

THE MEETING OF THE CITY OF BURLINGTON COMMON COUNCIL, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, WAS HELD ON TUESDAY, DECEMBER 3, 2019, AT 7:00 PM, IN THE CITY HALL, 525 HIGH STREET, BURLINGTON, NJ, PURSUANT TO THE OPEN PUBLIC MEETINGS ACT.

The Deputy Municipal Clerk advised the public of the location of the two fire exits; one on the left after exiting the Council Chamber and the other being the entrance to the building.

Members present: Mr. Babula, Mr. Chachis, Ms. Hatala (7:15pm), Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (7) Absent: (0)

Also present: Mayor Conaway, Administrator- David Ballard, Chief Financial Officer- Ken Mac Millan, Municipal Attorney- Lou Garty, Director of Housing- Bill Harris, Water Engineer- Bill Kirchner, Officer Viereck, Redevelopment Consultant- Jim Kennedy

The following notice of the meeting was sent:

There will be a Meeting of the Common Council of the City of Burlington held on December 3, 2019 at 7:00 PM, prevailing time at the City Hall Building, 525 High Street, Burlington, N.J. 08016.

Cindy A. Crivaro, RMC  
Municipal Clerk

**INVOCATION**

Father Jerome Guld of Saint Katherine Drexel Parish

**SALUTE TO FLAG**

A moment of silence was held for John Alexander's mother, Catherine.

**CONSENT AGENDA**

Councilman Babula, moved that all Consent Agenda items be approved. It was seconded by Councilwoman Woodard. All were in favor.

**PETITIONS AND COMMUNICATIONS\***

Approved by Consent Agenda. All were in favor.

**CORRESPONDENCE FOR**

**APPROVAL OF INVOICES\***

Approved by Consent Agenda. All were in favor.

**APPROVAL OF MINUTES\***

Approved by Consent Agenda. All were in favor.

**ORDINANCE(S) - SECOND READING & FINAL DISPOSITION**

ORDINANCE NO. 16-2019 OF THE CITY OF BURLINGTON AUTHORIZING THE ACQUISITION OF BLOCK 141, LOT 10 FROM STANFORD RICKETTS AND SHARON RICKETTS, WITHIN THE NEW YORKSHIRE REDEVELOPMENT AREA FOR THE SUM OF \$5600.00

WHEREAS, the City amended the New Yorkshire Redevelopment Plan in July of 2011, via Ordinance 09-2011, designating certain property as an Area in Need of Redevelopment; and

WHEREAS, the New Yorkshire Redevelopment Plan identifies several sites within the zone which present key opportunities for redevelopment, one such site being designated Opportunity Site #1, specifically identified as suitable for senior housing apartments; and

WHEREAS, there exists a privately owned, vacant parcel within Opportunity Site #1 of the New Yorkshire Redevelopment Plan, which is identified on the Tax Map for the City of Burlington as Block 141, Lot 10; and

WHEREAS, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-11, the City may authorize the acquisition of property located within a Redevelopment area; and

WHEREAS, the City desires to pursue the Redevelopment of certain City-owned parcels within Opportunity Site #1, identified on the Tax Map for the City of Burlington as Block 141, Lots 8, 9, 11, 12, 13, 14, 15, 16 and 17, to construct senior housing apartments as proposed by the Redevelopment Plan; and

WHEREAS, inclusion of Block 141, Lot 10 would significantly advance the City's ability to achieve the uniform, effective redevelopment of Opportunity Site #1 in a manner that is consistent with the New Yorkshire Redevelopment Plan and beneficial to the residents of the City; and

WHEREAS, the proposed inclusion of the vacant parcel identified as Block 141, Lot 10, would be a use which is in conformity with both the zoning ordinance and master plan of the City as well as with the New Yorkshire Redevelopment plan; and

WHEREAS, the Common Council previously authorized the City Solicitor and/or administration to contact the owners of the premises for the purpose of determining the owners' interest in conveying this small, otherwise undevelopable parcel of land; and

WHEREAS, the City Solicitor has been able to negotiate with the owner of the property, who has indicated a willingness to voluntarily convey good and marketable title for this parcel of land to the City for the sum of \$5600, which is the current assessed value of the property; and

WHEREAS, the Chief Financial Officer of the City of Burlington has indicated that there are sufficient funds in the capital budget for this purpose; and

WHEREAS, the Common Council for the City of Burlington has determined that the proposed acquisition cost is reasonable and that in view of the proposed use, it is in the City's best interests to acquire this small parcel of undevelopable land.

**NOW THEREFORE, BE IT ORDAINED** by the Common Council for the City of Burlington, that:

1. The Common Council hereby authorizes the acquisition of Block 141, Lot 10 from the owners, Stanford Ricketts and Sharon Ricketts, for the total sum of \$5600.00 for the purpose of acquiring this parcel to advance the City's ability to achieve the uniform, effective redevelopment of Opportunity Site #1 in a manner that is consistent with the New Yorkshire Redevelopment Plan, with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., and which is beneficial to the residents of the City of Burlington;
2. The Mayor is authorized to execute an Agreement of Sale for the City to purchase Block 141, Lot 10 from the owners (Stanford Ricketts and Sharon Ricketts) for the sum of \$5600 with the contract for the acquisition of the Property through an Agreement of Sale being upon the terms substantially consistent with the draft Agreement attached to this Resolution and that the appropriate City officials are authorized to execute such documents and perform such acts as are necessary and appropriate to acquire said parcel on terms consistent with this Ordinance, including that clear title to the property is to be conveyed to the City of Burlington. The City Solicitor is further authorized to present for recording all required documents including the Deed, Affidavits of Title and other documents necessary to effect the transfer and record ownership of said property; and

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect immediately upon final passage and publication as required by law.

Upon the motion of Councilman Chachis, seconded by Councilwoman Woodard, the foregoing ordinance was introduced.

Public Comments

None.

Council Comments

None.

