

**FAIR HAVEN BOROUGH COUNCIL
REGULAR MEETING AGENDA
DECEMBER 14, 2020, 7:00 P.M.**

Zoom Link: <https://us02web.zoom.us/j/87060281067>

iPhone or Land Line Telephone Call In: 1-301-715-8592

Webinar ID: **870 6028 1067**

1. **Call to Order:** pm
 2. **Salute to the Flag:**
 3. **Moment of Meditation:**
 4. **Sunshine Law Notice:**
 5. **Roll Call:** Councilmembers Banahan Chrisner-Keefe Koch
McCue Rodriguez Sorensen
 6. **Proclamations**
 - Charlotte Stant: Compañeros de comida
 - Councilwoman Susan Sorensen
 - Rumson-Fair Haven Regional High School Champions: Girls Field Hockey, Cross Country and Soccer
 7. **Workshop Session**
 - Non-Domestic Animal Application for Chickens (490 River Road)
 - Parks and Recreation Update
 - 2020 Community Appeals
 8. **Public Comment on Agenda Items**
 9. **Approval of Minutes**
 - November 23, 2020 Regular Meeting
 - November 23, 2020 Executive Session
 10. **Old Business**
 - Hearing and Adoption of Ordinances**
 - 2020-14 Amend the LOSAP Ordinance to reduce volunteer hour requirement (2020)
 - 2020-15 Bond Ordinance - Borough Facilities
 11. **New Business**
 - Council Committee Reports**
 - Finance** - Councilman Banahan
 - Personnel** - Councilwoman Chrisner-Keefe
 - Planning & Zoning** - Councilwoman Koch
 - Police, Fire & OEM** - Councilman McCue
 - Engineering, DPW and Borough Facilities** - Councilman Rodriguez
 - Parks and Recreation and Communications** - Councilwoman Sorensen
- Consent Agenda**
- Resolutions**
- 2020-207 Executive Session - Personnel, Pending Litigation and Contract Negotiations
- 2020-208 Authorize Borough Administrator to Execute Contract for On-Line Auction

2020-209	Authorize Execution of Contract with Theresa Casagrande as Borough Administrator (2021-2024)
2020-210	Accept Performance Guarantees - 304 Fair Haven Road
2020-211	Authorize Mayor and Borough Clerk to execute a Deed of Easement: McCarter Park
2020-212	Authorize Mayor and Borough Clerk to execute an amended Memorandum of Agreement with Habitat for Humanity
2020-213	Authorize Cancellation of Emergency Appropriations (NOT NEEDED)
2020-214	Approve Various Tax Overpayment Refunds
2020-215	Approve Fire Department Membership Application – John G. Griffin, Jr.
2010-216	Approve Capital Purchase Authorization: Police Department
2020-217	Payment of Vouchers
2020-218	Approve 2020 Budget Transfers

Department Reports
2019 Annual Report

-Zoning Board

October 2020

-Chief Financial Officer

November 2020

-Municipal Clerk

-Dog License

-Planning Board and Zoning Board

-Police Department

-Budget Status

12. Good of the Borough - Please stand and identify yourself by clearly stating your name and address for the record (*Please observe a time limit of three minutes*)

13. Adjournment

PROCEDURE FOR CITIZEN PARTICIPATION AT COUNCIL MEETINGS

The Fair Haven Borough Council and the Mayor welcome comments, suggestions and inquiries from residents of Fair Haven. To that end, provision is made for a public discussion period at each meeting. It is listed as:

“Public Discussion” – near the end of the meeting where any topic may be addressed.

You must wait to be recognized by the Mayor. **IDENTIFY YOURSELF BY CLEARLY STATING YOUR NAME AND ADDRESS FOR THE RECORD.** Limit your comments to three (3) minutes. Once a particular topic has been addressed by a member of the public, he/she will not be recognized to talk again on the same topic until all others have been heard a first time.

If you wish to reserve time to speak in advance, you may address your request to Allyson Cinquegrana at 732-747-0241 extension *221, by noon on the Friday preceding the meeting.

You will **NOT** be recognized, **NOR SHOULD YOU COMMENT OR CARRY ON A DEBATE OR DIALOGUE WHILE BUSINESS OF THE BOROUGH IS BEING ADDRESSED BY MAYOR AND COUNCIL.**

HAPPY HOLIDAYS!

THE COUNCIL REORGANIZATION MEETING WILL BE HELD 1/4/2021, 7:00 P.M.

**BOROUGH OF FAIR HAVEN
ORDINANCE NO. 2020-14**

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF FAIR HAVEN IN THE COUNTY OF
MONMOUTH AMENDING AND SUPPLEMENTING THE FAIR HAVEN BOROUGH LENGTH OF
SERVICE AWARDS PROGRAM**

WHEREAS, Pursuant to N.J.S.A. 40A:14-183 et seq., the Borough of Fair Haven, established an emergency services volunteer length of service awards program, hereinafter referred to as LOSAP, to reward members of the Fair Haven Volunteer Fire Co. #1 and the Fair Haven First Aid Squad for their loyal, diligent and devoted services to the residents of Fair Haven Borough; and

WHEREAS, in consideration of the Global COVID-19 Pandemic and Public Health Emergency declared by Governor Murphy pursuant to Executive Order 103, the Borough wishes to amend LOSAP to temporarily lower the LOSAP point total and afford the governing body the power to adopt future resolutions to amend the LOSAP point totals to address unforeseeable circumstances determined to be outside the control of the Borough.

WHEREAS, all additions are shown in ***bold italics with underlines***. The deletions are shown as ***~~strikeovers in bold italics~~***. Sections of Chapter 2 that will remain unchanged are shown in normal type.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey, as follows:

SECTION I. There is hereby established in the Code of the Borough of Fair Haven Sections 2-51.1 through 2-51.7. The new section of the Borough Code shall read as appears in Appendix “A” appended hereto and incorporated herein by reference.

SECTION II. Repealer. All Ordinances or parts of Ordinances inconsistent herewith are repealed to the extent of such inconsistency. The Borough Clerk is authorized to renumber and/or re-codify any sections affected by such repeal to the extent consistent with this Ordinance.

SECTION III. Severability. If any word, phrase, clause, section or provision of this Ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional such word, phrase, clause, section or provision shall be severable from the balance of the Ordinance and the remainder of the Ordinance shall remain in full force and effect.

SECTION IV. Effective Date. This Ordinance shall take effect upon publication thereof after final passage according to law and approval by the State of New Jersey.

