

As amended 2/7/07

BY-LAWS

CAPE MAY COUNTY MUNICIPAL UTILITIES AUTHORITY

ARTICLE I

Meeting Place

The Cape May County Municipal Utilities Authority ("Authority") shall hold its meetings in the Main Conference Room in the Administration Office Building of the Cape May County Municipal Utilities Authority, 1523 Route 9 North, Swainton, Middle Township, Cape May County, N.J.

ARTICLE II

Name; Seal

The name by which this Authority shall be known is the "Cape May County Municipal Utilities Authority". All references herein thereto shall be by use of the word "Authority". The official seal of the Cape May County Municipal Utilities Authority shall consist of an embossed impression of a circular metallic disc containing in the outer rim the words "The Cape May County Municipal Utilities Authority" and in the center, a seal denoting, "Cape May County, NJ".

ARTICLE III

Meeting of the Authority and Quorum

1. There shall be an Annual Reorganization Meeting of the Authority for the election of a Chairman and Vice Chairman and for the transaction of any other business that may come before the meeting. The Annual Reorganization Meeting shall be held at the designated meeting place on the first Wednesday of February of each year at such time as may be designated by the Authority, or on the next regularly scheduled Meeting of the Authority, should the Meeting on the first Wednesday of February fail to convene.

2. Regular meetings of the Authority for the transaction of any business that may come before the Authority shall be as set forth at the Annual Reorganization Meeting and/or as amended from time-to-time by formal action of the Authority Members. Workshops and caucuses, as required, shall be at the pleasure of the Chairman.

3. All regular meetings of the Authority and any continued or adjourned sessions thereof, shall be open for the transaction of any business within the powers of the Authority without special notice of such business which may come before the Authority. All such meetings

established by these By-Laws shall be held without required notice to the Authority Members ("Members"). If the day specified for any such meeting is a legal holiday, then such meeting shall be held on the first following day which is not a legal holiday, or on such other day as may be designated by the Authority. The time stated for such meeting shall be the standard time that may be in effect.

4. Special Meetings of the Authority may be called by the Chairman or Vice Chairman or by a majority of the Members of the Authority, upon twenty-four (24) hours notice given to each Member of the Authority. Such notice may be by telephone, hand delivery, e-mail or fax directed to the Member at his residence or place of business. Any Member may waive the above requirement of notice at any time, and any action taken at such special meeting shall be deemed fully valid and enforceable.

5. All meetings of the Authority shall be held at the designated Meeting Place of the Authority or at such other place or places as all of the Members of the Authority may expressly approve. Notice of any and all meetings of the Authority may be waived by any Member of the Authority and any meeting for which such notice shall have been so waived by any Member of the Authority shall be a general meeting open for transaction of any business within the powers of the Authority without special notice of such business. Any Waiver of such notice shall be noted in the minutes taken by the Recording Secretary.

6. At all meetings of the Authority, the presence of four (4) Members shall be required to constitute a quorum. The affirmative vote of four (4) Members of the Authority at any meeting shall be necessary to take any action and any action so taken shall be the action of the Authority.

7. In general, the following order of business shall be observed:

- a. Roll Call
- b. Pledge of Allegiance
- c. Approval of pending Minutes of preceding meeting(s)
- d. Treasurer's Report
- e. Correspondence and Communications
- f. Unfinished Business
- g. New Business
- h. Public Discussion
- i. Miscellaneous
- j. Payment of Bills
- k. Adjournment

8. The Authority shall comply with the Open Public Meetings Act, which requires advance notice to the public and press of all meetings of the Authority. Only those matters rendered confidential and specified as an exception in the Open Public Meetings Act shall be held in closed session to exclude the public.

9. All matters of conducting business of the Authority not covered by these By-Laws shall be governed by the latest issue of Robert's Rules of Order.

ARTICLE IV

Offices

1. The Offices of the Authority shall be a Chairman and a Vice Chairman, who shall be Members of the Authority. There shall also be an office of Corporate Secretary, Recording Secretary, Treasurer, Assistant Secretary and Assistant Treasurer, who may be, but need not be, Members of the Authority. The offices of the Corporate Secretary and Treasurer may be held by the same person.

2. The Authority may also from time to time appoint and employ such professional and technical advisors and experts and such other officers, agents and employees as it may require and may fix and determine the qualifications, terms of office, duties and compensations of all its officers and such advisors, experts, agents and employees.

3. Vacancies in any office having a fixed term shall be filled by the Authority for the unexpired balance of the term.

ARTICLE V

Chairman and Vice Chairman

1. The Chairman and Vice Chairman shall be elected by the Authority from among the Members of the Authority at the Annual Reorganization Meeting of the Authority and shall hold office until the first day of February next ensuing and until their respective successors shall have been elected and have qualified. The Chairman shall receive \$1,000.00 additional compensation by virtue of said office; however, the Vice Chairman shall receive no additional compensation per year by virtue of said office.

2. The Chairman shall preside at all meetings of the Authority and shall have general supervision, direction and control of the affairs of the Authority.

3. The Vice Chairman shall possess such powers and shall perform such duties as may be assigned from time to time by the Authority; and, in the absence or incapacity of the Chairman, the Vice Chairman shall assume all powers and perform all duties of the Chairman.

4. In the absence of the Chairman and Vice Chairman at an Authority Meeting, the Members present shall decide who will preside at the Meeting.

ARTICLE VI

Corporate Secretary

1. The Corporate Secretary shall be appointed and/or employed by the Authority. The term of office of the Corporate Secretary shall expire on the first day of February following said appointment, and any Corporate Secretary so appointed and/or employed shall hold office until the expiration of his term and until a successor shall be appointed and has qualified. The Corporate Secretary, may, however, be removed from office by a majority vote of at least four (4) Members of the Authority at any time during his term. In such event, any successor or successors shall be appointed for the unexpired term of the one so removed. The Corporate Secretary shall affix, or cause to be affixed, the official seal of the Authority to all papers authorized to be executed by the Authority requiring such seal to be affixed.