This ordinance was then adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (6); NAYS: (0); ABSTAIN: (0); ABSENT: Ms. Hatala. (1).

ORDINANCE NO. 17-2019 REPEALING AND REPLACING ARTICLES I THROUGH V OF CHAPTER 70 "AFFORDABLE HOUSING" OF THE CITY OF BURLINGTON TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE CITY'S AFFORDABLE HOUSING OBLIGATIONS

BE IT ORDAINED by the City Council of Burlington, Burlington County, New Jersey, that the Code of the City of Burlington is hereby amended to include provisions addressing Burlington's constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985. This Ordinance is intended to provide assurances that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy those units. This Ordinance shall apply except where inconsistent with applicable law.

The Burlington City Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Housing Element and Fair Share Plan has been endorsed by the City Council. This Ordinance implements and incorporates the adopted and endorsed Housing Element and Fair Share Plan and addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C.5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

**Section 1. Monitoring and Reporting Requirements**

The City of Burlington shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

1. Beginning on October 31, 2019, and on every anniversary of that date through July 1, 2025, the City agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, Council on Affordable Housing, or Local Government Services, or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs (NJDCA), Council on Affordable Housing (COAH), or Local Government Services (NJLGS). The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.
2. Beginning on October 31, 2019, and on every anniversary of that date through July 27, 2025, the City agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to Fair Share Housing Center, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.

3. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the City will post on its municipal website, with a copy provided to FSHC, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity and whether any mechanisms to meet unmet need should be revised or supplemented. Such posting shall invite any interested party to submit comments to the municipality, with a copy to FSHC, regarding whether any sites no longer present a realistic opportunity and should be replaced and whether any mechanisms to meet unmet need should be revised or supplemented. Any interested party may by motion request a hearing before the Court regarding these issues.
4. By October 31, 2020, and every third year thereafter, as required by N.J.S.A. 52:27D-329.1, the City will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very low income requirements, including its family very low income requirements. Such posting shall invite any interested party to submit comments to the municipality and FSHC on the issue of whether the municipality has complied with its very low income and family very low income housing obligations.

## **Section 2. Definitions**

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Sub-code, N.J.A.C. 5:23-7.

“Administrative agent” means the entity designated by the City to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent level that is within the means of a low- or moderate-income household as defined within N.J.A.C. 5:93-7.4, and, in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be

amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable housing development” means a development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the City's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

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

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development wherein the unit is situated are 62 years of age or older; or 2) at least 80 percent of the units are occupied by one person who is 55 years of age or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

"Alternative living arrangement" means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility that is licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that requires the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1, et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the regional median household income by household size.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the regional median household income by household size.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or an ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the regional median household income by household size.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for purposes of a rehabilitation program.

### **Section 3. Applicability**

1. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the City of Burlington pursuant to the City's most recently adopted Housing Element and Fair Share Plan.

2. Moreover, this Ordinance shall apply to all developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units and including any developments funded with low-income housing tax credits.

3. Burlington City shall require an affordable housing set-aside when it permits a density bonus of 100 percent or more on land zoned for residential development as of March 6, 2008. Nothing in this paragraph precludes the City from imposing an affordable housing set aside in a development not required to have a set-aside pursuant to this paragraph consistent with N.J.S.A. 52:27D-311(h) and other applicable law.

4. Notwithstanding any provisions in this ordinance to the contrary, a 5% affordable housing set aside shall be imposed on any multifamily developments associated with the two redevelopment sites as documented in the FSHC Settlement Agreement at Exhibit B (U.S. Pipe (a/k/a McNeal Mansion and Vicinity Redevelopment Area)) located at Block 226, Lots 1.03, 1.05-1.08 and Commerce Square (a/k/a Riverwalk Station) located at Block 1, Lots 3.02 and 3.03. The affordable units will otherwise comply with the provisions of this ordinance.

5. For inclusionary projects in which the low and moderate units are to be offered for sale, the appropriate set-aside percentage is 20 percent; for projects in which the low and moderate income units are to be offered for rent, the appropriate set-aside percentage is 15 percent.

6. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project. This requirement does not apply to any sites or specific zones otherwise identified in the Settlement Agreement or Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

### **Set-Aside Ordinance**

a. Developers shall set-aside a percentage of housing for low and moderate income housing if the proposed development consists of five or more new residential units in a multifamily context (including town homes) and:

1. The permitted use of the property changes, either through a zoning change, Redevelopment Plan (for an area in need of redevelopment or rehabilitation) or use variance, from non-residential to residential and the residential

zoning/approval permits a gross density of at least six (6) units per acre. Or

2. The gross density of a site, with no affordable housing obligation, changes through a zoning change, Redevelopment Plan (for an area in need of redevelopment or rehabilitation), or “D” variance doubles to six (6) units per acre.
  - b. For inclusionary projects in which the low and moderate units are to be offered for sale, the set-aside percentage is 20 percent; for projects in which the low and moderate income units are to be offered for rent, the set-aside percentage is 15 percent.
  - c. This requirement does not create any entitlement for a property owner or applicant for a zoning amendment, variance, or adoption of a Redevelopment Plan or amended Redevelopment Plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
  - d. This requirement does not apply to any sites or specific zones otherwise identified in the Settlement Agreement or Fair Share Plan, for which density and set-aside standards shall be governed by the specific standards set forth therein.

