

Resolution # 52-26
3-11-2026

BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY

RESOLUTION OF THE COUNCIL OF THE BOROUGH OF EAST NEWARK, COUNTY
OF HUDSON, STATE OF NEW JERSEY ADOPTING THE OPERATING MANUAL FOR
THE ADMINISTRATION OF THE REHABILITATION PROGRAM

WHEREAS, in accordance with the Fair Housing Act (“FHA”) and the Administrative Office of the Court’s Directive No. 14-24 (the “Directive”), the Borough of East Newark (the “Borough”) filed a timely Fourth Round Declaratory Judgment Complaint (the “DJ Action”) with the Affordable Housing Dispute Resolution Program (the “Program”), along with its binding resolution, on January 31, 2025, accepting a Fourth Round Present and Prospective Need; and

WHEREAS, by Order Affirming and Fixing Present and Prospective Need Affordable Housing Obligation entered on April 7, 2025, the Court ordered that (1) the Borough had established jurisdiction for the Program by filing the DJ Action within 48 hours of adopting a binding resolution, Resolution #15-25 adopted on January 30, 2025, to confirm its present and prospective affordable housing obligations; (2) the Borough will prepare and adopt a Fourth Round Housing Element and Fair Share plan (4th Round HEFSP”), which will be adopted by the Borough’s Planning Board (the “Planning Board”) and subsequently endorsed by the Borough’s Council, no later than June 30, 2025; and (3) the Borough shall have continued immunity from all exclusionary zoning lawsuits, including builder’s remedy lawsuits; and

WHEREAS, by Resolution #93-25 adopted on June 26, 2025, the Borough endorsed and sought approval of the 4th Round HEFSP, which had been previously approved by the Planning Board on June 26, 2025; and

WHEREAS, by Resolution #94-25 adopted on June 26, 2025, the Borough Council adopted the Borough of East Newark Affordable Housing Trust Fund Fourth Round Spending Plan, dated June 12, 2025 (the ‘Spending Plan’); and

WHEREAS, the Fair Share Housing Center (“FSHC”) filed a letter in the DJ Action regarding the Borough’s 4th Round HEFSP on August 30, 2025 seeking additional information and documentation, including an operating manual, prior to approval by the Program and Court; and

WHEREAS, in accordance with the FHA and the New Jersey Uniform Housing Affordability Controls (N.J.A.C. 5:80-26-1, et seq.), as amended (the “Regulations”), the Borough is required to adopt all program operating manuals, which set forth the procedures for administering the programs and their associated affordability controls for affordable housing units created within the Borough as part of its compliance certification; and

WHEREAS, the Borough’s planner and Community Planning Consultants, Heyer, Gruel & Associates, prepared the Operating Manual for the Administration of the Rehabilitation Program, dated March 2026 (the “Operating Manual”), which Operating Manual is attached hereto as Exhibit “A”; and

WHEREAS, the Borough Council, at its public meeting on March 11, 2026, reviewed and considered the Operating Manual; and

WHEREAS, the Borough has prepared the Operating Manual consistent with the FHA, the implementing Regulations thereunder and the FSHC letter dated August 30, 2025.

NOW, THEREFORE BE IT RESOLVED, that the Council of the Borough of East Newark, in the County of Hudson, State of New Jersey hereby adopts the Operating Manual, dated March 2026, that is attached hereto as Exhibit A.

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Resolution 52-26

Councilmember	Motion	Second	Ayes	Nays	Abstain	Absent
De Oliveira			X			
Evaristo			X			
K. Graham	X		X			
R. Graham		X	X			
Pinto			X			
Zincavage			X			

CERTIFICATION

I, Dr. Cosmo A. Cirillo, Borough Clerk of the Borough of East Newark, County of Hudson, State of New Jersey, do hereby certify that the foregoing is a true copy of a resolution adopted by the Mayor and Borough Council at their regular meeting held on Wednesday, March 11, 2026.

 Dr. Cosmo A. Cirillo, RMC
 Borough Clerk

OPERATING MANUAL

FOR THE ADMINISTRATION OF THE REHABILITATION PROGRAM

In Accordance with the Uniform Housing Affordability Controls

Borough of East Newark
Hudson County, New Jersey

March 2026

Prepared By:



Heyer, Gruel & Associates

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INTRODUCTION

This Rehabilitation Program Operating Manual has been prepared to assist in the administration of the East Newark Borough Rehabilitation Program (the "Program"). It will serve as a guide to the program staff and the public alike. The Borough's Rehabilitation Program was created to assist properties occupied by very-low-, low-, and moderate-income households to correct existing health, safety, and code violations in conformity with the standards of the New Jersey State Housing Code (N.J.S.A. 5:28), the Fair Housing Act (P.L. 2024, c.2), and the Rehabilitation Subcode (N.J.S.A. 5:23-6). The Program is guided by N.J.A.C. 5:93-5.2 and is subject to all laws, regulations, ordinances, and codes of the New Jersey Department of Community Affairs and the Borough of East Newark. The Borough may contract with a qualified consulting firm to administer the Program or may do so with a qualified municipal employee. The Program's funding source will be municipal housing trust funds. If the funding source changes, this manual will be updated to reflect the change as well as changes to any regulations and requirements.