2. The Corporate Secretary may cause copies to be made of all minutes, resolutions and other records and documents of the Authority and give certifications under the seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Corporate Secretary shall perform such other duties as are incident to his office, or as may be assigned from time to time by the Authority.

3. The Assistant Secretary shall possess such powers and shall perform such duties as may be assigned from time to time by the Authority; and, in the absence, unavailability or incapacity of the Corporate Secretary, the Assistant Secretary shall assume all powers and perform all duties of the Corporate Secretary.

ARTICLE VII

Recording Secretary

The Authority Members shall appoint a Recording Secretary and an Alternate Recording Secretary at the Annual Reorganization Meeting. The Recording Secretary shall attend all meetings of the Authority and record all votes and shall keep record of the proceedings of the

Authority in a minute book and Resolution Book to be kept for the purpose, and must be qualified in all general secretarial work including typing and bookkeeping. In the absence or incapacity of the Recording Secretary, the Alternate Recording Secretary shall assume the responsibilities and perform all duties of the Recording Secretary.

ARTICLE VIII

Treasurer

1. The Treasurer shall be appointed and/or employed by the Authority. The term of office of the Treasurer shall expire on the first day of February following said appointment, and the Treasurer so appointed and/or employed shall hold office for one (1) year and until a successor shall have been appointed and qualified. The Treasurer, may, however, be removed from office by a majority vote of the Members of the Authority at any time during his term. In such event, any successor or successors shall be appointed for the unexpired term of the one so removed.

2. The Treasurer shall make and give bonds, undertakings or other security for the faithful performance of his duties as may be fixed from time to time by the Authority.

3. Under the direction of the Treasurer, the Chief Financial Officer shall receive all monies due to the Authority and shall be the custodian of all of the funds of the Authority disbursing the same only on the order of the Authority. A bank account or accounts shall be opened in the name of the Authority, including a payroll account in a bank or banks from time to time designated by the Authority. All checks or withdrawals of funds of the Authority drawn on the payroll account shall be honored only when signed by any two (2) of the following persons: Treasurer, Assistant Treasurer, Executive Director, Corporate Secretary, Assistant Secretary, Chief Financial Officer or Chief Engineer. All checks or orders for withdrawals of funds other than a payroll account, shall be honored only when signed by three (3) of the following persons: Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Corporate Secretary or Assistant Secretary of the Authority.

4. The Assistant Treasurer shall possess such powers and shall perform such duties as may be assigned from time to time by the Authority; and, in the absence, unavailability or incapacity of the Treasurer, the Assistant Treasurer shall assume all powers and perform all duties of the Treasurer.

ARTICLE IX

Committees

The Chairman may appoint such committees as may be necessary and appropriate, subject to the confirmation of a majority of the Members of the Authority. An Authority Member shall be designated as the Chairman of each committee created by the Authority.

ARTICLE X

Expenses

The Members of the Authority shall be entitled to be paid expenses in connection with the performance of their duties and said expenses shall be itemized on a form prepared by the Authority and duly attested to by the Member(s) submitting same.

ARTICLE XI

Bills, Claims and Vouchers

1. All claims against the Authority shall be in writing, fully itemized and submitted on such forms as the Authority shall provide for that purpose. All bills and claims must be duly certified by the claimant and submitted to the Authority for approval and payment.

2. It shall be the duty of the Corporate Secretary to verify that all bills and claims are supported by a Certification of the Authority official and employee who accepts the goods or services that the goods were actually received, or that the services were actually rendered.

3. Claims should be considered for approval at a meeting of the Authority, and in the event that a claim is rejected, a reason must be stated for such rejection. It shall be the duty of the Recording Secretary to record all claims in the official minutes, indicating that the Authority has, by formal action, approved the same, with appropriate notations as to any claims it disapproved or rejected.

ARTICLE XII

Amending By-Laws

These By-Laws may be amended pursuant to the following procedure:

1. A proposal to amend the By-Laws may be introduced at any regular meeting.

2. If favorable action is taken thereon at such meeting, the proposal shall be recorded in the minutes and a special written notice setting forth such proposal shall be mailed to every Member of the Authority at least ten (10) days before the next regular meeting.

3. The amendment shall be finally adopted at the regular meeting next following the meeting at which it was proposed, provided, however, the proposal shall receive a four-sevenths affirmative vote of the entire Membership of the Authority.

ARTICLE XIII

Committee Minutes

The Chairman of each committee created by the Authority shall determine whether or not minutes shall be prepared and distributed following each committee meeting; however, should any committee include a sufficient number of Authority Members as to create a quorum of the Authority Membership (i.e., four (4) or more Authority Members appointed to the same committee), the Chairman of each such committee shall be responsible to see that reasonably comprehensive minutes of all of the committee meetings are kept. The minutes shall contain at a minimum the following information:

- a. Meeting time and place
- b. Members present
- c. Subjects considered
- d. Actions taken
- e. Vote of each Member
- f. Any other information required by law

The minutes shall be promptly available to the public, unless a resolution shall have been adopted calling for the disclosure at a later date. The Chairman of each such committee shall designate a person to keep the minutes of each meeting as the first order of committee business. The Office Manager of the Authority shall be the custodian of the minutes and shall send a copy to all committee Members once they have been transcribed.

ARTICLE XIV

Gender Identification

Whenever the context may require, any pronoun which is used in these By-Laws shall include the corresponding masculine, feminine and neuter forms and the singular shall include the plural and vice versa.

