

**REGIONAL CONTRIBUTION AGREEMENT
PURSUANT TO N.J.S.A. 52:27D-301, ET SEQ. BETWEEN
THE BOROUGH OF OLD TAPPAN (SENDING MUNICIPALITY) AND
THE CITY OF JERSEY CITY (RECEIVING MUNICIPALITY)**

THIS AGREEMENT, made this 31st day of October, 1995 by and between the Borough of Old Tappan (hereinafter "Old Tappan") and the City of Jersey City (hereinafter "Jersey City").

W I T N E S S E T H :

WHEREAS, the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. permits the transfer, through voluntary inter-municipal agreement, of up to fifty (50%) percent of a municipality's low and moderate income housing obligation, as defined therein, to another municipality within the same region;

WHEREAS, Old Tappan wishes to transfer a portion of its low and moderate income housing obligation, as defined in the Fair Housing Act, to Jersey City, and is willing to contribute \$20,000 per unit to the cost of constructing such housing, which funds will be obtained in full from a developer in the Borough of Old Tappan, namely Colonial Realty Development Corporation;

WHEREAS, Jersey City wishes to provide additional low and moderate income housing within its boundaries and will be assisted by the financial contribution of \$20,000 per unit to construct housing at prices within this range;

WHEREAS, Old Tappan and Jersey City are located within the same geographic region for purposes of such transfer;

WHEREAS, Jersey City has a pressing need for new construction to provide adequate housing affordable to low and moderate income households;

WHEREAS, Jersey City has public transportation and employment opportunities accessible to the housing which is the subject of this Agreement; and

WHEREAS, Old Tappan lacks public transportation and has fewer employment opportunities than Jersey City;

NOW THEREFORE, in consideration for the exchange of mutual promises and for the further consideration recited below, Old Tappan and Jersey City agree as follows:

Article 1. Transfer of Housing Obligation. Old Tappan will transfer to Jersey City fourteen (14) units of its low and moderate income housing obligation, consisting of seven (7) low income units and seven (7) moderate income units, as defined in the Fair Housing Act, and agrees to pay Jersey City \$20,000 per unit of housing according to the payment Schedule as set forth in Article 3 hereinbelow.

Jersey City proposes to construct fourteen (14) units of housing, of which seven (7) will be affordable to low income families and seven (7) will be affordable to moderate income families, as defined in the Fair Housing Act, such housing to represent a portion of the fair housing obligation of Old Tappan and which is less than fifty (50%) percent of its obligation.

Article 2. Jersey City's Responsibilities. Jersey City agrees to take all necessary steps and to act in a diligent manner to perform in good faith all appropriate activities of a receiving municipality pursuant to the Fair Housing Act to include, but not limited to the following:

2.1. Jersey City will prepare a project plan to implement and achieve the purposes of this Agreement to provide a realistic opportunity for low and moderate income housing within Jersey City convenient to employment opportunities which will be consistent with sound regional planning. Such project plan will be submitted to the New Jersey Housing and Mortgage Finance

Agency (HMFA), the County Planning Board or agency and COAH for review and approval in accordance with COAH regulations.

2.2. Jersey City will apply to the appropriate agencies for all government approvals, whether municipal, county or state required hereunder.

2.3. The funds contributed by Old Tappan will be utilized by Jersey City for the construction of new low and moderate income housing, which is an eligible housing activity under COAH's regulations.

2.4. Jersey City will apply for all financing necessary for its share of the costs of providing the housing hereunder, provided, however, that Old Tappan will remain responsible for any and all financing necessary, if any, for its contribution as set forth in this Agreement.

2.5. Jersey City will apply for appropriate grants in aid of construction which may be available from various sources. Any monies realized through such grants will be used to defray Jersey City's cost of construction and to minimize the price of the housing to the ultimate purchasers, and will not affect the amount of Old Tappan's contribution.

2.6. When necessary, Jersey City will adopt bonding ordinances and execute short term notes or other temporary financing instruments to provide for adequate cash flow during construction of the housing to be constructed hereunder.

2.7. Jersey City will construct any new housing units to be provided under this Agreement in accordance with applicable state construction standards to sell at prices to qualify them as low and moderate income units pursuant to COAH regulations.

2.8. Jersey City agrees to market any new housing units constructed hereunder pursuant to COAH regulations, so as to result in occupancy by low and moderate income individuals.

2.9. Jersey City agrees to place all funds received from Old Tappan in a separate interest bearing escrow account. All interest generated from the RCA funds and retained by Jersey City may only be utilized for an eligible housing activity under COAH's rules and may not be used to exceed the 20 percent cap on administration.

2.10. Jersey City will enter into a separate agreement with COAH that permits COAH to effectively monitor disbursements of the funds received pursuant to the RCA.

Article 3. Old Tappan's Responsibilities. Old Tappan agrees to make contributions to Jersey City of \$20,000 per unit transferred to Jersey City, for a total of \$280,000. Such contributions will be made as set forth in Article 3.1 hereinbelow.

3.1. The full sum of \$280,000 is due sixty (60) days after COAH's approval of this Regional Contribution Agreement.

Late payments hereunder shall be subject to interest calculated at the prime rate in effect on the date such payment was due or the highest rate then in effect on any debt undertaken by Jersey City for development hereunder, whichever is less.

3.2. The payments hereunder remain the obligation of Old Tappan, regardless of whether the same are paid with Old Tappan's funds or funds contributed by developers.