#### **Section 4. Alternative Living Arrangements**

1. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and UHAC, with the following exceptions:
  - a. Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by the Court;
  - b. Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
2. With the exception of units established with capital funding through a 20-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least 30 year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by the Court.
3. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

**Section 5. Phasing Schedule for Inclusionary Zoning**

In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
0	
25+1	10
50	
75	
90	100

**Section 6. New Construction**

1. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

a. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit. At least 13 percent of all restricted rental units shall be very low income units (affordable to a household earning 30 percent or less of regional median income by household size). The very low income units shall be counted as part of the required number of low income units within the development.

b. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be very low or low-income units.

c. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:

1) The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;

2) At least 30 percent of all low- and moderate-income units shall be two bedroom units;

3) At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

4) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

d. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units

within the inclusionary development. This standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

2. Accessibility Requirements:

a. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free SubCode, N.J.A.C. 5:23-7 and the following:

b. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- 1) An adaptable toilet and bathing facility on the first floor; and
- 2) An adaptable kitchen on the first floor; and
- 3) An interior accessible route of travel on the first floor; and
- 4) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and

5) If not all of the foregoing requirements in b.1) through b.4) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs b.1) through b.4) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; and

6) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a, et seq.) and the Barrier Free SubCode, N.J.A.C. 5:23-7, or evidence that Burlington has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:

a) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

b) To this end, the builder of restricted units shall deposit funds within the City of Burlington's Affordable Housing Trust Fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.

c) The funds deposited under paragraph 6(b) above shall be used by the City of Burlington for the sole purpose of making the adaptable entrance of an affordable

unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

d) The developer of the restricted units shall submit a design plan and cost estimate to the Construction Official of the City of Burlington for the conversion of adaptable to accessible entrances.

e) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free SubCode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the City's Affordable Housing Trust Fund in care of the City Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

(7) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is "site impracticable" to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free SubCode, N.J.A.C. 5:23-7.

3. Design:

a. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

b. In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

4. Maximum Rents and Sales Prices:

a. In establishing rents and sales prices of affordable housing units, the Administrative Agent shall follow the procedures set forth in UHAC, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures as approved by the Court.

b. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted rental units shall be affordable to households earning no more than 52 percent of median income.

c. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 13 percent of all low- and moderate-income rental units shall be affordable to very low-income households, which very low-income units shall be part of the low-income requirement.

d. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.

e. In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household;
- 3) A two-bedroom unit shall be affordable to a three-person household;
- 4) A three-bedroom unit shall be affordable to a four and one-half person household; and
- 5) A four-bedroom unit shall be affordable to a six-person household.

f. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:

- 1) A studio shall be affordable to a one-person household;
- 2) A one-bedroom unit shall be affordable to a one and one-half person household; and
- 3) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.

g. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

h. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.

I. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the Administrative Agent be lower than the last recorded purchase price.

j. The rents of very low-, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent in any one year. Rent increases for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.

### **Section 7. Utilities**

1. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
2. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

### **Section 8. Occupancy Standards**

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

1. Provide an occupant for each bedroom;
2. Provide children of different sexes with separate bedrooms;
3. Provide separate bedrooms for parents and children; and
4. Prevent more than two persons from occupying a single bedroom.

### **Section 9. Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

1. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
2. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

3. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.

4. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.

5. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.

6. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all Code standards upon the first transfer of title following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

#### **Section 10. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

1. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
2. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
3. The master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
4. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 13.

#### **Section 11. Buyer Income Eligibility**

1. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
2. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the City Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
3. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one year.
4. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's eligible monthly income.
5. A certified household that purchases a restricted ownership unit must occupy it as a certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of a hardship, to lease the restricted unit to another certified household for a period not to exceed one year. Violations of this provision shall be subject to the applicable enforcement provisions of Section 20 of this Ordinance.

**Section 12. Limitations on Indebtedness Secured by Ownership Unit; Subordination**

1. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.
2. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to

exceed 95 percent of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

### **Section 13. Capital Improvements To Ownership Units**

1. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.

2. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to 10-year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

### **Section 14. Control Periods for Restricted Rental Units**

1. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least 30 years, until Burlington takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.

2. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Burlington. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

3. A restricted rental unit shall remain subject to the affordability controls of this Ordinance despite the occurrence of any of the following events:

- a. Sublease or assignment of the lease of the unit;

- b. Sale or other voluntary transfer of the ownership of the unit; or
- 3. The entry and enforcement of any judgment of foreclosure on the property containing the unit.

**Section 15. Rent Restrictions for Rental Units; Leases**

- 1. A written lease shall be required for all restricted rental units and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- 2. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- 3. Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.
- 4. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least 15% of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

**Section 16. Tenant Income Eligibility**

- 1. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - a. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of the regional median household income by household size.
  - b. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of the regional median household income by household size.
  - c. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of the regional median household income by household size.
- 2. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income household, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as

determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

- a. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
- b. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
- c. The household is currently in substandard or overcrowded living conditions;
- d. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
- e. The household documents reliable anticipated third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.

3. The applicant shall file documentation sufficient to establish the existence of the circumstances in 1.a. through 2.e. above with the Administrative Agent, who shall counsel the household on budgeting.

### **Section 17. Municipal Housing Liaison**

1. The City of Burlington shall appoint a specific municipal employee to serve as a Municipal Housing Liaison responsible for overseeing the City's affordable housing program, including overseeing the administration of affordability controls on the affordable units and the affirmative marketing of available affordable units in accordance with the City's Affirmative Marketing Plan; fulfilling monitoring and reporting requirements; and supervising Administrative Agent(s). Burlington shall adopt an Ordinance creating the position of Municipal Housing Liaison and a Resolution appointing the person to fulfill the position of Municipal Housing Liaison. The Municipal Housing Liaison shall be appointed by the governing body and may be a full or part time municipal employee. The Municipal Housing Liaison shall be approved by the Court and shall be duly qualified through a training program sponsored by Affordable Housing Professionals of New Jersey before assuming the duties of Municipal Housing Liaison.

2. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for Burlington, including the following responsibilities which may not be contracted out to the Administrative Agent:

- a. Serving as Burlington's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
- b. Monitoring the status of all restricted units in Burlington's Fair Share Plan;

c. Compiling, verifying, submitting and posting all monitoring reports as required by the Court and by this Ordinance;

d. Coordinating meetings with affordable housing providers and Administrative Agents, as needed; and

e. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

3. Subject to the approval of the Court, the City of Burlington shall designate one or more Administrative Agent(s) to administer and to affirmatively market the affordable units constructed in the City in accordance with UHAC and this Ordinance. An Operating Manual for each affordable housing program shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manual(s) shall be available for public inspection in the office of the City Clerk, in the office of the Municipal Housing Liaison, and in the office(s) of the Administrative Agent(s). The Municipal Housing Liaison shall supervise the work of the Administrative Agent(s).