ARTICLE XV
STANDARDS OF CONDUCT FOR OFFICERS, EMPLOYEES, AGENTS
AND MEMBERS OF THE
CAPE MAY COUNTY MUNICIPAL UTILITIES AUTHORITY

1.0 PURPOSE

Each officer, employee, agent and Member, having the responsibility for fulfilling a public trust, must act honestly, prudently, and efficiently in all actions where public funds or facilities are involved. This document sets forth the standards of conduct to be followed by these individuals in conducting the business of the Cape May County Municipal Utilities Authority, hereinafter referred to as the Authority.

2.0 DEFINITIONS

2.1 "Agent"

Any person hired to act for the Authority in the conduct of its business.

2.2 "Associated Party"

Any employee, officer, agent or Member of the Authority.

2.3 "Authority"

The public body created pursuant to Chapter 14B of Title 4 of the New Jersey Statutes and known as the Cape May County Municipal Utilities Authority.

2.4 "Employee"

Any individual employed on a regular basis by the Authority.

2.5 "Board of Freeholders"

The body having the statutory authority and responsibility for establishment of the Authority and for the appointment of its Members, and being the Board of Chosen Freeholders of the County of Cape May.

2.6 "Members"

Those individuals appointed by the Board of Freeholders to establish policy and oversee the activities of the Authority. The powers of the Authority are vested in these individuals.

2.7 "Officers"

Those individuals selected by the Members to serve in official capacities, such as Chairman, Vice Chairman, Corporate Secretary or Treasurer. In addition, certain full-time employees may be considered officers, e.g. the Executive Director or Chief Engineer.

2.8 "Person"

Any individual, association, partnership or corporation.

2.9 "Responsible Associated Party"

Any associated party who by reason of his position has, directly or indirectly through subordinates, the authority and responsibility for initiating, reviewing, approving, or disapproving policy, financial, personnel, or procurement actions of the Authority.

2.10 "Supervisor"

Any employee responsible for planning, directing, or supervising the work of others in accomplishing the administration, construction, or operation and maintenance activities of the Authority.

This will include, but is not limited to:

- a. any individual serving in the capacity of Executive Director, Chief Engineer, and/or Chief Financial Officer and members of their executive staffs.
- b. any employee responsible for key administrative functions such as personnel, procurement, finance and accounting, or
- c. employees responsible for supervision of operational activities such as construction or operation and maintenance of the Authority's facilities.

3.0 PUBLIC ACCOUNTABILITY

3.1 Control of Funds

Each responsible associated party shall establish controls to safeguard the use of public funds and assure that such funds are not diverted to anyone's personal use.

3.2 Control of Personnel Resources

Each responsible associated party shall act to assure that qualified individuals are employed to operate the Authority in accordance with established personnel procedures and practices or as otherwise mandated by law.

3.3 Control of Procurement Process

Each responsible associated party shall avoid non-competitive procurement practices which restrict or eliminate competition or otherwise restrain trade except where such non-competitive practice is specifically and publicly declared by the Members to be in the best interest of the public with reasons set forth, or as provided in the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. They shall review procurement actions to determine whether services and materials are needed, to assure adherence to applicable state and local procurement laws and procedures, and to confirm the adequacy and acceptability of the materials and services provided before authorizing payment.

3.4 Controls Over Use of Property

No associated party shall directly or indirectly use, or allow the use of, real or personal property of any kind without proper authority. In addition, each individual has a positive duty to protect and conserve all property including any equipment, materials, and supplies entrusted to him.

4.0 DISCLOSURE

4.1 By Supervisors, Officers, and Members

Pursuant to the State of New Jersey's Local Government Ethics Law (N.J.S.A. 40A:9-22.1) et seq.), all supervisors, officers and Members of the Authority shall complete an annual Financial Disclosure Statement issued by the State of New Jersey Department of Community Affairs, Division of Local Government Services, Local Finance Board. The required Financial Disclosure Statement must either be submitted to the Authority's Office Manager for submission to the Cape May County Clerk, or directly to the Cape May County Clerk, in a timely manner, to enable filing with the State of New Jersey prior to April 30 of each year.

5.0 CONDUCT IN OFFICE

5.1 General Prohibition

No associated party shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

5.2 Use of Position

No associated party shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others.

5.3 Objectivity and Independence of Judgment

No associated party shall act in his official capacity in any matter wherein he or a relative has a direct or indirect interest which could impair his objectivity or independence of judgment.

5.4 Participation in Contracts

No associated party, other than agents, shall knowingly, himself or by others on his account, be a party to a sale of material, supplies, property or services to the Authority except for his own contract of personal employment.

5.5 Payments for Official Duties

No associated party may solicit or accept any compensation from anyone other than the Authority for any service, advice, assistance or other matter relating to his official duties.

5.6 Outside Employment

No associated party may be employed or act in any other capacity which would involve the acceptance of a fee, compensation or gift which could reasonably result in a conflict of interest or interfere with the efficient performance of the person's duties.

5.7 Uses of Information

No associated party shall, directly or indirectly by other persons, use information, which comes to him as part of his duties, in any manner for personal or pecuniary gain; nor shall any such person violate any confidentiality with regard to such information.

6.0 REPRESENTATIONS

6.1 Representations by Associated Parties

No associated party shall, directly or indirectly by others, appear before or negotiate with the Authority on behalf of any other person in connection with:

- a. the acquisition or sale of any interest in real or personal property by the Authority.
- b. any cause, proceeding, application or other matter before the Authority.

6.2 Representations by Former Associated Parties

Subsequent to employment, no associated party shall, directly or indirectly by others, act as attorney, agent, or representative for anyone other than the Authority in connection with any proceeding, application, contract, claim, or other particular matter in which he participated personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, during his period of employment.

7.0 GIFTS AND GRATUITIES

7.1 Acceptance of Gifts

No associated party shall solicit or accept, whether directly or indirectly or through his spouse or any Member of his family, any compensation, gift, favor or service of value which he knows or should know is offered or obtained to influence him in the performance of his public duties and responsibilities. The acceptance of infrequent business meals of nominal value do not fall into such a category.

