the Highlands Council which suggests that there are far too few acres of unconstrained vacant property with which to fully satisfy the prior round affordable housing obligation assigned by COAH.

The plan meets this obligation through a variety of mechanisms. *****

The following section of this report provides a summary of the plan components. It identifies the borough's remaining outstanding prior round affordable housing obligation and how it is to be addressed, as well as the manner in which the growth share obligation was calculated and how it is to be addressed. The details are set forth in the subsequent sections of this document. First, as noted above, the following section entitled Summary of Plan Components, provides the overview of the plan approach that will address the borough's obligation. Secondly, the section beginning on page 20 details the manner in which the obligation was determined. Beginning on

page 22 we identify COAH's MPO baseline growth projections, following which we identify our assessment wherein we conclude that their figure underestimates growth.

It is important to understand the need for an accurate assessment of future development. The COAH rules provide that, in the third, fifth, and eighth years of certification of the third round plan, COAH will compare the growth projections to actual development and growth in the community, and, where necessary, require modifications to the plan, or require the preparation of a whole new plan.

SUMMARY OF PLAN COMPONENTS

This section summarizes the components of the plan that is designed to address Oakland's affordable housing obligations. The plan components are designed to address the borough's remaining prior round obligation and the growth share obligation. The following is noted:

- A. The rules governing the remaining prior round obligation are COAH's second round substantive rules, N.J.A.C. 5:93. Only the growth share component of the fair share obligation is governed by the new rules, N.J.A.C. 5:94.
- B. The borough has a remaining prior round obligation of 111 units. The remaining obligation represents the borough's recalculated prior round obligation (177 units), less credits (12 units) and reductions (54 units), as detailed beginning on page 22. While the second round plan provided for 219 new construction affordable units, the second round plan components are now modified, due to the following:
 - 1. The Bi-County site, identified as an inclusionary development site in the borough's second round plan, no longer represents a realistic opportunity for the development of affordable housing, as it is located in the Highlands preservation area.
 - 2. As described in the body of this report, the reduced new construction obligation (from 219 units to 177 units) also serves to reduce the number of units that may be transferred via regional contribution agreements and the number of units that may be age-restricted.
- C. The plan proposes to meet this 111 unit prior round obligation with the following:
 - 1. Eight units of senior rental bonus credit from the Heritage Hills site;
 - 2. Fifteen units from additional inclusionary development of the Hovan Site;
 - 3. Eighty-eight units transferred via regional contribution agreement.
- D. Growth Share Obligation. As detailed in the body of this report, Oakland's growth share obligation is 59 units. While this is substantially larger than baseline MPO estimate, the available data suggests the MPO data undercounts recent development actions, pending development, and related activities. The following is noted with respect to the growth share obligation:
 - 1. Regional Contribution Agreements. Pursuant to NJAC 5:94-5.1, the borough may transfer up to 50 percent of its growth share obligation to a receiving municipality through a regional contribution agreement. The maximum number of units that may be transferred is 29 affordable units.
 - 2. Age Restricted Units. The borough may age-restrict no more than 50 percent of its growth share obligation, less any RCA units.

3. Rental Component and Bonus Credits. COAH regulations stipulate in NJAC 5:94-4.20 that at least 25 percent of a municipality's growth share obligation must be addressed with rental housing. The borough is obligated to provide 15 affordable rental units.
4. Third round rules provide for a 2:1 rental bonus credit for rental units constructed in excess of the rental obligation identified above. No more than 50 percent, or 7 units of the rental housing obligation can be met through the provision of age-restricted housing.

The following table summarizes the above noted data:

Growth Share	Units
Growth Share Obligation	59
Min. Rental Units	15
Max. age-restricted rentals	7
Max. Age-Restricted Units	50% of non-RCA units
Max. RCA Transfer	29

E. The plan proposes to meet this 59 unit growth share obligation with the following:

1. Ten units from additional inclusionary development of the Hovan Site;
2. Thirty-one units from inclusionary development in the Central Business District Area;
3. Four units to be transferred via regional contribution agreement.
4. 14 units of rental bonus credits.

F. Plan Components: A summary of plan components is shown in the table below:

Item No.	Plan Component	No. Units
1.	111 Unit Prior Round Obligation <ol style="list-style-type: none"> a. RCA for Prior Round Obligation @ \$25,000/du = \$2.2M b. Senior Rental Bonus Credits: Heritage Hills c. Additional Inclusionary Development: Hovan Site 	88 8 15
2.	59 Unit Growth Share Obligation: <ol style="list-style-type: none"> a. Additional Inclusionary Development: Hovan Site b. Inclusionary Development: Central Business District c. Regional Contribution Agreement @ \$35,000/du d. Rental Bonus Credits 	10 31 4 14
3.	0 Unit Rehabilitation Share	0

SECTION I
HOUSING ELEMENT

1. COMMUNITY OVERVIEW

The Borough of Oakland occupies an area of 9.1 square miles (5,824 acres) in the northwest portion of Bergen County. It is bordered by five municipalities, including Mahwah to the north, Franklin Lakes to the east, Ringwood to the northwest, Wanaque to the west, Pompton Lakes to the southwest and Wayne to the south. The borough is located within the state's Highlands Region, and therefore regulated to some degree by the Highlands Water Protection and Planning Act. The area generally east of the Ramapo River and those portions south of Long Hill Road are located within the Highlands planning area, with the area west of the river located in the Highlands preservation area.

Oakland is a predominantly residential community, with a development pattern consisting primarily of detached single family dwellings and some attached residential units. Residential development is primarily located east of the Ramapo River. Commercial development is concentrated along Route 202. Scattered industrial areas are also located within the borough.

Approximately 25 percent of the borough's land area is designated for conservation/recreation use, including 1,450 acres of open space and recreation land on Ramapo Mountain in the northwestern portion of the borough. Lakes within the borough include Crystal Lake, Mirror Lake, and Hubers Lake. The area located west of the Ramapo River, located within the Highlands preservation area, contains significant areas of environmentally sensitive land, including floodplains, wetlands, and steep slopes.

Interstate I-287 and State Highway 208 provide regional access to Oakland. Main roadways through the borough include Long Hill Road, Skyline Drive, Franklin Avenue and Highway Route 202 (Ramapo Valley Road).

The following table details the distribution of privately-owned property within the borough by property tax classification, as detailed in the borough's 2000 Master Plan.

Table 1
Real Property Valuation, 1994 & 1999
Oakland, New Jersey

Property Classification	1994		1999	
	# Parcels	% Valuation	# Parcels	% Valuation
Vacant	229	3.9	367	4.0
Residential	3,957	75.2	4,091	75.7
Farm	14	0.28	20	0.3
Commercial	137	9.5	140	9.3
Industrial	53	11.1	57	10.6

Source: 2000 Oakland Master Plan

2. INVENTORY OF MUNICIPAL HOUSING STOCK

This section of the housing element provides an inventory of the community's housing stock, as required by the MLUL. It details housing characteristics such as age, condition, purchase/rental value, and occupancy. It also details the number of affordable units available to low and moderate income households and the number of substandard housing units capable of being rehabilitated.

- a. Number of Dwelling Units. As shown in the table below, the borough's housing stock grew each decade between 1960 and 2000. The most substantial growth occurred between 1960 and 1970, when the number of dwelling units increased by nearly 40 percent. Growth slowed considerably in subsequent decades, with a recent upturn experienced between 1990 and 2000. In 2000, there were 4,345 dwelling units in the borough.

Table 2
Dwelling Units (1960-2000)
Oakland, New Jersey

Year	Total Dwelling Units	Numerical Change	Percentage Change
1960	2,827	-	-
1970	3,877	1,050	37.1%
1980	3,979	102	2.6%
1990	4,019	40	1.0%
2000	4,345	326	8.1%

Source: US Census Bureau

The following table provides details regarding the tenure and occupancy of the borough's housing stock. As shown below, more than 90 percent of the borough's housing stock in 2000 was owner-occupied. There were just 90 vacant housing units in 2000, representing approximately two percent of all housing units.

Table 3
Housing Characteristics: 1990 and 2000
Oakland, New Jersey

Category	1990		2000	
	No. Units	Percent	No. Units	Percent
Owner-Occupied Units	3,586	89.2	3,967	91.3
Renter-Occupied Units	321	8.0	288	6.6
Vacant Units	112	2.8	90	2.1
Total Units	4,019	100.0	4,345	100.0

Source: U.S. Census, 1990 and 2000.

b. Housing Characteristics. The following tables provide information on the characteristics of the borough's housing stock, including data on the number of units in the structure and the number of bedrooms. The vast majority of housing units in Oakland are single family detached dwellings. Nearly 99% of the dwellings are in one-or two-family structures. Dwelling units with either 3 or 4 bedrooms comprise more than 78% of all dwellings in the Borough. Only 3.4% of the dwellings had just one bedroom.

Table 4
Units in Structure: 1990 and 2000
Oakland, New Jersey

Units in Structure	1990		2000	
	Number	Percent	Number	Percent
One Unit Detached	3,858	96.0	4,066	93.6
One Unit Attached	54	1.3	129	3.0
2 Units	60	1.5	73	1.7
3 to 4 Units	42	1.0	36	0.8
5 to 9 Units	5	0.2	41	0.9
10 or More	0	0.0	0	0.0
Other	0	0.0	0	0.0
Total	4,019	100.0	4,345	100.0

Source: U.S. Census, 1990 and 2000.

Table 5
Number of Bedrooms in Housing Units: 1990 and 2000
Oakland, New Jersey

Bedrooms	1990		2000	
	Number	Percent	Number	Percent
None	0	0.0	19	0.4
One	91	2.3	146	3.4
Two	496	12.3	533	12.3
Three	1,830	45.5	2,177	50.1
Four	1,379	34.3	1,245	28.6
Five or More	223	5.6	225	5.2
Total	4,019	100.0	4,345	100.0

Source: U.S. Census, 1990 and 2000.

c. Housing Age. Approximately two-thirds of the borough's housing stock was constructed between 1940 and 1960. Only 7 percent of the housing stock was constructed in the years since 1980. The median age of the borough's housing stock is 47 years.

Table 6
Year Structure Built
Oakland, New Jersey

Year Units Built	Number of Units	Percent
1999 to March 2000	168	3.9
1990 to 1998	144	3.3
1980 to 1989	182	4.2
1970 to 1979	263	6.1
1960 to 1969	1,137	26.2
1950 to 1959	1,716	39.5
1940 to 1949	461	10.6
1939 or earlier	274	6.3
Total	4,345	100.0

Source: 2000 U.S. Census

d. Housing Conditions. An inventory of the borough's housing conditions is represented in the following tables. The first table identifies the extent of overcrowding in the borough, defined as housing units with more than 1 occupant per room. In 2000, only 26 housing units, or 0.6 percent, were overcrowded.

Table 7
Occupants Per Room, 2000
Oakland, New Jersey

Occupants Per Room	Number of Units	Percent
0.50 or less	3,297	77.5
0.51 to 1.00	932	21.9
1.01 to 1.50	26	0.6
1.51 to 2.00	0	0.0
2.01 or more	0	0.0
Total	4,255	100.0

Source: 2000 U.S. Census

The accompanying table presents other characteristics of housing conditions, including the presence of complete plumbing and kitchen facilities and the type of heating equipment used. As shown below, 15 units lack complete kitchen facilities, and 11 units lack complete plumbing.

Table 8
Equipment and Plumbing Facilities: 1990 and 2000
Oakland, New Jersey

Facilities	1990		2000	
	Number	Percent	Number	Percent
<u>Kitchen:</u>				
Lacking Complete Facilities	11	0.3	15	0.3
With Complete Facilities	4008	99.7	4,330	99.7
<u>Plumbing:</u>				
Lacking Complete Facilities	17	0.4	11	0.2
With Complete Facilities	4,002	99.6	4,334	99.8
<u>Heating Equipment:</u>				
Standard Heating Facilities	3,901	97.1	4,248	97.8
Other Means, No Fuel Used	6	2.9	7	2.2

Source: U.S. Census; 1990 and 2000.

e. **Purchase and Rental Values.** The borough has seen a rise in purchase and rental housing prices between 1990 and 2000, as shown in the following tables. As shown below, the median gross rent for the borough's rental housing stock rose from \$991 in 1990 to \$1,173 in 2000.

Table 9
Specified Renter-Occupied Housing Units: 1990 and 2000
Oakland, New Jersey

Value Range	1990		2000	
	Number	Percent	Number	Percent
Less than \$300	0	0.0	5	1.8
\$300 to \$399	0	0.0	5	1.8
\$400 to \$499	0	0.0	0	0.0
\$500 to \$599	12	4.0	19	6.7
\$600 to \$699	57	19.0	28	9.9
\$700 to \$749	18	6.0	0	0.0
\$750 to \$999	58	19.3	56	19.8
\$1,000 or more	141	47.0	170	55.1
No Cash Rent	14	4.7	14	4.9
Total	300	100.0	283	100.0
Median Rent	\$991		\$1,173	

Source: U.S. Census, 1990 & 2000.

The median value of owner-occupied housing units rose by 15 percent between 1990 and 2000, from \$215,100 to \$245,300. The borough, and the region, has seen a marked increase in housing values since the publication of the 2000 census.