### **Section 18. Administrative Agent**

An Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. ***The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required.*** The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:

1. Affirmative Marketing:

Conducting an outreach process to affirmatively market affordable housing units

a.

in accordance with the Affirmative Marketing Plan of the City of Burlington and the provisions of N.J.A.C. 5:80-26.15; and

b. Providing counseling or contracting to provide counseling services to low- and

moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

Household Certification:

2.

Soliciting, scheduling, conducting and following up on interviews with interested

a.

households;

b. Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;

c. Providing written notification to each applicant as to the determination of eligibility or non-eligibility;

d. Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;

e. Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;

f. Employing a random selection process as provided in the Affirmative Marketing Plan of the City of Burlington when referring households for certification to affordable units; and

g. Notifying the following entities of the availability of affordable housing units in the City of Burlington: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, East Orange NAACP, Newark NAACP, Morris County NAACP and Elizabeth NAACP.

3. Affordability Controls:

a. Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;

b. Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;

c. Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Burlington County Register of Deeds or Burlington County Clerk's office after the termination of the affordability controls for each restricted unit;

d. Communicating with lenders regarding foreclosures; and

e. Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resales and Re-rentals:

a. Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and

b. Instituting and maintaining an effective means of communicating information to low- (or very low-) and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing Requests from Unit Owners:

- a. Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- b. Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- c. Notifying the municipality of an owner's intent to sell a restricted unit; and
- d. Making determinations on requests by owners of restricted units for hardship waivers.

6. Enforcement:

- a. Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- b. Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgment of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
- c. Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made;
- d. Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- e. Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
- f. Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the City Council and the Court, setting forth procedures for administering the affordability controls.

7. Additional Responsibilities:

a. The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

b. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.

The Administrative Agent shall attend continuing education sessions on  
c. affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

### **Section 19. Affirmative Marketing Requirements**

1. The City of Burlington shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.

2. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The Affirmative Marketing Plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs marketing activities toward Housing Region 5 and is required to be followed throughout the period of restriction.

3. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 5, comprised of Burlington, Camden and Gloucester Counties.

4. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the City of Burlington shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.

5. In implementing the Affirmative Marketing Plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

6. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.

7. The affirmative marketing process for available affordable units shall begin at least four months (120 days) prior to the expected date of occupancy.

8. Applications for affordable housing shall be available in several locations, including, at a minimum, the County Administration Building and/or the County Library for each county within the housing region; the municipal administration building and the municipal library in the municipality in which the units are located; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.

9. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Burlington, and copies of the application forms, to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, Southern Burlington County NAACP, the Supportive Housing Center, and the New Jersey Housing Resource Center.

10. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

## **Section 20. Enforcement of Affordable Housing Regulations**

1. Upon the occurrence of a breach of any of the regulations governing an affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

2. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

a. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is adjudged by the Court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

1) A fine of not more than \$500.00 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;

2) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the City of Burlington Affordable Housing Trust Fund of the gross amount of rent illegally collected;

3) In the case of an Owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

b. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- or moderate-income unit.

1) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

2) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

3) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

4) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low-

and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

5) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

6) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

### **Section 21. Appeals**

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

Upon the motion of Councilman Chachis, seconded by Councilwoman Woodard, the foregoing ordinance was introduced.

#### **Public Comments**

None.

#### **Council Comments**

None.

This ordinance was then adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (7); NAYS: (0); ABSTAIN: (0); ABSENT: Ms. Hatala. (1).

### **RESOLUTIONS / CONSENT AGENDA RESOLUTIONS\***

#### **Resolution No. 267-2019**

RESOLUTION NO. 267-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING EXECUTION OF A LIEN DISCHARGE AGREEMENT WITH RESPECT TO 1320 BELGRADE AVENUE

WHEREAS, pursuant to the Small Cities Rehabilitation Loan Program, the City entered into a loan agreement with the former owner of 1320 Belgrade Avenue in the City of Burlington ("the Property"), for the amount of \$16,830.00; and

WHEREAS, on December 6, 2010, a Mortgage Note was executed by the former Property owner, providing the City with a mortgage lien interest in the Property in the amount of the loan proceeds; and

WHEREAS, the Mortgage Note was recorded on January 9, 2012 in the Burlington County Clerk's Office, in Mortgage Book 12510, at Pages 540-542, as Document Number 4860042; and

WHEREAS, the Property was subsequently lost by the former owner, foreclosed upon, and purchased by the current owner at a Sheriff's Sale by Deed dated August 15, 2018; and

WHEREAS, due to no fault of the current owner, the City's Mortgage Note was not satisfied at the time of their purchase; and

WHEREAS, the current owner now wishes to sell the property, which is contingent upon satisfaction of the City's Mortgage Note; and

WHEREAS, as consideration for discharging the City's mortgage lien interest, the current owner has agreed to satisfy half of the outstanding lien amount; and

WHEREAS, the City has determined that it is in all parties' best interests to accept a reduced payment from the current owner in exchange for a discharge of the lien, in the amount of \$8,415.00 (eight thousand four hundred fifteen dollars); and

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Burlington hereby authorizes the acceptance of a reduced payment to satisfy the aforementioned Mortgage Note, in the amount of \$8,415.00 (eight thousand four hundred fifteen dollars); and

BE IT FINALLY RESOLVED that the Mayor, City Administration, and its Professionals are hereby authorized to draft, execute, file, and/or record such documentation and instruments as may be necessary to effectuate the release, discharge, and/or termination of the mortgage lien interest as contemplated herein.