7.2 Receipt of Gifts

Any prohibited gift or gratuity received by any associated party from any person or firm should immediately be returned. The associated party shall promptly report the receipt of such gift to the Members of the Authority. If the gift is perishable or for some other reason cannot be returned, it shall be turned over to a charitable or public institution. In such instances, the associated party should notify the donor in writing that he is not permitted to accept such gifts and has contributed the gift to a charitable institution. A copy of this notification shall be provided to the Authority.

8.0 ADMINISTRATION OF THESE STANDARDS OF CONDUCT

8.1 Potential Conflicts of Interest

At any time an associated party finds that he has or is considering the assumption of an outside relationship which might involve a conflict of interest, or if he is in doubt as to the proper application of these standards set forth hereinabove, he shall promptly make all the facts known to the full Membership of the Authority and shall refrain from any exercise of any responsibility in his position or employment in any manner which might reasonably be considered to be affected by such outside relationship or doubt until he has been otherwise advised by a determination of the Authority made by a majority of the Members. Such a determination shall be made after the Authority has received a written opinion from the Authority's General Counsel or special counsel.

8.2 Review of Allegation of Misconduct

Persons desiring to make complaints concerning violations of the code of conduct or other misconduct, should be requested to make such allegations in writing, to present information or evidence in support of their allegations and to be available to meet with representatives of the Authority in person.

All allegations of violations or misconduct on the part of employees, officers, or agents, shall be referred to the Members. Allegations of misconduct by Members shall be referred to the Board of Freeholders. All investigations and proceedings related to the resolution of the alleged misconduct shall be handled on a confidential basis.

Upon receiving such complaints, the Members or Board of Freeholders, as applicable, shall initially review the apparent merits of the allegations. Where the complaint is deemed completely frivolous and without merit, no further action need be taken. If, however, the allegation may have merit, the Members or Board of Freeholders shall initiate an investigation to gather facts and evidence upon which to base a conclusion as to the validity of the allegations made. Upon completing its investigation, the Members or Board of Freeholders shall prepare a written report containing its findings and conclusions. This report shall provide the basis for the Members or Board of Freeholders to take appropriate action with respect to the allegations. The Members shall have the responsibility for judging any allegations related to misconduct by its employees, officers and agents. Allegations of misconduct on the part of a Member shall be handled by the Board of Freeholders in the manner set forth in law.

In instances where the allegations have been substantiated and a violation of state or local law may have occurred, copies of the report shall be provided to the applicable County Prosecutor or to the Attorney General. In instances where substantiated allegations involve a state or federal grant or loan project, copies of the report shall be provided to responsible officials of the applicable federal or state agencies.

8.3 Penalties

Whenever any associated party is found to have violated these ethical standards, the Members or Board of Freeholders shall take appropriate disciplinary action. Such action may range from a letter of reprimand to the discharge of involved employees, officers, agents or Members. In instances where the misconduct resulted in increased costs to the Authority, it shall take appropriate action to terminate any related contract or purchase order and initiate appropriate litigation to recover such monies.

9.0 EFFECTIVE DATE OF CODE OF CONDUCT

Upon their adoption, this code of conduct shall apply immediately to all actions of existing and future associated parties.

ARTICLE XVI

Real Property Acquisition Policies and Procedures

A. INTRODUCTION

The Cape May County Municipal Utilities Authority has the authority to acquire real property required for public use in connection with its projects pursuant to N.J.S.A. 40:14B-34.

Any acquisition by the Cape May County Municipal Utilities Authority of real property required in connection with its projects will be made pursuant to the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq. and the Relocation Act, N.J.S.A. 20:4-1 et seq.

When it is necessary for the Cape May County Municipal Utilities Authority to acquire real property in connection with its projects, the Cape May County Municipal Utilities Authority will notify owners of the pending acquisition through a certified letter containing a map of the proposed taking and the name and address of the Cape May County Municipal Utilities Authority representative to contact for interim information.

When the Cape May County Municipal Utilities Authority determines that its activities shall cause displacement of individuals or businesses that are eligible for relocation payments and assistance, the Cape May County Municipal Utilities Authority shall notify those individuals and businesses, in writing, at the earliest possible date of their benefits and the obligations of the Cape May County Municipal Utilities Authority as to relocation. Said notice shall be issued immediately upon determination of the Cape May County Municipal Utilities Authority that displacement shall occur. The notice shall contain the nature and types of payments and assistance available, the eligibility criteria, and a notice that the displacee shall not vacate the property prior to being authorized to do so in order to remain eligible for payment and assistance and that they should continue to pay rent to the landlord, as provided by law.

B. REAL PROPERTY ACQUISITION

A-1. After the Cape May County Municipal Utilities Authority determines to acquire real property, it shall make every reasonable effort to acquire the real property expeditiously by negotiation.

A-2. Before the initiation of negotiations, the Cape May County Municipal Utilities Authority shall have the real property appraised and shall assure that the owner or his designated representative is contacted in advance of the appraisal and given an opportunity to accompany each appraiser during the appraiser's inspection of the property. A minimum of one (1) appraisal is required. The Cape May County Municipal Utilities Authority will obtain at least two (2) appraisals of properties valued in excess of \$100,000.00.

A-3. Before the initiation of negotiations, the Cape May County Municipal Utilities Authority shall establish an amount which it believes is just compensation for the real property being acquired. Promptly thereafter, it shall make a written offer to the owner to acquire the property for that amount.

A-4. The Cape May County Municipal Utilities Authority shall make reasonable efforts to meet with the owner or his representative to discuss its offer to purchase his/her property including the basis for determination of just compensation and explain its acquisition policies and procedures including relocation benefits (Section R-1 et seq.) and payment of incidental expenses (Section A-16). The owner shall be given reasonable opportunity to present material which he believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase, and the Cape May County Municipal Utilities Authority shall consider the owner's presentation.