Introduced: 11/23/2020

APPENDIX "A"

§ 2-51 LOSAP FOR VOLUNTEER FIRE DEPARTMENT AND FIRST AID SQUAD MEMBERS.

§ 2-51.1 Purpose.

The purpose of this section is to establish a "Length of Service Awards Program" (LOSAP) for active volunteer members of the Borough's Emergency Service Organizations, specifically, the Fair Haven Volunteer Fire Co. #1 and the Fair Haven First Aid Squad. The LOSAP program is designed to enhance the ability of the Borough to provide volunteer fire and first aid protection and to allow the Borough's fire and first aid squads to recruit and maintain membership.

§ 2-51.2 Program Established.

[Ord. No. 485 Preamble]

Pursuant to N.J.S.A. 40A:14-183 et seq., there is hereby established, within the Borough of Fair Haven, an emergency services volunteer length of service awards program, hereinafter referred to as LOSAP, to reward members of the Fair Haven Volunteer Fire Co. #1 and the Fair Haven First Aid Squad for their loyal, diligent and devoted services to the residents of Fair Haven Borough.

The LOSAP program shall provide for the fixed annual contribution, to a tax deferred income account, for each eligible volunteer fire and first aid member that satisfies the criteria set forth in this section, and the enabling legislation and the U.S. Internal Revenue Code. This section shall apply prospectively only, commencing with calendar year 2005.

The LOSAP program shall provide for an annual contribution for each eligible volunteer member who accumulates a minimum of ~~100 points~~ 70 points for the 2020 Calendar year and a minimum of 100 points for any calendar year thereafter, pursuant to a point system as set forth within. Any participant who terminates service as an active volunteer shall cease to participate hereunder.

The annual contribution amount for each year of future service, for each eligible volunteer member, shall be \$1,150. The estimated annual cost of this provision of the LOSAP program shall be based on 60 active volunteer members for a total cost of \$69,000 for 2005.

The LOSAP program shall only be deemed effective, after approval and ratification by the voters of the Borough of Fair Haven at the next general election to be held subsequent to the passage of this section (ordinance). If this public question fails, this section (ordinance) shall automatically terminate.

After ratification of the LOSAP, as provided for in this section, the maximum annual contribution may be increased, without public hearing or public question, provided such increased contributions do not exceed the number calculated by multiplying the original contribution as approved by public question, by the consumer price index factor. The consumer price index factor shall be established as set forth in N.J.S.A. 40A:14-185.

§ 2-51.3 Criteria.

[Ord. No. 485 § 8]

The Borough of Fair Haven LOSAP shall provide for annual contributions of each eligible active volunteer member of Emergency Medical Service Squad who meets the following criteria:

LOSAP PROGRAM POINT SYSTEM BASED ON 100 POINTS

a. Offices.

- | | | |
|-----|-------------------------|--------------------------|
| 1. | FHFD Line Officers | 50 points |
| | (a) Fire Dept. | |
| | (b) Fire Police | |
| | (c) First Aid | |
| 2. | Training Officer | 25 points |
| 3. | Administrative Officers | 25 points |
| 4. | Engineers | 25 points |
| 5. | Safety Officers | 25 points |
| 6. | Ex-Chief | 25 points (for 1 year) |
| 7. | Ex-Captain | 25 points (for 1 year) |
| 8. | LOSAP Committee | 25 points |
| 9. | Committee Chair | 10 points (maximum — 10) |
| 10. | Committee Member | 2 points (maximum — 8) |
| 11. | EMT | 15 points |
| 12. | First Responder | 10 points |

(for paragraphs 1, 2 and 3 only)

- | | |
|-----|---|
| (a) | Must complete 1 full year of elected position |
| (b) | Points awarded for 1 position only |

b. Fire Calls

- | | |
|---------------------|-----------|
| Active — 60% | 30 points |
| Active Exempt — 25% | 30 points |

c. FHFC First Aid Emergency Response

- | | | |
|----|-----------|-----------|
| 1. | 60 — 74 | 10 points |
| 2. | 75 — 100 | 15 points |
| 3. | 101 — 150 | 20 points |
| 4. | 151 — 175 | 25 points |
| 5. | 175 — 200 | 30 points |
| 6. | 201 — | 30 points |

d. Drills, Meetings, and Training

- | | | |
|----|-------------------------------|---------------------|
| 1. | Drills | 1 point (max — 12) |
| 2. | Meetings | 1 point (max — 12) |
| 3. | Stand-by (Minimum 2 hours) | 2 points (max — 12) |
| 4. | Snow Removal (Min. 2 hours) | 2 points (max — 12) |
| 5. | Fire Prevention | 2 points (max — 6) |
| 6. | Memorial Service | 2 points |
| 7. | SCBA Recertification | 5 points |
| 8. | Completion of Fire Fighter I | 40 points |
| 9. | Completion of Fire Fighter II | 30 points |

- | | | |
|-----|----------------------------|---------------------|
| 10. | CEU Courses (Min. 2 hours) | 2 points (max — 12) |
| 11. | Work Nights | 2 points (max — 10) |

(approved by Chief-Equipment Maintenance/Fire House Maintenance)

e. Miscellaneous Activities.

1. All fundraising activities — 2 points for 2 hours minimum of participation for a maximum of 40 points.
2. Participation in other activities listed below — 1 point for 2 hours of activity for a maximum of 20 points.

(a) Parades.

(b) Fire Prevention.

(c) Storm/Snow Watch.

(d) Upkeep of Grounds.

(e) Road Races.

(f) Fireworks.

(g) Special Assignments.

(h) Football Games.

f. Special Duty.

1. Members called to active duty shall be credited for military service time.
2. Any active member that becomes temporarily disabled during any calendar year due to fire related injury may receive up to 60 points credit.

g. Length of Service.

1. One point per year starting at 10 years (maximum 30 points).

§ 2-51.4 Maximum Contribution; Consumer Price Index Increases.
[Ord. No. 485 § 9]

The maximum contribution for each active volunteer member shall be \$1,150 per year of active emergency service, subject to periodic consumer price index increases pursuant to N.J.S.A. 40A:14-185.

§ 2-51.5 Filing of Ordinance.
[Ord. No. 485 § 10]

A copy of this section (ordinance), once approved by the voters pursuant to the public question required by P.L. 1997, c. 388, shall be filed with the Division of Local Government Services within 30 days of the date of the referendum.