Upon the motion of Councilwoman Woodard, seconded by Councilman Chachis, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (6); NAYS: (0); ABSTAIN: (0); ABSENT: Ms. Hatala. (1).

Resolution No. 268-2019

RESOLUTION NO. 268-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING A CHANGE ORDER TO THE PROFESSIONAL SERVICES CONTRACT WITH TRIAD ASSOCIATES FOR RELOCATION SERVICES RELATING TO 524-526 HIGH STREET

WHEREAS, the Common Council of the City of Burlington on April 16, 2019, authorized Triad Associates of 1301 West Forest Grove Avenue, Vineland, New Jersey 08360, to prepare a Workable Relocation Assistance Program (WRAP) application to the N.J. Department of Community Affairs awarded a contract for the relocation of a tenant at 526 High Street for a fee of \$2,200.00; and

WHEREAS, Triad Associates advised the City Administration that the amount of time to complete the WRAP and relocation exceeded the estimated cost and that more time was needed to find equivalent housing for the affected tenant; and

WHEREAS, Triad Associates has recommended that the original purchase order be increased by \$5,000.00 to cover the cost of such additional work; and

WHEREAS, the Director of Housing & Community Development has reviewed the request by Triad Associates and has determined that there is a need to amend the existing contract with this firm and that such funds are available in the Department's budget.

NOW, THEREFORE BE IT RESOLVED by the Common Council of the City of Burlington as follows:

1. The Common Council of the City of Burlington hereby authorizes the Mayor to execute an amendment to the contract on behalf of the City of Burlington with Triad Associates for the sum of \$5,000.00 to cover the cost of additional work in relocating the tenant at 526 High Street in order for the demolition of the property can proceed.

2. The revised total compensation to Triad Associates for these services shall be increased to \$7,200.00 with no extension to the term of the contract.

Upon the motion of Councilwoman Woodard, seconded by Councilwoman Mercuri, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (6); NAYS: (0); ABSTAIN: (0); ABSENT: Ms. Hatala. (1).

Resolution No. 269-2019

RESOLUTION NO. 269-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH HABITECH ARCHITECTURE FOR ARCHITECTURAL SERVICES ON REPAIRS TO THE ROOF AND ASSOCIATED DRAINAGE AT THE CARRIAGE HOUSE

WHEREAS, the Common Council of the City of Burlington adopted Resolution No. 57-2019 to enter into a Memorandum of Understanding with the Arts Guild of New Jersey ("Arts Guild") to apply for a \$15,000.00 grant from the 1772 Foundation for the replacement of the roof and associated drainage system at the Carriage House which is located at 23 Smith's Alley and is designated as Block 13, Lot 31, on the official Tax Map for the City of Burlington,

WHEREAS, the 1772 Foundation awarded a \$15,000.00 matching grant to the Arts Guild on October 8, 2019, for the roof and associated drainage system at the Carriage House; and

WHEREAS, estimated cost of the project exceed the State of New Jersey public bidding threshold of \$17,500.00; and

WHEREAS, the City of Burlington as part of the Memorandum of Understanding with the Arts Guild has agreed to provide administrative services to comply with all laws of the State of New Jersey laws and the conditions of the grant from the 1772 Foundation; and

WHEREAS, the services of a registered architect are need to prepare the bid specifications and architectural drawings needed to publicly bid the work at the subject property; and

WHEREAS, Habitech Architecture has responded the City of Burlington's request for a proposal to provide such services at a cost of \$2,500.00.

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Burlington, County of Burlington and State of New Jersey that the City does authorize the Mayor of the City to execute a Professional Services contract with Habitech Architecture in an amount not to exceed \$2,500.00 for the above-listed services and as consistent with the attached proposal which shall serve as the contract.

Upon the motion of Councilman Chachis, seconded by Councilman Babula, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (6); NAYS: (0); ABSTAIN: (0); ABSENT: Ms. Hatala. (1).

#### Resolution No. 270-2019

RESOLUTION NO. 270-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING THE REDUCTION OF A SPECIAL ASSESSMENT PERTAINING TO 204 EAST UNION STREET (BLOCK 132, LOT 2) FOR EMERGENCY TREE REMOVAL SERVICES

WHEREAS, on May 22, 2019 the City of Burlington authorized emergency tree removal services to take place at 204 East Union Street, identified as Block 132, Lot 2 on the Tax Map for the City of Burlington ("the Property") due to a fallen, uprooted tree; and

WHEREAS, Top Notch Tree Services performed the removal for \$3,800.00 (three thousand eight hundred dollars), as outlined within Invoice #019-020; and

WHEREAS, on August 8, 2019, a special assessment lien was levied on the Property in the amount of \$3,850.00 (three thousand eight hundred fifty dollars) to recover the costs of emergency tree removal services; and

WHEREAS, a survey of the property revealed that the fallen tree was located on the property line of Block 132, Lots 2 and 3, rendering it appropriate to reduce the special assessment lien placed upon the Property; and

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Burlington hereby authorizes the reduction of the special assessment levied on Block 132, Lot 2 from \$3,850.00 (three thousand eight hundred fifty dollars) to \$1,925.00 (one thousand nine hundred twenty-five dollars); and

BE IT FURTHER RESOLVED that the remainder of the balance due for emergency tree removal services shall be assessed to Block 132, Lot 3, in the amount of \$1,925.00 (one thousand nine hundred twenty-five dollars); and

BE IT FINALLY RESOLVED that the Mayor, City Administration, and its Professionals are hereby authorized to draft and/or execute such documentation and instruments as may be necessary to effectuate the amendment of the special assessment lien in the manner outlined herein.

Upon the motion of Councilman Chachis, seconded by Councilwoman Woodard, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (6); NAYS: (0); ABSTAIN: Ms. Hatala. (1); ABSENT: (0).