The purpose of this manual is to describe the basic content and operation of the Program, examine program purposes and provide the guidelines for implementing the Program. This manual explains the steps in the rehabilitation process and describes the eligibility requirements for participation in the Program, criteria, funding terms and conditions, cost estimating, contract payments, record keeping and overall program administration. It has been prepared with a flexible format allowing for periodic updates of its sections, when required, due to revisions in regulations and/or procedures. The following represents the procedures developed to offer an applicant the opportunity to apply to the Program.

A. Fair Housing and Equal Housing Opportunities

It is unlawful to discriminate against any person making application to participate in the Rehabilitation Program with regard to race, color, religion, national origin, sex, familial status, disability, gender identity, source of lawful income or genetic information.



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

SECTION I. ELIGIBLE PARTICIPANTS

A. Categories of Participants

Owner-occupied and renter-occupied housing units are eligible to receive funding for rehabilitation provided that the occupants of the units are determined to be very-low-, low- or moderate-income households and that the units are determined to be substandard. If a structure contains two or more units, and an owner, who is not income eligible, occupies one of those units, funding may be provided for the rehabilitation of the remaining units in the structure so long as income-eligible households occupy those units. Pursuant to N.J.A.C. 5:93-5.2(f), rental units may not be excluded from a municipal rehabilitation program. Applicants will be qualified pursuant to the Uniform Housing Affordability Controls (UHAC) N.J.A.C. 5:80-26.1 et seq.

As detailed in the East Newark Borough's Housing Element and Fair Share Plan, the Borough has implemented a Rehabilitation Program to supplement its participation in Hudson County housing rehabilitation programs, including the HOME Investment Partnership Program ("HOME") and the Community Development Block Grant ("CDBG") Program.

The Hudson County Consortium (the "Consortium") for the HOME Program is comprised of eleven municipalities within Hudson County including the Borough of East Newark. The Consortium uses the HOME funds to provide assistance of rehabilitation of very-low- and low-income units. Through its affirmative marketing strategies, East Newark will assist residents in accessing the HOME Program, as administered by the Consortium. For more information, please visit: <http://www.hudsoncountynj.org/home-investment-partnerships-program-home/>.

Hudson County, along with seven of its municipalities, including East Newark, receives CDBG funds on an entitlement basis as an Urban County Consortium member. The County administers the program, which provides funding to communities, non-profits, and public agencies to help address a range of development needs, mainly involving affordable housing projects and developments. For more information, please visit:

<https://www.hcnj.us/health-and-human-services/housing-and-community-development/cdbg/>

B. Income Limits for Participation

Household income is defined as the combined annual income of all family members over 18 years of age, including wages, Social Security, disability insurance, unemployment insurance, pensions, dividend/interest income, alimony, etc. The household income must fall within the regional household income limits established for Housing Region 1 (consisting of Bergen, Hudson, Passaic, and Sussex Counties) by the Affordable Housing Professionals of New Jersey (AHPNJ). The Borough should utilize the current year's annual income limits as they are released.

C. Program Area

This is a municipal-wide program aimed at rehabilitating rented and owned housing occupied by very-low-, low-, and moderate-income households. To be eligible for the Program, the rehabilitation property must be located within the Borough of East Newark.

D. Certification of Substandard

The purpose of the Program is to bring substandard housing up to code. Substandard units are those units requiring repair or replacement of at least one (1) major system. A major system is any of the following:

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

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

SECTION II. AVAILABLE BENEFITS

A. Program Financing

Approximately \$15,000 per unit may be available for improvements to eligible owner-occupied and renter-occupied units. Municipal rehabilitation investments shall average at least \$10,000 for a major system. Administrative costs will be covered in accordance with the provisions of N.J.A.C. 5:93-5.2.

B. Owner-occupied Units

Financing will be provided by way of a ten-year (10), interest-free, forgivable loan, with funds provided from Borough development fees currently held in the Borough's Affordable Housing Trust Fund. If a homeowner resides in the unit for the ten-year period after completion of rehabilitation improvements, the loan will be forgiven. If an owner-occupied housing unit is sold prior to the end of the controls on affordability, a proportionate share of the loan, based on the remaining period of the loan, shall be recaptured at the time of the sale and used to rehabilitate another housing unit, unless the unit is sold to a very-low-, low-, or moderate-income household at an affordable price pursuant to N.J.A.C. 5:93-7.4. In the event of the death of a homeowner, the loan is an immediate obligation of the estate and/or beneficiary of the estate unless the beneficiary meets the required income-eligibility guidelines and resides in the unit or rents to an income-eligible household. Funding shall be secured by a mortgage and mortgage note to the Borough.