Table 10
Value of Specified Owner-Occupied Housing Units: 1990 and 2000
Oakland, New Jersey

Value Range	1990		2000	
	Units	%	Units	%
Less than \$50,000	20	0.6	0	0.0
\$50,000 to \$99,999	93	2.7	36	0.9
\$100,000 to \$149,999	186	5.5	126	3.3
\$150,000 to \$199,999	1,079	31.7	787	20.4
\$200,000 to \$249,999	1,069	31.4	1,084	28.1
\$250,000 to \$299,999	520	15.3	693	17.9
\$300,000 to \$399,999	295	8.7	702	18.2
\$400,000 to \$499,999	97	2.9	308	8.0
\$500,000 or more	42	1.2	125	3.2
Total	3,401	100.0	3,861	100.0
Median Value	\$215,100		\$245,300	

Source: U.S. Census, 1990 & 2000.

f. Number of Units Affordable to Low and Moderate Income Households. The median household income for a three-person household in the borough's housing region is \$69,365, according to COAH's regional income limits. A three-person moderate income household, established at 80 percent of the median income or lower, would have an income of \$55,492 or less.

An affordable sales price for a three person moderate income household earning 80 percent of the median income, is estimated at approximately \$166,5000. This estimate is based on the UHAC affordability controls outlined in NJAC 5:80-26.1. Approximately 4.5 percent of the borough's housing units in 2000 were valued at less than \$150,000, according to the census data.

For renter occupied housing, an affordable monthly rent is estimated at \$1,553. Approximately 40 percent of the borough's renter-occupied housing units in 2000 had a gross rent below \$1000. The number of apartments that rented in 2000 between \$1,000 and \$1,500 is not revealed by the Census data.

g. Substandard Housing Capable of being Rehabilitated. COAH assigned Oakland a rehabilitation share of 16 units which represents deficient housing units occupied by low and moderate income households which are not likely to experience "spontaneous rehabilitation." This item is further detailed in the fair share plan section of this document.

3. PROJECTION OF MUNICIPAL HOUSING STOCK

The Fair Share Plan section of this document includes a detailed projection of the municipal housing stock, pursuant to COAH's rules for establishing the "growth share" component of the fair share obligation. It identifies both historical and projected growth trends.

4. POPULATION ANALYSIS

The MLUL requires that a housing element provide data on the borough's population, including population size, age and income characteristics.

- a. Population Size. As seen in the table below, the borough's population grew between 1990 and 2000, after falling in the previous decade. The 2000 population of 12,466 continues to be less than the population levels in 1970 and 1980. The 2003 population estimate, provided by the New Jersey Department of Labor, of 13,616 represents a 9.2 percent increase over the 2000 census figure. The most recent (2007) population estimates prepared by the NJ Dept. of Labor and Workforce Development project a decline from the estimated 2004 population.

Table 11
Rate of Population Growth: 1920-2000
Oakland, New Jersey

Year	Population	Population Change	Percent Change
1920	497	-	-
1930	735	238	47.9
1940	932	197	26.8
1950	1,817	885	95.0
1960	9,446	7,629	419.9
1970	14,420	4,974	52.7
1980	13,443	(977)	(6.8)
1990	11,997	(1,446)	(10.8)
2000	12,466	489	3.9
2004*	13,707	1,241	10.0
2007*	13,400	(307)	(2.2)

Source: Bergen County Data Book, NJ Department of Labor.

* NJ Department of Labor and Workforce Development estimate.

Data on births and deaths is shown in the following table.

Table 12
Number of Births and Deaths: 1990-2002
Oakland, New Jersey

Year	Births	Deaths	Difference
1990	147	85	62
1991	131	81	50
1992	145	83	62
1993	151	88	63
1994	150	77	73
1995	162	101	61
1996	158	91	67
1997	149	103	46
1998	165	100	65
1999	197	97	100
2000	193	98	95
2001	214	112	102
2002	165	102	63
Total	2,127	1,218	909

Source: State of New Jersey, Department of Health Center for Health Statistics

- b. Age Characteristics. The borough's age characteristics are represented in the table below. As shown, there has been a significant decline the population between the ages of 15 and 34 between 1990 and 2000.

Table 13
Age Characteristics: 1990 & 2000
Oakland, New Jersey

Age Group	1990		2000	
	Number	Percent	Number	Percent
Under 5	831	6.9	970	7.8
5-14	1,431	11.9	1,774	14.2
15-24	1,618	13.5	1,076	8.7
25-34	1,789	14.9	1,434	11.5
35-44	2,000	16.7	2,414	19.4
45-54	1,726	14.4	1,910	15.3
55-64	1,466	12.2	1,304	10.5
65-74	667	5.6	912	7.3
75-84	280	2.3	479	3.8
85+	189	1.6	193	1.5
Total	11,997	100.0	12,466	100.0

Source: U.S. Census, 1990 & 2000.

- c. Average Household Size. The average household size for the borough declined steadily in the years between 1970 and 2000. The average household size in 2000 was 2.88, down from 3.00 in 1990.

Table 14
Average Household Size: 1960-2000
Oakland, New Jersey

Year	Total Population	Number of Households	Household Size
1960	9,446	2,476	3.82
1970	14,420	3,679	3.92
1980	13,443	3,880	3.42
1990	11,997	3,907	3.00
2000	12,466	4,255	2.88

Source: 2003 Bergen County Data Book.

d. Household Income. The median household income in Oakland increased by approximately 37 percent between 1990 and 2000, rising from \$63,384 to \$86,629. Detailed household income figures are shown in the table below.

Table 15
Household Income: 1989 and 1999
Oakland, New Jersey

Income Category	1990		2000	
	Number	Percent	Number	Percent
Less than \$10,000	95	2.4	51	1.2
\$10,000 to \$14,999	98	2.5	25	0.6
\$15,000 to \$24,999	234	5.9	178	4.1
\$25,000 to \$34,999	285	7.2	204	4.8
\$35,000 to \$49,999	601	15.3	426	10.0
\$50,000 to \$74,999	1,108	28.2	796	18.7
\$75,000 to \$99,999	776	19.7	860	20.2
\$100,000 to \$149,999	553	14.1	1,025	24.0
\$150,000 or more	185	4.7	698	16.4
Total	3,935	100.0	4,263	100.0
Median Household	\$63,384		\$86,629	
Bergen County	\$49,249		\$65,241	

Source: U.S. Census, 1990 and 2000.

4. EMPLOYMENT ANALYSIS

The MLUL requires that a housing plan include data on employment levels in the community. The following tables present information on the borough's employment characteristics.

- a. Covered Employment. Table 16 presents the covered employment trends from 1990 to 1999 for employment within the borough.

Table 16
Private Sector Covered Employment, 1990-1999
Oakland, New Jersey

Year	Number of Jobs	% Change
1990	6,131	---
1991	5,820	-5.1
1992	5,781	-0.
1993	5,572	-3.6
1994	5,889	5.7
1995	5,770	-2.0
1996	5,151	-10.3
1997	5,472	6.2
1998	5,998	9.6
1999	6,425	7.1

Source: New Jersey Department of Labor.

b. Employment Characteristics of Employed Residents. The following two tables detail information on the employment characteristics of employed Oakland residents. The first table details occupation characteristics, while the second table details industry characteristics.

Table 17
Employed Persons 16 & Over, By Occupation: 1990 and 2000
Oakland, New Jersey

Occupation	1990		2000	
	Number	Percent	Number	Percent
Managerial and Professional Specialty:				
Executive, Administrative, Managerial	1,348	19.8	1,458	21.9
Professional Specialty	1,292	19.0	1,693	25.5
Sales	955	14.0	954	14.3
Technical & Administrative Support	1,507	22.2	1,034	15.6
Services	471	6.9	531	8.0
Farming, Forestry, Fishing	28	0.4	0	0.0
Production & Maintenance	721	10.6	474	7.1
Transportation and Material Moving	187	2.8	183	2.8
Construction, Operators, Laborers	294	4.3	322	4.8
Total	6,803	100.0	6,649	100.0

Source: U.S. Census; 1990 and 2000.

Table 18
Employed Persons 16 & Over, By Industry: 1990 & 2000
Oakland, New Jersey

Industry	1990		2000	
	Number	Percent	Number	Percent
Agriculture, Forestry, Fisheries, Mining	75	1.1	22	0.3
Construction	396	5.8	415	6.2
Manufacturing:	1,124	16.5	787	11.8
Transportation, Communication, Other Public Utilities	605	8.9	663	10.0
Wholesale Trade	557	8.2	385	5.8
Retail Trade	1,034	15.2	922	13.9
Finance, Insurance, Real Estate	580	8.5	623	9.4
Services:				
Educational Services	706	10.4	591	8.9
Health Services	440	6.5	725	10.9
Entertainment and Recreation	71	1.0	249	3.7
Other Professional Services	523	7.7	762	11.5
Other Services	519	7.6	295	4.4
Public Administration	173	2.6	210	3.2
Total	6,803	100.0	6,649	100.0

Source: U.S. Census; 1990 and 2000.

- c. Employment Projections. Detailed employment projections are provided in the Fair Share section of this document, as required by COAH in determining the borough's growth share obligation.

SECTION II
FAIR SHARE OBLIGATION

1. INTRODUCTION

The methodology for determining the borough's third round affordable housing obligation changed significantly from the methodology utilized for previous rounds. Namely, under COAH's third round rules, a municipality's third round fair share obligation is a function of three components:

- The rehabilitation share;
- The remaining prior round obligation (1987-1999); and
- A growth share.

The growth share component represents the most significant change from previous rounds, as it requires that each municipality determine its own affordable housing obligation based on the amount of residential and non-residential growth it anticipates over the third round period from 2004 to 2014. Each of the three components combines to determine the municipality's total affordable housing obligation. More detail on each of the components is provided below.

A. Rehabilitation Share

The rehabilitation share component of the affordable housing obligation is based on the municipality's existing housing deficiencies. It is defined as "the number of deficient housing units occupied by low and moderate income households within a municipality." A deficient housing unit is a unit "with health and safety code violations that require the repair or replacement of a major system." A major system includes any of the following: weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load bearing structural systems. The rehabilitation share essentially replaces what was known as indigenous need in the previous rounds.

A municipality has two options for determining the rehabilitation share component of its affordable housing obligation. The first option is to use the rehabilitation share number assigned to the municipality by COAH. COAH devised a methodology using 2000 census data to estimate the number of low and moderate income deficient housing units within each municipality. Utilizing this methodology, COAH assigned a rehabilitation share for each individual community. The methodology is based on regional averages that are then applied to local conditions. It adjusts for potential double-counting, incorporates credits for municipalities which have been "increasingly impacted" by the rehabilitation share, and accounts for the portion of units likely to experience spontaneous rehabilitation, i.e., those likely to rehabilitate through private forces. Alternatively, a municipal can conduct its own housing survey to develop an actual rehabilitation share.

As detailed herein, COAH has assigned a new rehabilitation share of 0 units to Oakland. As such, it is recommended that the borough accept this rehabilitation share rather than conducting its own study.

B. Remaining Prior Round Obligation

Prior Round Obligation is comprised of prior rounds prospective need (Rounds 1 and 2) and the reallocated present need from Round 2. Because COAH utilized current census data to adjust previously published first and second round obligation numbers in order to correct for under/overestimates, it has provided each municipality with a new first and second round obligation number in an appendix to its third round rules. In this instance, Oakland's new-construction number has been adjusted downward to a 177 unit first and second round obligation, and the rehabilitation obligation has been reduced to zero.

A municipality then determines the remaining prior round obligation component of its third round obligation by imposing any adjustments approved for its second round plan and subtracting affordable housing units already built or transferred as part of a certified plan (or judgment of repose) built as part of such plan.

C. Growth Share

The growth share portion of a municipality's fair share obligation is based on the projected residential and employment growth in the municipality over the period between 2004 and 2014. It is defined as:

The affordable housing obligation generated in each municipality by both residential and non-residential development from 2004 through 2014 and represented by a ratio of one affordable housing unit for every eight market-rate housing units constructed plus one affordable housing unit for every 25 newly created jobs as measured by new or expanded non-residential construction within the municipality.

That is, each individual municipality's actual growth between 2004 and 2014 generates an affordable housing obligation. Specifically, for residential development, one affordable housing unit obligation is generated for every eight market rate residential units constructed in the municipality. For non-residential development, a unit of affordable housing obligation is generated for each 25 jobs created in the community. Job creation estimates are based on the amount of non-residential square footage developed within the community.

For instance, if the municipality experiences a net growth of 80 market rate units between 2004 and 2014, an obligation of 10 affordable housing units is generated. If 25,000 square feet of additional office space is constructed in the municipality, 75 jobs would be generated (based on a ratio of 3 office jobs/1,000 square feet), and a 3 unit affordable housing obligation would result.

The following section contains the information and resultant determination of the growth share assessment.

2. CALCULATION OF AFFORDABLE HOUSING OBLIGATION

The calculation of the borough's affordable housing obligation is detailed below.

A. Rehabilitation Share

According to Appendix C of COAH's third round substantive rules, a rehabilitation share of 0 units has been assigned to Oakland. This obligation replaces the previous rehabilitation share of three units, assigned to the borough in the second round.

B. Remaining Prior Round Obligation

Appendix C indicates COAH has recalculated the borough's prior (second) round obligation to 177 units. This figure replaces the municipality's previously published new-construction obligation from the second round of 219 units. The borough's initial second round pre-credited need was 222 units, including a new construction obligation of 219 units and a rehabilitation share of three units.

The borough's second round plan addressed its 219 unit new construction obligation through a combination of regional contribution agreements, inclusionary developments, and credits for existing group homes. The second round plan components are represented below.