Resolution No. 271-2019

Designate a Replacement Recycling Coordinator

Whereas, on January 7, 2019, the City of Burlington did pass Resolution 24-2019 in accordance with the Mandatory Source Separation and Recycling Act for the use of tonnage grant funds to develop municipal recycling programs and to continue to expand existing programs; and

Whereas, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

Whereas, Resolution 24-2019 did designate the individual authorized to ensure the tonnage grant requirements are properly completed and timely filed; and

Whereas, said employee is no longer with the City of Burlington;

Now, therefore be it resolved, by the Mayor and Common Council of the City of Burlington that City of Burlington hereby endorses the Public Works Director's recommendation to designate Craig Leshner as the Recycling Coordinator, effective October 1, 2019, he having completed the necessary State Certification.

Upon the motion of Councilman Chachis, seconded by Councilman Babula, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Hatala, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

Resolution No. 272-2019

RESOLUTION NO. 272-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON ELECTING TO DISCONTINUE HEALTH BENEFITS TO ELECTED OFFICIALS

WHEREAS, prior to the City of Burlington joining the State Health Benefits Program (SHBP), the Common Council adopted legislation which provided that elected officials were not allowed to receive health benefits through the City's Health Benefits Program; and

WHEREAS, in 2005, when the City of Burlington joined the SHBP as its Health Benefits provider for employees, the applicable regulations required the City to offer health benefits to elected officials; and

WHEREAS, in 2010, the enactment of P.L. 2010, c.2 amended the "New Jersey State Health Benefits Program Act," N.J.S.A. 52:14-17.25, *et seq.*, and resulted in a number of changes to the State Health Benefits Program ("SHBP"); and

WHEREAS, among other changes, the definition of an "employee" eligible to receive health benefits under the SHBP was amended; and

WHEREAS, after the effective date of P.L. 2010, c.2, the definition of an eligible employee found within N.J.S.A. 52:14-17.26© was amended to exclude elected officials from those eligible to receive health benefits, unless they were in office and receiving benefits at the time and remain so continuously thereafter, or are able to meet minimum hourly work week requirements which other full-time eligible employees would meet under current standards; and

WHEREAS, Local Finance Notice 2010-12 was issued to clarify the eligibility of elected officials, and confirmed that if an elected official was in office prior to May 21, 2010, they would continue to be eligible to receive health benefits as part of the SHBP so long as they remained in that position continuously via re-election; and

WHEREAS, the Common Council for the City of Burlington recognizes that the cost of providing health benefits to any eligible elected officials, compared to the minimal premium contributions required, imposes a financial burden upon the taxpayers of the City; and

WHEREAS, in order to reduce the financial burdens upon City taxpayers, wherever possible, the Common Council for the City of Burlington wishes to decline, as a body, acceptance of any available or eligible health benefits under the SHBP which would require the City's financial contribution.

NOW THEREFORE, BE IT RESOLVED by the Common Council for the City of Burlington that any elected officials eligible to receive health benefits under the SHBP agree to decline such coverage for the remainder of their elected term, beginning in calendar year 2020.

Upon the motion of Councilman Chachis, seconded by Councilwoman Woodard, the foregoing resolution was introduced.

On the question, Councilman Swan asked if Council is purposely availing themselves to be in conflict the State statute by denying rights to health benefit when the State permits it.

Ms. Garty said State statute does not permit it for new Council Members; it is only for those that availed themselves at a previous time, it was written out of law and unless you are grandfather in and choose to take it; most municipalities are saying they don't want tax payers paying for health benefits for Councilpersons; just about all municipalities in South Jersey do not offer this.

Councilwoman Hatala spoke of a change in 2010 for Elected Officials; full time is eligible, anyone part-time as of 2010 is not; anyone before 2010 is grandfathered.

Mr. Macmillan spoke of the regulations of the State Health Benefits change in 2010; Elected Officials are no longer eligible unless they are already enrolled and without a break in service; not sure what this resolution authorizes, in regard to that eligibility.

Ms. Garty indicated that Council as a body declined; anyone that was already enrolled would no longer be eligible and would give notice; needs to check on COBRA; as a body the Council declines to accept health benefits and anyone that was already enrolled, would terminate.

Councilman Babula spoke of a conflict of interest; concerned if a conflict exists for anyone that was grandfathered.

Ms. Garty suggested they should abstain.

Councilwoman Woodard said the City declines to spend x amount of dollars, anyone using (currently) medical benefits; that is what the resolutions is saying.

The resolution was then adopted by the following roll call vote: AYES: Mr. Chachis, Ms. Mercuri, Mr. Swan, Ms. Woodard. (4); NAYS: Ms. Hatala, Ms. Lollar. (2); ABSTAIN: Mr. Babula. (1); ABSENT: (0).

Resolution No. 273-2019\*

RESOLUTION NO. 273-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON REFUNDING HOMESTEAD BENEFIT

WHEREAS, the parcels identified herein received a homestead benefit credit; and

WHEREAS, the property is owned by a totally disabled veteran and is Tax Exempt under N.J.S.A. 54:4-3:30; and

Whereas an overpayment of the 2019 taxes has occurred.

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Burlington authorizes the Chief Financial Officer to issue a refund check for 2019 taxes as follows:

<u>BLOCK</u>	<u>LOT</u>	<u>PROPERTY OWNER MAILING ADDRESS</u>	<u>AMOUNT</u>
140 (503 York St)	1	Mr. Charles Moss 503 York St Burlington, NJ 08016	\$ 132.37
222 (1006 Columbus Rd)	62	Mr. James Harper 1006 Columbus Rd Burlington, NJ 08016	\$ 168.04

Approved by Consent Agenda. All were in favor.