C. Program Affordability Controls

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

D. Owner-occupied Unit Affordability Controls

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

E. Renter-occupied Unit Affordability Controls

If the homeowner consents to the work being performed and signs off on the East Newark Borough Rehabilitation Program, and the renter meets the criteria set forth for the Program, financing will be provided by way of a ten-year (10), interest free, forgivable loan, with funds provided from the Borough Development Fee currently being held in the Borough's Affordable Housing Trust Fund. If renter-occupied housing unit is sold prior to the end of the controls on affordability, at least part of the loan shall be recaptured and used to rehabilitate another housing unit, unless the unit is sold to a very-low-, low-, or moderate-income household at an affordable price pursuant to N.J.A.C. 5:93-7.4. In the event of the death of the homeowner, the loan is an immediate obligation of the estate and/or beneficiary of the estate unless the beneficiary meets the required income-eligibility guidelines and resides in the unit or rents to an income-eligible household. Funding shall be secured by a mortgage and mortgage note to the Borough.

F. Subordination

East Newark may agree to subordination of a loan if the mortgage company supplies an appraisal showing that the new loan plus the balance(s) on the old loan (including the value of the rehabilitation assistance) does not exceed 95 percent of the appraised value of the unit. If the homeowner is refinancing their primary mortgage to a lower interest rate and not "cashing out" any equity, East Newark will subordinate up to 100 percent of the appraised value. Additionally, for an owner-occupied unit, the household must be re-certified as very-low-, low- or moderate-income.

SECTION III. ELIGIBLE PROPERTY IMPROVEMENTS

A. Eligible Improvements

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

At least one (1) major system must be replaced or included in the repairs, which may include the following:

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

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

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

B. Ineligible Improvements

Work not eligible for program funding includes but is not limited to luxury improvements (improvements which are strictly cosmetic), additions, conversions (basement, garage, porch, attic, etc.), repairs to structures separate from the living units (detached garage, shed, barn, etc.), furnishings, pools and landscaping. If determined unsafe, stoves may be replaced. The

replacement or repair of other appliances is prohibited. Rehabilitation work performed by property owners shall not be funded under this program.

C. Rehabilitation Standards

Upon rehabilitation, housing deficiencies shall be corrected and the unit shall comply with the New Jersey State Housing Code, N.J.A.C. 5:28. For construction projects that require the issuance of a construction permit pursuant to the Uniform Construction Code, the unit must also comply with the requirements of the Rehabilitation Subcode (N.J.A.C. 5:23-6). In these instances, the more restrictive requirements of the New Jersey State Housing Code or the Rehabilitation Subcode shall apply. In addition, funds are to be used for work and repairs required to make the unit(s) free of health and/or safety hazards and any other work or repairs, including finishing and painting, which are directly related to the above listed objectives. For projects that require construction permits, the rehabilitated unit shall be considered complete at the date of final approval pursuant to the Uniform Construction Code.

D. Certification of Standard

The Borough Building Inspector will inspect the property to determine which systems, if any, are substandard in accordance with subsection A above. All code deficiencies noted in the inspection report must be corrected and rehabilitated units must be in compliance with the standards proscribed in subsection C above upon issuance of a certificate of completion or occupancy. The licensed inspector must certify any structure repaired in whole or in part with rehabilitation funds to be free of any code violations.

E. Emergency Repairs

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

SECTION IV. OVERVIEW OF ADMINISTRATIVE PROCEDURES

A. Application/Interview

Property owners interested in participating in the Rehabilitation Program may submit preliminary applications to the program staff. Preliminary applications are available on the Borough website (<https://www.boroughofeastnewark.com>) and in the Clerk's Office:

34 Sherman Avenue, East Newark, NJ 07029

Phone: (973) 481-2902

Fax: (973-481-0627)

Upon request, the program staff will mail a preliminary application to an interested property owner. Once the preliminary application is complete, please mail with the required documents to the designated administrative agent.

Applications will be processed in the order of receipt.

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

B. Income Eligibility and Program Certification

For the households seeking a determination of income eligibility, both owner-occupants and renter-occupants, all wage earners 18 years of age or older in the household must submit appropriate documentation to document the household income, as further described below. The program staff will income qualify applicant/tenant households in accordance with N.J.A.C. 5:93-9 and the Uniform Housing Affordability Controls (UHAC) at N.J.A.C. 5:80-26.1 et. seq.

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

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

If after review of the income documentation submitted, an applicant is determined to be ineligible, the applicant will receive a letter delineating the reasons for the determination of ineligibility. An applicant may be determined ineligible if the applicant's or each tenants' income exceeds income limits or, for owner occupied units, if the carrying costs of the unit (taxes, mortgage, insurance (including the rehabilitation repayment mortgage) exceed the established criteria (less than 33 percent of gross income for ownership households, less than 35 percent for rental households and less than 40 percent of gross income for seniors).

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

After the initial interview, the program staff's verification that the occupant is income-eligible, and receipt of a favorable title search, the Eligible Certification Form will be completed and signed.