3.3. Old Tappan acknowledges that its contribution hereunder includes a payment, on a per unit basis as paid, to defray costs of administration, infrastructure and other expenses imposed on Jersey City by this undertaking. City acknowledges said amount is within COAH guidelines for such costs.

3.4. Old Tappan will obtain any and all financing, if necessary, to make its contribution under this Agreement.

3.5. Old Tappan must forward the following documents to the Hudson County Planning

Board:

- a. Old Tappan's Master Plan; and
- b. Old Tappan's zoning ordinance.

Article 4. Term of Agreement. Payments will be completed as specified in Article 3.1 and Jersey City will take all necessary steps to satisfy its obligations under this Agreement within six (6) years of the date of execution.

Article 5. Reports. The following reports will be Jersey City's responsibility:

5.1. Jersey City will file an annual report with the Housing and Mortgage Finance Agency (hereinafter "HMFA") and COAH delineating its progress in implementing this Agreement, pursuant to the requirements of N.J.A.C. 5:92-11.1(e).

5.2. Jersey City will file an annual report with HMFA evidencing that a sufficient number of eligible applicants exists to justify the housing contemplated for construction under the approved project plan for the coming twelve (12) months. The report shall contain specific names and addresses of eligible applicants. A ratio of one (1) applicant for each unit will be considered sufficient.

5.3. Jersey City will submit all monitoring reports required by COAH in a timely manner.

Article 6. Project Plan. The housing to be provided hereunder will be developed in accordance with the approved project plans filed with COAH and HMFA. Jersey City retains the right to amend said project plans, if necessary, to reflect changed conditions, subject to approval by COAH and HMFA. Old Tappan agrees to accept any changes agreed to by COAH and HMFA, provided it does not adversely affect credits to Old Tappan's fair share obligation.

Article 7. Credit To Housing Element. Jersey City agrees that it will not claim credit toward its own housing element for any low or moderate income units, as defined by the Fair Housing Act, constructed pursuant to this Agreement, but that all such credit shall inure to the benefit of Old Tappan. All housing constructed pursuant to this Agreement will be permanently identified in the appropriate records of Jersey City as having been constructed to meet the fair housing obligation of Old Tappan.

Article 8. State Agency Action. The parties acknowledge that the project plans for housing hereunder must be submitted to and approved by HMFA, and make this agreement contingent on the approval thereof.

Article 9. Use of Surplus Funds. Transferred funds in excess of the amount necessary to implement this Agreement will be retained and utilized by Jersey City for the continued production of low and moderate income housing, the rehabilitation thereof and/or construction of supporting infrastructure improvements consistent with the regulations of COAH.

If the excess funds are utilized by Jersey City, they may only be used to produce additional low and/or moderate income units or for a capital expenditure ancillary to or benefitting low and moderate income households. All interest generated must remain in the housing trust fund until expended on an eligible housing activity. The specific use of excess funds is subject to COAH approval and will require the following:

- a. a brief description of the project including the number of units;
- b. total development costs and breakdown of financing;
- c. amount of funds to be expended;
- d. estimated start date;
- e. projected date of completion; and

f. balance of funds in the RCA account(s).

Article 10. Litigation Contingency. In the event of an adjudication by any court or tribunal of competent jurisdiction that:

a) this Agreement or the transfer of any units hereunder does not satisfy Old Tappan's obligation under the Fair Housing Act with respect to the portion of its housing obligation addressed hereunder;

b) the approval of this Agreement was not lawfully granted; or

c) Old Tappan is entitled to fewer than fourteen (14) units of credit towards its fair share obligation pursuant to this Agreement; then Old Tappan, on written notice to Jersey City, may elect to rescind this Agreement. Upon such rescission, (i) there shall be no further obligation of Old Tappan to transfer monies to Jersey City, and (ii) to the extent that monies already transferred to Jersey City by Old Tappan have not yet been utilized or firmly committed to the provision of affordable housing in accordance herewith, such monies and any interest earned thereon shall be refunded to Old Tappan.

Additionally, in the event litigation is instituted seeking an adjudication as described in the immediately previous paragraph, Old Tappan and Jersey City will:

a) cooperate with each other in the defense of such litigation;

b) seek to enter such litigation as a party at the request of the other; and

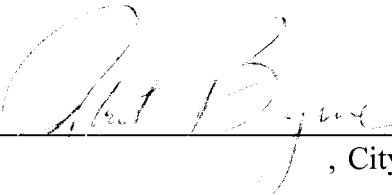
c) Old Tappan may seek approval from COAH, HMFA and/or the court for a deferral or stay of the requirement that it transfer monies under this Agreement, or for a deferral or stay of a commitment of monies already transferred to housing, pending the outcome of such litigation;

provided, however, that Old Tappan shall agree to provide any additional monies reasonably required at the end of such deferral or stay to fund the project(s) to be constructed hereunder. If such approvals for a stay or deferral of payments are obtained, the parties agree to enter into an agreement as appropriate to such approvals. **Article 11. Effective Date.** This Agreement shall become effective upon the execution by Old Tappan and Jersey City.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals the day and year above first written.

ATTEST:

CITY OF JERSEY CITY


_____, City Clerk

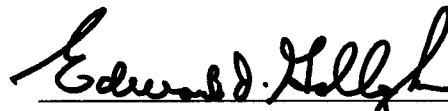

_____, Mayor

ATTEST:

BOROUGH OF OLD TAPPAN



Marie Koehler, Borough Clerk



Edward J. Gallagher, Mayor