Resolution No. 274-2019\*

RESOLUTION NO. 274-2019 AUTHORIZING THE REFUND OF THE PRINCIPAL AMOUNT PAID TO OBTAIN TAX CERTIFICATE #16-00054, ON PROPERTY IDENTIFIED AS 426 LAWRENCE STREET IN THE CITY OF BURLINGTON

WHEREAS, on November 22, 2016 the City of Burlington sold a Tax Sale Certificate with respect to the property known as 426 Lawrence Street in the City of Burlington (“the Property”); and

WHEREAS, the Tax Sale Certificate was purchased by US Bank/Lienlogic Fund I, in the amount of \$2,666.16 (two thousand six hundred sixty-six dollars and sixteen cents) under Tax Sale Certificate Number 16-00054; and

WHEREAS, due to an emergent condition affecting the integrity of structures on the property, and in the interest of public safety, structures on the Property have since been demolished; and

WHEREAS, the City has determined it is in all parties’ best interests to refund the initial amount paid for the aforementioned Certificate.

NOW THEREFORE, BE IT RESOLVED that the Common Council of the City of Burlington hereby authorizes the refund of the amount paid for Tax Sale Certificate #16-00054, in the amount of \$2,666.16 to the certificate holder; and

BE IT FINALLY RESOLVED that the Mayor, City Administration, and its Professionals are hereby authorized to draft and/or execute such documentation and payment instruments as may be necessary to effectuate the refund of Tax Sale Certificate principal as contemplated herein.

Approved by Consent Agenda. All were in favor.

Resolution No. 275-2019\*

RESOLUTION NO. 275-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AUTHORIZING A REFUND OF OVERPAYMENT OF TAXES DUE TO VETERAN, SENIOR OR DISABILITY DEDUCTION STATUS

WHEREAS, the parcel identified herein was granted Veteran, Senior or Disability deduction status; and

WHEREAS, an overpayment has occurred on the 2019 taxes;

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Burlington authorizes the Chief Financial Officer to issue a refund check of 2019 taxes as follows:

<u>BLOCK</u>	<u>LOT</u>	<u>PROPERTY OWNER</u>	<u>AMOUNT</u>
116 (207 E Union St)	9	Edward Wargo (Veteran)	250.00
137 (36 E Federal St)	37	Ernestine Tucker-Brown (Dis)	250.00
213 (420 Hulme St)	12	Nicholas Califano (Veteran/Senior)	500.00

Approved by Consent Agenda. All were in favor.

Resolution No. 276-2019\*

Common Council of the City of Burlington hereby authorizes the Municipal Clerk to issue a Mercantile License to Srun Spey P., 623 Lakehurst Road, Browns Mills, NJ to operate a business at 125 Route 130 & Wood Street t/a "Anna Nail."

Approved by Consent Agenda. All were in favor.

Resolution No. 277-2019\*

A resolution providing for a meeting not opened to the public in accordance with the provisions of the New Jersey Open Public Meetings Act. N.J.S.A. 10:4-12: Therefore be it resolved by the Common Council of the City of Burlington, assembled in public session on December 3, 2019, that

an Executive Session Closed to the Public shall be held on December 3, 2019, in the Council Meeting Room for discussion of matters relating to the specific items designated in this resolution:

- Contracts/Real Estate N.J.S.A. 10:4-12 (7) Waterworks Redevelopment Proposal
- Contracts/Real Estate N.J.S.A. 10:4-12 (7) YMCA Property

The nature of the discussion conducted in closed session and or the result thereof may be disclosed to the public in an open public meeting held in December of 2019 or shortly there after.

Approved by Consent Agenda. All were in favor.

### **PUBLIC COMMENTS**

Sam Richter, 400 Wood Street- spoke of concerns with the speed limits on Route 130.

Jamal Taylor, 109 Belmont Street- congratulated the Mayor and Council for their re-elected; spoke of post traumatic slave syndrome; suggested to sit down at the table and talk to help the community.

### **ADMINISTRATION REPORT**

Mr. Ballard gave an update on the Landfill Closure Project, we are 7 months behind.

Councilwoman Woodard asked how much money has been spent on the Landfill.

Mr. Ballard said \$600,000.

Mr. MacMillan spoke of the Trust Fund, we have spent over 1 million dollars on closing it; the Closure started in 1991.

Councilwoman Hatala said the official closing was 1999.

Councilman Chachis spoke of the Pearl Pointe Project; the sign used to say leasing 2019, now says 2021.

Mr. Ballard said he will follow up.

Councilman Swan spoke of the lot adjacent to the structure with a mound of dirt; asked if it could be removed.

Mr. Ballard said it will be the last that they'll do, its top soil.

Ms. Garty said she has reached out to Pearl Pointe with no response.

### **COUNCIL COMMENTS**

Councilwoman Mercuri spoke of the need for new call-in technology in the Council Chambers and rules and regulations for calling in.

Ms. Crivaro stated this item was discussed in the Director's meeting this week; it will be put in next years' budget.

President Lollar spoke of speeding at Wood Street and Mill Road.

Councilman Babula took photos of skid marks on Mill Road and sent to Chief Fine.

### **CONFERENCES**

- City of Burlington Board of Health End of Year Report - Holly Funkhouser, Director/Health Officer, Burlington County Health Department
- Residential Meter Replacement Project - Bill Kirchner, PE, N-2, CME, VP of ERI, Inc.
- Water Filter Rehabilitation & Filter Meter Replacement Project - Bill Kirchner, PE, N-2, CME, VP of ERI, Inc.
- PSE&G, Burlington Pointe & Water Treatment Plant Meter Replacement Project - Bill Kirchner, PE, N-2, CME, VP of ERI, Inc.