A-5. If the evidence presented by the owner or a material change in the character or condition of the property indicates the need for a new appraisal, or if a significant delay has occurred since the time of the appraisal of the property, the Cape May County Municipal Utilities Authority shall have the appraisal updated or obtain a new appraisal. If the latest appraisal evidence indicates

that an increase in the purchase offer is warranted, the Cape May County Municipal Utilities Authority shall promptly establish just compensation and offer that amount to the owner in writing.

A-6. The Cape May County Municipal Utilities Authority shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the Court, or take any other coercive action, in order to compel or induce an agreement on the price to be paid for the property.

A-7. Before filing a condemnation suit, the Cape May County Municipal Utilities Authority shall send the owner a letter that includes the Cape May County Municipal Utilities Authority's final offer, an invitation to discuss the acquisition and reasonable advance notice (14 days - N.J.S.A. 20:36) of the date on which the Cape May County Municipal Utilities Authority intends to institute a condemnation proceeding if a voluntary agreement cannot be reached on the purchase price of the property.

CRITERIA FOR APPRAISALS

A-8. Qualifications of Appraisers. The Cape May County Municipal Utilities Authority shall establish criteria for determining the minimum qualification of appraisers. Appraisal qualification shall be consistent with the level of difficulty of the appraisal assignment. The Cape May County Municipal Utilities Authority shall obtain a signed statement by each appraiser setting forth his appraisal qualifications and it shall review the experience and education and other qualifications of appraisers and identify and employ only qualified appraisers to perform the appraisals. The Cape May County Municipal Utilities Authority will make appropriate inquiries among users of appraisal services, particularly other public agencies, the attorney expected to handle the condemnation litigation for the Cape May County Municipal Utilities Authority, and condemnation trial attorneys for other public agencies, to identify the best qualified appraisers for a particular assignment.

APPRAISAL STANDARDS

A-9. The Cape May County Municipal Utilities Authority's appraisals of fair market value shall be based upon nationally recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of value and the rules on the admissibility of evidence of value under New Jersey law.

A-10. Documentation. Appraisal reports must contain sufficient documentation, including supporting valuation data and the appraisers' analysis of that data to demonstrate the correctness of the appraisers' opinion of value.

A-11. Conflict of Interest. No appraiser shall have any interest, direct or indirect, in the real property which he appraises for the Cape May County Municipal Utilities Authority that would, in any way, conflict with his performance of his appraisal. No appraiser shall act as a negotiator for the Cape May County Municipal Utilities Authority or the owner in the acquisition of real property which he has appraised in connection with the project.

REVIEW OF APPRAISALS

A-12. Evaluation of Appraisals. If the appraised fair market value of the real property to be acquired exceeds \$40,000.00, the appraisal of the property shall be reviewed by a qualified appraiser. The reviewer shall determine the adequacy of the appraiser's supporting data and documentation, the soundness of the appraiser's reasoning and whether the appraisal conforms

with the recognized appraisal practices. In particular, the reviewer shall determine the correctness of the appraiser's opinion of the fair market value of the property. To the extent appropriate, the reviewer shall require the appraiser to make necessary corrections in his appraisal report. After any necessary corrections are made, the reviewer shall determine the acceptability of the appraisal report.

A-13. Review Appraiser's Report. If the review appraiser finds the appraisal report to be acceptable, he shall set forth in a written report his recommendation as to the fair market value of the property. The reviewer's report shall identify the appraisal report reviewed and explain the basis of his recommendation.

ESTABLISHMENT OF JUST COMPENSATION

A-14. The Cape May County Municipal Utilities Authority shall establish the amount of just compensation to be offered to the owner for the real property. Such amount shall not be less than the Cape May County Municipal Utilities Authority review appraiser's recommendation as to the fair market value of the property or the fair market value estimate set forth in the Cape May County Municipal Utilities Authority's approved appraisal if the property is valued at \$40,000.00 or less and the appraisal is not reviewed by a qualified review appraiser.

NOTICE OF DETERMINATION NOT TO ACQUIRE

A-15. If the Cape May County Municipal Utilities Authority has issued a firm offer to acquire and later determines not to acquire the real property, it shall so notify the owner and any person who is occupying the property or who has received a relocation notice.

EXPENSES INCIDENTAL TO TRANSFER OF TITLE TO CAPE MAY COUNTY MUNICIPAL UTILITIES AUTHORITY

A-16. The Cape May County Municipal Utilities Authority shall reimburse the owner for all reasonable expenses he necessarily incurs for recording fees, transfer taxes and similar expenses incidental to conveying such real property to the Cape May County Municipal Utilities Authority, and the pro rata portion of real property taxes which are allocable to a period subsequent to the date of vesting of title in the Cape May County Municipal Utilities Authority or the effective date of possession of such real property by the Cape May County Municipal Utilities Authority whichever is earlier (N.J.S.A. 20:3-26).

A-17. Whenever possible, the Cape May County Municipal Utilities Authority shall pay for the costs eligible for reimbursement from the Cape May County Municipal Utilities Authority.

A-18. An owner who believes that he has been denied the full amount of payment to which he is entitled under Paragraph A-16, may appeal that denial.

ACQUISITION RECORD KEEPING

A-19. The Cape May County Municipal Utilities Authority shall maintain a separate acquisition file for each real property acquisition for at least three (3) years after completion of the project, final settlement of the acquisition, or disposition of the applicable relocation records, whichever is latest.

C. RELOCATION

R-1. Whenever an individual requires assistance in locating replacement housing, the Cape May County Municipal Utilities Authority shall:

- a. Provide a list of decent, safe and sanitary replacement housing units that are available for sale or lease;
- b. Assist in establishing the displaced individual's priority in subsidized housing and in applying therefore;
- c. Provide information necessary for the displacee to obtain mortgage financing; and
- d. Provide the name and addresses of other agencies that provide housing assistance to individuals.