Upon confirmation of income eligibility of the applicant or the applicant's tenants, the program staff will send a letter, including the Eligible Certification Form, to the applicant certifying the applicant's and/or tenant's eligibility. Eligibility will remain valid for six (6) months. If the applicant has not signed a contract for rehabilitation within six (6) months of the date of the letter certifying eligibility, the applicant will be required to reapply for certification.

C. Housing Inspection/Substandard Certification

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

The licensed inspector will inspect the house, take photographs, and certify that at least one (1) major system is substandard. All required repairs would be identified. The work write-up will contain information as to the scope of work and specifics on materials such as type, quantity and cost.

D. Ineligible Properties

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

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

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

E. Work Write-Up/Cost Estimate

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

Only required repairs to units occupied by income eligible households will be funded through the East Newark Borough Rehabilitation Program. If the property owner desires work not fundable through the Program, including work on an owner-occupied unit of a rental rehabilitation project, work on a non-eligible rental unit in a multi-unit building or improvements not covered by the Program, such work must be undertaken by a separate agreement between the contractor and the property owner, which shall clearly state that the additional work shall be paid to the contractor directly by the property owner and not by the East Newark Borough Rehabilitation Program.

F. Contractor Bidding Negotiations

After the unit and the unit occupant have been certified as eligible, the program staff will provide a list of approved, pre-qualified trade contractors for bidding. The property owner reviews this list and selects a minimum of three (3) and a maximum of five (5) contractors from whom to obtain bids. The program staff and property owner will then review these bids. The lowest responsible trade contractor shall then be selected. If the property owner wishes to use a contractor other

than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

G. Contract Signing/Pre-Construction Conference

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

The program staff will then call a Pre-Construction Conference. Documents to be executed at the Pre-construction Conference include: Contractors Agreement(s), Right of Entry Document, a Restricted Covenant, Mortgage and Mortgage Note. The property owner, program staff representative, contractor and bank representative will execute the appropriate documents and copies will be provided as appropriate. A staff member will outline project procedures to which property owner must adhere. A Proceed to Work Order, guaranteeing that the work will commence within 15 calendar days of the date of the conference and be totally completed within 90 days from the start of work, will be issued to each contractor at this Conference.

H. Progress Inspections

The program staff will make periodic inspections to monitor the progress of property improvements. This is necessary to ensure that the ongoing improvements are in accordance with the scope of work outlined in the work write-up. It is the contractor's responsibility to notify the Building Inspector before closing up walls on plumbing and electrical improvements and to obtain all required permits prior to the start of construction and at the time of any change order.

I. Change Orders

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

J. Payment Schedule

The contractor will submit a payment request. If both the applicant and the Borough Building Inspector are satisfied with the work performed, the Borough will then release the payment.

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

K. Appeal Process

If an applicant does not approve a payment that the housing/building inspector has approved, the disputed payment will be appealed to the Borough Council for a hearing. The Borough Council will decide if the payment shall be released to the contractor or the contractor must complete additional work or make additional repairs before the release of the payment. The Borough Council's decision will be binding on both the applicant and the contractor.

L. Final Inspection

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

M. Record Restricted Covenant and Mortgage Documentation

Program staff will file the executed Restricted Covenant (Appendix A of this manual) and Mortgage with the County Clerk.

N. File Closing

After the final payment is made, the applicant's file will be closed by the program staff.

SECTION V. PROCEDURE FOR INCOME-ELIGIBILITY CERTIFICATION**A. Complete a Household Eligibility Determination Form**

The program staff shall require each member of an applicant household who is 18 years of age or older to provide documentation to verify their income, pursuant to the Uniform Housing Affordability Controls at N.J.A.C. 5:80-16.1 et seq. (except for the asset test).¹ Income verification documentation should include, but is not limited to, the following for each and every member of a household who is 18 years of age or older:

- Four (4) current consecutive pay stubs, including bonuses, overtime or tips, or a letter from the employer stating the present annual income figure or if self-employed, a current Certified Profit & Loss Statement and Balance Sheet.
- Copies of Federal and State income tax returns for each of the preceding three (3) tax years - A Form 1040 Tax Summary for the past three tax years can be requested from the local Internal Revenue Service Center or by calling 1-800-829-1040.
- A letter or appropriate reporting form verifying monthly benefits such as:
 - Social Security or SSI – Current award letter or computer printout letter
 - Unemployment – verification of Unemployment Benefits
 - Welfare -TANF² current award letter
 - Disability - Worker's compensation letter or
 - Pension income (monthly or annually) – a pension letter

¹ Asset Test – N.J.A.C. 5:80-26.16(b)3 which provides that if an applicant household owns a primary residence with no mortgage on the property valued at or above the regional asset limit as published annually by COAH, a certificate of eligibility shall be denied by the administrative agent, unless the applicant's existing monthly housing costs ...exceed 38 percent of the household's eligible monthly income.