§ 2-51.6 Applicable Law.
[Ord. No. 485 § 11]

All provisions of the Emergency Services Volunteer Length of Service Award Program Act, P.L. 1997, c. 388, and regulations promulgated herewith, N.J.A.C. 5:30-14.1 et seq., as well as any revisions, amendments or additions to the Act or the regulations, are hereby incorporated by reference and made a part of this ordinance.

§ 2-51.7 Force Majeure.

In consideration of the fact that there are certain events or effects that cannot be reasonably anticipated or controlled by the Borough, the Governing Body shall have the authority to amend the LOSAP point totals by way of a resolution approved by Governing Body. Said amendments to the LOSAP point total shall only be to lower the required point total to take into consideration unforeseeable circumstances that prevents eligible Fair Haven Volunteer Fire Co. #1 and the Fair Haven First Aid Squad from reaching the minimum LOSAP point total set forth in Section § 2-51.2

§ 2-51.8 Selection of LOSAP Provider.

The governing body shall have the authority to appoint, through Resolution, any of the New Jersey approved LOSAP providers.

**BOROUGH OF FAIR HAVEN
BOND ORDINANCE NUMBER 2020-15**

BOND ORDINANCE PROVIDING FOR VARIOUS 2020 GENERAL CAPITAL IMPROVEMENTS BY AND IN THE BOROUGH OF FAIR HAVEN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$7,997,500 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$7,616,666 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FAIR HAVEN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Borough of Fair Haven, in the County of Monmouth, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the aggregate sum of \$7,997,500, said sum being inclusive of a down payment in the aggregate amount of \$380,834 for said improvements or purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). The down payment is now available by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$7,997,500 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the aggregate principal amount not exceeding \$7,616,666 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in an aggregate principal amount not exceeding \$7,616,666 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued, include, but are not limited to, as follows:

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
(i) <u>Public Works (DPW)</u> – Various Improvements To The Borough's DPW Allen Street Site Including, But Not Limited To, Demolition Of Existing Structures; Site Preparation Work And Environmental Remediation; Construction Of A New Structure; Acquisition And Installation, As Applicable, Of Gasoline Tanks, Pumps, Storage Tanks And A Salt Dome; And Stormwater Management Improvements; And	\$3,127,000	\$2,978,095	\$148,905	20.00 years
(ii) <u>Police Department</u> –Demolition Of The Borough's Existing Police Department Building; Construction of a New Building;	\$4,476,000	\$4,262,857	\$213,143	20.00 years

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
Site Preparation Work And Environmental Remediation, As Applicable; And Stormwater Management Improvements; And				
(lii) <u>Administration</u> – Various Interior And Exterior Improvements To Bicentennial Hall Including, But Not Limited To, Interior Building Improvements Including, But Not Limited To, Improvements To Restroom Facility To Include ADA Compliant Requirements, And Technology Improvements Including, But Not Limited To, Acquisition and Installation, As Applicable, Of Public Broadcast And Recording Systems; Exterior Facility Improvements Including, But Not Limited To, Parking Lot, Curb Ramp And Sidewalk ADA Compliant Improvements; And Drainage And Landscaping Improvements.	\$394,500	\$375,714	\$18,786	20.00 years
TOTALS	<u>\$7,997,500</u>	<u>\$7,616,666</u>	<u>\$380,834</u>	

(b) The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$7,616,666.

(c) The aggregate estimated cost of said improvements or purposes is \$7,997,500, the excess amount thereof over the said estimated maximum amount of bonds or notes to be issued therefor is the aggregate down payment available for said purposes.

(d) All such improvements or purposes set forth in Section 3(a) shall include, but are not limited to, as applicable, all engineering, architectural and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and also shall include all work, materials, equipment, accessories, labor and appurtenances necessary therefor or incidental thereto and all in accordance with the plans and specifications therefor on file in the Office of the Clerk of the Borough and available for public inspection and hereby approved.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a contribution or grant in aid to the Borough for the improvements and purposes authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, and/or the County of Monmouth. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, and/or the County of Monmouth shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer of the Borough shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of N.J.S.A. 40A:2-8.1. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith and a resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital programs as approved by the Director of the Division of Local Government Services, Department of Community Affairs, State of New Jersey, is on file in the Office of the Clerk of the Borough and is available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said purposes within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 20.00 years.

(c) The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, Department of Community Affairs, State of New Jersey, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$7,616,666 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$1,961,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements herein before described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the principal of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough covenants to maintain the exclusion from gross income under Section 103(a) of the Code of the interest on all bonds and notes issued under this bond ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING
DATED: NOVEMBER 23, 2020

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-207

TITLE: EXECUTIVE SESSION

WHEREAS, the Open Public Meetings, P. L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body may wish to discuss the following matters:

Personnel

1. Police Department Social Security

Pending Litigation

1. Yacht Works

Contract Negotiations

1. 2021 Borough Professionals
 - LOSAP
 - Risk Manager

WHEREAS, minutes will be kept and once the matter involving the confidentiality of the above no longer requires that confidentiality, then the minutes can be made public.

NOW THEREFORE BE IT RESOLVED that the public be excluded from this meeting.

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-208

TITLE: AUTHORIZE SALE OF PERSONAL PROPERTY VIA ON –LINE AUCTION

<http://www.govauctionlistservices.com/>

WHEREAS, there are certain vehicles and equipment owned by the Borough of Fair Haven which are no longer of use to the Borough and the Borough Council has recommended that they be sold; and

WHEREAS, Local Public Contracts Law N.J.S.A. 40A:11-36 requires authorization of municipal surplus via the adoption of a Resolution; and

WHEREAS, the Borough Administrator is authorized to set the minimum bid for items to be sold.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the Borough Administrator be authorized to dispose of the following items of municipally owned property not needed for public use through the process of a public auction to be held February 8, 2021 until February 22, 2021 via on-line auction handled by <http://www.govauctionlistservices.com/>

BE IT RESOLVED that the items to be sold are listed in Exhibit A attached hereto.

BE IT FURTHER RESOLVED that the Borough Administrator is hereby authorized to execute a contract with <http://www.govauctionlistservices.com/> which is attached as Exhibit B.

BE IT FURTHER RESOLVED that any items not purchased at auction may be disposed of by the Borough.



CONTRACT FOR ONLINE AUCTION

This agreement is between USGovBid/ Auction Liquidation Services, having its principal place of business at 300 Commerce Drive, 1st Floor, Tinton Falls, NJ 07753 and the Borough of Fair Haven (Client), having its principal place of business at 748 River Road, Fair Haven, NJ 07704.