Table 19
Second Round Plan Components and Status
Oakland, New Jersey

Plan Component	Number of Units	Status
Regional Contribution Agreement	97	Unexecuted
Funded from Heritage Hills	22	
Funded from River Bend	20	
Funded from Bi-County	36	
Funded through bonding	19	
Inclusionary Development	110	No activity In mediation Site plan approved, not built.
Hovan Site	15 + 15 rental bonus	
Bi-County	50 + 6 senior rental bonus	
Heritage Hills	24	
Existing Group Homes	12	12 Complete
Total	219	

The recalculated 177 unit obligation impacts the above-noted plan components because it impacts the maximum number of age-restricted units, the rental obligation, the maximum senior rental bonus credits, and the maximum number of units that may be transferred through an RCA. The maximum number of RCA units, for example, is effectively reduced from 111 to 88, since RCA units are capped at 50 percent of the obligation. All of these changes are discussed in the plan implementation section.

1. Credits, Reductions and Adjustments Regarding Prior Round Obligation

The borough, pursuant to N.J.A.C. 5:94-3, seeks credits, reductions and adjustments as detailed in the following sections.

- a. Credits. Third round rules permit credits for units which were constructed (i.e. received certificates of occupancy) or transferred to another municipality as the subject of a regional contribution agreement (RCA). The borough seeks credits for 12 units, as shown in the following table.

Table 20
Prior Round Credits
Oakland, New Jersey

	Credits
Existing Group Homes	12
Total Credits	12

- b. Reductions. Reductions from the prior round obligation are permitted for unbuilt sites that were zoned for affordable housing as part of the second round plan. Reductions are subject to COAH review, and sites must continue to present a realistic opportunity for the construction of affordable housing. The borough seeks reductions for 30 units, as shown in the table below.

Table 21
Prior Round Reductions
Oakland, New Jersey

	Reductions
Hovan Site	15 units 15 rental bonus
Heritage Hills & Bi-County	0 units*
Total Reductions	30

*Zero unit reduction is established because the Heritage Hills & Bi-County sites are proposed to be deleted from the housing element and fair share plan because they are no longer perceived to provide a realistic opportunity for the development of affordable housing.

The Hovan site continues to represent a realistic opportunity for the development of affordable housing. Market conditions remain favorable and the site is not impacted by new environmental regulations. The site is in the Planning Area of the Highlands region.

While the Heritage Hills site has site plan approval, it is no longer perceived to represent a realistic opportunity for the development of affordable housing, and thus is deleted from the plan and therefore not eligible for reductions.

The Bi-County site, identified as an inclusionary development site in the second round plan (30 non- age-restricted affordable units, 20 age-restricted affordable units, and 6 senior rental bonus credits) is located in the preservation area of the Highlands region

and thus no longer represents a realistic opportunity for the development of affordable housing. Therefore, it is not represented as a reduction in this plan.

c. Adjustments. COAH honors adjustments granted as part of a second round certified plan, including vacant land adjustments. The borough does not seek any adjustments to its fair share obligation in the second round.

2. Calculation of Remaining Prior Round Obligation. The calculation of the borough's remaining prior round obligation is represented in the table below. The data indicates the borough has a remaining second round obligation of 111 units.

Table 22
Remaining Prior Round Obligation
Oakland, New Jersey

2nd Round Obligation	Units
Recalculated Obligation	177
Credits	-12
Reductions	-30
Adjustments	- 0
Remaining Prior Round Obligation	135

C. Growth Share Obligation

The growth share component of the borough's affordable housing obligation is calculated based on the projected amount of residential and non-residential growth anticipated between 2004 and 2014. This projection involves a number of steps, including the formulation of a baseline projection that must ultimately be reconciled with the detailed projection resulting from an analysis of approved, pending and anticipated development applications.

Once the detailed analysis is complete and reconciled with the baseline projections, this growth is translated into an affordable housing obligation, based on a standard of one affordable housing unit for every eight market rate units that are projected and one affordable unit for every 25 jobs that are projected to be created. Job creation is tied directly to the amount of non-residential floor space constructed.

The growth share calculation is presented below, separated into residential growth and non-residential growth.

1. Calculation of Residential Growth Share

a. MPO Baseline Residential Growth Projection

The baseline growth projection for residential development is initially deduced from the population projections provided by the Metropolitan Planning Organization (MPO) covering the municipality. The MPO for Oakland is the North Jersey Transportation Planning Authority (NJTPA).

A baseline residential growth projection is determined by dividing the projected population growth for the municipality between 2005 and 2015 by the municipality’s average household size. This calculation results in the estimated household growth. The following calculation details the baseline projection for Oakland.

Table 23
Baseline Residential Growth Projection
Oakland, New Jersey

2015 Population Estimate	-	2005 Population Estimate	=	Population Growth	÷	Household Size	=	Household Growth
13,920	-	13,720	=	200	÷	2.88	=	70

Source: NJTPA Population and Employment Forecasts and 2000 US Census.

Based on the calculation above, the MPO projects that Oakland will experience an increase of 70 households by 2015.

b. Actual Growth Projection

COAH requires that the municipality undergo a detailed analysis of historical trends, pending and approved development applications, and other local knowledge to generate an actual growth projection for the community. This projection will then be compared to the baseline projection to confirm its validity.

The actual projection is determined through a series of steps and analyses, as shown below.

1) Historical Trends in Residential Development.

In this step, historical data for the years 1995-2005 is presented in order to determine the borough’s historical residential growth trends and to determine actual growth since 2004 (as evidenced by certificates of occupancy and demolition permits issued). Historical trends will then be utilized in a forthcoming stage in order to project residential growth in years to come.

Table 24
Historical Trends in Residential Development
Analysis of Certificates of Occupancy and Demolition Permits, 1995-2005
Oakland, New Jersey

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005 YTD
Certificates of Occupancy Issued	n/a	7	38	99	140	113	45	9	4	23	13
Demolition Permits Issued	n/a	0	3	3	0	1	5	3	1	0	1
Net Growth	n/a	7	35	96	140	112	40	6	3	23	12

Source: NJDCA Division of Codes and Standards and Borough of Oakland.

As shown above, the borough has experienced a varying amount of residential development when viewed on a year by year basis over the past ten years. The most significant amount of residential development occurred in the years between 1998 and 2000, when the borough averaged a net growth of 116 units per year. However, in subsequent years, the level of residential development has been significantly reduced, with an average of just 18 net units annually between 2001 and 2004. It is anticipated that this reduced level of residential development is more likely to occur in the future as the number of developable tracts diminishes.

2) Anticipated (Projected) Residential Development.

In this section, COAH requires that residential development be projected to 2014. This analysis involves documenting residential projects that have been approved, but have not yet received CO's, pending residential development applications and anticipated residential development. The analysis requires that the plan estimate the year in which the CO will likely be granted.

Additionally, anticipated development, ie that which will likely occur before 2014 based on site-specific analysis of remaining developable parcels and local knowledge, is also required to be estimated.

The following table summarizes all projected residential growth, including an item labeled "other", that reflects recent historic growth rates identified previously. It also takes into account the above-noted conclusion that the rate of residential growth will slow over time due to the diminishing supply of developable land in the borough.

Table 25
Number of Residential Units by Year of Anticipated CO
Approved, Pending and Anticipated Residential Development Applications
Oakland, New Jersey

Approved Projects	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Rope (B 3402 L 1)	1									1
James (B 2503 L 4,5)	2									2
Oakland Prpty (B 3294 L 2, 3, 3.03)	2	4								6
Heritage Hills*			73	73	73					219
<i>Subtotal</i>	<i>5</i>	<i>4</i>	<i>73</i>	<i>73</i>	<i>73</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>228</i>
Pending Projects	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Gelewski		4								4
<i>Subtotal</i>	<i>0</i>	<i>4</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>4</i>
Anticipated Projects	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Central Business District			45	45	45					135
Hovan Site*			50	50	50	50				200
Other Anticipated	5	10	10	10	10	10	10	10	10	85
<i>Subtotal</i>	<i>5</i>	<i>10</i>	<i>105</i>	<i>105</i>	<i>105</i>	<i>60</i>	<i>10</i>	<i>10</i>	<i>10</i>	<i>420</i>
TOTAL	10	18	178	178	178	10	10	10	10	652

* Inclusionary development.

Anticipated development is that which likely will occur before 2104, based on site-specific analysis of remaining developable parcels and local knowledge. This analysis also includes an estimate of other projected development, based, in part, on historical growth trends. The analysis of anticipated development applications is based on existing vacant sites or other sites that are expected to develop for residential use before 2014. Yield calculations are based on existing zoning and other features that may impact the amount of development, such as the presence of environmental features, and also taking into account the on-going study of the borough's central business district and what future development in the central business district may yield.

The following table details the net growth projection, wherein projected demolitions are subtracted from anticipated CO's.

Table 26
Net Number of Residential Units by Year of Anticipated CO/Demolition
All Residential Development
Oakland, New Jersey

Block Lot/Site	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Approved	5	4	73	73	73	0	0	0	0	228
Pending	0	4	0	0	0	0	0	0	0	4
Anticipated/Other	5	10	105	105	105	60	10	10	10	420
<i>Subtotal</i>	<i>10</i>	<i>18</i>	<i>178</i>	<i>178</i>	<i>178</i>	<i>60</i>	<i>10</i>	<i>10</i>	<i>10</i>	<i>652</i>
Demolition Permits	3	3	3	3	3	3	3	3	3	27
Total (net)	7	15	175	175	175	57	7	7	7	625

In the final table, actual data from 2004 and 2005 is included, representing the total actual and projected residential growth expected for the third round period.

Table 27
Total Net Number of Residential Units by Year
Actual and Projected
Oakland, New Jersey

	Actual		Projected									Total
	2004	2005	2005	2006	2007	2008	2009	2010	2011	2012	2013	
CO's	23	13	10	18	178	178	178	60	10	10	10	688
Demolitions	0	1	3	3	3	3	3	3	3	3	3	28
Net Growth	23	12	7	15	175	175	175	57	7	7	7	660

c. Comparison: Baseline Projection and Actual Projection

If the actual projection is less than or equal to the baseline projection, the actual projection has an automatic presumption of validity. However, if this projection is less than the baseline, COAH may deny substantive certification based on this fact, unless the validity of the alternate projection can be affirmatively established. COAH will request a recommendation from the Office of Smart Growth regarding any projection below the baseline figure.

The MPO baseline residential growth projection, noted above, was 70 units. The analysis above predicts residential growth of 660 units over the next ten years, exceeding the 70 unit MPO projection.

d. Determining the Residential Growth Share

In this step, the projected growth is adjusted based on that portion of the projection that includes affordable units that are to be constructed in accordance with the second round certified plan. All affordable housing units may be excluded, as well as a portion of any market rate units that are part of an inclusionary development. Market rate units in an inclusionary development may be excluded at a rate of four times the number of affordable units constructed on-site. Market rate units that provided funding for an RCA may not be excluded.

The above exclusions can be applied to some of the borough's inclusionary sites. For example, the Heritage Hills site plan approval includes 24 units of affordable housing on-site, as indicated in the borough's second round plan. Therefore, it is eligible to exclude 120 units, as shown below. Similarly, this provision can be applied to the Hovan site. The Hovan site was included in the borough's second round plan for 100 total units, including 15 affordable units. Technically, this would allow 60 units to be excluded from the growth share calculation. However, as proposed in this plan, this site is to be enlarged to include additional acreage and additional units including affordable units. Specifically, as detailed below, this plan proposes 200 total units on this site, with 40 affordable units (20 percent setaside). This plan assumes that all 200 units should be

excluded from the growth share calculation, as shown in the table below. Notably, if only 60 units were permitted to be excludable, the analysis would result in this site generating a growth share obligation of 15 units (140 / 9), when in actuality, this site provides affordable housing in excess of its own growth share obligation.

Table 28
Final Net Number of Residential Units by Year
Adjusted for Second Round Affordable Units
Oakland, New Jersey

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Net Residential Growth	23	19	15	175	175	175	57	7	7	7	660
Exclusions:											
Heritage Hills				-40	-40	-40					-120
Hovan Site				-50	-50	-50	-50				-200
Final Net Growth	23	19	15	85	85	85	7	7	7	7	340

The residential growth share is determined by dividing the Final Net Growth projections by nine, based on the requirement that one affordable unit be constructed for every eight market rate units. That is, the affordable component is assumed to be included in the projections identified above, rather than provided on top of the growth identified previously.

Table 29
Residential Growth Share Obligation
Oakland, New Jersey

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Final Net Growth	23	19	-25	85	85	125	7	7	7	7	340
Growth Share (÷9)	2.6	2.1	-2.8	9.4	9.4	13.9	0.8	0.8	0.8	0.8	37.8

2. Calculation of Non-Residential Growth Share

a. MPO Baseline Non-Residential Employment Growth Projection

The baseline employment growth projection for non-residential development is generated from the employment projections provided by the North Jersey Transportation Planning Authority (NJTPA). Employment growth is estimated based on the employment projections estimated by NJTPA for 2005 to 2015. The following calculation details their baseline non-residential growth projection for Oakland.

Table 30
Baseline Non-Residential Growth Projection
Oakland, New Jersey

$$\begin{array}{ccccc} \text{2015 Employment} & - & \text{2005 Employment} & = & \text{Employment} \\ \text{Estimate} & & \text{Estimate} & & \text{Growth} \end{array}$$

$$7,750 - 7,580 = 170$$

Source: NJTPA Population and Employment Projections.

b. Non-Residential Actual Growth Projection

Like the residential growth share analysis, COAH requires that the municipality undergo a detailed analysis of historical trends, pending and approved development applications, and other local knowledge to generate an actual non-residential growth projection for the borough. This projection is then compared to the baseline projection to determine its validity.

The detailed projection is determined through a series of similar steps and analyses to that referenced above. The analysis is shown below.