² TANF – Temporary Assistance for Needy Families

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- A letter or appropriate reporting form verifying any other sources of income claimed by the applicant, such as alimony or child support – copy of court order or recent original letters from the court or education scholarship/stipends – current award letter.
 - Current reports of savings and checking accounts (bank statements and passbooks) and income reports from banks or other financial institutions holding or managing trust funds, money market accounts, certificates of deposit, stocks or bonds (In brokerage accounts – most recent statements and/or in certificate form – photocopy of certificates).
 - Evidence or reports of income from directly held assets, such as real estate or businesses.
 - Interest in a corporation or partnership – Federal tax returns for each of the preceding three tax years.
 - Current reports of assets – Market value appraisal or realtor comparative market analysis and bank/mortgage company statement indicating current mortgage balance. For rental property attach copies of all leases.

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

Income

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

Not Income

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

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

Student Income

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

Income from Real Estate

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

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

B. Records Documenting Household Composition and Circumstances

The following are various records for documenting household information:

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

- Alien Registration Card

C. Certification

Certification of the income eligibility of very-low-, low-, and moderate-income households shall be made by completing the application form. The household shall be provided with the original document, with a copy kept in the project files.

SECTION VI. CONTRACTOR RELATED PROCEDURES

A. Contractor Selection

Contractors must apply to the program staff to be placed on the pre-approved contractors list. Contractors seeking inclusion on the list must submit references from at least three (3) recent general contracting jobs. Contractors also must submit documentation proving financial stability and the ability to obtain performance bonds. If it is ever necessary for the Borough or the program administrator to access the performance bond in order to complete a project, the contractor will be removed from the pre-approved contractors list. Contractors must carry workmen's compensation coverage and liability insurance of at least \$100,000/\$300,000 for bodily injury or death and \$50,000 for property damage. Only licensed tradesmen will be permitted to perform specialty work such as plumbing, heating and electrical.

B. Number of Proposals Required

The property owner will select a minimum of three (3) general contractors from a list of pre-approved contractors. Property owners may not select contractors who do not appear on the list. The approved work write-up will be submitted to the selected contractors by the program staff. Contractors must visit the property and submit bids within 30 days. The contract will be awarded to the lowest bidder, provided that the housing/building inspector or the professional who drafted the work write-up certifies that the work can be completed at the price bid and that the bid is reasonably close to the cost estimate. Bids must fall within 10 percent of the cost estimate. If the property owner wishes to use a contractor other than the lowest responsible bidder, the property owner shall pay the difference between the lowest bid price and the bid price of the selected contractor.

C. Contractor Requirements

Upon notification of selection, the contractor shall submit all required insurance certification to the program staff. A contract signing conference will be called by the program staff to be attended by the property owner and contractor. At the time of Agreement execution, the contractor shall sign a Certification of Work Schedule prepared by the program staff. The Contractor agrees that all construction/rehabilitation shall be executed in accordance with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et. seq.) and subject to 24 CFR Part 35.

SECTION VII. MAINTENANCE OF RECORDS

A. Files to be Maintained on Every Applicant

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

- Application Form

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- Income Verification
 - Letter of Certification of Eligibility or Letter of Determination of Ineligibility

B. Files of applicants approved for the Program will also contain the following additional documentation:

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

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

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

Individual files will be maintained throughout the process.

D. Rehabilitation Log

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

E. Monitoring

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

- Street Address
 - Block/Lot/Unit Number
 - Income: Very Low/Low/Mod
 - Final Inspection Date
-

- Funds expended on Hard Costs
- Development Fees expended
- Funds Recaptured
- Major Systems Repaired
- Unit Below Code & Raised to Code
- Effective date of affordability controls
- Length of Affordability Controls (yrs)
- Date Affordability Controls removed
- Reason for removal of Affordability Controls

SECTION VIII. PROGRAM MARKETING

As outlined in the Fourth Round Housing Element/Fair Share Plan, once sufficient funds are collected in the Borough's Affordable Housing Trust Fund to support the Borough-wide Rehabilitation Program, the Borough will conduct a public meeting announcing the implementation of the East Newark Borough Rehabilitation Program. Program information will be available at the municipal building, library, and senior center and on the municipal website. Posters regarding the Program will be placed in retail businesses throughout the Borough.

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

SECTION IX. RENTAL PROCEDURES

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

A. Overview of the Affordable Housing Administration Process for Rental Units

- The Borough must select an agency or individual, experienced in the administration of a Rehabilitation Program to administer the Borough's Program (herein after referred to as the "administrative agent"). The chosen administrative agent may be the Borough-appointed Municipal Housing Liaison or administrative agent (or combination thereof), a nonprofit agency, State agency or consultant that administers the Program within the Borough.
- The administrative agent implements the Borough's Affirmative Marketing Plan.
- The administrative agent serves as the initial point of contact for all inquiries generated by the affirmative marketing efforts and sends out pre-applications to interested callers.
- The administrative agent will accept the returned pre-applications for a period of 90 days. At the end of this time period these applications will be randomly selected, through a lottery, to create a pool of applicants.
- The administrative agent pre-qualifies applicants in the applicant pool for income eligibility and sends either a rejection letter to those over income or a preliminary approval letter to those who appear income-eligible.