Term: This contract is valid from one year from the date of execution. A one year extension may be granted at the discretion of both parties.

Three Options Available:

- ☒ **Full Service:** Full service includes a complete photo shoot. USGovbid.com will place all listings on the Internet, collect all proceeds and handle all customer service. **There is NO Buyer's Premium.**
- ☐ **Partial Service:** Your agency would take all the photos of auction items, USGovbid.com will place all listings on the internet, collect all the proceeds and handle all customer service. **There is NO Buyer's Premium.**
- ☐ **Self Service:** Your agency would take all the photos of the auction items, send the listing to USGovbid.com to place on the internet, collect all the proceeds and handle all customer service. **There is NO Buyer's Premium.**

Description of Service: USGovBid/Auction Liquidation Services will list items the Client has for sale and for potential buyers to bid upon these items via an Internet based auction system.

Beginning on May 1, 2015, USGovBid implemented an online registration fee in an effort to prevent fraud and nonpayment for auction items. All new online Bidders are required to make a \$100 deposit via PayPal to bid on our government online auctions. The \$100 deposit includes a \$45 one-time online screening fee and \$5 PayPal fee. As long as a Bidder is not actively bidding on an auction and does not owe any outstanding payments, the Bidder may request by an email sent to USGovBid at info@usgovbid.com, a refund of the remaining deposit (\$50). At that point, their bidding number will be turned off and bidding privileges will be removed. For refunds of deposits paid via PayPal, USGovBid will process the Bidder's refund back to the Bidder via PayPal within 15 days of receipt of the request. Registration fee is non-transferable to auction payments or late fees. There will be absolutely NO REFUNDS for payment defaults, late payments or late removals.

USGovBid/Auction Liquidation Full Services Responsibilities: In addition to the Internet Auction, the auction company will provide the following services according to the service which is chosen above.

1. Will come and take 5 to 10 digital photos of each item, lot each item and prepare descriptions.
2. Load all items on the internet auction site and handle all aspects of the online auction.

3. Auctioneer will post online all Terms and Conditions of the sale.
4. Provide customer service via telephone or email.
5. Marketing of the Online Auction.
6. Auctioneers agree to keep accurate records of sale and allow Client to examine the records.
7. In the event that a bidder defaults on payment on a single or multiple items or the items do not sell for any reason other than a reserve price or minimum bid, USGovBid/Auction Liquidation Services will relist the items at no cost to the seller.

Client Responsibilities:

1. Warrants and represents to the Auctioneer that the Seller has full authority and lawful power to sell and shall deliver title to the property. Seller represents that he owns the property, free of all liens, encumbrances and indebtedness and that the said property could be auctioned without violation of any Federal, State or other regulation. However, confiscated items may be claimed by the owner up to the date of the auction.
2. Seller agrees to have all items for auction available at least one week prior to the auction so the Auction Company may photograph said items.
3. All vehicles/equipment that are included in said auction must be staged in a designated area. Seller needs to provide a numbered list including information regarding year, make, model, mileage, titles, distribution of titles, flood status, running condition and a copy of any public notice and/or resolution including times and dates of the auction and preview/inspection dates and times.
4. Seller agrees not to interfere with, prevent, or prohibit the Auctioneers, in any manner from conducting and carrying out their duties and obligations under this agreement prior to or during said auction.
5. Seller agrees to cooperate with the Auctioneers in order to provide a successful auction.
6. Seller understands that all items are sold at no reserve or at agency's confirmation.
7. Seller agrees to have at least 1 person available for preview and for pickup of sold items and distribution of keys/titles of any vehicles/equipment included in the auction.

Compensation to Auctioneers:

1. Auctioneers shall receive as compensation for promoting and conducting the online auction 6.5% commission which shall be payable by the Seller. This amount does not include any allocation for advertising or the personal property to be sold. Said amount is simply the compensation given to the Auctioneers for the performance of their obligations as defined herein. Seller understands that the Auction Company will be charging a 2.5% Internet Service Fee and it will be retained by USGovBid/Auction Liquidation Services.
2. At settlement, Auction Liquidation Services will collect all monies and instrument of credit and will pay the Client full proceeds minus commission with a separate Auction Liquidation Services check within 15 business days of the close of auction.

Liquidated Damages:

1. Auctioneer cannot and will not be held responsible for any interruption in service, errors and/or omission caused by any means and does not guarantee continual, uninterrupted or error free services or use of the site. The Client acknowledges that the auction is conducted electronically and relies on hardware and software that may malfunction without warning. The Auctioneer, in its sole discretion, may void any sale, temporarily suspend bidding and re-sell any item/lots that were affected by any malfunction. The decision of the Auctioneer is final. Auction Liquidation Services will notify the original bidders of the new date and time if a sale is continued or re-opened.
2. The Auctioneer is not to be held liable for any person who has not completed his bid obligations. In the event that the bidder defaults on payment on a single or multiple items USGovBid/Auction Liquidation Services will relist the items at no cost to the seller.

Date of Online Auction:

1. The Online Auction will begin on February 8, 2021 at 9:00 AM and will end on February 22, 2021 at 7:00 PM with inspection on a date and time TBA to be at a location to be announced and will be conducted online at www.usgovbid.com

Attorney's Fees:

1. In the event that either party resorts to litigation to collect all or any part of the compensation due herein, or to enforce its rights under this agreement, the prevailing party shall be entitled to reasonable attorney's fees to be added to the judgment.

The Above Agreement is accepted and agreed to:

USGovBid / Auction Liquidation Services

Client: _____

By: _____

By: _____

Name: Stephan J. Miranti or Diane I. Enright

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Primary Contact Person:

Name: Diane I. Enright

Name: _____

Title: Online Auction Operations Manager

Title: _____

Phone #: 732-542-2077

Phone #: _____

Fax #: 732-542-2099

Fax #: _____

Email: diane@auctionlistservices.com

Email: _____

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-209

**TITLE: AUTHORIZE THE EXECUTION OF A CONTRACT WITH THERESA
CASAGRANDE, BOROUGH ADMINISTRATOR**

WHEREAS, Theresa Casagrande currently serves as the Borough Administrator of the Borough of Fair Haven; and

WHEREAS, the Borough Council has agreed to enter into a four (4) year contract (2021-2024) with Administrator Casagrande.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, that Mayor Lucarelli is authorized to execute an agreement with Theresa Casagrande for a four (4) year term as per the agreement attached as Exhibit A.