1) Historical Trends in Non-Residential Development

In this step, historical data for the years 1995-2005 is shown. This data establishes the borough's historical non-residential growth trends and provides actual growth figures for 2004 and year-to-date 2005. As with the residential analysis, growth is indicated by certificates of occupancy and demolition permits issued. Historical trends are then utilized in a subsequent stage to help predict non-residential growth. The table presents this information based on the total square footage by type of non-residential development (i.e. office, retail, etc.).

Table 31
Historical Trends in Non-Residential Development, 1995-2005
Analysis of Building Permits and Demolition Permits, Square Footage by Use Type
Oakland, New Jersey

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005 YTD
Certificates of Occupancy Issued (sf)											
Office	n/a	19,940	18,750	0	9,084	0	0	2,445	0	0	44,192
Assembly A3	n/a	0	0	0	3,638	0	0	0	0	0	0
Industrial	n/a	105,477	0	2,965	0	0	0	0	0	44,181	0
Storage	n/a	5,215	44,342	30,000	0	0	68,000	48,600	0	0	0
Education	n/a	0	0	0	0	0	0	0	0	0	0
Demolition Permits Issued (sf)											
Office	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0	1,264

Source: NJDCA Division of Codes and Standards, Borough of Oakland

As shown above, the borough has experienced a modest amount of non-residential development over the previous ten year period.

The data for 2004 and YTD 2005 is translated into employment growth, based on the multipliers provided in Appendix E of COAH's substantive rules. This is shown in the table below.

Table 32
Actual Non-Residential Growth Share, 2004-2005(YTD)
Oakland, New Jersey

	2004		2005 YTD		Total Jobs
	Sq. Ft.	Jobs	Sq. Ft.	Jobs	
Certificates of Occupancy					
Office	0	0	44,192	132.6	132.6
Industrial	44,181	88.4	0	0	0
Demolition Permits Issued					
Office	0	0	1,264	3.8	3.8
Total Net Jobs	88.4		129.8		218.2

2) Anticipated Non-Residential Development

In this section, COAH requires that non-residential development be projected to 2014. This analysis involves the identification of all prospective non-residential projects, including those that have been approved but not yet received CO's, any pending non-residential development applications, and other anticipated residential development. Anticipated development is that which will likely occur before 2014, based on site-specific analysis of remaining developable parcels. This analysis also includes an estimate of other projected non-residential development, based, in part, on historical growth trends. Each of the following tables projects both the amount of square footage estimated and the job growth associated with that development.

The analysis of anticipated development applications is based on existing vacant or other sites with redevelopment potential that are expected to be developed for non-residential use before 2014. Yield calculations are based on existing zoning and other features that may impact the amount of development, such as the presence of environmental features, etc.

Table 33
Projected Non-Residential Square Footage/Jobs, By Year of Anticipated CO
Approved, Pending and Anticipated Development Applications
Oakland, New Jersey

Approved Projects	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Manzo (B 3404.01 L 5, 5.01) B Office: 2,905 sf Jobs: 8.72		8.7								8.7
Cenzinos (B 2504 L5) A-2 Assembly: 2,553 sf Jobs: 7.66		7.7								7.7
Café L'amore (B2403 L7,9) A-2 Assembly: 5,706 sf Jobs: 17.12		17.1								17.1
Beacon Realty B Office: 34,930 sf			120.4							120.4

M Retail: 15,600 sf Jobs: 120.39										
Burger King (B2102.02 L1.01) A-2 Assembly: 3,745 sf Jobs: 11.24		11.2								11.2
Malagasy (B 3209 L 1.03) B Office: 19,998 sf Jobs: 59.99		60.0								60.0
Jesse K Realty (B1201 L2.15) S Storage: 50,220 Jobs: 10.0		10.0								10.0
DT Allen (B3411 L1.01,1.03) S Storage: 36,600 Jobs: 7.3		7.3								7.3
<i>Subtotal: Jobs</i>		122.0	120.4							242.4
Pending Projects	<i>No non-residential projects pending.</i>									
Anticipated Projects	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Central Business District M Retail: 30,000s f Jobs: 30			10	10	10					30
Other Anticipated				10	10	10	10	10	10	60
<i>Subtotal Jobs:</i>	<i>0</i>	<i>0</i>	<i>10</i>	<i>20</i>	<i>20</i>	<i>10</i>	<i>10</i>	<i>10</i>	<i>10</i>	<i>90</i>
TOTAL JOBS	0	122.0	130.4	20	20	10	10	10	10	332.4

The following table projects the job loss associated with projected non-residential demolitions.

Table 34
Projected Job Loss Associated with Non-Residential Demolitions by Year
Oakland, New Jersey

Block Lot/Site	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Central Business District B Office: 5,000 sf Jobs: 15			15							
Total Projected Job Loss			15							

The following table details the net projected employment growth based on all the above projections, including approved, pending and anticipated development applications, as well as projected job loss associated with anticipated demolitions.

Table 35
Net Projected Employment Growth
All Development and Demolitions
Oakland, New Jersey

Block Lot/Site	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Approved	0	104.7	120.4	0	0	0	0	0	0	225.1
Pending	0	0	0	0	0	0	0	0	0	0
Anticipated/Other	0	0	10	20	20	10	10	10	10	90
Subtotal	0	122.0	130.4	20	20	10	10	10	10	332.4
Demolitions	0	0	-15	0	0	0	0	0	0	-15

Total (net)	<i>0</i>	<i>122.0</i>	<i>115.4</i>	<i>20</i>	<i>20</i>	<i>10</i>	<i>10</i>	<i>10</i>	<i>10</i>	<i>317.4</i>
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Actual data from 2004 and YTD 2005 is added into the table below to provide a complete non-residential growth projection for the third round period.

Table 36
Total Net Employment Growth
Actual and Projected
Oakland, New Jersey

	Actual		Projected									Total
	2004	2005	2005	2006	2007	2008	2009	2010	2011	2012	2013	
CO's	88.4	129.8	0	122.0	130.4	20	20	10	10	10	10	550.6
Demol.					-15							
Net Growth	88.4	129.8	0	122.0	115.4	20	20	10	10	10	10	535.6

D. Comparison: Baseline Projection and Actual Projection

If the actual projection is greater than or equal to the baseline projection, the actual projection has an automatic presumption of validity. However, if this projection is less than the baseline, COAH may deny substantive certification based on this fact, unless the validity of the alternate projection can be affirmatively established. COAH will request a recommendation from the Office of Smart Growth regarding any such alternate projection.

The MPO employment projection for the ten year period was 170 jobs. The above analysis of approved, pending and projected non-residential growth reveals an employment projection of 535 jobs, which is in excess of the MPO baseline figure.

E. Determining the Non-Residential Growth Share

The non-residential growth share obligation is determined by dividing the Final Net Employment Growth projections by 25, based on the requirement that one affordable unit be constructed for every 25 jobs created. This is shown in the table below.

Table 37
Non-Residential Growth Share Obligation
Oakland, New Jersey

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Final Net Growth	88.4	129.8	122.0	115.4	20	20	10	10	10	10	535.6
Non-Residential Growth Share (÷25)	3.5	5.2	4.9	4.6	0.8	0.8	0.4	0.4	0.4	0.4	21.4

3. Total Growth Share Obligation: Residential and Non-Residential Development

The complete growth share projection is shown in the table below, and represents the borough's growth share affordable housing obligation for the third round period.

Table 38
Total Growth Share Obligation
Oakland, New Jersey

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total
Residential Growth Share	2.6	2.1	-2.8	9.4	9.4	13.9	0.8	0.8	0.8	0.8	37.8
Non-Residential Growth Share	3.5	5.2	4.9	4.6	0.8	0.8	0.4	0.4	0.4	0.4	21.4
Total Growth Share Obligation	6.1	7.3	2.1	14.6	10.2	14.7	1.2	1.2	1.2	1.2	59.2

4. Total Affordable Housing Obligation

As indicated previously, the total fair share obligation is the sum of the rehabilitation share, remaining prior round obligation, and the growth share. As shown below, Oakland has a total fair share obligation of 170 units.

Table 39
Total Fair Share Obligation
Oakland, New Jersey

Component	Obligation
Rehabilitation Share	0
Remaining Prior Round Obligation	111
Growth Share	59
Total Fair Share Obligation	170

SECTION III
FAIR SHARE PLAN

I. Plan Summary

This section of the plan details the projects, mechanisms and funding sources which will be used to meet the borough's affordable housing obligation. It is broken down into two subsections: (a) remaining prior round obligation and (b) growth share obligation.

It should be noted that the rules governing the remaining prior round obligation are COAH's second round substantive rules, N.J.A.C. 5:93. Only the growth share component of the fair share obligation is governed by the new rules, N.J.A.C. 5:94.

A. Remaining Prior Round Obligation

The borough has a remaining prior round obligation of 111 units. The remaining obligation represents the borough's recalculated prior round obligation (177 units), less credits (12 units) and reductions (54 units), as identified in the previous section of this plan. While the second round plan provided for 219 new construction affordable units, the second round plan components must be modified in this plan, due to the following:

1. The Bi-County site, a development site identified in the second round plan for inclusionary housing, is located in the Highlands preservation area, and no longer represents a realistic opportunity for affordable housing, and;
2. The reduced prior round obligation (from 222 to 177) subsequently reduces (a) the number of units that must be rental units, (b) the number of units that may be age-restricted and (c) the number of units that may be transferred through an RCA. These impacts are described below:
 - a. Rental Obligation: The minimum rental obligation associated with the recalculated prior round obligation is 44 units. This plan requests a reduction for 30 rental units in connection with the Hovan development site. Additionally, 12 credits are requested for existing rental group home units. The borough has a remaining rental obligation of 2 units.
 - b. Age-Restricted Units. The recalculated obligation reduces the maximum number of affordable units that may be age-restricted to 44 units. This plan requests a reduction for 24 units in at the Heritage Hills site, which are age-restricted units. Therefore, only 20 units of the remaining prior round obligation may be age-restricted.
 - c. Regional Contribution Agreement: The borough's second round plan called for 97 units to be transferred through regional contribution agreements (RCA). However, the recalculated prior round obligation of 177 units reduces the number of units that may be transferred to another municipality through RCAs to 88 units. As no RCAs have been executed to date, 88 units of the remaining prior round obligation can be accommodated through this mechanism.

The remaining prior round obligation is summarized in the table below:

Table 40
Remaining Prior Round Obligation Components
Oakland, New Jersey

Units	Initial Obligation	Recalculated Obligation	Credits/Reductions (2 nd Round plan)	Outstanding
<i>Total Obligation</i>	222	177	66	111
Min. Rental	55	44	42 12 Group Homes 15 Hovan On-site 15 Hovan Bonus Credits	2
Max. Age-Restricted	56	44	24 (Heritage Hills)	Up to 20
Max. RCA	111	88	0	Up to 88

B. Growth Share Obligation

The borough has a growth share obligation of 59 units. This obligation was calculated in the previous section of this plan based on projected residential and non-residential growth in the community.

1. Regional Contribution Agreements. Pursuant to NJAC 5:94-5.1, the borough may transfer up to 50 percent of its *growth share* obligation to a receiving municipality through a regional contribution agreement. The maximum number of units that may be transferred is 29 affordable units.
2. Age Restricted Units. The borough may age-restrict no more than half of the affordable units provided within the community. That is, one half of the growth share obligation, less RCA units, are permitted to be age-restricted.
3. Rental Component and Bonus Credits. COAH regulations stipulate in NJAC 5:94-4.20 that at least 25 percent of a municipality's *growth share* obligation must be addressed with rental housing. Therefore, the borough is obligated to provide 15 affordable rental units.

Table 41
Growth Share Obligation Components
Oakland, New Jersey

Growth Share	Units
<i>Growth Share Obligation</i>	59
Min. Rental Units	15
Max. Age-Restricted Units	½ (59- RCA units)
Max. RCA Transfer	29

II. Plan Components

A. **Remaining Prior Round Obligation Plan:** The remaining prior round obligation will be met through the use of rental bonus credits, a regional contribution agreement and inclusionary development, as detailed below:

1. **Rental Bonus Credits.** The borough did not seek senior rental bonus credits for the 24 units in the Heritage Hills site in the prior round because it had already accommodated its rental obligation through other proposed developments, including the Bi-County site. However, the Bi-County site has been removed from this plan. Therefore, the borough seeks senior rental bonus credits for the senior rental units proposed for the Heritage Hills site. This plan calls for eight units of senior rental bonus credit associated with the Heritage Hills site. This satisfies the remaining rental obligation of two units.

2. **Regional Contribution Agreements.** The borough proposes to transfer 88 units of its remaining prior round obligation to another municipality through a regional contribution agreement(s). Because this RCA was identified as part of the borough's second round plan, the minimum subsidy amount is \$25,000 per unit.

a. **Funding:** The RCA is to be funded through payments in lieu of construction received from the Heritage Hills and River Bend developments and through bonding. Although payments in lieu of construction are not eligible to fund RCAs in the third round, those that were collected as part of a second round plan may fund a regional contribution agreement. These payments were identified in the borough's second round plan that was submitted for substantive certification in 2000. The remainder of the cost of the RCA will be funded through bonding.

b. **Implementation:** The appendix to this plan contains the following documents with respect to the regional contribution agreement:

1. A letter from (to be inserted) expressing interest in becoming the receiving community for a regional contribution agreement.
2. A letter from the Borough of Oakland expressing an intent to enter into a regional contribution agreement with the (to be inserted).
3. A contract between the Borough of Oakland and the receiving municipality.
4. A draft resolution from the governing body expressing intent to bond in the event of a shortfall in funding.

