9. RPM shall secure all appropriate funding necessary for the Project including but not limited to 9% LIHTC, County HOME or other affordable housing funds and Federal Home Loan Bank funds. In the event its initial efforts to secure 9% LIHTC tax credit funding are unsuccessful, RPM shall continue to seek to secure such funding. If the appropriate funding is not in place within three (3) years of the date of this Agreement, this Agreement may be terminated by either party upon written notice. Any proposal by RPM to pursue 4% LIHTC tax credit funding must first be approved by the Township.

10. RPM agrees that it will comply in all respects with the requirements promulgated by the New Jersey Superior Court, COAH or its successor agency, as they may be modified or interpreted from time to time, for the development, construction, administration and management of affordable housing units including, but not limited to, full compliance with N.J.A.C. 5:93-1, et seq., the requirements set forth in the UHAC governing bedroom distribution (except as modified herein per LIHTC requirements), low- and moderate-income split, affirmative marketing and affordability controls (except as modified herein to require a 30-year compliance control period plus a 15-year extended use control period, for a total of 45 years) as well as all rules and regulations promulgated by the New Jersey Superior Court, COAH or its successor agency , as they may be modified or interpreted from time to time, that effect the Project so as to permit the Township to receive the maximum credit toward its affordable housing obligations for the Project pursuant to the applicable requirements.

Obligations of the Township

11. In consideration of RPM's services described herein, the Township shall:

A) Contribute up to $17,500 per affordable housing unit, up to a maximum contribution of $1,102,500, out of the Township's Affordable Housing Trust Fund, toward the development and construction of the Project. Payments shall be made on a per unit basis, as the Project progresses. In no event shall the Township be required to make a lump sum payment of the entire amount due for the Project, unless the Township elects, in its sole discretion, to make payment in such fashion;

B) enter into a separate agreement with RPM pursuant to the Long Term Tax Exemption Law (N.J.S.A. 40A:20-4, et seq.) to permit a Payment in Lieu of Taxes (P.I.L.O.T.) based on an agreed upon percentage of the annual gross revenue that will make the project economically viable for each unit/phase of the Project, if the Project is undertaken in units/phases, or for the total Project, if the Project is not undertaken in units/phases;

C) make available to RPM its employees and full-time professional staff to assist as needed; and

D) reasonably assist RPM in obtaining subdivision and/or site plan approval for the Project from the South Brunswick Township Planning or Zoning Board within twelve (12) months of the date of this Agreement.

12. It is understood and agreed that the monetary contribution required by the Township pursuant to the terms of this Agreement, together with any monetary contribution received from the County of Middlesex, shall address and be deemed to satisfy the New Jersey Housing and Mortgage Finance Agency's (HMFA) LIHTC Qualified Allocation Plan (QAP) requirement for municipal/county involvement/contribution for the Project.

13. The Township must approve all documents to be submitted by RPM to HMFA for the Project, including, but not limited to, any resolution of need, lack of density bonus letter, etc. The Township agrees to extend its full and prompt cooperation to execute or endorse such funding application documents as may be necessary or required upon written request by RPM.

Post Development Requirements

14. RPM shall submit to the Township no later than February 25th of each year a copy of all required COAH or Superior Court monitoring reports, records, submissions, etc.

15. RPM agrees that, upon development of the Project, the Property and Project shall be restricted for use as affordable housing, in the manner and percentages set forth in this Agreement, for a minimum of thirty (30) years' control, plus a 15-year extended use period. The Township shall have the right to require the extension of controls on the Project for an additional 30-year period of control (inclusive of the 15-year extended use period) providing (a) such extension is in compliance with the then applicable federal tax law and (b) the Township does not object to a restructuring of the Project's debt via a refinancing or otherwise.

Notice

16. Notice or communication sent by either party to the other shall be by certified mail, return receipt requested, addressed as follows:

(a) When sent by RPM to the Township, it shall be addressed to:

Township Manager
South Brunswick Township
540 Ridge Road
P.O. Box 190
Monmouth Junction, NJ 08852

Or such other address as the Township may designate in writing.

(b) When sent by the Township to RPM, it shall be addressed to:

Edward G. Martoglio
RPM Development, LLC
77 Park Street
Montclair, NJ 07042

Or such other address as RPM may designate in writing.