R-2. a. An individual who lawfully occupies a rental dwelling unit for a period of not less than 90 days prior to the eligibility date, as specified, and who vacates the rental dwelling unit after notice to vacate and as a direct result of the cause of the displacement and rents and occupies decent, safe and sanitary replacement housing shall be eligible for a rental assistance payment in an amount not to exceed \$4,000.00.

- b. The actual amount of the rental assistance payment shall be the difference between:

- (1) the lesser of the average monthly rent, including essential utilities, or economic rent for the rental dwelling unit; and

- (2) the lesser of the economic rental for a comparable unit of the actual monthly rental payment paid for a replacement unit, times 48, not exceeding \$4,000.00.

- c. If the total amount of the rental assistance payment exceeds \$1,000.00, the Cape May County Municipal Utilities Authority shall make the payment in four (4) equal annual installments, upon verification that the tenant remains in decent, safe and sanitary housing. Should the tenant move outside the State and further than 50 miles away from the unit from which he was displaced or failed to occupy decent, safe and sanitary housing during the four (4) year period, the Cape May County Municipal Utilities Authority may discontinue further rental assistance payment. The 50-mile radius provided herein may be enlarged by the Cape May County Municipal Utilities Authority, in its discretion.

- d. Rental rates for comparable replacement housing shall be estimated by any of the following two (2) methods at the option of the Cape May County Municipal Utilities Authority:

- (1) A rent schedule based on FHA fair market rents for the area from which displacement or to which relocation occurs, whichever is lower; or

- (2) An alternate method approved by the Department of Community Affairs, State of New Jersey.

- e. The tenant shall also receive a payment to reimburse him for any fee paid to a licensed real estate salesman who finds a person replacement housing with prior approval of the Cape May County Municipal Utilities Authority.

R-3. a. A displaced tenant who is eligible to receive a rental assistance payment and a displaced owner-occupant of less than 180 days or an owner-occupant who chooses to be treated as a tenant may at their option elect to purchase a replacement and if they do so purchase, they then shall receive an amount not to exceed \$4,000.00 in order to make a down payment on the purchased replacement dwelling subject to the following:

- (1) The full amount of the payment must be applied to the purchase price, including the incidental payment, and must be listed on the settlement statement; and

(2) Any rental assistance previously paid to the displaced individual shall be deducted from the down payment assistance; and

(3) In the event the claim is for more than \$2,000.00, the displacee must match dollar for dollar with respect to the amount in excess of \$2,000.00 to a maximum payment of \$4,000.00.

R-4. a. An individual who owns and occupies a dwelling unit for a period of not less than 180 days prior to the eligibility date as specified and who vacates the dwelling unit after notice to vacate and as a direct result of the cause of displacement and who purchases and occupies within one (1) year a comparable replacement dwelling unit shall be eligible for a replacement housing payment in an amount not to exceed \$15,000.00.

b. The amount of the replacement housing payment is the difference between the reasonable cost, on the open market, of a comparable replacement dwelling, and the acquisition price (in the case of acquisition) or fair market value (in all other cases).

c. The reasonable cost of a comparable replacement dwelling shall be estimated by any of the following methods at the option of the Cape May County Municipal Utilities Authority:

(1) Three (3) comparables based on the asking price as adjusted for selling price as shown by a market study;

(2) An area-wide schedule; or

(3) An alternative method approved by the Department of Community Affairs, State of New Jersey.

d. In no event shall the amount of the replacement housing expense exceed the actual difference in the actual cost of a decent, safe and sanitary replacement dwelling, including incidental expenses and the acquisition price.

e. If the dwelling unit occupied by the displacee also included an area used for non-residential purposes, the amount of the replacement housing payment shall be based on the imputed value of the residential portion of the dwelling unit.

f. The payment shall also include the following elements:

(1) The amount, if any, which will compensate a displaced person for any increased interest cost which such person is required to pay for financing the acquisition of a comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired was encumbered by a bona fide, duly recorded mortgage which was a valid lien 180 days prior to the issuance of formal notice to vacate. Such amount shall be equal to the excess in the aggregate interest (and other debt service) of the mortgage on the acquired dwelling, over the remainder of the term of the mortgage on the acquired dwelling, reduced to a discounted percent value.

(2) Any other incidental expenses incurred in the purchase of a replacement dwelling.

R-5. a. An eligible individual who is displaced from a dwelling unit and moves his personal property therefrom shall receive either the actual reasonable moving expenses incurred, or a fixed payment, based on the number of rooms in the unit, not to exceed \$300.00 and a \$200.00 dislocation allowance.

R-6. a. An eligible business that is displaced from its place of operation and moves its personal property therefrom shall be entitled to receive payment for:

- (1) Actual reasonable moving expenses as set forth in R-7, actual reasonable direct loss of tangible personal property as set forth in R-8, actual reasonable expenses incurred in searching for a replacement business location as set forth in R-9; or
- (2) Payment in lieu of moving and related expenses as set forth in R-10.