### **RESOLUTIONS / CONSENT AGENDA RESOLUTIONS\***

Resolution No. 278-2019

RESOLUTION NO. 278-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AWARDING A CONTRACT FOR THE RESIDENTIAL METER REPLACEMENT PROJECT TO NATIONAL METERING SERVICES AS THE LOWEST RESPONSIBLE BIDDER

WHEREAS, the City published a Request for Proposals, seeking bids for "Residential Water Meter Replacement Project Equipment Installation," pursuant to NJ I-Bank Project No. S340140-02 ("the RFP"); and

WHEREAS, on October 23, 2019 four bids were received in response to the RFP; and

WHEREAS, the bid specifications in the RFP called for specific requirements applicable to the meters and meter reading system, satisfied by a particular brand of meters as permitted by the Local Public Contracts Law, N.J.S.A. 40A:11-13, *et seq.*; and

WHEREAS, the lowest bidder, Core & Main, submitted a bid response with a proposed equivalent which did not meet the specifications explicitly outlined in the bid document; and

WHEREAS, as contemplated by the regulations associated with the Local Public Contracts Law, N.J.A.C. § 5:34-9.2©, *et seq.*, failure of a bidder to properly justify and document the alleged claim of equivalence of a bid requirement shall be grounds for rejection of the claim; and

WHEREAS, upon review of Core & Main's bid by Environmental Resolutions, Inc., the City's Engineer, their proposed equivalent did not meet the required specifications called for, and must therefore be rejected as a non-conforming and/or non-compliant bid as permitted by the Local Public Contracts Law, N.J.S.A. 40A:11-2, N.J.A.C. § 5:34-1.2; and

WHEREAS, the next lowest bidder, National Metering Services, submitted a conforming and responsive bid proposal, and should therefore be deemed the lowest responsible bidder; and

NOW THEREFORE, BE IT RESOLVED that National Metering Services is hereby determined to be the lowest responsible bidder, in the amount of \$1,595,062.00, as outlined within their bid in response to the “Residential Water Meter Replacement Project Equipment Installation” specifications; and

BE IT FURTHER RESOLVED that the Mayor, in consultation with the City Solicitor, is hereby authorized to execute a contract with National Metering Services to perform the scope of services outlined within their response to the RFP; and

BE IT FURTHER RESOLVED that this award, as well as the execution of the resulting contract, shall be subject to approval by the New Jersey Department of Environmental Protection.

Upon the motion of Councilwoman Woodard, seconded by Councilwoman Mercuri, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Hatala, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

Resolution No. 279-2019

RESOLUTION NO. 279-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AWARDING A CONTRACT FOR THE WATER FILTER REHABILITATION AND FILTER METER REPLACEMENT PROJECT TO LEVEL-1 CONSTRUCTION, INC. AS THE LOWEST RESPONSIBLE BIDDER

WHEREAS, the City published a Request for Proposals, seeking bids for “Water Filter Rehabilitation and Filter Meter Replacement,” services, as part of the City’s Infrastructure Trust Loan under NJ I-Bank Project No. 0305001-002 (“the RFP”); and

WHEREAS, on October 23, 2019 two bids were received in response to the RFP; and

WHEREAS, Environmental Resolutions, Inc., the City’s Engineer, reviewed the lowest bid which was submitted by Level-1 Construction, Inc. for a total base bid plus alternate of \$808,000; and

WHEREAS, the City’s Engineer has determined that Level-1 Construction’s bid documentation is responsive, and that they are qualified to perform the work outlined with the RFP specifications; and

NOW THEREFORE, BE IT RESOLVED that Level-1 Construction, Inc. is hereby determined to be the lowest responsible bidder, in the amount of \$808,000.00, for the services as outlined within their bid in response to the “Water Filter Rehabilitation and Filter Meter Replacement” specifications; and

BE IT FURTHER RESOLVED that the Mayor, in consultation with the City Solicitor, is hereby authorized to execute a contract with Level-1 Construction, Inc. to perform the scope of services outlined within their response to the RFP; and

BE IT FURTHER RESOLVED that this award, as well as the execution of the resulting contract, shall be subject to approval by the New Jersey Department of Environmental Protection.

Upon the motion of Councilwoman Woodard, seconded by Councilwoman Mercuri, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Hatala, Ms. Mercuri, Mr. Swan, Ms. Woodard, Ms. Lollar. (7); NAYS: (0); ABSTAIN: (0); ABSENT: (0).

Resolution No. 280-2019

RESOLUTION NO. 280-2019 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON REJECTING ALL BIDS FOR THE PSE&G, BURLINGTON POINTE, AND WATER TREATMENT PLANT METER REPLACEMENT PROJECT

WHEREAS, the City published a Request for Proposals, seeking bids for “PSE&G, Burlington Pointe, and Water Treatment Plant Meter Replacement,” services (the “RFP”); and

WHEREAS, on October 23, 2019 one bid was received in response to the RFP; and

WHEREAS, Environmental Resolutions, Inc., the City’s Engineer, reviewed the bid which was submitted by C. Stevenson & Sons, Inc. for a total base bid plus alternates of \$900,196.50; and

WHEREAS, the City’s Engineer provided an estimate of the total project cost plus alternates of \$526,950; and

WHEREAS, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-13.2(a), *et seq.*, the City may reject all bids if the lowest bid substantially exceeds the cost estimate for the requested services; and

NOW THEREFORE, BE IT RESOLVED that all bids received in response to the RFP seeking bids for “PSE&G, Burlington Pointe, and Water Treatment Plant Meter Replacement,” services are hereby rejected for substantially exceeding the City Engineer’s cost estimate for the requested services; and

BE IT FURTHER RESOLVED that the City’s Engineer is hereby authorized to publish a revised Request for Proposals for the services sought herein; and

Upon the motion of Councilwoman Woodard, seconded by Councilman Swan, the foregoing resolution was adopted by the following roll call vote: AYES: Mr. Babula, Mr. Chachis, Ms. Hatala, Mr. Swan, Ms. Woodard, Ms. Lollar. (6); NAYS: (0); ABSTAIN: (0); ABSENT: Ms Mercuri (1).

**EXECUTIVE CONFERENCES**

- Waterworks Redevelopment Proposal - OZ Capital Gains, LP, Howard Berk, Esq. - REMOVED
- YMCA Property - Bill Harris, Director of Housing & Community Development

**ADJOURNMENT**

Upon the motion of Councilman Babula, seconded by Councilman Chachis, this meeting of December 3, 2019 was adjourned.

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Cindy A. Crivaro, RMC  
Municipal Clerk