Assignment Prohibited/Restricted

17. Subject to the terms and provisions of the within Agreement, RPM agrees that it will not sell or transfer the Project to any corporation, association or entity, unless such corporation, association or entity qualifies to provide such services pursuant to law. No such transfer may be made without first obtaining the prior written consent of the Township, which consent shall not be unreasonably withheld, as long as it is agreed and understood that all obligations to the Township under this Agreement are completed to the satisfaction of the Township, and unless and until the proposed transferee agrees to assume all of the contractual and other obligations of RPM as are contained in this Agreement. The Township hereby acknowledges, accepts and consents that for purposes of facilitating a tax credit financing, the Project may be transferred to an affiliated ownership entity separate and distinct from RPM. The Township further acknowledges, accepts and consents that this entity may encumber the Project with a mortgage or other customary security agreements with lenders or other institutional mortgagees for the purpose of raising funds to finance the Project.

Township's Third Round Plan Acceptance

18. This Agreement is hereby executed in anticipation of, and contingent upon, both the Project and the Property being accepted by the New Jersey Superior Court, COAH or its successor agency, for inclusion in the Township's Third Round Housing Element and Fair Share Plan (including an accompanying Spending Plan) (hereinafter "Third Round Plan"). In the event that either the Project or the Property are not accepted for inclusion in the Township's Third Round Plan, the Township may terminate this Agreement with thirty (30) days written notice to RPM. Upon termination, neither party shall have any further obligation to the other party and any funds paid by the Township to RPM out of its Affordable Housing Trust Fund shall be refunded by RPM.

Severability

19. If any clause, sentence, paragraph, section or part of this Agreement shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Miscellaneous

20. The parties hereto agree that the execution of this Agreement is an authorized act of each of the respective parties hereto. The proper resolutions of the parties have been adopted pursuant to law, authorizing execution of this Agreement.

21. This Agreement constitutes the entire agreement between the parties, and is entered into with the full knowledge and assent of the parties. This Agreement may not be modified or amended except upon written amendment duly authorized and signed by the parties.

22. This Agreement shall be construed in accordance with the laws of the State of New Jersey, and the laws of the State of New Jersey will apply to any dispute concerning it. The parties choose the Superior Court of New Jersey with venue in Middlesex County as their forum for resolving any dispute concerning this Agreement.

23. All of the terms, covenants and conditions herein contained shall be for and inure to the benefit of, and shall be binding upon, the respective parties and their successors and assigns.

24. This Agreement may be executed in counterparts, each of which shall be deemed a duplicate original thereof and which, together, constitute the whole.

IN WITNESS WHEREOF, the parties have signed this Agreement this 4 day of March, 2019.

ATTEST:

Norma Carbin

Norma Carbin ~~p.Clerk~~
Deputy Township Clerk

TOWNSHIP OF SOUTH BRUNSWICK

By: _____
Charles Carley, Mayor

ATTEST:

Michael Knab

RPM DEVELOPMENT, LLC

By: _____
Edward G. Martoglio
Managing Member

STATE OF NEW JERSEY:
SS
COUNTY OF MIDDLESEX:

I CERTIFY that on March 4, 2019, ~~BARBARA NYITRAI~~ Norma Carbin personally came before me and she acknowledged under oath, to my satisfaction, that:

(a) she is the Township Clerk of the Township of South Brunswick, the municipal corporation named in this document;

(b) she is the attesting witness to the signing of this document by Charles Carley, who is the Mayor of the Township of South Brunswick;

(c) this document was signed and delivered by the Township of South Brunswick as its voluntary act duly authorized by a proper resolution of the Township Council;

(d) she knows the proper seal of the Township of South Brunswick which was affixed to this document; and

(e) she signed this proof to attest to the truth of these facts.