3. Inclusionary Development. The remaining 15 units of the outstanding prior round obligation are to be implemented through inclusionary development on the Hovan site. A portion of the Hovan Site (Block 3203 Lots 2, 2.01, 2.02, 2.03 and a portion of Lot 5; Block 3204 Lots 4, 5, 5.01,6, and 7.) was included in the borough's second round plan as an inclusionary development to be developed with 100 units. In the second round plan, the imposition of a 15 percent setback for rental lower income housing units yielded 15 lower income housing units and 15 units of rental bonus credits. The site remains unbuilt, and reduction for these 30 units was previously noted to be requested in this plan.

With the additional adjoining acreage, the site could accommodate a total of 200 dwelling units. The imposition of a 20 percent setback will result in 40 affordable rental units on this site, which represents a 25 unit surplus over the number of units which received a reduction in this plan. Fifteen of these units are to be used in this plan to satisfy the remaining prior round obligation. The remaining ten units will be utilized to meet a portion of the borough's growth share obligation.

Site suitability requirements are addressed below:

i. Site description:

Property Owner:	McBride Family
Acreage:	Approx. 66.46
Block/Lot:	Block 3203 Lots 2, 2.01, 2.02, 2.03,5 (partial) Block 3204 Lots 4, 5, 5.01,6, 7
Buildable Area:	Approx. 31.33 acres
Current Zoning:	RC Residential Cluster
SDRP Planning Area:	PA-1
Street Access:	Ramapo Valley Road
Surrounding Development Pattern:	North: Residential, Quasi-Public East: Residential, Industrial South: Residential, Public, Commercial, Industrial, Vacant West: Residential, Commercial, Quasi-Public
Map of Site Location	See Attached

ii. Environmental information: The site contains environmental constraints in certain locations, including a flood plain area, wetlands, category 1 waterways and steep slopes. The attached map provides information on the location of wetlands, category one waterways and flood plains. An area of steep slopes is primarily concentrated in the southern portion of the site. However, there is sufficient area in the central and northern portions of the site which is unconstrained.

iii. Utility availability: The site does not contain sewer capacity at the present time. The borough is presently exploring the extension of sewer lines to its central business district area.

Insert Hovan Site Surrounding Land Use Map

- iv. Development proposal: This site will accommodate a total of 200 dwelling units. A 20 percent setaside requirement would be imposed on development of the site, resulting in 40 affordable dwelling units.

As with all affordable development within the borough, the affordable units will be subject to the borough's fair share ordinance and affirmative marketing plan, attached in the appendix, with respect to affordability controls and other regulations.

- v. State Plan Consistency: The site is located in Planning Area 1. Therefore it has an automatic presumption of validity with respect to State Plan consistency.

Table 42
Hovan Site Proposal
Oakland, New Jersey

Hovan Site	Units
Total Units	200 units
Required Setaside	x 20% setaside
Total Affordable Units (all rental)	= 40 units
Previous Reductions (2 nd Round Plan)	- 15 units
Additional Affordable Units	= 25 units
Units Towards Remaining Prior Round Obligation	15 units
Units toward 3 rd Round Rental Obligation	10 units

B. Growth Share Obligation Plan: The growth share obligation of 59 units will be met through the use of regional contribution agreements and inclusionary development sites.

1. Regional Contribution Agreements. The borough proposes to transfer four units of its remaining prior round obligation to another municipality within its housing region through a regional contribution agreement. This RCA will be funded through development fees and other funding sources as necessary. The borough will adopt a resolution of intent to bond in the event of a shortfall in funding. The total cost of the RCA, using the minimum transfer cost of \$35,000 per unit, is \$140,000.

The appendix to this plan contains the following documents with respect to the regional contribution agreement:

- A draft RCA contract between the Borough of Oakland and a receiving municipality.
- A draft resolution from the governing body expressing intent to bond in the event of a shortfall in funding.
- A draft resolution authorizing RCA execution.

2. Inclusionary Development. The borough has identified three sites for inclusionary development, as detailed below:

a. Hovan Site. Block 3203 Lots 2, 2.01, 2.02, 2.03 and a portion of Lot 5; Block 3204 Lots 4, 5, 5.01, 6, and 7. As indicated previously, a portion of this site was included in the borough's second round plan as an inclusionary development to be developed with 100 units, with a 15 unit setaside. The larger site is now proposed to include 200 total units, with a 20 percent setaside. It will generate 40 affordable units. As shown in the previous table, ten of the 40 rental units are to be utilized to satisfy a portion of the borough's growth share obligation, as the remaining units are used to satisfy the prior round obligation.

Site suitability requirements for this site were previously addressed by this plan. The development proposal was also detailed.

b. Central Business District #1 (Block 2318 Lot 1). The borough will impose inclusionary zoning requirements on two sites within the central business district, in accordance with a central business district plan currently being prepared. These two sites will accommodate 154 total units and will be subject to a 20 percent affordable housing setaside requirement. The first site, Central Business District #1, is detailed below.

i. Site description:

Property Owner:	Gabrellian Associates
Acreage:	4.37 acres
Block/Lot:	Block 2318 Lot 1
Buildable Area:	4.37 acres
Current Zoning:	RA-MD Multi-Family Residence
SDRP Planning Area:	PA-1
Street Access:	Terhune Street
Surrounding Development Pattern:	North: Railroad ROW, Residential East: Commercial South: Residential, Commercial West: Residential
Map of Site Location	See Attached

- ii. Environmental information: The site does not contain environmental constraints. There are no flood plain areas, wetlands, category 1 waterways or steep slopes impacting this site. See attached environmental constraints map.
- iii. Utility availability: This site does not presently have sewer access. The borough is presently exploring the extension of sewer lines to its central business district area.
- iv. Development proposal: This site will accommodate a total of 60 dwelling units on site (see attached concept map). A 20 percent setaside

Insert CBD #1 Block 2318 Lot 1 Map

requirement will be imposed on the site, resulting in 12 affordable dwelling units. See attached concept plan for additional detail.

The affordable units will be subject to the borough's fair share ordinance and affirmative marketing plan, attached in the appendix, with respect to affordability controls and other regulations.

- v. State Plan Consistency: The site is located in Planning Area 1. It has an automatic presumption of validity with respect to State Plan consistency.
- c. Central Business District #2 (Block 2303.01 Lots 3, 4, 5, 5.02 and Block 2404 Lots 1-3). The second inclusionary site within the CBD, Central Business District #2, is detailed below.

i. Site description:

Property Owner:	Fanale, Salvatore and Mary
Acreage:	6.57 acres
Block/Lot:	Block 2303.01 Lots 3, 4, 5, 5.02 Block 2404 Lots 1-3
Buildable Area:	6.57 acres
Current Zoning:	B-2 Local Business
SDRP Planning Area:	PA-1
Street Access:	Ramapo Valley Road
Surrounding Development Pattern:	North: Routes 208/I-287 East: Commercial South: Commercial, Railroad ROW West: Residential
Map of Site Location	See Attached

- ii. Environmental information: The site does not contain any flood plain areas, wetlands, or category 1 waterways. Isolated steep slopes impact a small portion of the site. See attached environmental constraints map.
- iii. Utility availability: This site does not presently have sewer access. The borough is pursuing the extension of sewer lines to its central business district area.
- iv. Development proposal: This site will accommodate a mixed-use development with 94 dwelling units on site (see attached concept map). A 20 percent setback requirement will be imposed this site, resulting in 19 affordable dwelling units. See the attached concept plan for additional detail concerning the development proposal.

As with all affordable development within the borough, the affordable units will be subject to the borough's fair share ordinance and affirmative marketing plan, attached in the appendix, with respect to affordability

Insert CBD #2 Map

controls and other regulations. These units, which are located above proposed retail space, will be required to be rental units.

- v. State Plan Consistency: The site is located in Planning Area 1. It has an automatic presumption of validity with respect to State Plan consistency.

3. Rental Bonus Credits. The borough's rental obligation is 15 units. The borough proposes 29 rental units (10 at the Hovan Site and 19 at the Central Business District #2 site). Therefore, the borough is eligible for 14 units of rental bonus credit, for those rental units provided in excess of the rental required.

IV. APPENDIX

A-1 DRAFT REGIONAL CONTRIBUTION AGREEMENT FOR REMAINING PRIOR ROUND OBLIGATION

**DRAFT REGIONAL CONTRIBUTION AGREEMENT (RCA) BETWEEN
BOROUGH OF OAKLAND
AND [receiving municipality]
FOR REMAINING PRIOR ROUND OBLIGATION**

THIS AGREEMENT is made on the ____ day of_____, 2005 by and between the Borough of Oakland and the [receiving municipality]:

WHEREAS, the Fair Housing Act, N.J.S.A. 52:27D-301 to -.329 at -312, allows two municipalities to enter into a contractual agreement, known as a regional contribution agreement (RCA), for the transfer of up to 50 percent of a sending municipality's fair share obligation to a receiving municipality within its housing region; and

WHEREAS, both of said municipalities believe that the execution of this RCA will be beneficial to the residents of their respective communities and the housing region; and

NOW THEREFORE, in consideration of the premises herein set forth, and the mutual covenants and promises herein contained, the parties do by and between themselves agree as follows:

Article 1. TRANSFER OF HOUSING OBLIGATION

The receiving municipality hereby agrees to accept, and the sending municipality agrees to transfer 88 low and moderate income units. The sending municipality has a fair share number of 177 units and the above number combined with other approved or proposed RCAs is equal to or less than 50 percent of the sending municipality's fair share obligation. The receiving municipality agrees to apply the funds to be paid to it here under so as to create or rehabilitate at least 88 units of low and moderate income housing. At least half of these units shall be affordable to low income households. In the case of scattered site rehabilitation of occupied units, the receiving community shall ensure, as best as practicable, that 50 percent of the rehabilitated units are occupied by low income households.

Article 2. SENDING MUNICIPALITY'S RESPONSIBILITIES

The sending municipality agrees to pay, and the receiving municipality agrees to accept the sum of \$25,000 per unit transferred in payments totaling \$2,200,000.

2.1. Payments shall be made according to the following schedule and in the following amounts:

Payment Date	Amount
_____	_____
_____	_____
_____	_____

2.2 The aforestated payments and payment schedule are the responsibility of the sending municipality and shall be paid in accordance with the above schedule regardless of any anticipated source of funding, such as developer fees.

2.3 The sending municipality shall obtain any and all financing necessary to fulfill its obligation to make the payments set forth above to the receiving municipality.

2.4. The parties acknowledge that the sending municipality's payments to the receiving municipality as set forth above include payment on a per unit basis to defray costs of administration as allowed by the rules of the Council on Affordable Housing (COAH), including the cost of infrastructure, incurred by the receiving municipality in connection with this agreement and that said amount is within COAH guidelines for such costs.

2.5. The sending municipality shall forward a formal letter to the county planning board requesting review of the RCA and the RCA project plan.

Article 3. RECEIVING MUNICIPALITY'S RESPONSIBILITIES

The receiving municipality shall prepare a project plan to implement and achieve the purposes of this agreement to provide a realistic opportunity for low and moderate income housing within the receiving municipality convenient to employment opportunities which are consistent with sound regional planning. Such project plan shall be submitted to the New Jersey Housing and Mortgage Finance Agency (HMFA), the county planning board and COAH for review and approval in accordance with COAH regulations.

3.1. The parties hereto agree that the receiving municipality shall submit/has submitted its project plan to HMFA by/on (insert date or deadline).

3.2. The receiving municipality shall apply to the appropriate agencies for all governmental approvals, whether municipal, county or state, except that the sending municipality shall be responsible for obtaining substantive certification of its housing element as provided under the Fair Housing Act.

3.3. The receiving municipality may apply for appropriate grants in aid which may be available. Any monies realized through such grants shall not affect the amount of the sending municipality's contribution.

3.4. The funds contributed by the sending municipality shall be utilized by the receiving municipality for (insert purpose), which is an eligible housing activity under COAH's regulations.

3.5. For scattered site rehabilitation of occupied units, the receiving municipality shall expend a minimum of \$12,000 per unit in hard costs to repair/replace a major system(s).

3.6. The receiving municipality shall submit all semi-annual monitoring reports required by COAH in a timely manner.

3.7. The receiving municipality shall establish a separate interest-bearing escrow account for all monies received pursuant to the RCA. This escrow agreement will permit COAH to effectively monitor disbursements of the funds received pursuant to the RCA. This account shall be monitored on a quarterly basis.

3.8. All interest generated from the RCA funds and retained by the receiving municipality may only be utilized for eligible housing activities under COAH's rules or to offset inflation and generally may not be used to exceed the 15 percent cap on administration.

3.9. Any change in the project plan or in the administration of the program subsequent to approval by HMFA, including a change in the RCA program administrator, shall be reviewed by the executive director of HMFA when requested by COAH, for determination as to whether a new feasibility analysis and approval is required.

3.10. It is agreed that the receiving municipality's obligations pursuant to this Article are not limited to the above. The receiving municipality agrees that **it** shall complete the project pursuant to this agreement in accordance with the regulations of COAH.

3.11. The receiving municipality agrees to designate an experienced administrative entity to assure that the applicable affordability controls shall be maintained over time.

3.12. The receiving municipality shall forward the following documents to its county planning board or agency:

1. master plan of receiving municipality;
2. zoning ordinances of receiving municipality and.

3. project plan

Article 4. CREDIT TO HOUSING OBLIGATION

The receiving municipality agrees that it will not claim credit toward its own housing obligation for any low or moderate income RCA units, as defined by the Fair Housing Act, but that all such credit will inure to the benefit of the sending municipality. All RCA units will be permanently identified in the appropriate records of the receiving municipality as having been rehabilitated or created to meet the fair share obligation of the sending municipality.