R-7. a. A relocation payment or moving expenses of a business shall be limited to the following items, as applicable:

- (1) The actual reasonable and necessary cost of moving the tangible personal property for a maximum distance of 50 miles, unless the distance is enlarged by the Cape May County Municipal Utilities Authority, for cause.
- (2) The actual reasonable and necessary cost incurred for inspection license fees required to permit the operation of the business at the new location.
- (3) The actual reasonable and necessary cost of reconnecting utility service to machinery and equipment, including the cost incurred in adapting or converting relocated machinery and equipment to use a different type of power supply.
- (4) The actual reasonable and necessary cost incurred for any physical changes in or to an existing building to which a business relocates in order to accommodate the machinery and equipment relocated. The amount incurred shall not exceed the fair market value of the machinery and equipment requiring the physical change. In the event the cost does exceed the fair market value of the machinery and equipment, the Cape May County Municipal Utilities Authority shall then be responsible to pay only the fair market value.

b. The business move may be accomplished by two (2) methods, as described in this subsection:

- (1) The displaced business may use licensed moving companies or contractors as required and, if it does, provide the Cape May County Municipal Utilities Authority with moving cost estimates from three (3) licensed moving companies or contractors. The Cape May County Municipal Utilities Authority shall choose one (1) of three (3) estimates and authorize payment up to that amount. In the event the Cape May County Municipal Utilities Authority does not accept any of the three (3) estimates provided, it may obtain one (1) estimate and choose one (1) of the four (4) estimates and authorize payment up to the amount. The business may then use any mover it so chooses and be responsible for any additional cost.
- (2) The displaced business may choose to move itself on prior notice to the Cape May County Municipal Utilities Authority and shall submit the three (3) moving estimates as in paragraph "1." of this subsection. The amount of the moving payment shall be the lesser of the bid chosen or the actual expenses incurred by the displaced business. The actual moving expenses for a self move shall be limited to:

- i. Amount paid for trucks and equipment

ii. A reasonable amount, as determined by the Cape May County Municipal Utilities Authority, to cover the cost of gas, oil, insurance and depreciation on trucks and equipment belonging to the business and used in moving;

iii. Wages, on an hourly basis, paid to persons who participate in the move; and

iv. Other expenses as authorized by the Cape May County Municipal Utilities Authority.

R-8. a. A displaced business that is eligible for moving expenses and elects not to move all or part of the personal property may receive a payment for actual direct loss of the personal property not moved. This payment may be made only upon prior approval of the Cape May County Municipal Utilities Authority and after a good faith effort has been made by the displacee to sell the personal property involved.

b. The payment for loss of tangible personal property shall be calculated as follows:

(1) In the event the item is sold, the payment shall be the fair market value less the net sales amount (sales price less cost of sale);

(2) In the event the item is not sold, the payment shall be the fair market value. The item shall then be the property of the Cape May County Municipal Utilities Authority;

(3) In no event shall the payment exceed the estimated moving cost as determined by the Cape May County Municipal Utilities Authority.

R-9. a. In addition to moving expenses and loss of personal property payments, a displaced business shall be reimbursed for the actual and reasonable expenses incurred in searching for a replacement location not to exceed \$1,000.00.

b. These expenses may include transportation costs within 50 miles, time spent in searching, not exceeding \$15.00 per hour and fees paid to a real estate agent for locating a site.

R-10. a. The owner of a displaced business may receive an in lieu of moving and related expenses payment equal to the average net income for the last two (2) years, but not less than \$2,500.00 nor more than \$10,000.00.

b. In order to be eligible for an in lieu of payment of the Cape May County Municipal Utilities Authority shall determine that:

(1) The business cannot be relocated without a substantial loss of its existing patronage; and

(2) The business is not a part of a commercial enterprise having another business of the same or similar nature that is not being acquired; and

(3) The business contributes materially to the income of the owner.

c. The owner of a farm operation may receive payment in lieu of moving expenses calculated on the same basis as for a business, provided the Cape May County Municipal Utilities Authority determines that:

(1) The farm operation contributes materially to the operator's income; and

(2) The displacement renders the farm operation an uneconomic unit.

R-11. a. In the event the Cape May County Municipal Utilities Authority causes a displacement that required emergency relocation the Cape May County Municipal Utilities Authority shall provide, in addition to the other benefits available herein, a lump sum payment in the amount of \$1,000.00 so that the displacee may obtain living quarters until permanently relocated. This payment shall be available immediately upon the displacement and shall be includable in any total statutory payment.

R -12. a. An individual or business who believes that he has been denied the full amount of payment to which he is entitled for relocation may appeal that denial.

D. ADMINISTRATIVE SETTLEMENTS

Legal Settlements and Court Awards

Ad-1. An administrative settlement is any settlement made or authorized to be made by the Cape May County Municipal Utilities Authority, which is in excess of the Authority's approved estimate of fair market value.

Ad-2. The Cape May County Municipal Utilities Authority may approve an administrative settlement when it is determined that such action is in the public interest. In arriving at a determination to approve an administrative settlement, the Cape May County Municipal Utilities Authority must give full consideration to all pertinent information including:

- (1) All available appraisals, including appraisals prepared for the property owner.
- (2) The Cape May County Municipal Utilities Authority's approved estimate of fair market value.
- (3) Recent Court awards for similar type of properties.
- (4) Information concerning the subject property discovered during negotiations.
- (5) The range of probable testimony as to fair market value should a condemnation action be filed.
- (6) The estimate of trial cost considered in conjunction with the other factors.
- (7) The opinion of legal counsel.

Ad-3. In determining to approve an administrative settlement or proceed to condemnation, the Cape May County Municipal Utilities Authority shall consider the recommendations of its legal counsel including, if applicable, the Authority's trial attorney.

Ad-4.

A. Legal Counsel including the trial attorney for the Cape May County Municipal Utilities Authority shall determine if an assigned matter is ready for trial, requires additional appraisals or to recommend an administrative settlement, and in doing so shall consider:

- (1) Legal deficiencies in appraisals approved by the reviewing appraiser.
- (2) Inadequacy of data upon which the appraisals are based, or improper application of legal principles to the appraisal processes.
- (3) The competency and effectiveness of an appraiser as witness, to include his:

- i. ability and experience as an appraiser,
 - ii. reputation in the area,
 - iii. ability to persuasively and clearly explain his opinion of value and the reasons therefore to a court or jury.
- (4) Adjustment of appraisals to conform to the date of valuation under law.
 - (5) All available appraisals, including landowners' appraisals.
 - (6) Interest to which an owner may be entitled under law.
 - (7) Serious doubt as to the highest and best use of a property before the taking and, in appropriate instances, after the taking.
 - (8) Extremely complex severance damage or other valuation problems that necessarily produce uncertainties as to value.
 - (9) Uncertainty of law relative to the measure of compensability of particular elements of value or damage, or the admissibility or adequacy of evidence necessary to prove facts in issue, where the circumstance or the evidence make it inadvisable to test the question in the case under consideration.
 - (10) Awards of court appointed condemnation commissioners.
 - (11) Recent court awards for eminent domain takings in the area.