Signed and sworn to before me
On March 4, 2019

Donald J. Sears
An Attorney at Law
In the State of New Jersey

Norma Carbin

Norma Carbin
~~p Clerk~~
Deputy Township Clerk

STATE OF NEW JERSEY:
SS
COUNTY OF ESSEX:

I CERTIFY that on February 26, 2019, Edward G. Martoglio personally came before me and acknowledged under oath, to my satisfaction, that:

(a) he is the Managing Member of RPM Development, LLC, the limited liability company named in this document;

(b) he signed and delivered this document as the voluntary act of the limited liability company as authorized by a proper resolution;

Signed and sworn to before me
On February 26, 2019

_____

JULIA A HATHAWAY-MAIORIELLO
NOTARY PUBLIC - STATE OF NEW JERSEY
MY COMMISSION EXPIRES SEPTEMBER 8, 2022
No. 50067482

Resolution

Of Commitment to the RPM Henderson Road Mixed Income Affordable Housing Project

WHEREAS, on July 1, 2015, the Township of South Brunswick (Township) filed a Declaratory Judgment Action in compliance with the order of the N.J. Supreme Court in the matter of In Re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015), indicating its commitment to voluntarily comply with its obligation to provide a realistic opportunity for affordable housing; and

WHEREAS, on December 8, 2015, April 4, 2017 and July 24, 2018, the Township adopted Resolutions outlining in detail its firm commitment to the RPM Henderson Road affordable housing projects, which included an assurance of a stable alternative funding source, such as municipal bonding, pursuant to N.J.A.C. 5:93-5.5(a)(3)ii, in the event that other funding is not approved for these projects; and

WHEREAS, although the Township has every intention of voluntarily complying with its affordable housing obligation, which will also include other sites, the Township continues to believe that the RPM Henderson Road site is available, suitable, developable and approvable, as defined in N.J.A.C. 5:93-1, et seq., and that funding can be secured such that the Mixed Income project proposed for the site can and will be built within the 2015-2025 Third Round compliance period; and

WHEREAS, the Township wishes to reiterate its firm commitment to this project, which includes assurance of a stable alternative funding source, such as municipal bonding, in the event that the New Jersey Housing and Mortgage Finance Agency funding request is not approved, pursuant to N.J.A.C. 5:93-5.5(a)(3)ii;

NOW THEREFORE BE IT RESOLVED on this 26th day of February, 2019, by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

I. The Township of South Brunswick hereby confirms its firm commitment to voluntarily comply with its constitutional obligation to provide for a realistic opportunity for its fair share of low and moderate income housing.

II. The Township intends to do so with a variety of housing styles, sizes and locations, designed to address the wide variety of low and moderate income housing need within the region.

III. The Township continues to firmly believe that the RPM Henderson Road Mixed Income Housing project is worthwhile, especially since it fully complies with the requirements of the Council on Affordable Housing's Second Round Rules.

IV. The Township hereby reconfirms its commitment to this project, which includes assurance of a stable alternative funding source, such as municipal bonding, pursuant to N.J.A.C. 5:93-5.5(a)(3)ii, in the event that other funding is not approved.

V. A certified copy of this resolution shall be forwarded to Governor Phil Murphy; Lt. Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs; Sean Thompson, Director, Office of Local Planning Services; Senator Christopher "Kip" Bateman; Assemblyman Roy Freiman; and Assemblyman Andrew Zwicker.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Joseph Camarota, Deputy Mayor
SECONDER:	Josephine "Jo" Hochman, Councilwoman
AYES:	Bierman, Camarota, Grover, Hochman, Carley

This is to certify that the foregoing is a true copy of a resolution adopted at the South Brunswick Township Council meeting held on February 26, 2019.

Barbara Nyitrai, Township Clerk

South Brunswick Mixed-Income Housing

116 Units - 63 Affordable Units

- 53 Market Rate Units

9% Low Income Housing Tax Credit Scenario

Uses

Acquisition	$2,618,000
Construction Costs	$19,739,120
Contingency (Hard & Soft)	$1,086,462
Professional Services	$1,327,000
Carrying & Financing	$1,895,672
Developer Fee	$3,102,500
Marketing	$139,200
Escrows	$1,375,423
	$31,283,376

Sources

Permanent Mortgage	$10,151,463
Low Income Housing Tax Credit Proceeds	$16,303,657
RPM Deferred Developer Fee	$1,551,250
South Brunswick $17,500 AHTF Contribution	$1,102,500
Middlesex County - HOME & Coming Home Funds	$960,000
FHLB-NY AHP Funds	$1,214,507
	$31,283,376

