

**RESOLUTION APPOINTING AN INTERIM MUNICIPAL  
ADMINISTRATIVE AGENT**

**WHEREAS, Borough of Wharton was granted substantive certification of its Housing Element and Fair Share Plan by the Council on Affordable Housing (COAH) on June 4, 2010; and**

**WHEREAS, under authorization of the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq., hereinafter the “Act”) the Municipality is implementing a program to provide affordable housing units to low- and moderate-income households desiring to live within the Municipality; and**

**WHEREAS, at Title 5, Chapter 80, Subchapter 26 of the New Jersey Administrative Code, the State has promulgated affordability controls in regulations designed to implement the Act, by assuring that low- and moderate-income units that are created under the Act are occupied by low- and moderate-income households for an appropriate period of time (the “Rules”); and**

**WHEREAS, Section 5:80-26.14 of the Rules provides that affordability controls shall be administered by an administrative agent acting on behalf of a municipality; and**

**WHEREAS, the Municipality has selected Patrick Lavery to be the Interim Administrative Agent for the purposes of providing affordability control services for: all affordable housing within the municipality, as included in this resolution; and**

**WHEREAS, The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in the Rules, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which includes:**

**(1) Affirmative Marketing**

- (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of Borough of Wharton and the provisions of N.J.A.C. 5:80-26.15;**
- (b) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH; and**
- (c) 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.**

**(2) Household Certification**

- (a) Soliciting, scheduling, conducting and following up on interviews with interested 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; and**
- (f) Employing a random selection process as provided in the Affirmative Marketing Plan of [insert name of municipality] when referring households for certification to affordable units.**

**(3) Affordability Controls**

- (a) Furnishing to attorneys or closing agent's 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 appropriate county's register of deeds or 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) Resale and rental**
  - (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 rental; and**
  - (b) **Instituting and maintaining an effective means of communicating information to 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 from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;**
  - (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 cost of central air conditioning systems; and**
  - (c) **Processing requests and making determinations on requests by owners of restricted units for hardship waivers.**
- (6) Enforcement**
  - (a) **Securing lists 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 acknowledgement 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) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent 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 or other appropriate municipal fund approved by the DCA;
  - (f) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and
  - (g) Providing annual reports to COAH as required.
- (7) Records received, retained, retrieved, or transmitted in performance of these administrative duties may constitute public records of the Borough of Wharton as defined by N.J.S.A. 47:3-16, and are legal property of the Borough of Wharton. The Administrative Agent named in this resolution must agree to administer and dispose of such records in compliance with the State's public records laws and associated administrative rules.

The Borough of Wharton has identified the following as public records, subject to the above-cited provisions:

0120-0000	Affordable Housing Project File
0120-0001	Affordable Housing Project File-Approved
0120-0002	Affordable Housing Project File-Denied/Withdrawn
0120-0003	Affordable Housing Project File-Referral List
0112-0000	Affordable Housing Application File-Individual
0121-0002	Affordable Housing Application File-Certification Denied or Expired
0122-0000	Affordable Housing Unit File
0122-0001	Affordable Housing Unit File-Mailing Notification of Responsibilities
0123-0000	Affordable Housing Unit Inventory
0124-0000	Affordable Housing Trust Fund and/or Regional Contribution Agreement (RCA) Bank Account
0125-0000	Enforcement File-Projects and Units

**0126-0000     Monitoring Reports-Annual Submission**  
**0127-0000     Operations Manual**

**Although the State has used its best efforts to identify all records which qualify as public records, the State reserves the right to amend the above list from time to time as warranted.**

- (8)     The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.**

**NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Wharton in the County of Morris], and the State of New Jersey that Patrick Lavery is hereby appointed by the Governing Body of the Borough of Wharton as the Interim Administrative Agent for the administration of the affordable housing program.**

**Adopted: September 12, 2022**

**BOROUGH OF WHARTON**

**ATTEST:**

**\_\_\_\_\_  
WILLIAM J. CHEGWIDDEN  
MAYOR**

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Gabrielle Evangelista,  
Borough Clerk**