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- When a unit becomes available, the administrative agent will interview the applicant households and proceed with the income qualification process.
 - The administrative agent must notify applicant households in writing of certification or denial within 20 days of the determination.
 - Once certified, households are further screened to match household size to bedroom size.
 - Certified households that are approved for a rental affordable housing unit will sign the Certificate for Applicants Certified to a Rental Unit (Appendix B of this manual) and any other applicable documents, which are held in the applicant file. Applicants then make an appointment with the leasing agent. Applicant households seeking rental units proceed with a credit check, which is generally conducted by the developer, affordable housing sponsor or landlord. If approved, the applicant will sign the lease, pay the first month's rent and the security deposit and receive the keys.
 - The certified household moves into the affordable rental unit.

B. Roles and Responsibilities

The administrative agent is responsible for coordinating all the activities of the municipal government as it relates to the creation and administration of affordable housing units, in conjunction with the Borough Attorney, where appropriate (see the "Responsibilities of the Municipal Attorney" sub-section). The primary purpose of the administrative agent is to ensure that all affordable housing projects are established and administered according to the Regulations as outlined in an Operating Manual. The duties of the administrative agent include the following duties.

- **Monitor the status of all restricted units in the Borough's Fair Share Plan.** It is the administrative agent's responsibility to know the status of all restricted units in their community.
 - **Serve as the Borough's primary point of contact for all inquiries from the State, developers, affordable housing sponsors, owners, property managers, and interested households.** The administrative agent serves as the Borough's primary point of contact on affordable housing issues. Interested applicants should be provided with information on the types of affordable units within the Borough.
 - **Compile, verify and submit annual reporting.** The administrative agent is responsible for collecting much of the data that is ultimately included in an annual monitoring report. It is also the administrative agent's responsibility to collect and verify this data and consolidate it into the annual report.
 - **Secure written acknowledgement from all owners that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the administrative agent.**
 - **Create and adhere to an Operating Manual.** Administering agencies are required to follow the policies and procedures of an Operating Manual, as applicable to the scope of services they have been contracted to perform.
 - **Implement the Borough's Affirmative Marketing Plan.** The administrative agent, the developer, affordable housing sponsor or owner could be responsible for implementing the Affirmative Marketing Plan adopted by the Borough. At the first meeting with the administrative agent and the developer, affordable housing sponsor or owner this
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responsibility should be discussed. Affirmative marketing includes conducting regional outreach and advertising for available affordable units. Advertising costs may also be delegated to the developer, but this must be established by ordinance and a condition of approval of the Planning Board.

- **Accept applications from interested households.** In response to marketing initiatives, interested households will contact the administrative agent. The administrative agent will supply applicants with applications, provide additional information on available units and accept completed applications.
- **Conduct random selection of applicants for rental of restricted units.** The administrative agent is responsible for conducting the random selection in accordance with the Affirmative Marketing Plan and any related local ordinances, and as described in the Operating Manual.
- **Create and maintain a pool of applicant households.** This includes reaching out to households in the applicant pool to determine continued interest and/or changes in household size and income.
- **Determine eligibility of households.** The task of collecting application materials and documentation from applicant households and analyzing it for eligibility is the responsibility of an administrative agent. A written determination on a household's eligibility must be provided within twenty (20) days of the administrative agent's determination of eligibility or non-eligibility. Whether or not the household is determined to be eligible for a unit, it is an administrative agent's responsibility to secure all information provided by the household in individual files and to maintain strict confidentiality of all information regarding that household. An administrative agent is required to ensure that all certified applicants execute a certificate acknowledging the rights and requirements of renting an affordable unit, in the form of Appendix B of this manual.
- **Establish and maintain effective communication with property managers and landlords.** Property managers and landlords of restricted units should be instructed and regularly reminded that the administrative agent is their primary point of contact. The administrative agent must immediately inform all property managers and landlords of any changes to the administrative agent's contact information or business hours.
- **Property managers and landlords should be instructed to immediately contact the administrative agent:**
 - Immediately upon learning that an affordable rental unit will be vacated
 - For review and approval of annual rental increases
- **Provide annual notification of maximum rents.** Each year when the updated regional income limits are released, rental households must be notified of the new maximum rent that may be charged for their unit. The administrative agent's contact information must be included on such notification in case the tenant is being overcharged.
- **Serve as the custodian of all legal documents.** An administrative agent is responsible for maintaining originals of all legal instruments for the units in their portfolio. Throughout the duration of a control period, an administrative agent must maintain a file containing its affordability control documents. This includes, but is not limited to, the recorded Declarations of Covenants, Conditions and Restrictions, Deed Restrictions, Deeds, Repayment Mortgages, Repayment Mortgage Notes, Leases and Disclosure Statements.