Introduction

THIS AGREEMENT made and entered into this _____ day of December, 2020, by and between the BOROUGH OF FAIR HAVEN (hereinafter called "Employer,"), a Municipal Corporation of the State of New Jersey, with principal offices at 748 River Road, in the Borough of Fair Haven, in the County of Monmouth, in the State of New Jersey, and THERESA S. CASAGRANDE, (hereinafter called "Employee,"),

WHEREAS, the Mayor and Council of the Borough of Fair Haven deem it desirable to retain and employ, THERESA S. CASAGRANDE, an individual who has the education, training and experience in local government management, as Borough Administrator, both of whom agree as follows:

Section 1: Term

The term of this agreement shall be for a term commencing January 1, 2021 and ending December 31, 2024.

Section 2: Duties and Authority

Employer agrees to employ THERESA S. CASAGRANDE as BOROUGH ADMINISTRATOR to perform the functions and duties specified in Chapter 2.08 of the BOROUGH OF FAIR HAVEN code and N.J.S.A. 40A:9-137 et al., and to perform other legally permissible and proper duties and functions.

Section 3: Compensation

1. Employer agrees to compensate Employee as follows with an annual base salary for the office of Borough Administrator as follows:

2021:	\$150,933.00
2022:	\$153,952.00
2023:	\$157,031.00
2024:	\$160,172.00

Section 4: Health, Disability and Life Insurance Benefits

A. The Employer agrees to provide for health, hospitalization and medical insurance for the Employee and her dependents equal to that which is provided to all other employees of the Borough of Fair Haven, as outlined in the Borough of Fair Haven Employee Policy Manual. The Employee shall contribute towards the cost of health, hospitalization and medical insurance in accordance with the requirements of P.L. 2011, c.78.

Section 5: Vacation, Sick, and Military Leave, and Paid Holidays

A. The Employee shall accrue sick and vacation leave on an annual basis at the highest rate provided to any other employees. Employee shall receive twenty-five (25) days paid vacation per year, fifteen (15) sick days per year, and three (3) personal days per year, during the term of this contract. The Employee shall be entitled to sell back a maximum of five (5) vacation days per year to the Borough of Fair Haven at the Employees daily pay rate.

B. The Employee shall be entitled to accrue a bank of unused sick days, up to ninety (90) days total, which shall carry from year to year. If the employee leaves the Borough in good standing, she shall only be entitled to be paid for thirty (30) days of accumulated sick leave, at the rate of \$50.00 a day, for a total of \$1500.00.

C. The Employee shall be entitled to military reserve leave time pursuant to state and federal law and Borough of Fair Haven Employee Policy Manual.

D. The Employee shall be entitled to receive the following paid holidays:

- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- ½ Day Christmas Eve
- Christmas Day

Section 6: Retirement

The Employer agrees to enroll the Employee into the applicable state retirement system (New Jersey Public Employees Retirement System), and to make all the appropriate contributions on the Employee's behalf, in accordance with the terms of the Borough of Fair Haven Employee Policy Manual.

Section 7: General Business Expenses

1. Employer agrees to budget for and to pay for professional dues and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

2. Employer agrees to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to continue the professional development of Employee and to adequately pursue necessary official functions for Employer, including but not limited to the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member. Such expenses are subject to approval within the municipal budget.

3. Employer also agrees to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer. Such expenses are subject to approval within the municipal budget.

Section 8: Termination

Termination with or without Cause

Employee shall be subject to the disciplinary policies as outlined in the Fair Haven Employee Policy Manual.

For the purpose of this agreement, termination shall occur when:

1. The Administrator may be removed by a 2/3 vote of the governing body at a public meeting in accordance with the terms of N.J.S.A. 40A:9-138. The resolution for removal shall become effective three months after its adoption by the governing body. The governing body may provide that the resolution has an immediate effect; provided, however, that the governing body shall cause to be paid to the administrator forthwith any unpaid balance of her salary and the salary for the next three calendar months following adoption of the resolution.
2. Breach of contract declared by either party with a 30 days cure period for either Employee or Employer.
3. Employee may terminate this Agreement as any time on sixty (60) days prior written notice to the Mayor, Borough Council and Borough Clerk. In the event Employee provides less than sixty (60) days' notice, Employee's accrued and/or banked sick and vacation time will be reduced by one (1) day for each day Employee provides less than the required 60-days' notice.

Section 9: Hours of Work

Employee agrees that she is an exempt Employee in accordance with the Fair Labor Standards Act and the New Jersey Wage and Hour Law.

Employee agrees to work a minimum of 40 hours a week, with general office hours from 8 a.m. through 4 p.m. However, Employer recognizes that Employee is needed at additional after hours and accordingly Employee may work flexible hours on an as needed basis, subject to the Employee's discretion. Employee shall maintain a bi-weekly spreadsheet documenting her personal attendance records, based on 2080 annual work hours. Employee shall take paid time off whenever her bi-weekly attendance does not equal eighty (80) hours. The Employee's personal attendance records are to be provided to any member of the Governing Body upon request.

Employee must attend all regular and special Council meetings of the Borough of Fair Haven. Employee must attend all special meetings of the Borough of Fair Haven boards and committees on an "as-needed" basis.

Section 10: Outside Activities

A. The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept limited teaching opportunities with the understanding that such arrangements shall not constitute interference with, nor a conflict of interest with her responsibilities under this Agreement.

B. The Employee shall refrain from political activities impacting the Borough of Fair Haven, in accordance with the political participation provision included in the Borough of Fair Haven Employee Policy Manual.

Section 11: Other Terms and Conditions of Employment

The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Borough of Fair Haven Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be subject to all terms included in the Borough of Fair Haven Employee Policy Manual.

Section 12: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement, in writing.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective upon adoption at a Regular Meeting of the Borough Council of the Borough of Fair Haven.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

E. Choice of Law and Venue. This Agreement shall be interpreted and applied in accordance with New Jersey law. The parties agree that the Superior Court of New Jersey, Monmouth County Vicinage is the appropriate venue for any potential legal claim arising from this Agreement or action to enforce any of the provisions of this Agreement.