B. In addition, the following elements while not sufficient to justify an administrative settlement as sole justification may be considered in conjunction with considerations set forth above in Ad-4.A.:

- (1) Costs to the Cape May County Municipal Utilities Authority preparing and presenting the case at trial or in an appeal.
- (2) Costs to the public for impaneling a jury, maintaining the court, etc.
- (3) Likelihood of sympathy for the owner.

C. In no case shall legal counsel recommend an administrative settlement based upon:

- (1) A mere desire to avoid litigation.
- (2) A mere desire to compromise differences between the Cape May County Municipal Utilities Authority's appraisals and the landowner's appraisals.

Ad-5. At the conclusion of condemnation litigation, legal counsel shall prepare a report to the Cape May County Municipal Utilities Authority which should, to the extent applicable, include the following information:

- (1) Caption of the case.
- (2) Approved estimate of value and dates.
- (3) All appraisal estimates of value and dates.
- (4) Date, place and length of trial.
- (5) A brief factual report of the trial, including range of value testimony of the parties, etc.

- (6) A statement of the development of the major issues involved.
- (7) The major differences in approaches to value among the Cape May County Municipal Utilities Authority's witnesses and those of the landowner.
- (8) Comments on possible legal error in the record, explanation of the Cape May County Municipal Utilities Authority's action regarding motions, objections, etc., and the court's rulings relative thereto.
- (9) Recommendations regarding motions for new trial, remittitur, or appeal, and the reasons therefore.

E. APPEALS

Ap-1. An individual or business may file an appeal in any case which he believes that the Cape May County Municipal Utilities Authority has:

- (1) Failed to properly determine his eligibility for, or the amount of, a payment required under Real Property Acquisition (Section A-16) or any relocation payment required under Relocation (Section R-1 et seq.)
- (2) Failed to provide appropriate housing referrals or to properly inspect the replacement dwelling.

Ap-2. An individual or business has a right to be represented by legal counsel and to be accompanied by an advisor, attorney or other representative in any personal appearance in connection with his appeal, but solely at his own expense.

Ap-3. The Cape May County Municipal Utilities Authority shall permit a person to inspect and copy all files and records pertinent to his appeal, except materials which are confidential. The Cape May County Municipal Utilities Authority may, however, impose reasonable conditions on the person's right of inspection.

Ap-4. Unless waived by the Cape May County Municipal Utilities Authority, an appeal to the Cape May County Municipal Utilities Authority shall be filed within six (6) months after the Cape May County Municipal Utilities Authority's determination of the claim.

Ap-5. If a person or business, orally or in writing, asks to make an informal appeal to the Cape May County Municipal Utilities Authority, the Cape May County Municipal Utilities Authority shall give the person or business an opportunity to present his appeal informally to an appropriate official, or officials, of the Cape May County Municipal Utilities Authority within thirty (30) days. The official(s) representing the Cape May County Municipal Utilities Authority shall prepare a summary of the matters discussed in the oral presentation. If the Cape May County Municipal Utilities Authority does not grant full relief requested by the person or business, it shall promptly notify the appellant to that effect, in writing. The notification shall indicate that the person or business has a right to file a written appeal.

Ap-6. A person or business may file a written appeal to the Cape May County Municipal Utilities Authority, whether or not he has made a prior informal presentation. The appeal may contain any related statement of fact or other material.

Ap-7. The Cape May County Municipal Utilities Authority shall consider a person's or business' appeal, regardless of form. In deciding the appeal, the Cape May County Municipal Utilities Authority shall:

- a. Schedule a hearing before the full Authority, a relocation committee, or the executive director as directed by the Authority at a time convenient to all concerned, and consider:

- (1) all applicable policies and procedures; and
- (2) all pertinent justification and written material presented by the person or business making the appeal; and all material upon which the Cape May County Municipal Utilities Authority based the determination being appealed and any other available information that is needed to ensure a fair and full review of the appeal. However, the Cape May County Municipal Utilities Authority must ensure that the person or business making the appeal has had reasonable opportunity to review any such materials and information on which an adverse ruling on the appeal may be based.

Ap-8. Within 30 days after the hearing set forth in Ap-7 (a) above, the Cape May County Municipal Utilities Authority shall make its written determination on the appeal and furnish the appellant with a copy. The written determination shall include, but need not be limited to:

- (1) The Cape May County Municipal Utilities Authority review of the appeal;
- (2) The factual and legal basis upon which the decision is based, including any pertinent explanation;
- (3) If any payment or relief to the person is granted, a brief statement on how this will be provided; and
- (4) If the full relief requested is not granted, a statement of the person's or business' right to appeal to the Superior Court of New Jersey.

ARTICLE XVII

Powers

The Authority shall have all powers set forth in the Municipal Utilities Law (Laws of 1957, Chapter 183, Section 1 et seq.) and any amendments or supplements thereto, now or hereafter adopted.

Adopted: October 3, 1972
Amended: October 15, 1975
Amended: March 17, 1976
Amended: February 15, 1978
Amended: April 5, 1978
Amended: June 7, 1978
Amended: January 19, 1983
Amended: April 20, 1983
Amended: December 2, 1987
Amended: June 20, 2001
Amended: February 7, 2007