Tiebreaker - Tax Credits per Affordable Bedroom

Tax Credit Allocation Request	$1,716,346
Total Bedrooms	200
Tiebreaker	$8,581.73

Township of South Brunswick, Middlesex County

211 Henderson Road (RPM Site)

Timeline for mixed income affordable housing development construction

March 7, 2019

Family Housing Development, 116 units

Preliminary / Final Site Plan Approval	June/July 2019
LIHTC Application	August 2019
Application for Federal / State / Regional / County Approvals	August 2019
Notification of LIHTC Award	November 2019
Selection of Contractor and Construction Commencement	January 2020
Begin Marketing / Leasing	October 2021
Construction Completion	January 2022
Complete Leasing	April 2022

34. Third Round: REACH Program

TOWNSHIP OF SOUTH BRUNSWICK

Municipal Building • P.O. Box 190 • Monmouth Junction, NJ 08852-0190

Phone
732-329-4000
Ext. 219
TDD
732-329-2017
FAX 732-274-2084

Market to Affordable (REACH) Program Operating Manual

HOMEOWNERSHIP PROGRAM

Determining How Much to Spend on a Market Rate Unit

The Township of South Brunswick will spend up to $275,000 to purchase a market rate housing unit, write down the cost of the unit to an affordable price and sell it to an income-eligible household. Low-income households are those whose household income is 50 percent or less than median income, and moderate income households are those whose household income is between 50 and 80 percent of median income.

The municipality shall provide a minimum of $25,000 per unit to subsidize a moderate-income unit and/or up to $125,000 per unit to subsidize each low-income unit.

The Township of South Brunswick will find units that are appropriately priced on the market so as not to spend over the net amount. In order to accomplish this, the municipality has developed illustrative prices for affordable homes based on the local tax rate, equalization ratio, current interest rates and condominium fees as applicable. These affordable prices, plus the maximum subsidy, less any anticipated soft costs associated with the transfer of the property will give the municipality the maximum sales prices for the market rate homes. The Market to Affordable Calculator will be used to calculate this amount. Funds for this subsidy may come out of the Affordability Assistance portion of the municipality's Affordable Housing Trust Fund.

This program will be administered in accordance with UHAC at N.J.A.C. 5:80-26.1 and COAH's regulations per N.J.A.C. 5:97-6.9, *et seq.* with the following exceptions:

1. Bedroom distribution, N.J.A.C. 5:80-26.3(b) and (c); however, the ordinance shall not restrict the number of bedrooms per unit
2. Low/moderate income split (N.J.A.C. 5:80-26.3(a); subject to the provisions of N.J.A.C. 5:97-6.9(a), units in a market to affordable program shall be exempt from the requirement that at least 50 percent of the units created shall be affordable to households earning 50 percent or less of regional median income. In programs limited only to moderate income households, an equivalent number of housing units for low income households shall be addressed through other mechanisms in the Fair Share Plan.
3. Affordability average requirement (N.J.A.C. 5:80-26.3(d) and (e); however, the maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.

Finding a Unit

The municipality may employ any number of methods to find units suitable for the Market to Affordable (REACH) program. The number of bedrooms in a unit shall not be a factor in the determination of whether to include a unit in the Program. The Township of South Brunswick will use the following techniques to find units to use for this program:

- Search the real estate listings to find units
- Employ a real estate agent to search MLS listings for appropriately priced units each month
- Advertise the program locally to find interested sellers
- Look for local foreclosures and visit Sheriff sales to bid on units
- Township may also enter into an agreement with a local non-profit to locate additional units

Once an eligible unit has been identified, The Township of South Brunswick will work through the real estate process to purchase the unit.

A. Staff to walk through potential unit with Township building inspector. Only units meeting the C/O requirements or in need of minimal repairs (less than $1,000) will be considered as a potential purchase.
B. Request Township assessor provides a list of recent (6 months) property sales of comparable units to assist with determining amount of offer.
C. Staff to forward summary of property inspection to Township Attorney for review with Township Manager and Council.
D. Order Property Appraisal
E. Township appointed attorney to negotiate with owner to determine sales price
F. Staff to prepare Maximum Sales Price of Unit utilizing COAH Market to Affordable Housing Unit Calculators. Purchase Units to be priced at 40% of median income for a low-income unit and at 55% to 65% of median income for a moderate-income unit.
G. Upon Council's approval of unit, staff to prepare Randomization list of applicants and pre-certify applicants
H. Advise Attorney and request that offer documents be prepared. Prepare an Option to Purchase for a three-month period in preparation for a closing contingent upon the COAH buyer obtaining mortgage approval. Township to provide subsidy at time of closing