BOROUGH OF FAIR HAVEN

By: _____
Benjamin Lucarelli, Mayor

ATTEST:

Allyson Cinquegrana, Clerk

(SEAL)

Date: _____

EMPLOYEE

By: _____
Theresa S. Casagrande
Borough Administrator

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-210

**TITLE: RESOLUTION OF THE BOROUGH OF FAIR HAVEN ACCEPTING PERFORMANCE
GUARANTEES FOR PROPERTY KNOWN AS BLOCK 77, LOT 4.01 (304 FAIR
HAVEN ROAD)**

WHEREAS, Morgan Sackman obtained minor subdivision approval from the Fair Haven Planning Board pursuant to a Resolution adopted by the Planning Board on May 19, 2020; and

WHEREAS, the Planning Board Engineer prepared a bond estimate for this minor subdivision by way of letter dated September 4, 2020 which is annexed hereto; and

WHEREAS, on November 24, 2020, Ms. Sackman submitted a Subdivision/Site Improvement Bond (800047616) in the amount of \$24,600.00 as a performance guarantee and Check No. 402 in the amount of \$1,025.00 for Engineering Inspection for said project.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven, that the aforementioned performance guarantees are accepted by the Borough in order to secure performance by the property owner of a minor subdivision to effectuate the terms and conditions of the subdivision approval.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-211

**TITLE: AUTHORIZE MAYOR AND MUNICIPAL CLERK TO EXECUTE THE DEED OF
 OPEN SPACE EASEMENT FOR MCCARTER PARK**

BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that Mayor Benjamin J. Lucarelli and Allyson M. Cinquegrana, Municipal Clerk are hereby authorized to execute a Deed of Open Space Easement including any and all documents necessary to effectuate the intent and purpose of this resolution for Block 57, Lot 18 (McCarter Park).

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-212

**TITLE: AUTHORIZE EXECUTION OF A MEMORANDUM OF UNDERSTANDING
 BETWEEN THE BOROUGH OF FAIR HAVEN AND HABITAT FOR
 HUMANITY**

WHEREAS, pursuant to N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on March 7, 2019, the Borough of Fair Haven (hereinafter “Fair Haven Borough” or the “Borough”) filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, the Borough sought, and ultimately secured, a protective order providing Fair Haven Borough immunity from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, the trial judge appointed Frank Banisch, P.P., A.I.C.P. as the Special Court Master (hereinafter the “Court Master”), as is customary in Mount Laurel matters adjudicated in the courts; and

WHEREAS, Habitat for Humanity (“Habitat”) of Monmouth County engaged in good faith negotiation which resulted in an amicable accord on the various substantive terms and conditions as set forth in the MOU attached hereto as **Exhibit A**; and

WHEREAS, in light of the above, the Borough Council finds that it is in the best interest of Fair Haven Borough to execute the attached MOU with Habitat.

NOW, THEREFORE, BE IT RESOLVED on this 14th day of December 2020 by the Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey, as follows:

1. The Borough Council hereby authorizes and directs the Mayor of Fair Haven Borough to execute the MOU with Habitat for Humanity, as attached hereto as **Exhibit A**.
2. The Borough hereby directs its Affordable Housing Counsel to take all actions reasonable and necessary to utilize the MOU, if necessary as it works towards ultimately securing judicial approval of the Borough’s Fair Share Plan, after it is drafted, adopted by the Borough’s Planning Board and endorsed by the Borough Council.

DEVELOPER MEMORANDUM OF UNDERSTANDING

THIS DEVELOPER MEMORANDUM OF UNDERSTANDING (“MOU”) made this _____ day of _____, 2020, by and between:

BOROUGH OF FAIR HAVEN, a municipal corporation of the State of New Jersey, County of Monmouth, having an address at an address at 748 River Road, Fair Haven, New Jersey 07704(hereinafter the “Borough” or “Fair Haven”);

And

HABITAT FOR HUMANITY of MONMOUTH COUNTY, INC., a New Jersey Non-Profit corporation, with an address at c/o Mark R. Aikins, Esq., 3350 Route 138, Building 1, Suite 113, Wall, New Jersey 07719 (hereinafter “**Habitat**”);

Collectively, the Borough and Habitat shall be referred to as the “**Parties.**”

WHEREAS, in response to the New Jersey Supreme Court’s decision 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), on or about March 7, 2019, the Borough filed an action with the Superior Court of New Jersey (“Court”), entitled In the Matter of the Application of the Borough of Fair Haven, County of Monmouth Docket No. MON-L-893-19, seeking a Judgment of Compliance and Repose approving its Affordable Housing Plan (as defined herein), in addition to related reliefs (the “**Compliance Action**”); and

WHEREAS, the Borough simultaneously sought, and ultimately secured, an Order protecting Fair Haven from all exclusionary zoning lawsuits while it pursues approval of its Fair Share Plan; and

WHEREAS, Habitat is an experienced and reputable entity in providing affordable home ownership opportunities to low- and moderate-income households; and

WHEREAS, the Borough is the owner of real property located at the corner of Hendrickson Place and Allen Street (Block 45, Lot 10 and/or 12) (the “**Hendrickson Site**”); and

WHEREAS, through private negotiations, the Parties reached an agreement in principle, providing that the Borough will gift a municipally-owned lot of at least 50 x 100 and located at or within the Hendrickson Site (the “Habitat Lot”) to Habitat for the construction of 2 affordable units, which will be available to low- or moderate-income households and credit-worthy towards the Borough’s Round 3 new construction obligation, as mutually agreed upon by the parties; and

WHEREAS, to ensure that the units contemplated by this MOU generate affordable housing credits to the Borough's Gap (1999-2015) and Round 3 (2015-2025) affordable housing obligations, the units shall be developed in accordance with the COAH Prior Round regulations,

the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("**UHAC**") and all other applicable law except that at least one of the two units shall be a very low-income unit as defined by the Fair Housing Act at least two bedrooms and rental in tenure and the other affordable unit shall be a three bedroom unit, preferably low-income but acceptable as a moderate-income unit; and

WHEREAS, the terms of this MOU are anticipated to be incorporated into a mutually acceptable affordable housing agreement (the "**Affordable Housing Agreement**") and this MOU is expressly contingent upon the Affordable Housing Agreement being executed by the Borough and Habitat.

NOW, THEREFORE, in consideration of the promises, the mutual obligations contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties hereto agree in this Developer's MOU to the terms set forth as follows:

ARTICLE I – "BASIC TERMS AND CONDITIONS"

1.1 Purpose The purpose of this MOU is to create a realistic opportunity for the construction of affordable housing "**units**" and "credits" that are credit-worthy for the Borough to apply to its Gap (1999-2015) and Round 3 (2015-2025) affordable housing obligations.