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- **Serve as point of contact on all matters relating to affordability controls.** It is recommended that the administrative agent develop a system to be notified by lenders when a unit is at risk of foreclosure. In the event of a foreclosure, the administrative agent should work with the foreclosing institution to ensure that the affordability controls are maintained. The administrative agent should seek the counsel of the Borough's attorney on legal matters that threaten the durability of the affordability controls.
 - **An administrative agent is responsible for collecting the reporting data on each unit in their portfolio.**
 - **Maintain and distribute information on HUD-approved Housing Counseling Programs.**

Responsibilities of the Municipal Housing Liaison

- Monitor the status of all restricted units in the Borough's Fair Share Plan.
- Serve as the Borough's primary point of contact for all inquiries from the State, Administrative Agents, developers, affordable housing sponsors, owners, property managers, landlords and interested households.
- Compile, verify and submit annual reporting.
- Coordinate meetings with Administrative Agents and Developers/Affordable Housing Sponsors/Owners.
- Provide Administrative Services, unless those services are contracted out.

Responsibilities of the Municipal Attorney

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

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

Responsibilities of Owners of Rental Units

Open and direct communication between the owners of rental units and the administrative agent is essential to ongoing administration of affordability controls. The owner must provide the administrative agent with information on vacancies. Owners of rental units are also responsible for working with the administrative agent to ensure that the administrative agent has all necessary information to complete the annual reporting.

Responsibilities of Landlords and Property Managers

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

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

REHABILITATION PROGRAM AUDIT CHECKLIST FOR RENTAL UNITS
UP-TO-DATE OPERATING MANUAL
Income Limits
Sample Forms and Letters
AFFIRMATIVE MARKETING
Copies of Display Ads
Copies of PSA Requests
Copies of Marketing Requests
RANDOM SELECTION
Log of Applications Received
Log of Random Selection Results
Database of Referrals
MAINTENANCE OF RECORDS
Files to Be Maintained on Every Applicant
Preliminary Application
Application Form
Tenant Information Form
Income Verification
Letter of Certification of Eligibility or Letter of Determination of Ineligibility
Files to Be Maintained on Every Property
Base rent
Identification as low- or moderate-income
Description of number of bedrooms and physical layout
Floor plan
Application materials, verifications and certifications of all present tenants, pertinent correspondence
Copy of lease
Certificate for Applicants Certified to Rental Unit
Files to Be Maintained on Every Property
Deed

APPENDIX A
DEED RESTRICTION FOR
REHABILITATED RENTAL PROJECTS

Updated May 2020

MANDATORY DEED RESTRICTION FOR REHABILITATED RENTAL PROPERTY

Deed Restriction

**DEED-RESTRICTED AFFORDABLE HOUSING PROPERTY
WITH RESTRICTIONS ON RESALE AND REFINANCING**

To Rehabilitated Rental Property
With Covenants Restricting Rentals, Conveyance and Improvements
And Requiring Notice of Foreclosure and Bankruptcy

THIS DEED RESTRICTION, entered into as of this the ___ day of _____, 20___, by and between the [Administrative Agent] ("Administrative Agent"), or its successor, acting on behalf of _____ [Municipality], with offices at _____, and _____ [a New Jersey [Corporation / Partnership / Limited Partnership having offices] at _____ the owner (the "Owner") of a residential low- or moderate-income rental property (the "Property"):

WITNESSETH

Article 1. Consideration

In consideration of the subsidies received by the Owner from the Municipality regarding this rental Property, the Owner hereby agrees to abide by the covenants, terms and conditions set forth in this Deed restriction, with respect to the land and improvements more specifically described in Article 2, hereof (Description of Property).

Article 2. Description of Property

The Property consists of all of the land, and improvements thereon, that is located in the municipality of _____, County of _____, State of New Jersey, and described more specifically as Block No. _____ Lot No. _____, and known by the following street address:

(Attach Schedule A with a detailed description of the Rental Property)

Article 3. Affordable Housing Covenants

Updated May 2020

The following covenants (the “Covenants”) shall run with the land for a period of ten (10) years, determined separately with respect for each restricted unit, beginning on the date the restricted unit has undergone final inspection as set forth in the contract entered into by and between the Owner and Municipality in consideration of the subsidy received by Owner for said improvements and ending after the Property occupied by an income eligible household shall become vacant, (the “Control Period).

- A. Sale, rental and use of the Property is governed by regulations known as the Uniform Housing Affordability Controls, which are found in New Jersey Administrative Code at Title 5, chapter 80, subchapter 26 (N.J.A.C. 5:80-26.1, *et seq*, the “Uniform Controls”).
- B. The Property shall be used solely for the purpose of providing rental dwelling units for very-low, low-, or moderate-income households, and no commitment for any such dwelling unit shall be given or implied, without exception, to any person who has not been certified for that unit in writing by the Administrative Agent. So long as any dwelling unit remains within its Control Period, sale of the Property must be expressly subject to these Deed Restrictions, deeds of conveyance must have these Deed Restrictions appended thereto, and no sale of the Property shall be lawful, unless approved in advance and in writing by the Administrative Agent.
- C. No improvements may be made to the Property that would affect the bedroom configuration of any of its dwelling units, and any improvements to the Property must be approved in advance and in writing by the Administrative Agent.
- D. The Owner shall notify the Administrative Agent and the Municipality of any foreclosure actions filed with respect to the Property within five (5) business days of service upon Owner.
- E. The Owner shall notify the Administrative Agent and the Municipality within three (3) business days of the filing of any petition for protection from creditors or reorganization filed by or on behalf of the Owner.