   Option to Purchase should include provision that allows potential COAH purchasers to schedule appointments to view the units after a Letter of Introduction has been prepared by the COAH program staff and allow for a home inspection conducted by a licensed Home Inspector.
I. Staff to establish a file for the REACH unit. File to include copies of Option to Purchase, COAH Sales Price Calculator, third party appraisal, Randomization Lists and other information pertinent to the unit.
J. Funds from the Affordable Housing Trust Fund will be used to purchase the unit. Additional units may be purchased utilizing funding (if approved) from the County of

Middlesex HOME program and the New Jersey Department of Community Affairs Balanced Housing Program

K. The units will not be age-restricted.
L. The Township will acquire and resell approximately five units per year.

Inspection and Rehabilitation

The Township of South Brunswick's code inspector will perform an inspection of the unit prior to sale to determine if any rehabilitation needs to be done in order to make the unit habitable and bring it up to code. Only units meeting the C/O requirements or in need of minimal repairs (less than $1,000) will be considered as a potential purchase.

Once rehabilitation is completed, the unit will be made available to an income-eligible buyer and sold pursuant to the Uniform Housing Affordability Controls (UHAC, N.J.A.C. 5:80-26.1 *et seq*.).

Pricing and Selling the Unit

The unit will be priced according to the number of bedrooms, its designation as either low or moderate income, its designation as either age-restricted or non-age restricted, and whether there are any condominium or homeowner's association fees for the unit. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and per F. above, moderate-income prices will be set between 55% and 65% of regional median income and the maximum sales price for a low income unit shall be affordable to households earning no more than 40 percent of the regional median income. The initial purchase price shall be calculated 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 H15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of an eligible household's income.

Once the price has been established, the AA will use procedures outlined in UHAC and the Municipal Operating Manual for Sale Units to affirmatively market the unit and identify an income-eligible buyer. Upon closing, proper deed and mortgage documents from UHAC will be placed on the unit, which will ensure its continued affordability. Proceeds from the sale of the unit will be placed in the Affordable Housing Trust Fund.

Administration

South Brunswick's Market to Affordable Program will be administered program by the Township of South Brunswick Affordable Housing Division, Administrative Agent for the Township. Interested sellers may contact them at (732) 329-4000, ext. 7220 to learn more about how to apply for the Program.

35. Third Round: Extensions of Controls

Donald J. Sears, Esq.
Atty #020031986
Township of South Brunswick
540 Ridge Road
P.O. Box 190
Monmouth Junction, NJ 08852
Phone No.: (732) 329-4000

Attorney for Plaintiff, Township of South Brunswick

IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK	SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY DOCKET NO.: MID-L-4433-17 CIVIL ACTION – *MOUNT LAUREL* CERTIFICATION OF JAMES DOWGIN

James Dowgin, of full age, hereby certifies as follows:

1. I am the Construction Official for the Township of South Brunswick. As such, I have full knowledge of all of the facts and circumstances surrounding this matter.

2. The Township of South Brunswick extended affordability controls on the affordable housing units located in the Monmouth Walk, Nassau Square and Regal Point developments by way of resolutions dated February 14, 2017.

3. The specific units affected by this extension of controls are listed for each development in Exhibit A attached hereto.

4. The Township of South Brunswick extended affordability controls on the following group homes by way of a resolution dated February 26, 2019:

	Address	Block	Lot	Date of Initial Sale	Initial Expiration Date of Affordability Controls	Extended Expiration Date of Affordability Controls
	30 Cranston Road Kendall Park, NJ	340	2	11/18/1999	11/18/2019	11/18/2049
	38 Wheeler Road Kendall Park, NJ	332	3	11/20/2003	11/20/2018	11/20/2048
	186 Major Road Monmouth Jct, NJ	51	6.01	11/20/2003	11/20/2018	11/20/2048

4. Based upon the records in my office and/or inspections performed at these units, each one of these units were up to all applicable Code standards at the time the affordability controls were extended.

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

Dated: 2/27/19 By: James Dowgin

James Dowgin, Construction Official