Article 5. EXCESS FUNDS

Transferred funds in excess of the amount necessary to implement this agreement will be retained and utilized by the receiving municipality for the continued production of low and moderate income housing and/or the rehabilitation thereof and/or construction of supporting infrastructure improvements consistent with the regulations of COAH.

If excess funds are utilized by the receiving municipality, they may only be used to produce or rehabilitate additional low and/or moderate income units and/or for a capital expenditure ancillary to or benefiting low and moderate income households and/or to offset inflation. All interest generated shall remain in the escrow account until expended on an eligible housing activity. The specific use of excess funds is subject to COAH approval and shall require the following:

- a. a brief description of the project including the number of units;
- b. total development costs and breakdown of financing;
- c. amount of funds to be expended;
- d. estimated start date;
- e. projected. date of completion and
- f. balance of funds in the RCA account(s).

Article 6. CONTINGENCIES

This agreement is contingent upon completion of the following:

- a) COAH's granting of substantive certification to the Borough of Oakland
- b) (List any other applicable contingencies)

Article 7. EFFECTIVE DATE

This Agreement is considered a contractual agreement and will become effective upon the granting of substantive certification by COAH to the housing element and fair share plan of the sending municipality. This agreement will be executed no later than (insert number) days after the sending municipality receives substantive certification from COAH as per N.J.S.A. 52:27D-312(a) or the court approves the RCA.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, this month, day and year first above written.

ATTEST

Date:

RECEIVING MUNICIPALITY

By: _____
(Title)

Date:

SENDING MUNICIPALITY

By: _____
(Title)

A-2 DRAFT RESOLUTIONS OF INTENT TO BOND IN THE EVENT THERE IS A SHORTFALL IN FUNDING

1. DEVELOPMENT FEES

2. PAYMENTS IN LIEU OF CONSTRUCTION

**SAMPLE DRAFT RESOLUTION
OF THE BOROUGH COUNCIL OF THE BOROUGH OF OAKLAND
SIGNIFYING AN INTENT TO BOND IN THE EVENT THAT THERE IS A SHORT FALL
IN FUNDING RECEIVED FROM THE BOUROGH'S MANDATORY DEVELOPMENT FEE
ORDINANCE**

WHEREAS, the Borough of Oakland submitted a Fair Housing Plan to COAH, which plan included within it provisions for a regional contribution agreement; and

WHEREAS, the Fair Housing Plan required compliance with various COAH restrictions, rules and regulations; and

WHEREAS, the Borough acknowledges the COAH rules and regulations that provide that, although the utilization of a mandatory development fee ordinance is an appropriate mechanism to raise money for the purpose of off setting the expenses incurred in connection with the Fair Housing Plan, that the mechanism must have an alternative in the event that no monies are derived from the mandatory development fee ordinance or the funds are not received in a timely fashion for the purpose of funding the cost of an RCA for related Fair Housing purposes.

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Oakland that it does hereby establish its intent that in the event that the projected funding from the Borough's mandatory development fee ordinance is insufficient to pay for an RCA, it is the intention of the Borough Council to adopt appropriate bond ordinances in order to accomplish the funding in an appropriate time frame.

I hereby certify the above to be a true copy of a resolution adopted by the Borough of Oakland Council at a duly convened meeting held on _____.

Borough Clerk

SAMPLE DRAFT RESOLUTION
OF THE BOROUGH COUNCIL OF THE BOROUGH OF OAKLAND
SIGNIFYING AN INTENT TO BOND IN THE EVENT THAT THERE IS A SHORT FALL
IN FUNDING RECEIVED FROM THE PAYMENTS IN LIEU OF CONSTRUCTING
AFFORDABLE UNITS ON-SITE

WHEREAS, the Borough of Oakland submitted a Fair Housing Plan to COAH, which plan included within it provisions for a rehabilitation program; and

WHEREAS, the Fair Housing Plan required compliance with various COAH restrictions, rules and regulations; and

WHEREAS, the Borough acknowledges the COAH rules and regulations that provide that, although the utilization of payments in lieu of construction is an appropriate mechanism to raise money for the purpose of off setting the expenses incurred in connection with the Fair Housing Plan, that the mechanism must have an alternative in the event that no monies are derived from the payments in lieu of constructing affordable units on-site or the funds are not received in a timely fashion for the purpose of funding the cost of an RCA for related Fair Housing purposes.

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Oakland that it does hereby establish its intent that in the event that the projected funding from the payments in lieu of constructing affordable units on-site is insufficient to pay for the RCA, it is the intention of the Borough Council to adopt appropriate bond ordinances in order to accomplish the funding in an appropriate time frame.

I hereby certify the above to be a true copy of a resolution adopted by the Borough of Oakland Council at a duly convened meeting held on _____.

Borough Clerk

A-3 DRAFT DEVELOPMENT FEE ORDINANCE

1. 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, 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. This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's rules. 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.

2. Basic requirements

- a) The Borough of Oakland shall not spend development fees until COAH has approved a plan for spending such fees and the Borough of Oakland has received third round substantive certification from COAH.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. "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.
 - ii. "COAH" means the New Jersey Council on Affordable Housing.
 - iii. "Development fee" means funds paid by an individual, person, partnership, association, company or corporation for the improvement of property as permitted in COAH's rules.
 - iv. "Equalized assessed value" means the value of a property determined by the municipal tax assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios required by law. Estimates at the time of issuance of a building permit may be obtained utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the municipal tax assessor.

4. Residential Development fees

- a) Within residential district(s), residential developers shall pay a fee of one percent (1%) of the equalized assessed value for residential development, provided no increased density is permitted.
- b) Residential developments in any zone. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. If the zoning on a site has changed during the two-year period preceding the filing of a “d” variance application, the base density for the purpose of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding filing of the “d” variance application.

5. Non-residential Development fees

- a) Within the non-residential districts district(s), non-residential developers shall pay a fee of two percent (2%) of the equalized assessed value for non-residential development.
- b) Nonresidential developments in any zone. If an increase in floor area ratio is approved pursuant to N.J.S.A. 40:55D-70d(4), then the additional floor area realized (above what is permitted by right under the existing zoning) will incur a bonus development fee of six percent (6%) of the equalized assessed value for non-residential development. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base floor area for the purposes of calculating the bonus development fee shall be the highest floor area permitted by right during the two-year period preceding the filing of the variance application.

6. Eligible exactions, ineligible exactions and exemptions

- a) Affordable housing developments shall be exempt from development fees. All other forms of new construction shall be subject to development fees, except as provided below.
- b) Developments that have received preliminary or final approval prior to the imposition of a municipal development fee shall be exempt from development fees unless the developer seeks a substantial change in the approval.
- c) Development fees shall be imposed and collected when an existing structure is expanded or undergoes a change to a more intense use, except that expansions to existing single- and two-family dwellings are exempt from these provisions. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- d) Places of worship shall be exempt from paying a development fee.

7. Collection of fees

- a) Fifty percent of the development fee will be collected at the time of issuance of the building permit. At the issuance of certificates of occupancy, the Tax Assessor shall calculate the equalized assessed value and the appropriate development fee. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

8. Contested fees

- a) Imposed and collected development fees that are challenged shall be placed in an interest bearing escrow account by the Borough of Oakland. If all or a portion of the contested fees are returned to the developer, the accrued interest on the returned amount shall also be returned.

9. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund in *[insert bank name]* for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls. All development fees paid by developers pursuant to this ordinance shall be deposited into this fund.
- b) Within seven days from the opening of the trust fund account, the Borough of Oakland shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, *[insert bank name]*, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:94-6.16(b).
- c) No funds shall be expended from the affordable housing trust fund unless the expenditure conforms to a spending plan approved by COAH. All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

10. Use of funds

- a) Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the municipal fair share. Such activities include, but are not limited to: rehabilitation, new construction, RCAs subject to the provisions of N.J.A.C. 5:94-4.4(d), ECHO housing, purchase of land for affordable housing, improvement of land to be used for affordable housing, purchase of housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, or administration necessary for implementation of the Housing Element and Fair Share Plan. The expenditure of all funds shall conform to a spending plan approved by COAH.
- b) Funds shall not be expended to reimburse the Borough of Oakland for past housing activities.
- c) After subtracting development fees collected to finance an RCA, a rehabilitation program or a new construction project that are necessary to address the Borough of Oakland affordable housing obligation, at least 30 percent of the balance remaining 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.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, and rental assistance.
 - ii. 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 third round municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle the Borough of Oakland to bonus credits pursuant to N.J.A.C. 5:94-4.22.
 - iii. 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 Borough of Oakland 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. 5:94-7.
- e) No more than 20 percent of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall 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 COAH's monitoring requirements. Development fee administrative costs are calculated and may be expended at the end of each year or upon receipt of the fees.

11. Monitoring

- a) The Borough of Oakland shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, and the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

12. Ongoing collection of fees

- a) The ability for The Borough of Oakland to impose, collect and expend development fees shall expire with its substantive certification on *[insert date of expiration of substantive certification]* unless The Borough of Oakland has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Oakland fails to renew its ability to impose and collect development fees prior to *[insert date of expiration of substantive certification]*, it may resume the imposition and collection of development fees only by complying with the requirements of N.J.A.C. 5:94-6. The Borough of Oakland shall not impose a development fee on a development that receives preliminary or final approval after the expiration of its substantive certification on *[insert DATE]*, nor will the Borough of Oakland retroactively impose a development fee on such a development. The Borough of Oakland will not expend development fees after the expiration of its substantive certification on *[insert DATE]*.

A-4 DESCRIPTION OF CHANGES TO THE MUNICIPAL ZONING ORDINANCE DURING THE PREVIOUS TWO YEARS

NA

A-5 DRAFT RESOLUTION REQUESTING COAH TO REVIEW THE DEVELOPMENT FEE ORDINANCE

WHEREAS, the Governing Body of the Borough of Oakland, Bergen County petitioned the Council on Affordable Housing (COAH) for substantive certification on *(insert date)*; and

WHEREAS, N.J.A.C. 5:94-6.1 permits a municipality to prepare and submit a development fee ordinance for review and approval by the Council on Affordable Housing that is accompanied by and includes the following:

1. A description of the types of developments that will be subject to fees consistent with N.J.A.C. 5:94-6.8; and
2. A description of the amount and nature of the fees imposed, not to exceed the limits established in N.J.A.C. 5:94-6.6 and 6.7; and

WHEREAS, the Borough of Oakland has prepared a development fee ordinance that is consistent with N.J.A.C. 5:94-6.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Oakland, Bergen County requests that COAH review and approve Oakland's development fee ordinance.

Borough Clerk

A-6 DRAFT SPENDING PLAN

INTRODUCTION

The Borough of Oakland, Bergen County has a development fee ordinance that was approved by the Council on Affordable Housing (COAH) on *[insert date of approval]*. This spending plan is prepared in accordance with N.J.A.C. 5:94-6.2(c) and 6.5 and includes the following:

1. Projection of revenues anticipated from imposing fees on development, based on actual proposed and approved developments and historic rate of development activity.
2. A description of the administrative mechanism that the municipality will use to collect and distribute revenues.
3. A description of the anticipated use of all development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, pursuant to N.J.A.C. 5:94-6.12, repayment of loans for rehabilitation or affordability assistance, and voluntary contributions.
4. A schedule for the creation and/or rehabilitation of housing units.
5. If the municipality is including a municipally sponsored or 100 percent affordable program, a new construction alternative living arrangement or an affordable housing partnership program, a pro-forma statement of the anticipated costs and revenues associated with the development.
6. The manner in which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

To date, the Borough has collected \$(to be inserted) in its affordable housing trust fund. All development fees collected and interest generated by the fees are deposited in a separate interest-bearing account in (bank name to be inserted) for the purposes of affordable housing.

1. PROJECTION OF REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated through the expiration of substantive certification, the Borough of Oakland considered the following:

- (a) Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals are anticipated to provide \$ *[insert amount of revenue anticipated]* in development fees at issuance of building permits and/or certificates of occupancy during the period of substantive certification.
- (b) All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy are anticipated to provide \$ *[insert amount of revenue anticipated]* in development fees during the period of substantive certification.

- (c) Development projected to begin construction based on historic rates of development is anticipated to provide an additional \$ *[insert amount of revenue anticipated]* in development fees during the period of substantive certification.
- (d) Payments in lieu of construction from developers pursuant to N.J.A.C. 5:94-4.4(b-e) are anticipated to provide \$ *[insert amount of revenue anticipated]* in development fees during the period of substantive certification.
- (e) Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of loans for rehabilitation or affordability assistance, and voluntary contributions are anticipated to provide \$ *[insert amount of revenue anticipated]* in fees during the period of substantive certification.
- (f) Interest on the projected revenue in the housing trust fund at the current average interest rate is anticipated to provide \$ *[insert amount of revenue anticipated]* to accrue to the affordable housing trust fund during the period of substantive certification.

The Borough of Oakland projects a total of \$ *[insert total of all revenue listed above]* in revenue to be collected between *[insert date of spending plan]* and the expiration of substantive certification. When the total revenue projected of \$ *[insert total of all revenue listed above]* is added to the amount collected to date of \$ *[insert amount of revenue already collected]*, a total of \$ *[insert total of collections and projections]* will be collected prior to the expiration of substantive certification. All development fees, payments in lieu of construction and other funds listed above will be deposited in a separate interest-bearing account in *[insert name of bank]* and all interest earned on the account will 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 will be followed by the Borough of Oakland:

(a) Collection of development fee revenues:

The planning board secretary notifies the *[insert title of designated municipal official]* whenever preliminary, final or other applicable approval is granted for a development which is subject to a development fee.