ARTICLE II – HABITAT OBLIGATIONS

2.1 New Construction: Habitat shall construct 2 affordable, units at the Habitat Lot, which obligation shall accrue only after the Habitat Lot is deeded over to Habitat pursuant to Section 3.1 below. Habitat shall have no obligation to construct any affordable until the Habitat Lot is deeded over to Habitat.

2.2 Affordable Units. Habitat shall have an obligation to deed-restrict each unit with affordability controls for low- and moderate-income households as defined by UHAC and COAH regulations. Any such affordable unit shall comply with UHAC, applicable COAH affordable housing regulations, any applicable order of the Court, and other applicable laws, and may be offered for sale to low- or moderate-income households that are screened and approved by Habitat in accordance with Habitat's selection criteria. However, at least one of the two units shall be a very low-income unit as defined by the Fair Housing Act of at least two bedrooms and the other affordable unit shall be a three bedroom unit, preferably low-income but acceptable as a moderate- income unit. In addition, the affordable units shall remain affordable for a period of at least thirty (30) years from the date of their initial occupancy ("**Deed-Restriction Period**") and said extensions may be extended at the sole discretion of the Borough.

ARTICLE III – BOROUGH OBLIGATIONS

3.1 The Rezoning Ordinance: Within ninety (90) days of the execution of this Agreement, the Borough shall introduce the Rezoning Ordinance that will permit the development of the Property consistent with the attached site plans and elevations (collectively attached as **Exhibit A**) The

Rezoning Ordinance will require the affordable housing units to be constructed in accordance with all applicable UHAC and COAH regulations. Under no circumstances shall total building square footage exceed 2,800 square feet unless mutually agreed to by the parties.

3.2 Upon introduction of the Rezoning Ordinance, the Borough shall refer the Rezoning Ordinance to the Planning Board for review and recommendation at the Planning Board's next regularly scheduled meeting, or such special meeting as may be required.

3.3 At the next regularly scheduled Borough Council meeting after a recommendation has been made by the Planning Board regarding the Rezoning Ordinance, or after the expiration of the thirty- five (35) day referral period, whichever is earlier, the Borough will vote on the approval of the Rezoning Ordinance.

3.4 Site Plan Approval Exemption: The Parties understand and agree that the project will not be required to obtain site plan review from the Planning Board and that upon submitting an application, the Borough shall issue a Building permit to Habitat as a matter of right.

3.5 Obligation to Maintain Proposed Re-Zoning of Property: The Borough agrees that if a decision of a court of competent jurisdiction in Monmouth County, or a determination by an administrative agency responsible for implementing the Fair Housing Act, or an action by the New Jersey Legislature, would result in a calculation of an affordable housing obligation for the Borough for the period 1987-2025 that would lower the Borough's affordable housing obligation beyond that established by COAH for the period 1987-1999 and/or this Court for the period 1999- 2025, the Borough shall nonetheless implement the Rezoning Ordinance contemplated by this Agreement and take all steps necessary to support the development of the Inclusionary Development contemplated by this Agreement.

3.6 Municipal Contribution: The Borough agrees to convey the Habitat Lot at a nominal cost not to exceed \$100 in accordance with the terms of this Article III (the "**Municipal Contribution**"). In addition, the Borough will facilitate or make available funds to be paid by the intervenor in the Borough's Declaratory Judgment Action (M&M at Fair Haven, LLC) ("M&M") pursuant to the Borough's February 12, 2020 Agreement with M&M which provides for a payment in lieu of construction in the amount of \$175,000 ("PIL"). The Borough may, if necessary, utilize its own monies or trust fund monies to facilitate this payment in which event the M&M payment in lieu would serve as reimbursement to the Borough.

a. Upon execution of the Affordable Housing Agreement, Habitat will have a ninety (90) day due diligence period (the "**Due Diligence Period**") to review the Habitat Lot for any potential concerns. During the Due Diligence Period, the Borough shall conduct any inspections, surveys or testing requested by Habitat. Should Habitat determine, as a result of the inspections, surveys or testing, including, without limitation, the discovery of any historical features or structures or environmental hazards on the Habitat Lot, that development of Units on the Habitat Lot is not physically or financially viable, as determined by Habitat in its sole discretion, Habitat shall be under no obligation to accept the Municipal Contribution.

b. Unless Habitat notified the Borough prior to expiration of the Due Diligence Period that the Habitat Lot are unacceptable, after the expiration of the Due Diligence Period, and prior to Habitat being obligated to take title to one or more of the Habitat Lot(s). Habitat will work with the Borough Engineer to

design the location of driveway and locations of the units.

c. Upon completion of the due diligence period, Habitat shall proceed to closing and receive the Municipal Contribution. Title shall be good, marketable and insurable at regular rates. Fair Haven shall provide all necessary other governmental approvals for the construction of the units.

e. Habitat will have a period of 3 years to complete construction of the 2 units, but shall commence construction within two years of the issuance of the Borough's Judgment of Compliance and Repose which is anticipated in or around October of 2020. If Habitat shall fail to complete the units within this period, the Borough shall have the right to construct units convey the property and the payment in lieu monies to another affordable housing developer so that the intent of this Agreement, to construct the units contemplated by this MOU and generate affordable housing credits to the Borough's Gap (1999-2015) and Round 3 (2015-2025) affordable housing obligations, can be accomplished.

d. The Borough agrees to waive all local permit fees, tree removal fees and application fees within its control in order to help facilitate this development. Notwithstanding the foregoing, Habitat or its successors shall be responsible for payment of the sewer allocation fee and annual sewer usage charge that may be imposed on the units constructed on a Site. Such sewer allocation fee and annual sewer usage charges shall not be deemed Acquisition Costs. The Borough further agrees not to impose any cost generative features on Habitat, including requiring the use of any historic materials, techniques or features.

ARTICLE IV - MISCELLANEOUS PROVISIONS

4.1 The parties acknowledge that this Agreement has been jointly prepared by the parties' attorneys. Therefore, this Agreement shall be construed on a parity among the parties and any presumption for resolving ambiguities against the drafter shall not apply.

4.2 This Agreement shall be construed, governed and enforced in accordance with the laws of the State of New Jersey. Jurisdiction of any litigation ensuing with regard to this Agreement shall exclusively be in the Superior Court of New Jersey, with venue vested in Monmouth County. Service of any complaint or judgment enforcement proceedings may be effected consistent with the terms hereof for the delivery of notices.