Article 4. Foreclosure

- A. This Agreement shall not be terminated in the event of a Judgment of Foreclosure on the properties that include Affordable Housing Units that are designated as rental units.
- B. The terms and restrictions of this Agreement shall be subordinated only to the First Purchase Money Mortgage lien on the Affordable Housing Property and in no way shall impair the First Purchase Money Mortgagee’s ability to exercise the contract remedies available to it in the event of any default of such mortgage as such remedies are set forth in the First Purchase Money Mortgage documents for the Affordable Housing Unit.

An Execution of Foreclosure sale by any other class of creditor or mortgagee shall not result in a release of the Affordable Housing unit from the provisions and restrictions of this Agreement

Article 5. Remedies for Breach of Affordable Housing Covenants

Updated May 2020

A breach of the Covenants will cause irreparable harm to the Administrative Agent, to the Municipality and to the public, in light of the public policies set forth in the New Jersey Fair Housing Act, the Uniform Housing Affordability Control rules found at N.J.A.C. 5:80-26, and the obligation for the provision of low and moderate-income housing.

- A. In the event of a threatened breach of any of the Covenants by the Owner, or any successor in interest of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity, including the right to seek injunctive relief or specific performance.
- B. Upon the occurrence of a breach of any Covenants by the Grantee, or any successor in interest or other owner of the Property, the Administrative Agent and the Municipality shall have all remedies provided at law or equity including but not limited to forfeiture, foreclosure, acceleration of all sums due under any mortgage, recouping of any funds from a sale in violation of the Covenants, diverting of rent proceeds from illegal rentals, injunctive relief to prevent further violation of said Covenants, entry on the premises, those provided under Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code and specific performance.

IN WITNESS WHEREOF, the Administrative Agent and the Owner have executed this Deed Restriction in triplicate as of the date first above written.

[THE ADMINISTRATIVE AGENT]

BY: _____
XXXXXXXXXXXXXX
Title

[THE OWNER]

BY: _____
XXXXXXXXXXXXXX
Title

APPROVED BY _____ [Municipality]

BY: _____
XXXXXXXXXXXXXX
Title

ACKNOWLEDGEMENTS

On this the _____ day of _____, 20____ before me came _____, to me known and known to me to be the Administrative Agent for _____ [Municipality], who states that (s)he has signed said Agreement on behalf of said Municipality for the purposes stated therein.

Updated May 2020

NOTARY PUBLIC

On this the _____ day of _____, 20____ before me came _____, to me known and known to me to be _____, the Owner of the Property, who states that (s)he has signed said Agreement for the purposes stated therein.

NOTARY PUBLIC

On this the _____ day of _____, 20____ before me came _____ known and known to me to be _____ of _____, the Municipality identified as such in the foregoing Agreement, who states that (s)he is duly authorized to execute said Agreement on behalf of said Municipality, and that (s)he has so executed the foregoing Agreement for the purposes stated therein

NOTARY PUBLIC

APPENDIX B
FORM OF CERTIFICATE FOR
APPLICANTS CERTIFIED TO RENTAL UNIT

Updated May 2020

FORM OF CERTIFICATE FOR APPLICANTS CERTIFIED TO
RENTAL UNIT, REQUIRED BY SECTION 5:80-26.18(c)(2)

CERTIFICATE FOR APPLICANT
CERTIFIED TO A RENTAL UNIT SUBJECT TO
AFFORDABLE HOUSING RESTRICTIONS

My name is _____ and I am making this certificate in connection with my certification to rent the Affordable Housing unit located at _____.

I am aware, as the renter of an Affordable unit, that from this date until _____, 20____ as long as I am renting the unit described above, my renting the apartment is subject to the requirements that are listed below:

1. I am required to pay all rent set forth in my lease on time and in the manner provided for in my lease.
2. I know that I am required to live in my apartment, and that I cannot sublease it or rent it out to any other person, not even to members of my family.
3. I know that the maximum rent I am supposed to pay to my landlord is limited by law, that it is announced each year by _____, and that I can call _____ at any time if I have any questions about what rent I am supposed to be paying.
4. I know that I am not allowed to make any improvements to my apartment unless they have been approved in writing by _____.

Updated May 2020

BE IT REMEMBERED, that on this the _____ day of _____, 20____
the signer of this Certificate _____
appeared personally before me and who, being duly sworn by me, deposed and made
proof to my satisfaction (i) that he/she is the renter of the Affordable unit that is identified
as said renter in the foregoing Certificate, and (ii) and that he/she has executed said
Certificate with respect to the lease of the property described in the Certificate and for the
purposes described and set forth therein.

Applicant Signature Date

Sworn to and subscribed before me, _____ on the date
set forth above.

NOTARY PUBLIC