When a request is made for a building permit, the *[insert title of designated municipal official]* determines if the project is subject to the imposition of a mandatory development fee.

If so, the *[insert title of designated municipal official]* will notify the borough tax assessor to calculate the approximate value of the project and set the fee based on:

For residential fees: the equalized assessed value

For non-residential fees: the equalized assessed value.

The developer will pay up to 50 percent of the estimated development fee to the *[insert title of designated municipal official]* at the time the building permit is issued. The funds are then forwarded to the *[insert title of designated municipal official]* and deposited in the affordable housing trust fund.

The balance of the development fee will be paid by the developer to *[insert title of designated municipal official]* at the issuance of the certificate of occupancy. The funds are then forwarded to the *[insert title of designated municipal official]* and deposited in the affordable housing trust fund.

(b) Distribution of development fee revenues:

The *[insert name of designated board or committee]* adopts and forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the municipal treasurer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF DEVELOPMENT FEES

- (a) The Borough of Oakland will dedicate \$ *[insert amount of revenue to be dedicated]* to Rehabilitation or New Construction programs or a Regional Contribution Agreement (RCA) which is/are exempt from the affordability assistance requirement.

Rehabilitation program: \$0

New Construction project(s): \$ *[insert amount of revenues to be expended, by project]*

[provide detailed description(s)]

RCA:

- (b) The Borough of Oakland will dedicate \$ *[insert amount of revenues to be dedicated]* from the affordable housing trust fund to render units more affordable, including \$ *[insert amount of revenue to be dedicated]* to render units more affordable to households earning 30 percent or less of median income by region, as follows:

[provide detailed description of the proposed affordability assistance program]

- (c) The Borough of Oakland will dedicate \$*[insert amount of revenue to be dedicated]* from the affordable housing trust fund to be used for administrative purposes as follows:

[NOTE: N.J.A.C. 5:94-6.12(e) stipulates that, after subtracting fees used to fund an RCA, a maximum of 20 percent of development fees, payments in lieu of construction, and interest collected each year may be utilized for administrative purposes such as salaries and benefits for municipal employees or consultant fees necessary to develop or implement municipal housing programs such as rehabilitation, new construction, RCAs, housing elements and/or affirmative marketing programs. Administrative funds may be used to income qualify households and monitor implementation. Development fees may be used to defray the costs of staff or consultants that are preparing or implementing a fair share plan.]

[provide detailed description]

- (d) The remaining \$[insert amount of revenue remaining] in the affordable housing trust fund will be used as follows:

[Provide a detailed description of all activities that do not fall into one of the categories above (i.e. extensions or improvements of roads or infrastructure to affordable housing sites).]

SPENDING PLAN CALCULATION SUMMARY	
Existing Balance	\$
Pending fees due upon issuance of building permit and/or CO	+ \$
Projects awaiting approval	+ \$
Projection based on historic development activity	+ \$
Payments in lieu of construction	+ \$
Projected Interest	+ \$
Other	+ \$
	= \$
TOTAL PROJECTED REVENUE	
Funds used for Rehabilitation, RCA or New Construction (not including administration of such programs)	- \$
TOTAL SUBJECT TO AFFORDABILITY ASSISTANCE REQUIREMENT	= \$
Affordability Assistance (minimum of 30% of above total)	- \$
Affordability Assistance to Very Low Income Households (minimum of 1/3 of above allotment)	\$
Administration (maximum of 20% of total projected revenue minus RCA contribution)	- \$
	= \$
REMAINING FUNDS FOR OTHER HOUSING ACTIVITY	
1. <i>[list individual projects]</i>	- \$
2.	- \$
3.	- \$
	= \$0.00

4. SCHEDULE FOR CREATION AND/OR REHABILITATION OF HOUSING UNITS

NA

5. MUNICIPALLY SPONSORED OR 100 PERCENT AFFORDABLE PROGRAMS, NEW CONSTRUCTION ALTERNATIVE LIVING ARRANGEMENTS, AND AFFORDABLE HOUSING PARTNERSHIP PROGRAMS

[Insert Description of Total Development Cost Breakdown Per Project, Construction Schedule, and Sources of Funding]

6. UNEXPECTED SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of the Borough of Oakland has adopted a resolution agreeing to fund any shortfall of funds required for implementing the regional contribution agreement and rehabilitation program. In the event that a shortfall of anticipated revenues occurs, the Borough of Oakland will bond to fund any shortfall in funds. A copy of the adopted resolution is attached.

SUMMARY

The Borough of Oakland intends to spend development fee revenues pursuant to N.J.A.C. 5:94-6.12 and in conjunction with the housing programs outlined in the housing element and fair share plan dated August 2005.

The Borough of Oakland has collected \$0 to date and anticipates an additional \$ *[insert total projected revenue]* in revenues before the expiration of substantive certification for a total of \$*[insert total of collections and projections]*. The municipality will dedicate \$ *[insert amount of revenue for housing activities]* towards *[insert types of housing programs]*, \$ *[insert amount of revenue for affordability assistance]* to render units more affordable, and \$*[insert amount of revenue for administrative costs]* to administrative costs. Any shortfall of funds will be offset by *[insert source of funds]*.

A-7 DRAFT RESOLUTION FORWARDING THE SPENDING PLAN TO COAH FOR REVIEW

WHEREAS, the Governing Body of the Borough of Oakland, Bergen County petitioned the Council on Affordable Housing (COAH) for substantive certification on *(insert date)*; and

WHEREAS, the Borough of Oakland received approval from COAH on *[insert date]* of its development fee ordinance; and

WHEREAS, N.J.A.C. 5:94-6.2(c) requires a municipality with an adopted development fee ordinance, payments that have been received in lieu of constructing affordable housing pursuant to the terms of a developer's agreement and/or funds from the sale of units with extinguished controls to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:94-6.5 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on actual proposed and approved developments and historic development activity;
2. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
3. A description of the anticipated use of all development fees, payments in lieu of constructing affordable housing units on site, and/or funds from the sale of units with extinguished controls, pursuant to N.J.A.C. 5:94-6.12;
4. A schedule for the expenditure of all development fees, payments in lieu of constructing affordable units on site, and/or funds from the sale of units with extinguished controls;
5. A schedule for the creation or rehabilitation of housing units;
6. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions being responsible for public sector or non-profit construction of housing; and
7. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and

WHEREAS, the Borough of Oakland has prepared a spending plan consistent with N.J.A.C. 5:94-6.5.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Oakland, Bergen County requests that COAH review and approve Oakland's spending plan.

Borough Clerk

A-8 RESOLUTION AUTHORIZING RCA EXECUTION

WHEREAS, the Borough of Oakland, Bergen County has a fair share obligation to provide housing opportunities to households of low- and moderate-income as established by the New Jersey Supreme Court and by the New Jersey Fair Housing Act, N.J.S.A. 52:27d-301 et seq.; and

WHEREAS, the Fair Housing Act provides that municipalities within the same region as defined by the Council on Affordable Housing (COAH) may meet up to 50 percent of that obligation through a regional contribution agreement (RCA) under which the sending municipality makes a cash payment to another municipality, known as the receiving municipality, which undertakes to provide low- and moderate-income housing which is credited toward the sending municipality's fair share obligation; and

WHEREAS, N.J.A.C. 5:94-5.1(a) allows municipalities to propose the transfer of up to 50 percent of their third round growth share obligation; and

WHEREAS, the Borough of Oakland proposes to transfer four units of its growth share obligation at a cost of \$35,000 per unit or a total of \$140,000 in the form of an RCA with *[insert name of receiving municipality, county]*; and

WHEREAS, the Borough of Oakland and *[insert name of receiving municipality]* are in the same region as defined by COAH; and

WHEREAS, *[insert name of receiving municipality]* desires to provide affordable housing for low- and moderate-income residents of the region, which action will be furthered by funds made available through the RCA; and

WHEREAS, the RCA is in the best interests of the Borough of Oakland.

NOW THEREFORE BE IT RESOLVED, that the Mayor of the Borough of Oakland in Bergen County is hereby authorized to execute such documents and exhibits as may be necessary to effectuate the RCA.

DATE: _____

[insert name]
[insert title]

A-9 AFFIRMATIVE MARKETING PLAN

The Borough's 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 or sponsor 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. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the period of deed restriction. The Plan will address the requirements of N.J.A.C. 5:80-26.15. In addition, the Plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. The Borough of Oakland is in the housing region consisting of Bergen, Passaic, Hudson, and Sussex Counties. The affirmative marketing program is a continuing program and will meet the following requirements:

- (1) All newspaper articles, announcements and requests for applications for low- and moderate-income units will appear in the following newspapers/publications: The Record.
- (2) The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an as-needed basis.
- (3) The advertisement will include a description of the street address of units, direction to housing units, number of bedrooms per unit, range of prices/rents, size of units, income information and location of applications, including business hours, where/how applications may be obtained, and application fees, if any.
- (4) All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in publications such as the Suburbanite weekly newspaper, religious publications and organizational newsletters within the region.
- (5) The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program, including specific employment centers within the region: posting of notices in the Borough Hall and delivery of notices to the municipal clerks of all municipalities in the region.
- (6) The following is a listing of community contact persons and/or organizations in Oakland that will administer the program and will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: land use administrator, County Housing Office and houses of worship.
- (7) Quarterly flyers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Bergen, Hudson, Passaic and Sussex Counties.
- (8) Applications will be mailed to prospective applicants upon request.

(9) Additionally, quarterly informational circulars and applications will be sent to the chief administrative employees of each of the following agencies in the counties within Oakland's region: Welfare or Social Service Board, Rental Assistance Office (local office of DCA), Office on Aging, libraries and housing agency or authority in each of the counties within Oakland's housing region.

(10) A random selection method will be used to select occupants of low- and moderate-income housing.

(11) The Borough shall appoint the appropriate entity to administer the affirmative marketing program. This entity shall have the responsibility to income qualify low- and moderate-income households; to place income-eligible households in low- and moderate-income units upon initial occupancy; to provide for the initial occupancy of low- and moderate-income units with income-qualified households; to continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; to assist with advertising and outreach to low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:94 -7.1.

(12) Households who live or work in the COAH-established housing region may be given preference for sales and rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced.

(13) All developers of low- and moderate-income housing units will be required to assist in the marketing of the affordable units in their respective developments.

(14) The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all low- and moderate-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or reoccupancy of units continues to be necessary.

(15) The entity retained to administer this program shall also be responsible for complying with monitoring and reporting requirements as per N.J.A.C. 5:94-9.2.

A-10 DRAFT FAIR SHARE ORDINANCE

This section of the Oakland Code sets forth regulations regarding low- and moderate-income housing units in Oakland that are consistent with the provisions of N.J.A.C. 5:94 et seq. as effective on December 20, 2004. These rules are pursuant to the Fair Housing Act of 1985 EN(20) and Oakland's constitutional obligation to provide for its fair share of low- and moderate-income housing.

A. Except for inclusionary developments constructed pursuant to low income tax credit regulations:

1. At least half of all units within inclusionary development will be affordable to low income households; and
2. At least half of all rental units will be affordable to low income households.

B. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units and the remainder may be moderate income units.

C. Affordable developments that are not age-restricted will be structured in conjunction with realistic market demands so that:

1. The combination of efficiency and one (1) bedroom units is no greater than twenty (20%) percent of the total low and moderate income units;
2. At least thirty (30%) percent of all low and moderate income units are two (2) bedroom units; and
3. At least twenty (20%) percent of all low and moderate income units are three (3) bedroom units.
4. Low and moderate income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms shall equal the number of senior citizen low and moderate income units within the development. The standard can be met by creating all one (1) bedroom units or by creating a two (2) bedroom unit for each efficiency unit.

D. In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:

1. Studio units shall be affordable to one (1) person households;
2. One (1) bedroom units shall be affordable to 1.5 person households;
3. Two (2) bedroom units shall be affordable to three (3) person households; and

4. Three (3) bedroom units shall be affordable to 4.5 person households.
5. Median income by household size shall be established by a regional weighted average of the uncapped Section 8 income limits published by HUD.
6. The maximum rent for affordable units within each affordable development shall be affordable to households earning no more than 60 percent of median income.
7. The average rent for low and moderate income units must be affordable to households earning no more than 52 percent of median income.
8. 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.
9. Each affordable development must achieve an affordability average of 55 percent for restricted ownership units.
10. Moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
11. Low and moderate income units shall utilize the same heating source as market units.
12. Low income housing units shall be reserved for households with a gross household income less than or equal to fifty (50%) percent of the median income approved by the Council On Affordable Housing. Moderate income housing units shall be reserved for households with a gross household income less than eighty (80%) percent of the median income approved by the Council On Affordable Housing. A household earning less than fifty (50%) percent of median may be placed in a moderate income housing unit.
13. The regulations outlined in N.J.A.C. 5:94-7.2, 5:80-26.6 and 5:80-26.12 will be applicable for purchased and rental units.

E. For rental units:

- (1) 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 10 percent of all low-income and moderate-income units shall be affordable to households earning no more than 35 percent of median income.
- (2) Gross rents, including an allowance for utilities, shall be established so as not to exceed thirty (30%) percent of the gross monthly income of the appropriate household size referenced in N.J.A.C. 5:80-26.4. Those tenant paid utilities that are included in the utility allowance shall be so stated in the lease. The allowance for utilities shall be consistent with the utility allowance published by DCA for its Section 8 program.