4.3 This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

4.4 The parties and their respective counsel agree to promptly provide each other with notice of any lawsuits, actions or governmental proceedings, threatened or pending, which may in any way affect any party's obligations or rights under this Agreement. All notices required under this Agreement shall be in writing and shall be given by certified mail, return receipt requested, or by recognized national overnight delivery service companies. The persons and entities to receive notice shall be the following or such other persons as entities so designated by the parties hereto in the manner set forth for providing notice:

To Habitat:

Habitat for Humanity
45 South Street
Freehold, NJ 07728
c/o Diane Kinnane, Executive Director

With Copy to:

Mark R. Aikins, Esquire
3350 Route 138
Building 1, Suite 113
Wall, NJ 07719

To the Borough:

Theresa Casagrande
Administrator, Borough of Fair Haven
748 River Road
Fair Haven, NJ 07704

With Copy to:

Salvatore Alfieri, Esquire Borough
Counsel
Cleary, Giacobbe, Alfieri, Jacobs LLC
955 Route 34, Suite 200
Matawan, NJ 07747

Michael J. Edwards, Esquire Affordable Housing
Counsel Surenian, Edwards and Nolan LLC
707 Union Avenue, Suite 301
Brielle, NJ 08730

4.5 This Agreement may be executed in one or more counterparts. A signed facsimile copy of this Agreement shall have the same effect as an original signed Agreement.

Signature Page to Follow.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be properly executed, their corporate seals affixed and attested and this Agreement to be effective as of the Effective Date.

Witness/Attest:

HABITAT FOR HUMANITY IN MONMOUTH COUNTY, INC.

By: _____ Diane
Kinnane, Executive Director

Name:

Dated: _____

Witness/Attest:

BOROUGH OF FAIR HAVEN

By _____ Benjamin
Lucarelli, Mayor

Name:

Dated: _____

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-214

TITLE: REFUND OF 4TH QUARTER, 2020 PROPERTY TAX OVERPAYMENT

WHEREAS, the Tax Collector, has provided a request for a tax overpayment refund for 4th Quarter 2020 and advises that the following property owners qualify for a refund as follows:

Refund to be sent to:	Address	Block	Lot	Refund
Seth and Lauren Weiner Payment to: Wells Fargo	188 Oxford Avenue	9	27	\$ 8,444.63
Peter and Monika Reiley	129 Hance Road	33	34.02	\$16,422.34
Kenneth and Sue Massie Payment to: Advisors Mortgage	107 Church Street	42	20	\$ 5,037.94
Christopher and Thais Giuffre Payment to: Arbor Title Service	890 River Road	62	29	\$ 3,278.49

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the Tax Collector and Chief Financial Officer are hereby authorized to pay said refund in the amount listed above.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-215

**TITLE: RESOLUTION APPOINTING A MEMBER TO THE FAIR HAVEN
 FIRE DEPARTMENT, Regular Member – John G. Griffin, Jr.**

BE IT RESOLVED by the Borough Council of the Borough of Fair Haven that John G. Griffin, Jr., 15 Sycamore Lane, Fair Haven, NJ having been duly accepted as a regular member of the Fair Haven Volunteer Fire Co., is hereby appointed to the Fair Haven Fire Department.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-216

TITLE: PURCHASE AUTHORIZATION FOR CAPITAL ITEM EXPENDITURES

WHEREAS, Ordinance Nos. 2017-07, adopted on July 10, 2017, 2018-13 adopted on May 29, 2018 and Ordinance No. 2019-06 adopted on June 24, 2019 provide for the acquisition of various equipment, infrastructure improvements and improvements to public buildings and grounds; and

WHEREAS, Capital Item requests have been made as follows:

Police Department

- | | |
|--|----------------------------|
| • Kenwood Radios (13 portable and 5 mobile) | Not to Exceed \$ 22,853.27 |
| • Motorola Radio Bases (2) | Not to Exceed \$ 17,502.40 |
| • Radio Console System (6 line with 10 Port Relay) | Not to Exceed \$ 15,550.00 |

TOTAL

Not to Exceed **\$ 55,905.67**

WHEREAS, the above equipment will be purchased through A.R. Communications for the Police Department and Fire Department as per Chief McGovern's request.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Fair Haven that the above capital item expenditures are hereby approved.

COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-217

TITLE: PAYMENT OF VOUCHERS

BE IT RESOLVED by the Governing Body of the Borough of Fair Haven that the vouchers listed for payment on the December 14, 2020 agenda are hereby approved and the Finance Department is hereby authorized to release payment to the various vendors.

2020 CURRENT ACCOUNT	\$ 1,627,107.15
GENERAL CAPITAL	\$ 171,355.19
GRANT FUND	\$ 1,931.59
PAYROLL AGENCY	\$ 13,071.32
OTHER TRUST	\$ 29,901.22
DOG TRUST	\$ 5.40
	\$ 1,843,371.87
 LESS VOIDED CHECKS	 \$ 445.11
 TOTAL	 \$ 1,842,926.76

**COUNCIL OF THE BOROUGH OF FAIR HAVEN
MONMOUTH COUNTY, NEW JERSEY
RESOLUTION**

Motion by:

Second by:

AFFIRMATIVE:

NEGATIVE:

ABSTAIN:

ABSENT:

RESOLUTION NO. 2020-218

TITLE: AUTHORIZING TRANSFERS IN THE 2020 MUNICIPAL BUDGET

WHEREAS, pursuant to N.J.S.A. 40A:4-58, appropriation transfers are allowable during the last two months of a fiscal year; and

WHEREAS, it is deemed necessary that said transfers be done through various accounts.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Fair Haven, County of Monmouth and State of New Jersey that the following transfers are made in the 2020 budget appropriations:

<u>FROM</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
0-01-20-120-101	Municipal Clerk Salaries	\$ 1,500.00
0-01-20-130-270	Finance Training/ Conferences	\$ 2,000.00
0-01-26-310-272	Building & Grounds	\$ 7,500.00
0-01-28-375-240	Park Supplies	\$ 3,000.00
Total		\$14,000.00

<u>TO</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
0-01-20-100-101	Administration Salaries	\$ 3,000.00
0-01-20-165-101	Engineering Salaries	\$ 500.00
0-01-26-315-101	Vehicle Maint. Salaries	\$ 1,000.00
0-01-26-315-235	Vehicle Maint. -Equip/Repair	\$ 7,500.00
0-01-31-445-276	Water Utilities	\$ 2,000.00
Total		\$14,000.00