F. For sale units:

(1) The initial price of a low and moderate income owner-occupied single family housing unit shall be established so that the monthly carrying costs 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 an appropriate household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the price shall be subject to the affordable average requirement of N.J.A.C. 5:80-26.3.

(2) The master deeds of affordable 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. Notwithstanding the forgoing sentence, condominium units subject to a municipal ordinance adopted before October 1, 2001, which provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection shall have such fees and assessments governed by said ordinance.

(3) The Borough of Oakland will follow the general provisions concerning control periods for ownership and rental units as per N.J.A.C. 5:80-26.5 and 5:80-26.11.

(4) Municipal, state, nonprofit and seller options regarding 95/5 units will be consistent with N.J.A.C. 5:80-26.20 – 26.24. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:80-26.25.

(5) The continued application of options to create, rehabilitate or maintain 95/5 units will be consistent with N.J.A.C. 5:80-26.26.

(6) Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:80-26.9.

G. In zoning for inclusionary developments, the following is required:

(1) Low- and moderate-income units will be built in accordance with N.J.A.C. 5:94-4.4(f):

Percentage of Market Rate Units <u>Completed</u>	Minimum Percentage of Low and Moderate Income Units <u>Completed</u>
25	0
25+ 1 unit	10
50	50

(2) A design of inclusionary developments that integrates low- and moderate-income units with market units is encouraged.

H. To provide assurances that low- and moderate-income units are created with controls on affordability over time and that low- and moderate-income households occupy these units, Oakland will designate an administrative agency or municipal authority with the responsibility of ensuring affordability of sales and rental units over time. The administrative agency or municipal authority will be responsible for those activities detailed in N.J.A.C. 5:80-26.14.

(1) In addition, the administrative or municipal authority will be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:80-26.16 in placing households in low- and moderate-income units.

(2) Newly constructed low- and moderate-income sales units will remain affordable to low and moderate-income households for at least 30 years. The administrative or municipal authority will require all conveyances of newly constructed units to contain the appropriate deeds and restrictive covenants adopted by COAH and referred to as Appendices A, B, C, D, L, M, N, O, P, and Q found in N.J.A.C. 5:80-26, as applicable.

(3) Housing units created through the conversion of a nonresidential structure will be considered a new housing unit and will be subject to thirty-year controls on affordability. The administrative agency or municipal authority will require an appropriate deed restriction and mortgage lien subject to COAH's approval.

1. Regarding rehabilitated units:

(1) Rehabilitated owner-occupied single-family housing units that are improved to code standard will be subject to affordability controls for at least ten years.

(2) Rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least 10 years.

J. Regarding rental units:

(1) Newly constructed low- and moderate-income rental units will remain affordable to low and moderate-income households for at least 30 years. The administrative agency or municipal authority will require an appropriate deed restriction and mortgage lien subject to COAH's approval.

(2) Affordability controls in accessory apartments will be for a period of at least 10 years, except if the apartment is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for 30 years.

(3) Alternative living arrangements will be controlled in a manner suitable to COAH, that provides assurance that such a facility will house low- and moderate-income households for at least 10 years, except that, if the alternative living arrangement is to receive a rental bonus credit pursuant to N.J.A.C. 5:93-5.13, then the controls on affordability will extend for 30 years.

K. Section 14(b) of the Fair Housing Act, N.J.S.A. 52:27D-301 et. seq., incorporates the need to eliminate unnecessary cost-generating features from Oakland's land use ordinances. Accordingly, Oakland will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/details on inclusionary development applications. The Borough of Oakland will adhere to the components of N.J.A.C. 5:94-8.1 through 5:94-8.3.

A-11 DRAFT REGIONAL CONTRIBUTION AGREEMENT FOR GROWTH SHARE OBLIGATION

DRAFT REGIONAL CONTRIBUTION AGREEMENT (RCA) BETWEEN BOROUGH OF OAKLAND AND [receiving municipality] FOR GROWTH SHARE OBLIGATION

THIS AGREEMENT is made on *[insert day, month, year]* by and between the Borough of Oakland, Bergen County (sending municipality) and *[insert name of receiving municipality, county]* (receiving municipality).

WHEREAS, the Fair Housing Act, N.J.S.A. 52:27D-312, allows two municipalities to enter into a contractual agreement known as a regional contribution agreement (RCA) for the transfer of up to 50 percent of a sending municipality's fair share obligation to a receiving municipality within its housing region; and

WHEREAS, N.J.A.C. 5:94-5.1(a) allows municipalities to propose the transfer of up to 50 percent of their third round growth share obligation; and

WHEREAS, both municipalities believe that the execution of this RCA will be beneficial to the residents of their respective communities and the housing region.

NOW THEREFORE, in consideration of the premises herein set forth, and the mutual covenants and promises herein contained, the parties do by and between themselves agree as follows:

Article 1. TRANSFER OF HOUSING OBLIGATION

The receiving municipality hereby agrees to accept, and the sending municipality agrees to transfer four (4) low- and moderate-income units. The sending municipality has a growth share number of fifty-nine (59) units and the transferred units combined with other approved or proposed RCAs is equal to or less than 50 percent of the sending municipality's growth share obligation. The receiving municipality agrees to apply the funds to be paid to it to create or rehabilitate at least four (4) units of low- and moderate-income housing. At least half of these units will be affordable to low-income households. In the case of scattered site rehabilitation of occupied units, the receiving community will ensure, as best as practicable, that 50 percent of the rehabilitated units are occupied by low-income households.

Article 2. SENDING MUNICIPALITY'S RESPONSIBILITIES

2.1. The Borough of Oakland agrees to pay, and *[insert name of receiving municipality]* agrees to accept the sum of \$35,000 per unit transferred in payments totaling \$140,000.

2.2. The payment schedule set forth below conforms to a construction or rehabilitation schedule that relates to the receiving municipality's ability to deliver housing units in a timely fashion, and all payments take place within the period of substantive certification.

Payments will be made according to the following schedule and in the following amounts:

<u>Payment Schedule</u>	<u>Amount</u>
1 st payment <i>[insert number of days]</i> days after effective date of this Agreement	<i>[\$[insert dollar amount]]</i>
2 nd payment <i>[insert number of days]</i> days after 1 st payment	<i>[\$[insert dollar amount]]</i>
<i>[Continue with additional payments if proposed]</i>	<i>[\$[insert dollar amount]]</i>

(Note: All RCAs that include a scattered site rehabilitation program shall be structured so that the final transfer payment occurs at least one year prior to the end of the sending municipality's period of substantive certification.)

2.3. The payments and payment schedule are the responsibility of the sending municipality and will be paid in accordance with the above schedule regardless of any anticipated source of funding such as developer fees.

2.4. The sending municipality will obtain any and all financing necessary to fulfill its obligation to make the payments set forth above to the receiving municipality.

2.5. The following funding sources are being utilized to finance the RCA payments:

<u>Source</u>	<u>Amount</u>
<i>(List)</i>	

(Note: Payments in lieu of constructing affordable units on site may not be used by the sending municipality to fund an RCA.)

2.6. The parties acknowledge that the sending municipality's payments to the receiving municipality as set forth above include payment on a per unit basis to defray costs of administration as allowed by the rules of the Council on Affordable Housing (COAH) incurred by the receiving municipality in connection with this Agreement and that said amount is within COAH guidelines for such costs.

2.7. The sending municipality is responsible for obtaining *[select only one]*

approval of the RCA and substantive certification of its Housing Element and Fair Share Plan from COAH as provided under the Fair Housing Act.

[or]

approval of the RCA and a judgment of compliance from the court as provided under the Fair Housing Act.

Article 3. RECEIVING MUNICIPALITY'S RESPONSIBILITIES

3.1 *[Insert name of receiving municipality]* received RCA Recipient Certification from COAH on *[insert date]*. The RCA Recipient Certification, a three-year renewable alternative to a project-by-project approval of a municipality's project plan, is for the following class(es) of housing activity: *(Note: include only those activities for which the receiving municipality received recipient certification)*

- a. limited or moderate rehabilitation of one- to four-family buildings;
- b. reconstruction or new construction of one- to four-family buildings including infill housing;
- c. reconstruction, new construction or adaptive reuse of non-residential buildings into multifamily buildings containing more than four units; and
- d. reconstruction or new construction of special needs housing including transitional housing for the homeless.

COAH's Recipient Certification approval relied on the recommendation of approval from the New Jersey Housing and Mortgage Finance Agency (HMFA) and the *[insert name of county of receiving municipality]*'s Planning Board. Once a municipality has been certified in a category, it will be considered to have an approved project plan in that category during the three-year RCA certification period. When the project has been identified, the receiving municipality shall file a summary of each project for which RCA funds will be expended with COAH, the receiving municipality's county planning board and HMFA. The summary shall include:

- a. a brief project description including address and number of units,
- b. the total development cost and breakdown of financing,
- c. an estimated start date, and
- d. a project completion date.

If *[enter name of receiving municipality]* chooses to expend RCA funds for a project(s) outside of its certified housing category, a formal project plan approval shall be obtained from COAH, HMFA and the receiving municipality's county planning board.

3.2. The receiving municipality will apply to the appropriate agencies for all governmental approvals, whether municipal, county or State.

3.3. The receiving municipality may apply for appropriate grants in aid as available. Any monies realized through such grants will not affect the amount of the sending municipality's contribution.

3.4. The receiving municipality agrees to designate an experienced administrative entity to assure that the applicable affordability controls will be maintained over time.

3.5. Any change in the project plan or in the administration of the program subsequent to approval by HMFA must be reviewed by the executive director of HMFA to determine if a new feasibility analysis and approval is required when requested by COAH.

3.6. For scattered site rehabilitation of occupied units, the receiving municipality shall expend a minimum of \$12,000 per unit in hard costs to repair/replace a major system(s). After this threshold is met, additional repairs may be undertaken.

3.7. No more than fifteen percent of the RCA principal shall be expended on administration in the receiving municipality.

3.8. The receiving municipality will submit all semi-annual monitoring reports required by COAH in a timely manner.

3.9. The receiving municipality will establish a separate interest-bearing escrow account for all monies received pursuant to the RCA. This escrow agreement will permit COAH to effectively monitor disbursements of the funds received pursuant to the RCA. This account will be monitored on a quarterly basis.

3.10. The receiving municipality will annually submit its municipal audit signed by the mayor to COAH and HMFA showing the disbursement of all RCA funds.

3.11. The receiving municipality will annually submit documentation acceptable to HMFA staff evidencing that a sufficient number of eligible applicants, projects, and/or units exist to demonstrate continued project plan feasibility.

3.12. It is agreed that the receiving municipality's obligations pursuant to this Article are not limited to the above. The receiving municipality agrees that it will complete the project pursuant to this Agreement in accordance with the regulations of COAH.

Article 4. CREDIT TO HOUSING OBLIGATION

4.1. The receiving municipality agrees that it will not claim credit toward its own housing obligation for any low- or moderate-income RCA units as defined by the Fair Housing Act, but that all such credit will inure to the benefit of the sending municipality. In no event shall a sending municipality receive credit for RCA units transferred in excess of 50 percent of the municipality's actual growth share obligation at the end of the certification period. No municipality shall receive credit for any units provided in the receiving municipality in excess of the units transferred pursuant to the RCA.

4.2. All RCA units will be permanently identified in the appropriate records of the receiving municipality as having been rehabilitated or created to meet the fair share obligation of the sending municipality.

Article 5. EXCESS FUNDS

5.1. If a receiving municipality can accomplish the housing activity approved as part of its project plan for less than the minimum per unit transfer pursuant to N.J.A.C. 5:94-5.4(a), or there are funds in excess of the amount necessary to implement the RCA including interest earned, the difference shall be used within the receiving municipality to produce additional low- and moderate-income housing units or for capital expenditure benefiting low- and moderate-income households. The specific use of excess funds by the receiving community shall be subject to COAH approval after review of the following required documentation:

- a. a brief description of the project, including the number of units;
- b. the total development costs, including administration, and breakout of financing;
- c. the amount of RCA funds to be expended;
- d. an estimated start date;
- e. the projected date of completion; and
- f. the balance of funds in the RCA account(s).

(Note: The specific use of excess funds by the receiving municipality need not be specified in the RCA contract.)

5.2. All interest generated from the RCA funds shall be retained by the receiving municipality and may not be used to exceed the 15 percent cap on administration.

Article 6. CONTINGENCIES

6.1 This Agreement is contingent upon

- a. COAH approval of the RCA and COAH's grant of substantive certification to the Borough of Oakland.
- b. *[insert additional conditions if applicable]*.

Article 7. EFFECTIVE DATE

7.1 This Agreement is considered a contractual agreement and will become effective upon COAH's approval of the RCA and grant of substantive certification and approval of any amendment thereto the Borough of Oakland.

7.2 This Agreement will be executed no later than *[insert number of days]* days after the sending municipality receives substantive certification from COAH or an amendment to its certified plan pursuant to N.J.S.A. 52:27D-312.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date set forth above.

ATTEST

BY

Date

*[insert name], on behalf of [insert name of
receiving municipality]*

Date

[insert name], on behalf of the Borough of Oakland

M-1 CENTRAL BUSINESS DISTRICT CONCEPT PLAN: SITE #1

M-2 CENTRAL BUSINESS DISTRICT CONCEPT PLAN: SITE #2

M-3 ENVIRONMENTAL CONSTRAINTS MAP: HOVAN SITE

M-4 ENVIRONMENTAL CONSTRAINTS MAP: CENTRAL BUSINESS DISTRICT #1

M-5 ENVIRONMENTAL CONSTRAINTS MAP: CENTRAL BUSINESS DISTRICT #2